

Six sentences that condemn South African justice

WHEN five men and a woman drop from the gallows in Pretoria Central prison on Friday morning, there will be the usual ritualistic condemnation of the South African Government. Foreign governments will describe it as a "further setback to the reform process", and doubtless it will be perceived "to polarise further the two communities". The South African ambassador in London will be summoned to the Foreign Office to be told of Britain's displeasure; but he is well used to that.

If the six are hanged, and it now appears almost certain they will be, it will not rank, in relative terms, as one of South Africa's more wicked acts. But what distinguishes the case of the Sharpeville Six from so many other causes célèbres of the anti-apartheid movement is the sheer unsuitability of the condemned as political martyrs.

The South African Government has long been adept at creating martyrs. Steve Biko, the Black Consciousness leader of the 1970s who was bludgeoned to death in his police cell 10 years ago, is the most famous example. But there was at least a cynical logic to his death. Biko, the outstanding black leader of his generation, was a genuine threat to the Government. Almost single-handedly he had galvanised a large proportion of South African blacks into a state of mind from which to challenge apartheid.

By contrast the Sharpeville Six are literally pathetic candidates for the martyrs' role. None of them has any record of involvement in radical politics. Francis Mokhesi is a celebrated local football hero. Theresa Ramashamola, whose mother Julia yesterday went to Downing Street to ask Mrs Thatcher to appeal personally to President Botha for mercy, worked as a waitress. She is a practising Roman Catholic and when she was sentenced to death, she told the court that although she denied the evidence against her, she accepted the verdict of the "wisdom of God".

The hangings which now look certain to take place in Pretoria on Friday make guilt by association a capital offence. **STEPHEN ROBINSON** in Johannesburg explains why Mr Botha is unmoved by appeals for clemency

Noonan, describes the 24-year-old as a simple, unpolitical woman, who has the intelligence and sophistication of a 14-year-old British school-girl.

Life is cheap in South Africa. More than 2,500 blacks have died in political unrest in the past three years; and, in the broader sweep of this country's history, it does not much matter whether six unremarkable residents of a squalid black township south of Johannesburg are to be added to the roll of death.

Nevertheless, there is a particular significance to the case which goes far beyond the implications of an extraordinary legal judgment.

The six are to hang according to the principle of common purpose. In effect, this means you can be found guilty of a crime which you did not commit. Sharpeville's deputy mayor, Khuzwayo Dlamini, was dragged from his home and set alight by a baying mob in September 1984. In the favoured parlance of township radicals, Dlamini was a government collaborator eliminated according to the principles of "people's justice".

It is not disputed that four of the accused were present at the time of Dlamini's death. But there is genuine doubt about whether two of the condemned were even in the vicinity of the scene of the crime.

Moreover, at no stage did the prosecution seek to prove that any one of the six had contributed directly or, in legal terms, causally, to Dlamini's death. By being in the crowd — or in the case of one of the condemned, being subsequently

man's pistol — the six were found to have had common purpose with those who actually carried out the murder.

LAWYERS assumed that once the case went to appeal in Bloemfontein last year, the extension of the established principle of common purpose to criminal cases would be thrown out. Instead, a full bench of the Appellate Division — the highest court in the land — upheld the convictions last December. The significance of the judgment lies in the apparent willingness of the South African judiciary to widen the doctrine of criminal liability in response to mass political protest.

Perhaps the most inept and revealing public pronouncement on the case of the Sharpeville Six came from the Catholic Bishops Conference of Southern Africa. The bishops, who claim to speak for South Africa's two-and-a-half million practising Catholics, described the killing as a "political" crime which should not therefore be punished by death. They implied that as a servant of the "apartheid state" Dlamini got what he deserved.

If the bishops — imbued as they are by notions of liberation theology with the emphasis rather more on liberation than theology — were deliberately trying to goad President Botha into carrying out the execution himself, they could scarcely have done a better job of it.

But even if the bishops ducked

demn what was a particularly brutal murder, they are partly right in suggesting that the case has political implications. When President Botha received the pleas for clemency two months ago, he was not being asked simply to decide whether to uphold a controversial legal principle. Rather, South Africa's tortuous efforts to co-opt blacks into the apartheid system was at stake.

