

Academics THE NATAL WITNESS criticise 'lenient' 7/08/88 sentences

Witness Reporter

SENTENCES in an unrest murder case this week would not serve as deterrents against further violence, legal academics said yesterday.

Six Inkatha members, who admitted stabbing and beating a 61-year-old woman to death, were given effective jail terms ranging from 18 months to three-and-a-half years by Mr Acting Justice Wessels in the Supreme Court in Pietermaritzburg.

The Dean of Law at the University of Natal, Durban, Professor David McQuoid-Mason, said by passing such "lenient" sentences for murder the judge was undermining the purpose of sentences acting as deterrents.

"The courts, especially in Pietermaritzburg, should be acting as a bulwark against anarchy and chaos in society, and if they lose their credibility, then the law loses its authority," Professor McQuoid-Mason said.

He added that the case would be compared to the Sharpeville Six, and the public would have difficulty in understanding the disparate sentences imposed.

"The public will find it difficult to understand how people physically participating in a killing during mob violence are treated more leniently than those who are merely part of a mob and inciting others to kill," said Professor McQuoid-Mason.

Professor James Lund of the University of Natal's School of Law in Pietermaritzburg, said yesterday that the sentences were "extraordinarily low" and "induce a sense of shock" when compared with other sentences for murder.

"Sentences of this kind lead to the public losing faith in the administration of justice and people could well be inclined to take the law into their own hands if they believed the courts were not dealing severely enough with killers," said Professor Lund.

He said the sentences were "very disturbing in disparity" when compared with many other murder cases.

Tutu seeks end of racism in U.S., S. Africa

MADISON, Wis.—Anglican Archbishop Desmond Tutu called on a capacity crowd at the University of Wisconsin Fieldhouse Wednesday night to face up to racial tensions in America and to work to end apartheid in South Africa.

Tutu, in his only public appearance during his visit to the United States, told an estimated 11,000 people during a 45-minute speech not to pretend the problems of racism do not exist in this country.

"And so friends, you be committed to racial justice here as you are committed to racial justice in South Africa," Tutu said to applause.

He was interrupted in his talk several times by applause from the appreciative crowd.

Tutu has long been a leading opponent of apartheid, the system of government that separates

blacks and whites in South Africa, and won the 1984 Nobel Peace Prize for his efforts. He said apartheid stunts the growth of blacks emotionally and intellectually.

He asked people in the audience to imagine 10-year-old children being held in detention, something he said is a reality in South Africa.

"Children because they are Black receive an inferior education," he said. "They are stunted emotionally and intellectually."

Tutu said apartheid has treated 3½ million Blacks as if they were rubbish.

"Apartheid has made God's children suffer simply because they are Blacks," he said.

Tutu said the racial situation in the United States is favorable compared to that of South Africa and he used Jesse Jackson's Democratic presidential bid as an example.

"In 1988, a Black man can become a serious candidate for the presidency," he said, saying Americans can pat themselves on the back for that accomplishment.

"That can't be said of too many countries," he said.

Tutu also questioned the arms race in his speech.

"People spend obscene amounts of money on weapons of destruction when just a fraction of that amount would enable all to have a clean supply of water," he said.

As the van believed to be carrying Tutu left the stadium, cheers and applause again erupted from those who were leaving.

"It was extremely inspiring and the guy's a real cutup," said Nanette Darnill of Madison, noting Tutu's frequent use of humor.

New effort begins soon for Mandela's freedom

A massive anti-apartheid benefit concert dedicated to the imprisoned South African activist Nelson Mandela is being planned for June 11 at Wembley Stadium in England, where the British Live Aid concert was held. The concert will mark the beginning of an international campaign demanding Mandela's release. Mandela, who's been in prison since 1962, turns 70 on July 18. The 10-hour concert, which will be carried via satellite worldwide, will feature performances by George Michael, Whitney Houston, Eurythmics, Phil Collins, Dire Straits, Simple Minds, Chrissy Hynde, Sade, UB 40, Natalie Cole, Miriam Makeba, Roberta Flack and Hugh Masakela. Performers will play specially rehearsed sets with surprise guests appearing throughout the show in an international campaign demanding Mandela's release. Mandela was sent to prison for championing the struggle against apartheid system in South Africa.

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Rajbansi *Daily News 7/05/88* likely to fire rebel ministers

Bruce Cameron
Political Correspondent

THE threatened Indian leader, Mr Amichand Rajbansi, is likely to fire at least one of his rebel Ministers on Monday and use the post as a carrot to create divisions in the ranks of his opponents.

