

International Defence and Aid Fund**WORLD CAMPAIGN FOR THE RELEASE OF
SOUTH AFRICAN POLITICAL PRISONERS**

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NEWSLETTER

Detention in South Africa, whether under the 90-day law, the 180-law or the Terrorism Act, has proved costly in terms of the lives of those detained. The first death was that of people's leader, Looksmart Solwandle, arrested under the 90-day law and found hanging in his cell in 1963. In January 1964, James Tyitya hanged himself in his cell. In September 1964 Suliman Salojee threw himself to his death from the seventh floor of the Security Police headquarters in Johannesburg. Two Chinese and a third unnamed detainee (unnamed for security reasons!) hanged themselves in their cells while in custody under the 180-day law, during 1966, the two Chinese being held for non political offences.

In 1967, the peasant leader Alpheus Maliba was found hanged in his cell while being detained under the Terrorism Act. In 1968 E.K. Kaporu, one of those detained and tried in the South West Africa trial, died in custody of "natural causes".

This year four detainees have died while being held under the Terrorism Act. The first was Nichodemus Kgoathe, arrested in November last year and who died in February. The medical certificate stated that death was due to pneumonia or tuberculosis. At the inquest the district surgeon said he examined Kgoathe shortly before his death. He had marks on his body which could have been caused by a sjambok, and wounds which could have been caused by a belt buckle. He rejected the evidence of police officers that Kgoathe's injuries were a result of slipping on a piece of soap and falling in the shower room. "It is my opinion that Mr. Kgoathe's injuries were the result of an assault," he said. He made arrangements for Kgoathe's admittance to hospital where he died 14 days later. In the light of the evidence, the magistrate found he was not in a position to blame any person for Kgoathe's death.

On March 5th, a Lesotho national, Mr. James Lenkoe, was arrested at his home in Soweto and five days later he was found hanging by a belt in his cell in Pretoria Prison after an all-day interrogation session by the Security Police.

Police evidence suggested suicide, but two pathologists called by counsel for Lenkoe's widow said he had received an electric shock within twelve hours of his death. The nature of the wound indicated that electrocution could have been the cause of death. One of the pathologists was specially flown to South Africa to give evidence - Dr. Alan Moritz - a member of the commission of inquiry which investigated the medico-legal

findings connected with the death of President Kennedy. In spite of this expert evidence the presiding magistrate found that Mr. Lenkoe died of hanging, self-inflicted, that no satisfactory proof had been given that he had suffered an electric shock on the day of his death, and that no blame attached to any living person.

Solomon Modibane, aged 50, was detained on February 25th and died three days later. The Deputy Commissioner of Police said in Pretoria: "The information is that Modibane slipped on a piece of soap and fatally injured himself." The inquest verdict was that he died of "natural causes".

The latest of the Terrorism Act deaths is that of Caleb Mayekiso, former treason trialist and trade union leader, arrested on May 13th. On June 1st, police called at his home in New Brighton, Port Elizabeth, to tell his wife that he was dead. According to a statement from police headquarters, he died of "natural causes".

The inquest on James Lenkoe is probably the last of its kind to be held in South Africa for some time. Not only the South African press but newspapers all over the world have given it considerable publicity. A newsletter dealing more fully with this case will be issued shortly as it contains features which make plain the reason for further laws being introduced by the South African Government. These laws will ensure that information such as emerged during this inquest and indeed the fact of the deaths of detainees do not in future reach the outside world.

These deaths have caused horror and indignation, but the current Session of the South African Parliament rushed through legislation which now make it an offence for any person to have or to communicate any information relating to the work and functioning of the Bureau of State Security. In future, the security police may arrest the political opponents of the Government, detain them indefinitely, subject them to bestial torture which may result in their death, and nobody will have any knowledge of this.

Behind all these moves is the Bureau of State Security (called BOSS from its initial letters).

