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amnesty

international

INTERNATIONAL SECRETARIAT

1 Easton Street London WC1X 8DJ

United Kingdom

EXTERNAL (for general distribution) AI Index: AFR 53/44/88

-. Distr: UA/SC

1 December 1988

Further information on UA 259/88 (AFR 53/34/88, 10 October 1988) - Fear of torture/Health concern/Legal concern

SOUTH AFRICA: VeTiswa MHLAWULI, femaTe, aged 35, journalist

VeTiswa Mhlawuli has been detained since 5 October 1988 in Cape Town under Section 29 of the InternaT Security Act (No. 74 of 1982) which permits indefinite, incommunicado detention without charge for the purposes of interrogation. She has not been seen by her Tegai representatives since her detention. Amnesty InternationaT has received reports indicating that VeTiswa MhTaqui's physicaT and mentaT heaTth appear to have been severeTy affected by her continuing isoTation and interrogation in prison. It is not known where she is currentiy her.

VeTiswa MhTaqui was already physicaTTy and psychologicaTTy debiTitated at the time of her detention. She was stiTT undergoing medicaT treatment after being shot in the face by an unidentified assailant near her home on 19 August 1988. She Tost an eye as a consequence of the attack. After initiaT treatment, she went into hiding out of fear for her life.

Two months earTier, Veliswa Mhiawuii had appeared in a British Broadcasting Corporation (BBC) television documentary "Suffer the Chderen", which was screened in Britain in June 1988. The fiTm contained allegations of torture in detention. The South African government announced its intention of investigating each claim and produced a video fiTm purporting to refute the allegations. The video, which reportedly contained excerpts from the BBC interview with VeTiswa MhTaqui, was shown by the South African Broadcasting Corporation three weeks before she was shot.

Amnesty InternationaT is concerned about the physical and mentaT heaTth of VeTiswa MhTaqui and fears that she is being subjected to torture or iTT treatment in detention. The organization regards her as a prisoner .of conscience detained as a consequence of the non- vioTent expression of her political views and her work on behalf of the human rights of others.

RECOMMENDED ACTION: TeTegrams/telexes/express Tetters/airmaiT Tetters:

- expressing concern about the continuing detention without charge, under Section 29 of the InternaT Security Act, of VeTiswa MhTaqui and asking the reasons for her detention;

- expressing concern that her detention may be related to her appearance in the BBC documentary "Suffer the Children";

- seeking assurances that she will not be subjected to torture or ill-treatment whiTe in security detention;

Telephone 01-833 1771 Telegrams: Amnesty London WC1 Telex: 28502

' ' n inde ndent worldwide movement working for the international protection of human 231:5 ii lsrgtgagatggnrzllg; of mg:and women detained anywhere because of their beliefs, colour, sexteihmc

origin, language or religious creed, provided they have not used? or adyocated vlolence.T hese are tenfnd insane?

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detained without charge or trial. It opposes the death penalty and torture or other cruex . :nhuman or egra mg

treatment or punishment of all prisoners.

- urging that she be granted immediate access to legal counsel, to visits from her family, and to independent medical examination;
- calling for her immediate and unconditional release as a prisoner of conscience detained as a consequence of the non-violent expression of her political views and her work on behalf of the human rights of others.

APPEALS TO:

President wa Botha
 State President's Office
 Private Bag X213
 Pretoria 0001, South Africa
 Telegrams: President Botha,
 Pretoria, South Africa
 Tetexes: 3-21695 sa; 3-21890 sa;
 3-22158 53

General Jan van der Merwe
 Head of Security Police
 South African Police
 Security Branch
 Private Bag X320
 Pretoria 0001 South Africa
 Telegrams: Gen van der Merwe
 Police HQ, Pretoria, S Africa

COPIES TO:

Mr Adriaan Viok
 Minister of Law and Order
 Private Bag X463
 Pretoria 0001, South Africa
 Telegrams: Adriaan Viok, Pretoria
 South Africa
 Telexes: 3-21353

Divisional Commissioner of Police
 Western Cape Division
 Police Divisional Headquarters
 Caedon Square
 Cape Town 8000
 South Africa

Telegrams: Divisional Commissioner
 Police Divisional HQ, Cape Town,
 South Africa

South African Press Association, PO Box 7766, Johannesburg 2000,
 S Africa

- The Weekly Mail, PO Box 260425, Excom 2023, S Africa
- Cape Times, PO Box 11, Cape Town 8000, S Africa
- South African Council of Churches, PO Box 4921, Johannesburg 2000,
 S Africa
- Southern African Conference of Catholic Bishops, PO Box 941,
 Pretoria 0001, S Africa

and to diplomatic representatives of South Africa in your country.

Please organize appeals to be sent by WOMEN'S and JOURNALISTS' groups.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat,
 or your section office, if sending appeals after 12 January 1988.

- Please take action as soon as you receive this Urgent Action
 appeal. Carefully read the recommended action. If possible,
 send a telegram or express letter immediately to one or more
 of the addresses given. Other letters can be sent afterwards.