Attempts to establish unpopular local black administrations demand rigorous defence of the them by the state and security forces. Clemency for the Sharpeville Six, so the hawks in the Cabinet argue, would give a signal that the Government had lost its will to defend moderate blacks from the mob.

The same imperative determined last month's crackdown on the United Democratic Front and 17 other radical extra-parliamentary anti-apartheid organisations. The Government blamed the "revolutionary climate" for the crackdown; but its real target was the UDF's proposed boycott of black municipal elections in October. For, Pretoria's argument runs, out of the local government structure — from which Dlamini was "eliminated" — will spring a new breed of compliant blacks to take a junior role at the highest level of government. These must be protected at all costs.

The recent actions of the South African Government suggest it has ceased to care about world opinion. But if Mrs Thatcher does book a call to Cape Town to talk to President Botha, she knows well enough not to appeal, like the Catholic bishops, for political status for the six. She would do better to tell Mr Botha that the sentences are a travesty of the accepted norms of Western justice, and that, quite simply, the six do not deserve to hang.

If he still refuses to intercede, the world will rightly lose all vestige of respect for South African justice, and judge Mr Botha to be a man

we would fall seriously behind the Joneses. Brushing aside complaints that "their Darren's got a BMX" there was also, I mentioned, the problem of Broad Money. Here, however, a quizzical eyebrow from the First Lady — so very rewarding to get her full attention — led me quickly on to the vexed matter of our borrowing requirement.

I quoted my learned predecessor, Mr Wilkins Micawber, on the question of debits, credits and happiness. "Something'll turn up, Dad," quipped a voice from the Common Tea Room. Nevertheless, I intoned, there was this — and here I flourished my first theatrical prop, Exhibit A, the unpaid Visa statement from last January which I waved like a handkerchief while pirouetting through 360 degrees.

"Dad, we can't see the telly," complained an irate junior member of the House. And these, I cried, covering the floor of the House with communications from Access, Majestic Wine Warehouses, Ladbrokes, Save The Children, Bunny's Executive Massage, Mothercare and, most intriguingly, British Telecom's Chatline Service "Customer of the Month Award".

I instantly quietened a disorderly House with my first bombshell. All allowances are to be cut by five per cent, I said with solemnity, having first taken fortification from a carafe of chilled vodka by my side. What? they yelled, as order papers were flung from the upstairs landing, accompanied by much bellowing, shrieks about inflation and wails about the abandonment of cherished projects.

There would, however, be performance-related payments applicable to Cars and Dishes (cleaning of), Gardens (digging of) and Sundry Personal Properties (tidying of).

Furthermore, some members, I noted, had made substantial Capital Gains in the course of the year via the redemption of money-off coupons privatised from the kitchen's bulldog clip. I envisaged a gradual clawback from these Personal Equity Plans of some £6 per person.

At this point there were scuffles on the floor which caused me to mislay pages 14 to 152 of my address and to sit down, earlier than usual, at 6.48 pm. There were howls of derision from the Leading Analyst (Conservative) who had, uniquely, united with the Young Radicals (Labour) to stand on the back benches (Texas £4.99 few

1998/03/12

1988 APRIL 10

Call to end mandatory sentence of death

By Fred de Lange
A FORMER Director-General of the Department of Justice, Mr J P J Coetzer, has called for the death sentence as a mandatory sentence in cases where no extenuating circumstances could be found, to be scrapped.

In an article in the newly-launched S A Bar Journal. Consultus, Mr Coetzer said a decision on

whether the death sentence should be imposed, should rather be left to the court and not be made mandatory by law.

He said he believed that should this proposal be accepted, less people would be sentenced to death as was the case at the moment.

Mr Coetzer also called for an automatic or free right to appeal to those who had been sentenced to death.

He feels that because of the finality of an execution the law should distinguish between those who had been sentenced to death and those who received a different punishment.

Mr Coetzer said in his opinion further steps should be taken to be totally sure of the guilt of

a person sentenced death.

