of operator skill required to ensure smooth and efficient operation' (Pulse, August 1974).
- supervising control system at East Driefontein gold mine reduction plant. Computers accomplish the tasks of plant state sensing, status display, switching motors and providing the operator with access to the plant (Pulse magazine, December, 1974).
- control of a hot strip mill at ISCOR (Pulse, December, 1974).
- quarrying. Moregrove quarry in Port Elizabeth where computer controlled weighbridge is used to control invoicing and stores records as well as keeping a record of the truck fleets.

Conclusion:

The main aim of this article is to create an awareness of the implications of the electronics revolution.

Trade unions in South Africa should familiarise themselves with production trends in industries in the advanced countries as well as the response of trade unions in those countries to such changes.

SM

References:

1) E Mandel: Late Capital (Verso, 1978) page 120.
2) K Marx: Grundrisse (penguin, 1973) page 692.
3) N Wiener: Cybernetics (MIT Press, 1961).
4) GA Harvey: 'Skilled Manpower Survey for Automation in South Africa' (Third National Conference SACAC, 1969).
5) S Jacobson: 'Microelectronics and the Third World' (Wireless World, March 1980).
6) South African Labour Bulletin, volume 5, numbers 2 & 4.

THE NATURE OF POLITICAL TRIALS

DO 'political trials' take place in the courts of South Africa? State prosecutors deny it vehemently, claiming that trials involving people charged under 'security legislation' are criminal matters; government ministers have objected to the category 'political prisoners' being applied to people convicted in such trials, and at least one Supreme Court judge threatened to report an advocate to his Bar Council for referring to a trial as 'political'.

Yet a strong case can be made that, at very least, trials held under 'security' legislation (especially the Terrorism Act, Internal Security Act and 'Sabotage' Act) do have features which distinguish them from more conventional 'criminal' trials, eg. murder, theft, fraud and so on. A number of these features spring to mind fairly readily:

1. In the vast majority of 'security' trials, accused persons are held in police detention for lengthy periods of time prior to being charged and appearing in court. Provision for such detention is made in, inter alia, the General Laws Amendment Act of 1966 (14 days), the 180 detention clause, and section 6 of the Terrorism Act, which allows for indefinite detention under virtually limitless police control of detention conditions.

Accordingly, accused persons in 'security trials' have usually been in police custody for a long time - often the whole duration of the investigation against them - before appearing in court. In criminal matters, evidence is usually gathered against a person prior to his or her arrest; on arrest, the accused is usually charged within 48 hours and even if not granted bail has access to friends, family and legal advisors.

In a situation of lengthy detention and interrogation, an accused person is under strong compulsion to assist the police in gathering evidence against him or her, as well as against others who may eventually be charged in court, or used as witnesses.

2. The next major feature distinguishing 'security' from 'criminal' trials is the question of evidence led in court against an accused. In almost all security cases, alleged accomplices of the accused are detained for lengthy periods, and placed in a position of helping the police to build up a case against the accused (a person may be detained until he or she has answered all questions to the satisfaction of the police). Once the accused has been charged, and it has been decided to use accomplices as witnesses, those accomplices may be, and usually are, held in custody on order of the attorney general. When such a witness is brought to court to give evidence against the accused, he or she arrives in court

directly from custody, and is effectively in police detention until the moment they enter the witness box.

Normally, a witness in a trial is not required to answer questions which incriminate him/her in the commission of an offence; if, however, the state requests the presiding judge or magistrate to warn such a witness as an accomplice of the accused, all questions put to the witness must be answered in full, including ones which incriminate the witness. If, at the conclusion of the trial, the presiding judge or magistrate is satisfied that the witness answered all questions fully and truthfully, the witness will be granted an indemnity against prosecution by the state in respect of the matters he or she testified on. This procedure can be called into use for state witnesses only, and excludes people giving evidence for the defence.

Accomplice evidence may be used in any trial, and indeed is used on occasion in non-security matters. However, the procedure is most commonly found in 'security' trials, primarily because of the manner of police investigation of such matters, ie detention of all suspects, as well as others who may possess information relevant to the trial.

The very scale and frequency of the use of accomplice evidence differentiates 'security' from 'criminal' trials.

