

"Faced with...deteriorating conditions, black workers responded through a groundswell of popular resistance such as bus boycotts, and SACTU had to choose either to let this wave of opposition sweep past them or respond positively by trying to direct it into a more viable and sustained opposition. Not surprisingly they chose to try and capture it, but lacking any adequate organisational base they were forced to use the limited tactic of the stay-away - a tactic as we have seen, that is most effective when some form of factory organisation existed" (Webster 1979:13).

We can conclude that the 1950s and early 1960s saw the development of an increasingly violent form of state repression of working class activity, and a refusal to institutionalise conflict in any way by granting legal recognition to the trade union movement. Working class strike activity soon became incorporated into a broader strategy aimed primarily at the liberation of the popular masses. By the 1960s the state had successfully crushed the labour movement.

PART II OF THIS ARTICLE, DEALING WITH THE 1970s, WILL APPEAR IN THE NEXT ISSUE OF WIP. Works referred to:

O'Meara, D. "The 1946 Mine Workers' Strike and the Political Economy of South Africa" in Contemporary Southern African Studies: Research Papers, Kallaway and Adler (eds), Wits University, 1978.

Webster, E.C. "Stay Aways and the Black Working Class since the Second World War - The evaluation of a strategy". Mimeo, 1979.

# THE TREASON TRIAL

FOR THE first time in nearly two decades, the charge of High Treason has been levelled against a group of accused in South Africa. Between 1956 and 1961, leading members of the Congress Alliance (comprising the African National Congress, Congress of Democrats, South African Congress of Trade Unions, Indian Congress and South African Coloured Peoples' Organisation) stood trial in Pretoria, charged with treason. But subsequent to their acquittal, the state preferred to charge its political opponents under the so-called Sabotage, Terrorism or Suppression of Communism (Internal Security) Acts. A change in this pattern was noticed when 11 Soweto students were charged with sedition in the recently concluded Kempton Park trial. Subsequent to them being found guilty on that charge, 12 men were charged with the more serious offence of high treason in Pietermaritzburg. The 12 accused in this treason trial all face a main charge of treason, with 43 alternative counts framed under the Terrorism Act, and further charges of conspiracy to commit murder.

The state has set out a series of acts allegedly committed by each of the accused, which it claims renders them guilty of the charges. All of the accused are alleged to have been acting in conspiracy with the banned African National Congress (ANC). The acts alleged against the accused are as follows:

- accused number 1: John Mofokeng Sekete (24).
- Between November 1976 and August 1978, he underwent military training in Angola, Russia and East Germany.
  - Between November 1976 and November 1978, he had access to and control over a cache of arms, ammunition and explosives near Witkleigat, Bophuthatswana.
  - Between July and November 1978 the accused, together with others, undertook a mission to reconnoitre the Transvaal and Bophuthatswana. He carried arms in Bophuthatswana, and on August 1st 1978 he engaged members of the South African Police and the Bophuthatswana Home Guard in armed conflict.
  - During November 1978, at Phokeng in Bophuthatswana, Sekete attempted to recruit



people for ANC activities.

a). On November 22nd, the accused possessed a Makarov pistol and ammunition in the Koster township.

accused number 2: Tladitsagae Moses Molefe (23)

a). During the period October 1976 to October 1978, Molefe underwent military training in Angola, Russia and Zambia.

b). During October 1978 he was part of a group which intended to establish bases in South Africa to conceal men and arms, and which also intended to attack police stations near Vryburg and Mafeking. During this mission, he carried arms in Bophuthatswana. On 27th October 1978, near Madimola, he engaged members of the Bophuthatswana Home Guard in armed conflict.

accused number 3: Jeffrey Ramasaka Legoabe (30)

a). Between December 1977 and December 1978, the accused underwent military training in Angola.

b). During January 1979, he attempted to recruit a person in Soweto.

c). On 8th March 1979, in Dubs, Soweto, he was in possession of a Makarov pistol, ammunition, 2 handgrenades and a detonator.

accused number 4: Thibe Jimmy Ngobeni (27).

a). Between November 1976 and March 1978 the accused underwent military training in Angola, Russia, and East Germany.

b). During March 1978 he made trips to Mamelulele and Tshikundu areas, Gazankulu, to find places where arms and men could be concealed.

c). Between November 1976 and December 1978, he had access to arms caches in Duiwelskloof and Elim areas, Transvaal.