For this reason an automatic right to appeal should be instituted at the present system of p Deo representation where the State appoints an advocate for those who cannot afford one, should be scrapped and incorporated into the Legal Aid System.

Consultus was launched by the S A Bar last week and it is the first publication specifically aimed at Supreme Court advocates.

The chairman of the General Council of the Bar of South Africa, H P Viljoen SC, said the launching that though the advocacy profession played a very important role in South Africa, it was little known.

CR Correspondent

THE Organisation of African Unity will keep fighting for the lives of the "Sharpeville Six", said spokesman Paul Onambele this week.

In recent statements issued in a number of countries, OAU general secretary, Ide Oummarou, called on the African and international publics "to do their utmost to prevent the

OAU to fight for 'Six'

executions of the six South Africans. "Even if the 'Sharpeville Six' are executed, the people shall not stop their struggle in South Africa," said the organisation's statements.

Onambele said colonialism in Africa had almost been eliminated during the 25-year history of the OAU. He said the South African government and its occupation of Namibia were the last splinters in Africa's heels. It was mostly due to international action that the execution of the "Six" had been postponed, he claimed. — Ano

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Wane in Sharpeville Six drive

The Save the Sharpeville Six Committee is concerned about the wane in the campaign to obtain signatures asking for clemency.

Committee spokesman Mr Nayaya Molefi, said the public had probably thought that the resumption of legal proceedings rendered the campaign for clemency less important.

"The committee wishes to make it clear that the campaign is independent of the legal proceedings. It is very important that it continues," he said.

"The legal position is that attorneys have until April 18 to file papers and the State will probably respond to it two weeks later after which the date for a hearing will be set."

● The Sharpeville Six are: Mojalefa Sefatsa (32), Reid Mokoena (24), Oupa Diniso (32), Theresa Ramashamola (26), Duma Khumalo (28) and Francis Mokgesi (30). They were sentenced to death in 1986 for the murder of a community councillor in Sharpeville in September 1984.

Human rights group hits at Botha

THE Lawyers for Human Rights have criticised the State President, Mr P.W. Botha, for his intervention in a murder trial in Windhoek and yet refusing to do the same in the "Sharpeville Six" case.

The LHR — watchdogs for human rights — described as "devastating" Mr Botha's issuing of a certificate to stop the prosecution of six soldiers who allegedly murdered a Swapo leader at a rally in Windhoek.

The lawyers said in a statement: "Seen against his decision to grant clemency to a Mamelodi policeman who had been found guilty of murder and sentenced to death, and his refusal to intervene in the "Sharpeville Six" case, the State President has added to his office the portfolios of attorney-general, prosecutor, judge and executor.

"We as lawyers condemn his involvement in judicial matters which is unscientific and politically motivated. We decry his outright contempt for the principle of equality before the law, which is a fundamental human right."

1988/03/30

In the shadow of the Sharpeville Six, more 'politicals' go to the gallows

LAST Friday while many sighed with relief at the temporary stay of execution granted the "Sharpeville Six", convicted necklace murderer Tsepo Letsoara was led to the gallows.

Today, seven more people are scheduled to hang — including Michael Lucas, a member of the Bongo-lethu Youth Congress who was convicted of murdering a bus driver during unrest in April 1986.

And this week four members of the Addo Youth Congress were given notice that they would be executed next Tuesday. Similo Wonci, Mziwoxolo Makeleni, Ndumiso Sephenuko and Machezuana Menze were sentenced to death for killing a farmer and his wife in the southern Cape.

There were indications last week that the unprecedented campaign to save the six Sharpeville residents — convicted of burning and setting alight Sharpeville deputy mayor Khuzwayo Dlamini at the start of the September 1984 unrest — would see the start of a concerted abolitionist campaign.

At a Johannesburg meeting last week a speaker from the Save the Patriots Campaign called for a broad alliance of "peace-loving people" to fight executions.

"There are tens of comrades on death row," he said. "Tomorrow it will be myself. The day after it will be yourself."

But Letsoara's hanging — for killing an alleged police informer in Port Elizabeth — and the scheduled executions for today and Tuesday have gone largely unnoticed.