In an interview last night he predicted Thursday's rebellion could well be over by next week. "I have six options. I can sit tight. I am sitting pretty."

And there were indications that all was not cosy in the coalition between the newly-formed party of the rebels, the People's Party of South Africa, and Solidarity.

Some of the rebels are concerned that Solidarity has been more interested in taking positions rather than ousting Mr Rajbansi.

This was confirmed last night by Mr Nizzie Khan MP (PPSA Isipingo) and leader of original rebel "cabal" who said that the initial agreement was that Solidarity members would not take any positions.

Workers Day saw widespread behind-the-scenes activity. There have been various meetings during the day and Mr Rajbansi is understood to have approached a number of people.

Mr Khan said the rebels were standing firm and felt that if any MPs joined the NPP to give Mr Rajbansi the extra four seats to give him a majority of 23 seats they would come from Solidarity.

Mr Rajbansi would not comment on whether he was proposing to fire one of his three rebel Ministers in his Ministers' Council.

It is expected that he will ask President P.W. Botha to get rid of the Minister of Education, Mr Kessie Ramduth, or the Minister of Health Services, Mr Raman Bhana, or both.

A number of meetings have been set for today and tomorrow, including one between Mr Khan and Mr Rajbansi.

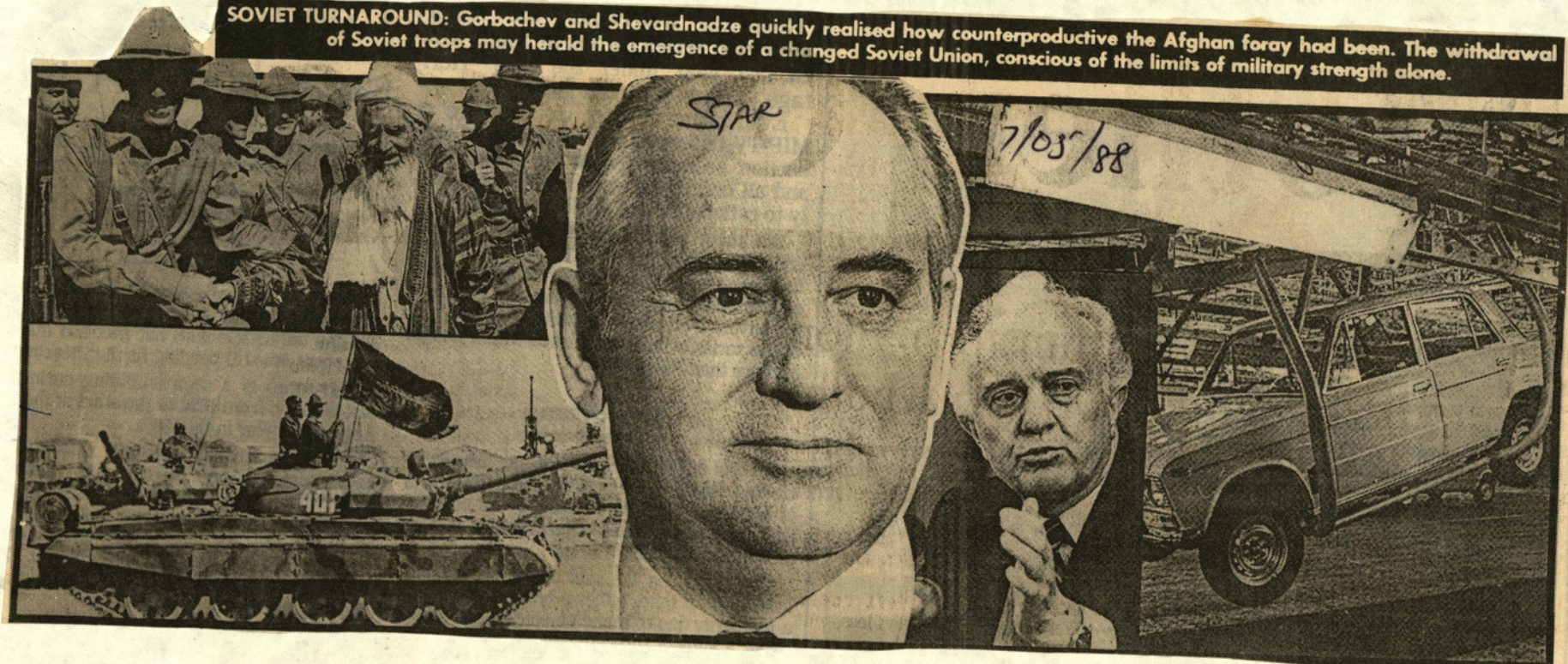
Mr Khan confirmed the meeting but said he was only meeting Mr Rajbansi as a friend of 25 years.