d). During December 1978, together with a

group including Andrew Mapheto (accused number 5), he entered South Africa to reconnoitre places in the Transvaal.

accused number 5: Andrew Mapheto (20).

a). Between June 1976 and December 1978, Mapheto underwent military training in Angola and East Germany.

b). During December 1978 he entered South Africa with a group including accused number 5, to reconnoitre areas in the Transvaal.

accused number 6: Bennet Pantese Komane (46).

a). Between June 1976 and August 1978, the accused underwent military training in Angola and Russia; he was an instructor at the Benguela guerilla training camp in Angola.

b). Between July 1978 and July 1979, he entered South Africa to locate places where arms and men could be concealed.

c). Sometime between November 20th and December 20th 1978, he attempted to recruit a person in Soweto.

d). During the period July 1978 and January 1979 he was in possession of a Tokarev pistol and ammunition.

accused number 7: Titus Mogaletcoe Maleka (25).

a). Between December 1975 and February 1979, the accused underwent military training in Angola and Russia.

b). During February 1979, together with a group including Sydney Sekwati Choma (accused number 8), he returned to South Africa to investigate places near Dennilton, Groblersdal district, Transvaal, where arms and men could be concealed; there he had access to and control over a cache of arms and ammunition.

c). On 8th February 1979, near Dennilton, he was in possession of a Makarov pistol and

ammunition; on 9th February he was in possession of an AK 47 rifle, ammunition and 2 hand grenades.

accused number 8: Sydney Sekwati Choma (23).

a). The accused underwent military training.

b). During February 1979, together with accused number 7 and a group of men, he returned to South Africa to investigate places in the Groblersdal district where men and arms could be hidden; in that area he also had responsibility for an arms cache.

c). During February 1979, near Dennilton, Groblersdal district, he was in possession of arms and ammunition.

accused number 9: Mandlenkosi Christopher Hadebe (27).

a). Between January 1976 and March 1979 he underwent military training in Angola.

b). During January 1979 in the Njando area, Meinga district, Natal, he made enquiries about places where arms and men could be concealed; in this area he also recruited people to kill others.

c). On 11-12 March 1979, together with Mandla Jack Mthetwa (accused number 10), he brought 2 AK 47 rifles and ammunition into the Meinga district.

d). On 12th March 1979, together with accused number 10, he attempted to recruit a person in the Meinga district.

accused number 10: Mandla Jack Mthetwa (22).

a). Between May 1975 and March 1979, the accused underwent military training in Russia.

b). During the period May 1975 to March 1979, he had access to and control over arms caches in the Ndumo and Nongoma districts of Natal.

c). On 11-12 March 1979, together with Hadebe



(accused number 9), he brought arms and ammunition into the Masinga district of Natal. d). On 12th March, with Hadebe, he attempted to recruit a person near Njando.

accused number 11: Vusumuzi Nicholas Zulu (28).

a). Between October 1976 and June 1979, the accused underwent military training in Angola and Russia.

b). Between November 1977 and June 1979, he returned to South Africa to investigate pipelines near Merebank, Natal, with the intention of sabotaging them.

accused number 12: James Daniel Mange (24).

a). From September 1976 to October 1978, the accused underwent military training in Angola and Russia.

b). During July-August 1978, he returned to South Africa; he investigated the police station, magistrates court, and magistrates home at Whittlesea, Cape, with a view to attacking them, and killing or injuring those employed or resident at those places.

c). During August 1978 he attempted to recruit a person in Soweto.

d). During October 1978 he made arrangements for a gang to attack the police station, magistrates court and home at Whittlesea, and to kill or injure those employed or resident there.

THE TRIAL THUSFAR:

On 15.06.79 two young men appeared in the Pietermaritzburg Magistrates' Court, charged with High Treason, 3 counts of Terrorism, and 2 counts of conspiracy to commit murder. Mandlenkosi Christopher Hadebe (27) and Mandla Jack Mthetwa (22) were detained by security

police on the night of March 12th 1979 in the Njando area of Masinga district. Both allegedly members of the African National Congress (ANC), the state claimed that they crossed into South Africa from Swaziland on March 11th, carrying parcels of arms and ammunition.

Neither of the accused were legally represented at this preliminary court hearing, and there was considerable surprise when both pleaded guilty to the charges, which carry a possible death sentence. Hadebe told the presiding magistrate that "I was fighting for freedom...What I have done is something which anyone fighting for freedom would have done".