Lucas's unsuccessful application for a stay of execution yesterday received none of the media attention devoted to a similar application by the Sharpeville Six last week. His 11th-hour bid hinged on the fact that Chief Justice Rabie had denied him leave to appeal against his sentence. His lawyers argued Rabie's appointment was unconstitutional.

According to records of the Save the Patriots Campaign, and Johannesburg lawyers, there are a total of

By JO-ANN BEKKER

48 "politicals" on death row at the moment, including those scheduled to be hanged today and on Tuesday.

Apart from those named above, they include:

- The Sharpeville Six — Theresa Ramashamola, 27; Mojalefa Sefatsa, 32; Malebo Mokoena, 24; Oupa Diniso, 32; Duma Khumalo, 28; Francis Mokhesi, 31 — whose lawyers have until April 18 to apply for the reopening of the case. Once the application is made, the execution orders will be suspended.

- Dickson Madikane, Desmond Majola and Patrick Manginda from Oudtshoorn who were sentenced to death in September 1986 for killing a township councillor.

- Daniel Maleka and Josiah Tsawane of Sebokeng, who were sentenced to death in September 1986 for killing a policeman.

- Paul Setlaba of Colesburg, sentenced to death in December 1986 for killing an alleged police informer.

- Robert McBride of Wentworth, Durban, sentenced to death in April 1987 for a Marine Parade bombing which killed three women.

- Tjelubuyo Mgedezi, Mangaliso Nongwati, Tsietso Tshehlane, sentenced to death in May 1987 for killing team leaders at the Vaal Reefs mine.

- Mzwandile Gqueba, Wanto Silinga, Lunki Wana, Theminkosi Feet, Mzwandile Mninzi, Monde Tingwe of Queenstown.

- Bekisizwe Ngidi, 20, of Soweto, sentenced to death in June 1987 for killing a Soweto policeman. His case is currently on appeal.

- Oupa Mbonane and Sibusiso Masuku of Soshanguve near Pretoria, sentenced to death in August 1987 for the murder of a policeman.

- Joseph Chidi of Tembisa, sentenced to death in September 1987 for the murder of a community councillor.

- Menzi Tafeni and Ledube Mnyamana, sentenced to death in Septem-

ber 1987 for the murder of a Burgersdorp businessman's son.

- Mlondolozu Gxotiwe of Port Elizabeth, sentenced to death in September 1987 for the murder of a policeman.

- Mxolisi Malgas, Michael Mambukwe and Lulamile Maneli of Grahamstown, sentenced to death in October 1987 for necklace murders in Stutterheim.

- Johannes Maseki, 24, of Tembisa, sentenced to death in October 1987 for the murder of a policeman.

- Gilindoda Gxexwa of Uitenhage, sentenced to death last year for the murder of a police informer.

- Mtutuzeli Ngqanda of Uitenhage, sentenced to death in November last year for the murder of a policeman.

- Mzazile Ntombela, 30, sentenced to death by the Rand Supreme Court for the murder of a replacement labourer during a dairy strike.

- Thembisile Baneti, 35, of Alice. Sentenced to death by the Ciskei Supreme Court last November for the murder of a vigilante.

- Abraham Mngomezulu, 23, sentenced to death in the Rand Supreme Court last year for the murder of a police informer.

- Xolani Stuurman, Gilindoda Gxekwa and Vuyani Jacobs, sentenced to death in February this year by the Port Elizabeth Supreme Court for the murder of an alleged informer.

- Rodney Moloi, 24, and Stanford Lebepe, 24, Tembisa, sentenced to death last week for killing and setting alight a municipal policeman. They have applied for leave to appeal.

According to the Save the Patriots Campaign, six "political" convicts on death row have already been executed. Apart from Letsoara, they were: Matshape Matsepane and Mankopane Malwasha of Tzaneen, who were executed in December 1986 for murdering an alleged informer; Welile Webushe of Jansenville, who was executed in August 1987 for a necklace murder, and Moses Jantjies and Mlamli Mielies of Uitenhage.