_ Telegrams and letters should be brief and courteous. Stress
 that your concern for human rights is not in any way
 politically partisan. Refer to relevant provisions in
 international law. such as the United Nations Universal

Declaration of Human Rights:

Article 3 - "Everyone has the right to life, liberty and
 security of person."

Article 5 - "No one shall be subjected to torture
 or to cruel, inhuman or degrading treatment or
 punishment."

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- The name of Amnesty International may be used, although

letters written in a private or personal capacity may be more effective.

- Copies of appeals should be sent to relevant diplomatic representatives in your country.

- _ In Urgent Action cases. Amnesty International has to act rapidly to prevent the ill-treatment of prisoners. An appeal is issued when Amnesty International believes it has received reliable and accurate information in such cases. It is not always possible to verify all details independently and in some instances the situation outlined in the appeal may change. Urgent Action participants are always notified of any significant new facts.

- _ Copies of any replies received from government authorities should be sent immediately to your sections Urgent Action coordinator or direct to the Campaign and Membership Department of the international Secretariat. If appropriate. thank the official who as 'eplied and ask to be kept informed about the case

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EXTERNAL (for generat distribution) AI Index: AFR 53/41/88

. ' Distr: UA/SC

UA 318788 V Death Penatty/Executions 30 November 1988

SOUTH AFRICA: Paul Tefo SETLABA, aged 24 (stay of execution)

Mxolisi Isaac TSHONGOYI, aged 21 (stay of execution)

and five others executed on 24 November 1988:

Khotisite DYAKALA, aged 31

Zwellndumlle MJEKULA, aged 36

Paul CEDRAS (or SEDERAS), age unknown

Ftip JANSEN, aged 37

Adam STEVENS, age unknown

Paul Settaba and Mxolisi Tshongoyi were scheduled to be executed in Pretoria on 24 November 1988, but both were granted a stay of execution only hours before they were to die.

Five others were executed on 24 November 1988: Khotisite Dyakata, Zwellndumlle Mjekuta, Paul Cedras, Fllp Jansen, and Adam Stevens. Kholisile Dyakala and Zwellndumlle Mjekula were sentenced to death on 14 December 1987 in the Port Elizabeth Supreme Court for the June 1986 murder of a security guard. Paul Cedras was convicted of murder in a Cape Town court on 10 March 1988. Ftip Jansen was convicted on two charges of murder in a Cape Town court on 26 March 1988. Adam Stevens was convicted of murder in a Cape Town court on 10 September 1987.

On 10 December 1986, Paul Settaba was convicted of murder for his alleged role in the killing of Mrs Jutia Ditato on 2 October 1985. The murder occurred during a consumer boycott of white businesses organized by the black community in the town of Cotesburg in the Eastern Cape. Mrs Ditato was attacked by a group of people who accused her of breaking the consumer boycott and of being an informer for the security pottce, and set her alight. Two others, Thabo Gusha and Etias Ketem, were also convicted of the murder, and a further two defendants were found not guilty. Thabo Gusha and Ellas Ketem, who were 17 years old at the time of the murder, were sentenced to 17 years' imprisonment each. No extenuating circumstances were found in Paul Settaba's case and he was sentenced to death.

Paut Setlaba, a member of the Cotesburg Youth Organization, is reported to have been convicted on the evidence of a single 16-year-old prosecution witness, who reportedly testified that Paul Setlaba had played an active part in the murder by holding on to Mrs Dilato while petrol was poured over her. Paul Setlaba denied that he was present when Mrs Ditato was set alight, stating that he had left the scene to find a tyre and when he returned with one her body was already burning. The court rejected Paul Setlaba's evidence that he had not used the tyre as immaterial. and convicted him of murder on the basis of the evidence of this prosecution witness.

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Amnesty International is an independent worldwide movement working for the international protection of human

rights. It seeks the release of men and women detained anywhere because of their beliefs, colour, sex, ethnicity

origin, language or religious creed, provided they have not used or advocated violence. These are termed prisoners

of conscience. It works for fair and prompt trials for all political prisoners and works on behalf of such people

detained without charge or trial. It opposes the death penalty and torture or other cruel, inhuman or degrading

treatment or punishment of all prisoners.

Paul Setiaba was refused leave to appeal against the trial court's decision. He petitioned the Chief Justice on 11 June 1987 for leave to appeal, but this too was denied on 9 March 1988. On 3 June 1988 Paul Settaba was officially notified he was due to be hanged on 10 June. On 9 June 1988 lawyers applied to the Pretoria Supreme Court for a stay of execution on the grounds that Paul Setiaba had not petitioned the State President for clemency, and this was granted. On 17 November Paul Settaba was informed that his petition for clemency had failed and that he was due to be executed on 24 November 1988.