The arms cache which the accused were alleged to have been in control of in Masinga contained 2 AK 47 machine guns, several rifles and pistols, a 9mm Vzor-25 sub-machinegun, ammunition, bayonets, Pomz-type mines, hand-grenades and 31 blocks of TNT.

A few days later the accused re-appeared in court, this time represented by legal counsel, who informed the presiding magistrate that the original pleas of guilty should be reversed. Counsel pointed out that the two men had only been given their charge sheet 2 hours before they had pleaded guilty, and had not had sufficient time to understand the allegations made against them by the state. At a later hearing, Mthetwa told the court that police had threatened him with assault if he denied the charges, and had promised that he would only be sentenced to 5 years imprisonment if he pleaded guilty. At the conclusion of these preliminary hearings, the magistrate altered the pleas tendered to not guilty, and the matter was remanded for trial to the Supreme Court.

Just over a month after Hadebe and Mthetwa's initial court appearance, ten further alleged ANC members or supporters were charged with high treason, terrorism, and conspiracy to commit murder, and the two trials were joined together. When the ten accused first appeared in court, security was extensive; the men were chained in leg irons, and the court was heavily guarded by security police. When, at the beginning of August, all twelve accused appeared in the Pietermaritzburg Supreme Court, armed police patrolled the area outside the court, and the accused were seated in a specially constructed shatter-proof glass cage, which according to the state prosecutor was designed to prevent the accused from addressing the public gallery, and to "uphold the dignity of the Court". On the opening day of the actual trial, armed police were stationed at every door and gate to the court-house, while security police mingled with the crowd.

State witness Sgt. Stephanus Adrian Oosthuizen told the court that on 2.08.78 he had been on border patrol along the South Africa-Bophuthatwana 'border'. The patrol encountered two armed black men, who opened fire on them. When members of the patrol returned the fire, the men ran off into the hills, throwing a hand grenade at the patrol. Police pursued the men, and Major Marthinus Ras of Zeerust police gave evidence on finding a haversack containing AK 47 rifle magazines nearby.

Ras testified that the first accused, Sekete, was arrested by Bophuthatwanan police in November 1978. He was handed over to Ras on November 24th, and detained under

section 6 of the Terrorism Act. Under cross-examination, Res admitted that it had crossed his mind that he might be kidnapping Sekete from Bophuthatswana, as he had not gone through the legal formalities of extraditing him from 'independent' Bophuthatswana.

Major Thomas Kgwele, who was at the time of Sekete's arrest in command of the Phokeng police-station in Bophuthatswana, told how Sekete had admitted undergoing training in Angola and Russia under the auspices of the ANC. Under cross examination, Kgwele admitted that when Sekete was brought into his office, he had been bleeding from a wound on his head. It was suggested to Kgwele that he had been part of a group which beat up Sekete at the police station; this was denied by the witness. After a district surgeon who had examined Sekete testified that the wound on his head was consistent with assault, the state ceased to rely on any statements allegedly made by Sekete to Kgwele, presumably on the grounds that it accepted that the statements were made after coercion (assault).

Major Res also testified on a clash between South African police and guerilla forces in mid-January 1979. In thick bush near the Verdepoort border post with Botswana, Res and twenty anti-insurgency forces came across 2 suspected guerillas. "I took aim at one of them with an R1 rifle before screaming at them. He turned round with a weapon in his hand - it was very quick. I didn't see what weapon it was. I shot first...I did not miss." Res went on to describe the fierce gun-battle which followed, in which hand-grenades were thrown by the guerillas at the police. Next morning security forces searched the area, and

found a dead man with a bullet wound under his nose. A pass book containing his photograph gave his name as Patrick Opa Tawa, but fingerprints taken identified the dead man as Richard Mapetla. Two AK 47 rifles and 'trunks full' of military equipment were found nearby.

Warrant-Officer Christiaan de Wit gave evidence on a clash between police and guerillas near Mafeking on 27th October, 1978, and identified accused number 2 (Molefe) as one of the guerillas involved. Near Madimola, he found three men sitting under a tree, and ordered them to surrender. In the ensuing battle, one of the guerillas was shot dead, one killed in a grenade explosion, and the third arrested.

It was at this stage in the trial that the state indicated its intention of applying for certain evidence to be held in camera, with the public excluded from court. This sort of application has been made regularly by the state in political trials; the claim is made that particularly black witnesses who give evidence for the state are subject to intimidation, violence and even death. In recent years, the South African courts have become more and more willing to hold parts of political trials in camera. While in 1977 the late Justice Davidson refused to close his court to hear evidence in the trial of the 'Pretoria 12' (S vs Sexwale and others), by 1978 it had become common for judges and magistrates to accede to state requests for in camera hearings. It was this issue which was to increase tension and drama in a trial which already had unusual ingredients.