Mr Rajbansi was still refusing to consider meeting demands for a commission of inquiry into the multitude of accusations of corruption and mis-government.

This is the major reason given for the breakaway and has been a consistent demand of Solidarity members and Progressive Federal Party members for more than a year.

Mr Rajbansi declined to spell out his six options, although an election for the House of Delegates is expected to be a major one.

SOVIET TURNAROUND: Gorbachev and Shevardnadze quickly realised how counterproductive the Afghan foray had been. The withdrawal of Soviet troops may herald the emergence of a changed Soviet Union, conscious of the limits of military strength alone.



there are similar pointers. Soviet aid to Cuba, which totalled an estimated \$4.6 billion (R9.2 billion) in 1985, is apparently being reduced. Most eye-catching of all, Mr Gorbachev has just offered to stop Soviet aid to the Sandinista government in Nicaragua, if Washington does the same for the Contra rebels.

Asian turnaround

In Asia, relations are being warmed up with traditionally anti-communist ASEAN countries like Malaysia, Indonesia and even arch-capitalist Singapore. Most important, Moscow looks to be quietly encouraging a Cambodian settlement.

A deal there, leading to the withdrawal of Vietnamese troops, would remove the single biggest obstacle to a normalisation of relations with China — upon which Mr Gorbachev is determined. What greater coup than a Gorbachev-Deng summit?

In the Gulf, Moscow's attempts to play the honest broker between Iran and Iraq have thus far yielded little.

But they have an ulterior motive, to enhance the Soviet claim to a seat at any conference to resolve the Israeli/Arab conflict.

The real question now for the Soviet leadership is another: can its decline in power be reserved? Nothing is more fascinating than to speculate on the modern Russian empire 20 years hence. Will withdrawal from Afghanistan set in motion a process that ultimately loosens its grip on Eastern Europe, even on the non-Russian parts of the Soviet Union proper? Or will the breathing space Mr Gorbachev is seeking allow the Soviet Union to become a complete superpower, one integrated at last into the world economy?

The real danger will be if reform fails. In that case, the casualties will not just be perestroika, and in all probability Mr Gorbachev with it — but equally likely, the new Soviet foreign policy too. — *The Independent*.

A Soviet diplomat's view of South Africa

The Soviet Union is rather new in this part of the world. Our relations with Africa developed mainly after the Sixties. This period was hardly enough to understand thoroughly the realities of this vast continent and specific features of each country.

On the other hand, the majority of Africans are also only beginning to find out for themselves what the Soviet Union is, how our political and academic thinking on African affairs has developed — especially when my country is undergoing a tremendous process of overall restructuring, known to the world as perestroika.

For 15 years the (southern African) region has continued to be the zone of one of the bloodiest and most protracted conflicts in modern history. In the past decade it has become a real threat to international stability. The main cause of this conflict is the system of apartheid. Unless this system is abolished the rules of the conflict will stay intact.

Policy of reform

It is already 10 years since the government of Mr P W Botha started its policy of reform but can we say there is less apartheid than in 1948? On the other hand, do we have a reason to state that these reforms have not moved an inch since this policy was introduced by the Nationalist Party 40 years ago?

Can we say that South Africa moves from crisis to catastrophe?

Finally, can we say we keep up with the fluid political situation in South Africa? Do we still live with old mythology, old stereotypes, about it?

The situation in contemporary South Africa cannot be related in simple terms. It is many-sided and contradictory and you can see the green shoots of the future which struggle through the parched soil of the obsolete past.

The situation still has a lot of cruelty, implacability, stupidity and bloodshed. At the same time one cannot miss the vast reserves of goodwill, mercy and talent. It is soaked with racism and ethnic chauvinism, but at the same time powerful streams of the common, national and non-racial are brought to light.

South Africa was late in its political development. The majority of nations living in similar conditions have already passed this stage of racial antagonisms and managed to create conditions for mutual co-existence of peoples with different colour of skin.