3.Another fairly regular feature of security trials, which occurs much less frequently in criminal matters, is the tendering of 'confessions', made by accused people while in police custody, as evidence. The number of people in security police custody who fully confess to serious offences, including the undergoing of military training outside of South Africa, possession of arms, explosives and ammunition, and membership of banned organisations, is remarkable. On occasion, police take people in their custody to magistrates to make these 'confessions'; other times, the statements are made directly to policemen. (The former procedure makes it slightly easier for the state to have such confessions admitted as evidence in court).

The scale and regularity of such confessions distinguish the 'security' and the 'criminal' trial. One can speculate that these confessions are made so regularly because of detention provisions which allow police such a large degree of control over a suspect; certainly allegations of assault, torture and mal-treatment are more regular in 'security' matters than in 'criminal' cases where the power of the police over a suspect is more limited.

4. It is very unusual for a person charged with a security offence to be granted bail while awaiting trial. The attorney general of the province in which the trial is to be held is granted the power to refuse bail in any of these sorts of matters, and this is now done as a matter of course. The attorney general or his representative need not explain why bail is being refused; the mere handing in to court of a certificate signed by the attorney general is sufficient to keep an awaiting trial person in custody.

In 'criminal' matters, accused people are usually granted bail, even in the case of serious charges like murder, rape and armed robbery. If the state wishes to oppose the granting of bail, it has to lead evidence showing why bail should <u>not</u> be granted; the accused may attempt to challenge this evidence, and show why bail should be granted. The presiding judicial officer then decides whether the accused should be released on bail or not. In the majority of cases, bail is granted, and the state often declines to oppose the granting of bail.

As explained above, the procedure is very different in the case of security trials.

5. Security laws themselves differ appreciably from criminal law. The Terrorism Act, for example, created offences retrospectively: while the act itself only became law in 1967, it was expressly made retrospective to 1962. In other words, acts committed between 1962 and 1967 which were lawful at the time can be charged as Terrorism in terms of the retrospective clause of that law.

The Terrorism Act, under which the vast majority of security trials take place, also differs from criminal law in that it covers acts committed <u>outside</u> of the borders of South Africa (it is extra-territorial), a prosecution can only be brought under this act with the express permission of an attorney general, and in certain circumstances, the onus of

proof is altered. Usually, the state is required to prove beyond reasonable doubt that an accused is guilty of an offence. Under the Terrorism Act, the state has to establish a case against the accused only on the face of things (prima facie), ie superficially. Once this has been done, it is up to the accused to prove that what has been established is not an offence. (This is a complex section of the Terrorism Act, and has been deliberately oversimplified here).

Finally, both the Terrorism and 'Sabotage' Acts, as well as sections of the Internal Security and Explosive Acts, provide for minimum sentences if an accused is found guilty. In the case of the Terrorism and Sabotage Acts, this is 5 years, no part of which may be suspended.

The provision of minimum compulsory sentences is unusual in the case of criminal law, but common in security trials.

6. Trials held under security legislation differ from criminal matters in another important respect: that of evidence led by the state. It is common in security matters for state witnesses to give their evidence in camera, behind closed doors, with the public excluded and the press forbidden to disclose the names of certain witnesses. It appears that a sufficiently large section of the South African public considers that there is a stigma attached to the giving of state evidence in security trials for the state to be concerned about the safety of its witnesses. This is by no means the case in criminal trials, which are generally fully open to the public and press.

7. Even once an accused has been found guilty in a 'security' trial, he or she is treated differently from people convicted in criminal matters. They are jailed separately from other prisoners (black men on Robben Island, black women at Potchefstroom or Kroonstad, white men in a special section of Pretoria Central). A person convicted of a criminal offence is liable for parole or remission of sentence, and it is unusual for such a prisoner to serve his or her sentence in full. Those convicted under security legislation serve their sentences in full to the day, and no parole or remission of sentence is considered.

Finally, it has recently been ruled that prisoners serving sentences under security legislation may not study beyond matriculation level unless special permission is granted. This is not a ruling applicable to other prisoners.

All of the features listed above show that a clear distinction exists between the 'criminal' and the 'security' trial; when one adds a further factor, namely that of the motivation of accused people, the distinction reaches its clearest.

As a general statement (to which there are of course exceptions), the individual criminal is motivated by personal interest- gain, revenge, profit and the like. (This motivation does not, however, establish the reason for crime itself, which has to be looked for in the very structure of a class-divided society).