During evidence led to support the state application, presiding judge Mr. Justice

Hefer revealed that he had received a letter purporting to come from the ANC in Swaziland. The letter, on ANC letterhead, read:

"This is the voice of the oppressed people. We will be inside your court to see that our comrades are released. This is no threat but sound advice to you and your fascist regime. Amandla. Power to the people."

The letter, together with state evidence that it was ANC policy to kill state witnesses, convinced the judge to allow certain black state witnesses to give evidence in camera, with the public excluded from court. Quoting from the official ANC organ, *Sachaba*, Justice Hefer said that the aim of the ANC was clearly to 'eliminate' police informers, witnesses who testified for the state in terrorism trials, and the security police.

It was at this stage of the proceedings that the accused decided to effectively withdraw from further participation in their trial. Just before they dismissed their legal representation, senior counsel told the court that the accused had been charged as members of the ANC with treason; they perceived this as attempting to overthrow the government by all means including violence. They considered the courts as part of the government apparatus. They further considered treason to be a crime affecting society, and to exclude the public from the trial excluded the very people the ANC was trying to reach. The accused therefore saw no purpose in participating in the in camera trial, and had therefore dismissed their defence lawyers. They wished to take no further part in the trial, and did not wish to attend court



sessions.

As the defence team left the court, the 12 accused stood up and with raised clenched fists, sang and shouted 'Amandla' and 'Power to the People'. The judge ordered that they be removed from court, and the trial continued in their absence.

After further evidence had been led, the judge ordered that the accused be brought to court singly or in pairs, and be given the right to cross examine witnesses. John Sekete, the first accused, confirmed that he would not take part in the trial. "Before anything happens to me," he told the judge, "I would like to say this: it is against my will to be here and I am not prepared to talk or admit anything". When the judge told Sekete that he had the right to cross-examine witnesses who testified against him, he responded: "Are you doing me a favour?" He claimed that he had been attacked and assaulted by police in prison, and was in court against his will. "I would like permission to leave. I am not prepared to listen".

According to a state witness who the judge ruled could not be identified, Sekete was previously a student at Naledi High School, Soweto. After the June 1976 rebellion, he and a number of his friends disappeared. Sekete left behind a note saying "I am leaving for Russia, God is there". While the witness gave evidence against him, Sekete stalked up and down the specially-built dock, and subsequently refused to cross-examine the witness.

Tladitsagae Molefe, the second accused, told the court that he was prepared to participate in the proceedings if the trial was opened to the public. When this was

refused, he said that he would have nothing to do with the hearing. "Your worship can impose sentence on me now" he said.

Thibe Ngobeni and Andrew Mapheto, accused numbers 4 and 5 respectively, also refused to participate in proceedings while evidence was led against them. Ngobeni lounged back, resting his feet against the railing on top of the dock, while Mapheto stalked up and down as evidence was given about ANC pamphlets, guns and ammunition found near Duiwelskloof in the Eastern Transvaal.

A witness who gave evidence in camera said that he knew Ngobeni from High School at Louis Trichardt. Later Ngobeni had studied at Turfloop, the University of the North. During May 1978, at a house in Malamulele in the Eastern Transvaal, Ngobeni had described the training he underwent in East Germany, Russia and Mocambique. He returned to South Africa to look for places to hide guns and food. He had brought hand grenades with him for self-protection against the police.

Two of the accused, Sekete and Mandlenkosi Hadebe, were sentenced for contempt of court, after they ignored Justice Hefer's warnings to behave themselves in the dock. Sekete continually paced up and down the glass-encased dock while a witness was giving evidence, and then refused to acknowledge the judge when he was questioned. He was then ordered to stop pacing, and when he ignored the instruction, was sentenced to 6 months imprisonment.

Hadebe sat in the dock smoking a cigarette, and told the judge to "leave me alone" when he was ordered to stop smoking. "Tell him I am considering sentencing him for contempt

of court", Justice Hefer told the interpreter. "Tell the court to do as it pleases", Hadebe retorted. He was then sentenced to 6 months imprisonment.