On 23 November 1988, his lawyers lodged a petition with the State President's office for Paul Setiaba's trial to be reopened on the grounds that the single witness in the trial, on the basis of whose evidence Paul Settaba had been convicted, had now claimed that he had lied to the court. It is reported that the State President's office stated that this petition would only be considered if the Supreme Court first granted a stay of execution.

At the same time as this petition was submitted to the State President's office, Paul Settaba's lawyers made an application to the Pretoria Supreme Court for a stay of execution pending the outcome of the petition to the State President. The application was heard by Judge Eloff, Deputy Judge President of the Transvaal Province. In support of the application for a stay of execution, the lawyers submitted a sworn affidavit by Charles Phambi Myaba, in which he challenges the evidence given by the principal prosecution witness, 16-year-old Xolile Bonase, that Paul Setiaba had been present when Mrs Dikato was set alight. He also claims that in private conversation with Xolile Bonase, the young prosecution witness told him that he had lied in court and that in reality he had incriminated Paul Settaba as a result of coercion by the police. Xolile Bonase has apparently refused to make an affidavit admitting that he perjured himself, claiming that he was warned against doing so by the security police, and that he was afraid of the consequences if he should retract his evidence.

On the basis of this new evidence, Paul Setiaba's lawyers argued that the court should grant a stay of execution pending the State President's decision on the petition to reopen the trial. However, the application was turned down by Judge Eloff, who also refused leave to appeal against his decision. A final application for a stay of execution to allow lawyers to petition the Chief Justice for leave to appeal against Judge Eloff's decision was likewise refused. However, shortly after midnight, only hours before the execution was scheduled to take place, the Minister of Justice told the lawyers that a stay of execution had been granted pending the State President's decision on the petition to reopen the trial.

— Please take action as soon as you receive this Urgent Action The name of Amnesty International may be used. although

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Declaration of Human Rights: reliable and accurate information in such cases. It is not always possible to verify all details independently and in some instances the situation outlined in the appeal may change. Urgent Action participants are always notified of any significant new facts.

Article 3 - "Everyone has the right to life, liberty and security of person."

Article 5 - "No one shall be subjected to torture Copies of any replies received from government authorities

or to cruel, inhuman or degrading treatment Or should be sent immediately to your section's Urgent Action

punishment coordinator or direct to the Campaign and Membership

Department of the International Secretariat. If appropriate.

Article 9 - "No one shall be subjected to arbitrary arrest. thank the official who has replied

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detentlo" N gut: i' informed about the case.
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One other man due to be hanged on 24 November 1988, Mxolisi Tshongoyi, was also given a last-minute stay of execution, apparently because his petition to the Chief Justice for leave to appeal against his conviction and sentence, which was submitted to the Registrar of the Cape Town Supreme Court in June 1988, had not been forwarded to the Chief Justice for his consideration.

Amnesty International is concerned at the high number of executions carried out in South Africa. At least 115 people were executed in Pretoria Central Prison between 1 January and 24 November 1988, including six executed on 18 November and five on 24 November 1988.

RECOMMENDED ACTION: telegrams/telexes/express letters/airmail letters:

- appealing to the State President to grant a reopening of the trial of Paul Setlaba, to allow a full examination of allegations that a key witness may have perjured himself in the trial court proceedings, and to allow a full reappraisal of the evidence against Paul Setlaba;

- appealing to the State President to ensure that Mxolisi Tshongoyi and all other prisoners convicted of crimes which carry the maximum, irrevocable penalty of death receive every opportunity to explore all possible avenues of appeal;

- expressing deep regret at the execution of six people on 18 November 1988, and a further five people on 24 November 1988;

- expressing concern at the high number of executions in South Africa and appealing for clemency to be granted to all currently under sentence of death;

- stressing Amnesty International's total opposition to the use of the death penalty in all cases, on the grounds that it is a violation of the right to life and the right not to be subjected to cruel, inhuman, and degrading treatment or punishment as proclaimed in the Universal Declaration of Human Rights.

APPEALS TO:

President P w Botha Mr H J Coetsee
State President's Office Minister of Justice
Private Bag X213 Department of Justice
Pretoria 0001, South Africa Private Bag X81
Pretoria, South Africa

Telegrams: President Botha. Telegrams: Justice Minister,
Pretoria, South Africa Pretoria, South Africa

Telexes: 3-21695 SA: 3-21890 SA: Telexes: 3-20678 SA:
3-22158'5A 3-21347 SA: 3-22139 SA

.../...

COPIES TO:

- South African Press Association, PO Box 7766. Johannesburg 2000, South Africa
- The Star, PO Box 1014, Johannesburg 2001, South Africa
- City Press, PO Box 3413, Johannesburg 2000, South Africa
- South African Council of Churches, PO Box 4921, Johannesburg 2000, South Africa
- Southern African Conference of Catholic Bishops, PO Box 941, Pretoria 0001, South Africa
- Black Sash, PO Box 319, Grahamstown 6140, South Africa

and to diplomatic representatives of South Africa in your country.

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