The person tried under security laws is, on the other hand, usually motivated by some sense of idealism, a vision of a new and better society, affiliation to a political movement, a strong sense of outrage or grievance, a programme aimed at changing society, or a combination of these factors. The political 'offender' is someone working to change reality according to a plan or programme, and utilising specific tactics or strategies.

The distinction between the 'criminal' trial and the 'political' trial - for such trials there are in South Africa - is then established. It should also be clear why the state wants to attach the label 'criminal' to the political trial. As a recent study argues,

> "....we must take account of the role which criminalisation - the attachment of the criminal label to the activities of groups which the authorities deem it necessary to control - plays in legitimising the exercise of judicial control..... (T)here is something appealingly simple about the 'criminal label': it resolves ambiguities in public feeling.....Crime issues are clear cut; political conflicts are double edged.....Hence the 'criminal-isation' of political and economic conflicts is a central aspect of the exercise of social control. It is often accompanied by heavy ideological 'work', required to shift labels about until they stick, extending and widening their reference or trying to win over one labelled section against another."
> (Policing the crisis: mugging, the state, and law and order. S Hall et al, MacMillan, 1978:189-190).

It is precisely this dynamic which is behind the ongoing conflict over what to call certain categories of political activists - 'terrorists', 'guerillas', or 'freedom fighters'. The state's attempt to label activity as 'terrorist', even when no act of violence is envisaged, or where violence is directed against state or strategic property, is part of the process of 'labelling' certain sorts of activity, and thereby giving it the atmosphere of the criminal, rather than the political.

Ultimately, the question of whether certain sets of trials in South Africa are 'criminal' or 'political' is not really a legal question, nor one of careful definition; the question rather directs one to realise that there are conflicting interests at play, adopting different labels in an attempt to legitimate their world views and programmes on how society should be reshaped, and who should be shaping it. These are the real issues behind the distinctions between the political and the criminal, the legitimate and the illegitimate.

COURTS

TERRORISM ACT TRIALS.

Ally Kholisile Lumkwane (22), David Dumisani Maduna (20), and Bonginkosi Patrick Maisela (24).

Charge: Three counts under the Terrorism Act.

Count 1 alleged that between September 1976 and June 1979, Lumkwane (accused number 1) underwent military training in Swaziland, Mocambique, Angola and/or the Soviet Union. Lumkwane was also alleged to have recruited Sydney Gumbi, his 2 co-accused (Maduna and Maisela), as well as three people listed as Alpheus, Bisau and Jack, for military training.

Maduna and Maisela were accused of undergoing military training in Mocambique during January/February 1979.

Count 2 dealt with the alleged activities of the accused, in co-operation with the ANC and/or its military wing, Umkonto we Sizwe.

Lumkwane was alleged to have trained various people, including Maduna and Maisela, for the purposes of guerilla warfare; all 3 accused were charged with planning to kill or injure people, and cause damage to government and private property. These allegations related inter alia to a planned attack on the Dobsonville police station, and a mission to Whittelsea in the Eastern Cape, where the local magistrate and police station were to be attacked.

Count 3 dealt with the possession of arms, explosives and ammunition, including TNT, plastic explosives, hand-grenades, SHE sub-machineguns and cartridges.

According to the summary of facts which the state intended to prove at the trial, Lumkwane left South Africa in September 1976 and joined Umkonto we Sizwe, the military wing of the ANC. After having been trained, he agreed to recruit people in South Africa for military training, and to assist in their future training.

He crossed the South African/Swaziland border on various occasions between October 1978 and June 1979. On one of these occasions he brought explosives with him, and buried them at Jeppes Reef, which is a border post between the two countries.

During January/February 1979, Lumkwane recruited Maduna and Maisela for military training. The three travelled to Mocambique via Swaziland, where Maduna and Maisela underwent military training. Lumkwane assisted in their training.

They returned to South Africa in February 1979 in possession of arms and ammunition which they buried in a spruit near Mofolo, Soweto. Shortly afterwards, Lumkwane took another party of ANC recruits out of South Africa, returning on about June 22nd 1979.

He took up residence in an outbuilding of a Dube house in Soweto, and assumed the identity of Sydney Gumbi, who was one of the recruits he had taken out of South Africa for training. He carried false documentation in support of this false identity. He stored two handgrenades in a disused refrigerator in the outbuilding which he was occupying.

Lumkwane was arrested at this Dube house on June 28th 1979; after having been handcuffed he managed to escape, but was re-captured