Giving evidence against Hadebe and Mandla Mhetwa, a witness said that on March 11th 1978 he had travelled with the two from Swaziland on a trip past Vryheid and Dundee in Natal. Pineapples covered two parcels in the back of the van, and when Hadebe and Mhetwa were dropped off in the bush near Pomeroy, they took the parcels with them. The witness returned to Swaziland, but was arrested the following month when he crossed into South Africa to deliver money to Hadebe and Mhetwa. At the time of giving evidence, sixteen months after his arrest, he was still in detention.

A 12-year old boy testified that in September 1978 he and a friend were cutting grass at Mkwane's Drift near Ndumo, Masinga district. They uncovered a packet of weapons, and ran home to tell their parents. Shortly thereafter, the police arrived. Sgt. Thomas O'Connell of security police, Ndumo, testified that he found two more arms caches nearby, using a metal detector. Weapons in the caches included

- 6 AKM automatic rifles
- 3 Russian Scorpion pistols
- 1 Vzor sub-machine gun
- 31 blocks of TNT
- 1700 cartridges
- 31 hand grenades
- 10 packs of explosives..

The state claims that Hadebe and Mhetwa were in control of these arms caches.

On the day after Hadebe had been

sentenced for contempt of court, he complained that he was being fed inadequately in prison. Saying he was being starved, Hadebe added that he had been given only sugarless porridge which he would not eat. When the judge suggested that he should have thought of prison food before inviting the court to sentence him for contempt, Hadebe replied "Could you eat the muck supplied in jail?" He also said that he had been isolated from other prisoners, and was locked alone in a dark cell. Stalking up and down the glass-enclosed dock, Hadebe suddenly grabbed the door and tried to force it open. He then smashed his fist against the glass door a number of times. On several occasions he shouted at state witnesses, once saying to a woman witness "They are our enemies and are trying to separate us". The woman began sobbing before completing her evidence.

According to another detained witness who may not be identified, Vusumuzi Zulu, accused number 11, claimed that Tsietai Mashinini, first SSRC president, was a deceptive person who started riots in Soweto and then escaped, leaving the children in trouble. By contrast, Nelson Mandela was a brave leader who stood by his cause and did not run away. The witness also claimed that Zulu had wanted to know why Inkatha had not been banned like other organisations. He was angered that Inkatha used the same colours as the ANC.

Armed guards patrol the building round the clock; most major witnesses give evidence in camera, and the press has been totally excluded from court on a number of occasions. The attitude of the accused towards the

proceedings remains the same: James Daniel Mange, the 12th accused, recently replied to a question from the judge that "I told the court several times before that I am not interested in saying anything, and I am repeating this for the last time - please don't ask me again."

Just before closing its case, the state led evidence that slogans had been written on the cell walls of the accused. Inter alia, they read:

"There comes a time in the life of every nation - submit or fight - we shall fight with every means at our disposal. There is one way to freedom. Fight. Viva Umkhonto we Sizwe".

The last of the state's 144 witnesses, Lt. J.P. Van Rooy, then summarised the exhibits handed in to court by the state. They included 32 AKM assault rifles, 9,873 rounds of ammunition, 120 hand grenades, 57kg of TNT, 5 Scorpion sub-machine guns and 6 Makarov pistols.

At the end of the state case, the accused again reaffirmed their intention not to participate in the proceedings. Andrew Napheto read out a statement on behalf of the 12, which said "we brought to the attention of the court that we do not intend participating, but have been repeatedly brought here against our will". There will accordingly be no evidence for the defence, and the 12 will not testify themselves. After a brief state argument calling for the conviction of all the accused, the trial judge postponed the hearing to November 12th, when judgement will be given.

An interesting feature of the trial has revolved around activity in the so-called 'independent' Bantustan, Bophuthatswana. Prisoners have been handed over by the Bantustan administration to the South African police without even the formality of extradition proceedings, and activities within Bophuthatswana have been charged as acts against the South African state. The close co-operation between the South African Police and the Bophuthatswanan home guard in patrolling borders is also of interest.

This is by no means the first time that accused in a political trial in South Africa have rejected certain aspects of judicial procedure. At the beginning of the trial of 18 accused in Bethal who were charged with PAC activities (S vs Mthopang and others), the accused refused to plead to the charges, saying that they did not recognise the right of the court to try them. Nonetheless, they engaged legal counsel, and eventually gave evidence in their own defence. It is the firmness of resolve of the 12 Pietermaritzburg accused, especially in the light of the serious charges they face, which makes their case so unusual.