THE BUREAU OF STATE SECURITY (BOSS)

On September 30th, 1968, Prime Minister B.J. Vorster announced the appointment of General H.J. van den Bergh as Security Officer to the Prime Minister, responsible not to the Chief of Police but to the Prime Minister himself. Formerly head of the security branch of the police, van den Bergh was promoted to the rank of full general and given complete command over the intelligence services of the army, air force and the navy as well as the police. In the words of the "Sunday Times", General van den Bergh "has become the second most powerful man in State service in South Africa - second only to Mr. Vorster himself" ("Sunday Times", October 6th, 1968).

General van den Bergh and Mr. Vorster were interned together during World War II. Mr. Vorster was at that time a leading figure in the Ossewa Brandwag (a pro-Nazi organisation). Van den Bergh, a member of the police force but not yet commissioned, had also been accused of being a member of the Ossewa Brandwag, a charge which he constantly denied. At the funeral of the former chief of the Ossewa Brandwag, Dr. van Rensburg, in 1966, General van den Bergh was photographed giving the O.B. salute - a bent arm crossed stiffly across the chest. He said he had done this, not because he was a member of the O.B., but for "friendship's sake".

The creation and operation of the Bureau of State Security (BOSS) were provided for in two Bills introduced in the House of Assembly in May 1969. In terms of the Public Service Amendment Bill, BOSS was to be a fully-fledged Government department under a Minister to be nominated by the State President.

At first BOSS fell directly under the Prime Minister, but on June 15th, 1968, both the "Sunday Times" and the "Sunday Express" hinted that Gen. van den Bergh might himself shortly be raised to Cabinet rank with the title of Minister of State Security.

In terms of the Security Services Special Account Bill, unlike other State departments, BOSS will not be subject to Treasury approval in relation to expenditure from the Consolidated Revenue Fund. The Bureau will also be excluded from the requirement of the Public Service Act in terms of which the Minister of the Interior must present to Parliament a return of the names, salary scales and special qualifications of anybody appointed to the administrative division. The "Star" of May 5th commented:-

"In other words, except for the annual budget debate, the Bureau will generally operate behind a tight curtain of secrecy. It will fall under the Prime Minister and the House of Assembly has already given its approval to the Prime Minister's vote which includes the sum of R4,063,000 for 'secret services' - pushing South Africa's total expenditure on secret services under the Prime Minister's vote, the Police vote and the Defence vote to more than R5,300,000".

Details of South Africa's new security structure were provided by Mr. Vorster during the discussion of his vote in the House of Assembly in April 1969. He told the House that he would say as little as possible about the Bureau, which would complement the military intelligence section of the Defence Force and the Security Police. A proper demarcation of the functions of the three organisations had been made and "General van den Bergh's organisation" would be fully independent.

Mr. Vorster said the new arrangement would replace the previous "umbrella" organisation which had not worked as well in practice as one would have wanted it to. This organisation has been disbanded.

The United Party opposition supported the creation of BOSS, but the leader of the Opposition, Sir de Villiers Graaff warned:

"We are new to this game. While we support the Bill, a great responsibility is placed on the Government as a result of this legislation".

Replying to Graaff, the Minister of Police, Mr. S.L. Muller, stressed the importance of South Africa's keeping itself fully informed about the activities of "terrorists".

"It is of the utmost importance for us to know a few weeks in advance what the movements of these people are possibly going to be. It is precisely in order to obtain that kind of information that it was decided by the Government that these various intelligence services should be co-ordinated."

The General Law Amendment Bill which was introduced in the House of Assembly in June 1969, amended the Official Secrets Act by making it an offence for a person to have in his possession any sketch plan model, article, note, document or information relating to any security matter. It was already an offence under the Act to be in possession of such matters relating to munitions of war or any military or police matter.

"Security matter" is defined as meaning any matter relating to the security of the Republic and includes any matter dealt with by or relating to BOSS or to the relationship between any person and the Bureau.

The Bill extends privilege in a court of law or any other statutory body to information if disclosure is deemed to be prejudicial to the interests of the State or public security. This privilege also extends to books or documents.

No person may be permitted to give information of this nature, or compelled to do so.

Privilege will be extended to information or books or documents if supported by a certificate signed by the Prime Minister or any person so authorised by him, or by any other Minister, to the effect that the information is prejudicial to State security or the public interest.