South Africa fell behind. This in my opinion is one of the main causes of her present misfortunes. The Dutch settlers tried not only to ensure their security,

From their embassy in Maseru, on the border with South Africa, diplomats of the Soviet Union are able to get a close-up view of events in South Africa. One of the most interested observers is Dr Boris Asoyan, the acting ambassador, who is an Africa specialist of long standing. A former deputy director of the Africa Institute in Moscow, former Tass correspondent in Zimbabwe and other African countries and author of 10 books on Africa, Dr Asoyan is a member of the Africa department in the Soviet foreign office. How he sees South Africa emerged in a lecture he gave recently at the University of Lesotho at Roma, which he emphasised was an academic view rather than an exposition of official Soviet policy. This report notes a few salient points in his address. — *The Saturday Star's Africa News Service*.

ty, but also to safeguard their culture as a guarantee for survival in a hostile encirclement. Superiority complex multiplied by Calvinist belief in racial predestination became the basis on which the Afrikaner society was built.

Today the whole socio-political picture of South Africa is becoming more complex.

New social forces grow in all the population groups in South Africa. What will come out of this political polychromy we have yet to see.

Freedom Charter

And now let me elaborate a little on our policy in southern Africa. We totally agree with the preamble of the Freedom Charter that states that South Africa belongs to all who live there, both blacks and whites. We agree at the same time that whites are full-right members of the society.

We accept the necessity of the stage-by-stage movement to the main aim, creation of a non-racial democratic society, and concede that negotiations between the government and the genuine representatives of the black majority will be a necessary and inevitable link in this process.

At the same time I am sure that the power of pressure on Pretoria, including armed struggle by the liberation organisations, is also an indispensable part of this process. So is the demand for sanctions.

We in the Soviet Union do not want to see chaos in South Africa. We are for constructive decisions.

Can Gorbachev re-train the bear?

In a little over three weeks' time, Soviet troops will start leaving Afghanistan. If the Austrian State Treaty of 1955 is set aside, it will be the first time the Red Army has vacated foreign soil since it withdrew from northern Iran at the end of 1946. That was another age of incipient cold war and saw the emergence of the Soviet Union as a transcontinental military power.

Four decades later the wheel has turned almost full circle. The end of more than eight years of fruitless military involvement in Afghanistan which has cost Moscow so much in lives, money and reputation, symbolises a new Russia, conscious of the limits of military strength alone.

Maybe Afghanistan 1988 is a stage in the secular decline of a great power. Certainly, it marks an era when the Soviet Union is rejoining the world. The choice is one imposed by economic necessity.

Slipping behind

The world viewed from Moscow in the second half of the 1980s is not a cheering place. As distant as a dream are the days when Khrushchev could forecast that the US would be overtaken, that the communist system would triumph. Back in the late 1950s and early 1960s the Soviet economy was growing at five percent a year. Today the Soviet Union is not catching up with the advanced world, but slipping farther behind.

The West is still enjoying the upswing, combining low inflation and steady growth which began in 1982. For the time being, capitalism is working. Between 1975 and 1985 the Soviet economy grew, by charitable reckoning, at perhaps two percent a year. Mr Gorbachev himself is blunter. If oil revenues and vodka sales were excluded, he observed not long ago, Soviet GNP stood still in the 10 years before he came to power.

Nor is that all. The collapse of world prices of energy, the Soviet Union's main export to the West, has produced a fierce hard-currency squeeze. The collapse of the dollar, in which those energy prices are denominated, has pushed up the price of imports of vital investment goods, denominated in marks, yen, and pounds.

Technology gap

And the technology gap is widening too. Just as Khrushchev predicted, the Soviet Union indeed produces today more steel, oil and trucks than any other country. But it is one industrial revolution behind. In data processing and electronics the lag may be 10 years. Worst of all, the ever less flattering comparison with the West is only half the story.

The old dread of military encirclement has been joined by that of economic encirclement. If the dy-

With a four percent share of world trade and foreign aid on a par with the Netherlands, the mighty Soviet Union is in many ways a global economic irrelevance. RUPERT CORNWELL examines its priorities.

namism of Japan and the South-east Asian developing countries worries us, it must terrify Moscow. And then there is China. Nothing, in the medium term, would pose such a threat as the prospect that the reforms of Deng Xiaoping succeed: that Peking, a rival for ideological leadership of the world communist movement, might offer the Third World a more attractive economic model as well.

Most of these bleak truths were plain by the early 1980s — indeed, it was this recognition, almost certainly, that prompted an entire political generation to forgo its chance of power and turn to the youthful Mr Gorbachev. The result has been a foreign policy revolution, of which Afghanistan is but the latest example.

True, Mr Brezhnev had achieved military and nuclear parity with the US, and as first Watergate and then Vietnam

Moscow's foreign policy is not a trick, but very necessary

shook America's faith, Moscow seemed to have the field to itself.

The venture into Afghanistan merely crystallised the image of a country which assumed that its potential for imperial expansion knew no limits.

How different it looks today. In retrospect 1975 probably represented the apogee of Soviet power.

Two-edged sword

The Soviet plight was unmistakable. Nuclear parity was a two-edged sword, implying power which ultimately could not be used.

What has happened since 1985 has been a cold-blooded exercise in going through the foreign policy books. The aim was plain: to switch priorities from abroad to home and to make the Soviet Union economically competitive.

That, though, can only be

achieved if relations not only with America and the West but also with China in the East can be improved.

The most vital target of course has been the US, as three (soon to be four) summits and 25 meetings at foreign minister level since 1985 prove. The INF Treaty was but a first fruit.

Mr Gorbachev has offered to demilitarise the Mediterranean and the northern seas.

But that would be to limit his reappraisal to Europe and the West, for all its importance as a source of future economic help. Mr Gorbachev's ambitions stretch far wider, as the new Soviet commitment to the United Nations makes clear. The goals though are everywhere identical: to present the Soviet Union as a peaceful, constructive power and enable outlays it can ill afford to be reduced.

In Africa, the new Soviet activism has prompted hopes of a deal to settle the crisis in Angola, host to an estimated 40 000 troops from the Soviet client of Cuba.

In Central and Latin America,

NEWS

Above the law? ANC pushes PoW claims

Captured African National Congress guerillas increasingly describe themselves as soldiers entitled either to treatment as prisoners of war or, at the least, to a status above that of ordinary criminals.

The six-month long Messina landmine trial, which ended on Wednesday when the judge imposed multiple death sentences on Mthetheli Mncube, of Soweto, and Mzondedeli Nondula, of Mdantsane, is a reminder of that.

Both Mncube (27) and Nondula (24) regarded themselves as soldiers of the ANC underground army Umkhonto we Sizwe. But, in sentencing them to death for murder and terrorism, Mr Justice JPO de Villiers rejected their view of themselves as combatants in a war.

Mncube was convicted for lay-

ing a landmine which killed a farm worker and for killing two policemen. Nondula was convicted for planting the landmine which killed six members of the De Nysschen and Van Eck families.

Dismissing the contention that the two men were operating in a "battle zone," Mr Justice de Villiers said: "If you are fighting the Government, you do not kill people left and right and plant landmines at random to injure and kill innocent people."

But the argument is not over. Mr Justice de Villiers granted them leave to appeal. The argument that they are soldiers fighting a war which they — and much of the rest of the world — believe is justified will be heard before the Appeal Court.

Another related appeal is pend-

PATRICK LAURENCE

ing: that of Mxolisi Petane, deputy ANC commander in the Western Cape who was jailed for 17 years last year.

His appeal is different in one important respect from that of the Messina trialists. Where Mncube and Nondula want the court to recognise that their view of themselves as soldiers constitutes an extenuating circumstance, Petane is contesting the right of the courts to try him as a prisoner of war.

The ANC, as Professor John Dugard explained in his evidence for the defence in the Messina trial, has filed a declaration with the International Committee of the Red Cross, committing itself "wherever practically possible" to abide by the Geneva Conventions

on the conduct of war.

The ANC commitment was made in 1980, three years after new protocols were added to 1949 Geneva Conventions, extending them from wars between states to "armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination".

The ANC is so far the only "national liberation movement" to file a declaration of acceptance with the International Red Cross. In theory it means that, in the eyes of international law, captured ANC guerillas are entitled to treatment as prisoners of war.

There is one major problem: South Africa is not a signatory to the 1977 protocols and is thus not bound by them.

In addition, as Ms Christina Murry, of the University of Cape Town, has argued, the protocols impose obligations on signatories and, by implication, on the ANC.

One is to distinguish "at all times between the civilian population and combatants and between civilian and military objectives and to direct their objectives only against military objectives".

Another is that combatants must distinguish themselves from the civilian population "while they are engaged in an attack or in a military operation preparatory to an attack".

Mncube claimed he and his comrades were wearing blue overalls which distinguished them from the local population.

His two comrades were killed by the SADF. He was captured but escaped after his hands were

tied with his shoelaces and he was loaded into the back of a police bakkie.

He untied himself, grappled a gun and killed his captives. He was recaptured a few days later.

The ANC regards farmers as part of the military network since they are linked up to the SADF's area defence network. That may justify, in the minds of its commanders, the planting of landmines on farm roads used by the SADF. It has so far failed to impress the courts.

So has the ANC's commitment to the 1977 protocols. Five years ago three ANC guerillas — Simon Mogoerane, Jerry Mosololi and Marcus Motaung — were sentenced to death. They attacked three police stations, which prima facie qualify as military targets.