When the General Law Amendment Bill was debated in the House of Assembly later in the month, the two clauses relating to BOSS were attacked by the Opposition.

Mr. Michael Mitchell of the United Party objected to Clause 10 on the grounds that it made it possible for anyone, journalists particularly, to commit an offence under the Official Secrets Act if they communicate to anyone matters which are being dealt with by BOSS - although no one is permitted to know what BOSS is dealing with.

Further, Clause 10 gives security police working for BOSS the right to detain and interrogate persons who allegedly have communicated any information about a matter with which BOSS is dealing. Even

if this detention and interrogation are unlawful, the victim will have no redress in court because he can never prove the lawfulness or otherwise of police action - because he is not entitled to know what matter was being dealt with by BOSS.

In terms of Clause 29, the Minister could issue a certificate preventing the victim from giving evidence in court as to his detention and interrogation. The Deputy Minister of Justice, Mr. Froneman, who was in charge of the Bill, admitted that Clause 29 gave Ministers the power to prevent an accused from giving evidence on his own behalf in a criminal case, and a plaintiff giving evidence in support of a civil claim for damages he might institute for assault or unlawful imprisonment etc.

Mr. Forneman claimed these powers had always existed in South African law. Mr. Mitchell described this statement as "arrant nonsense".

The Opposition press has expressed grave alarm at the provisions of the General Law Amendment Act relating to BOSS. In an editorial headed "Secret Police", the "Rand Daily Mail" of June 6 said :-

"Protecting our national security is one thing. Moves to turn South Africa more and more into a police state are quite another. It is vitally important that the public distinguishes between the two.....

"Nothing could be more clearly intended to enshroud the activities of the so-called Security Police and their agents in a blanket of secrecy. There is reason enough already for great concern about the ease with which, under various laws, they are able to spirit people away and hold them incommunicado. Now it is plainly intended that any mention of such action will be forbidden.

"And as sinister as anything is the power the Bill gives the police to withhold from courts or other statutory bodies any information held by the Prime Minister or any delegated authority to be prejudicial to State security or the public interest. Over and over we have shown how the Government interprets such terms. All too often holding back information 'in the public interest' means keeping from the public not merely what it is entitled to know, but what may in fact be most important for it to know.

"It is absolutely vital to the functioning of the democratic process that all relevant information should be available to the courts. Under the Nationalist regime, there have been grave encroachments on their powers. And now it is intended to deprive them of any evidence the Government does not want them to have, the pretext being its own unchallengeable interpretation of "State security" or the "public interest".

Calling on the Opposition and the public not to "refrain from outraged protest", the "Mail" concluded its editorial by saying: "For, as the secret police system becomes ever more firmly devastating and the very chance of protest more slender."

The "Star" of June 7th, in an editorial headed "Is the B.O.S.S. beyond the law?", said:

"The Prime Minister's newly created Bureau of State Security is to be given protection which seems to go far beyond the obvious need for keeping a secret service secret ... The General Law Amendment Bill, which is to be squeezed through Parliament in the dying days of the session comes close to putting the B.O.S.S. beyond the law altogether....

"Already the courts have great difficulty in protecting the 180-day and Terrorism Act detainees. The BOSS, it seems, will be able to compound those difficulties if it chooses. At all costs the Opposition should try to get the Bill narrowed down."

The Opposition has tried and failed. The Bill is now law.

According to press reports, the number of detentions during May and June under the Terrorism Act already exceeds 40. Nobody knows how many because the security police refuse all information, but the Minister of Police has admitted in Parliament that 36 have been detained in the Transvaal alone.

At present there are at least 40 people held in detention, incommunicado and in solitary confinement. These are the people who are outside the protection of the law. They are not visited by the Red Cross and they have no access to lawyers or appeals to the Courts. We appeal to you to do whatever you can on government, organisational, and individual levels to save them from what may be death or torture.

Send your appeals for their release or the trial of all detainees to the Prime Minister of South Africa and the Minister of Justice, Union Buildings, Pretoria, with copies to the Special Committee on Apartheid at the United Nations and to ourselves.

30th June, 1969.