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POLITICAL DEATH SENTENCES

*The use of the death penalty in South Africa in trials
arising out of political protest*

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United Nations Political Prisoners Day

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The apartheid regime has always sought to legitimise the suppression of its opponents and legal weapons remain an important part of its armoury today. However, the international community is increasingly able to see through this veneer of legality, as indicated by its support for the United Nations Day of Solidarity with South African political prisoners on 11 October.

One group of prisoners which has rapidly increased in numbers in recent years are those facing apartheid's ultimate penalty, the death sentence. In 1979 when the regime hanged a young ANC combatant, Solomon Mahlangu, it was resuming a measure it had previously used frequently against its opponents in the 1960s. As mass protest developed in the mid-1980s the threat of execution was more frequently applied but exact statistics were difficult to obtain. Not until September 1988 did the Minister of Justice release the first figures for death sentences passed in 'unrest related' cases between 1985-8. These not only revealed that the number had increased dramatically over the period but also that monitoring groups and international observers were unaware of the scale of the increase. The figures below do not include sentences passed in the bantustans of Ciskei, Transkei, Venda and Bophuthatswana but are nevertheless higher than those recorded by independent monitoring groups for both death sentences and executions.

	1985	1986	1987	1988*	TOTAL
Sentenced to Death	8	13	48	32	101
Executed	0	5	4	8	17
Commuted	0	0	0	1	1
Pending	6	6	32	32	83

*The information for 1988 is until 14 September 1988. (Hansard 27.9.88)

Since September 1988 at least six more political executions have taken place, the most recent of them on 29 September 1989.

By 1987 political prisoners accounted for a significant percentage of the total population of Death Row, as the section of Pretoria Central Prison housing condemned prisoners increasingly came to be known. In July of that year the South African Youth Congress (SAYCO) responded to this with a 'Save the Patriots' campaign aimed at saving the lives of the 32 political prisoners whose cases were then known. Supported by the Congress of South African Trade Unions (COSATU), the National Union of Mineworkers (NUM), the United Democratic Front (UDF), the Release Mandela Campaign and the National Education Crisis Committee, it was the first general initiative against the death penalty for over a decade. In the interim the community had mobilised around individual cases, mainly of Umkhonto

we Sizwe combatants. Since then the campaign has gone from strength to strength in spite of the effective banning of SAYCO in February 1988. It has been taken up by the Black Sash, legal and civil rights groups and the churches as well as community, youth and women's organisations. Most of these groupings are opposed to all capital punishment, others have called for a moratorium on executions and a commission of inquiry into the use of the death penalty. Some were already committed in principle but had not been active recently on the issue. In 1988 the Society for the Abolition of the Death Penalty in South Africa, which had been long dormant, was revived at both national and regional level. This year two initiatives have been taken by those most personally concerned with the issue - in January FOPOD (Families of People on Death Row) was formed and in July a delegation of families who have had a relative executed for political reasons submitted an appeal to President Botha on behalf of those presently on Death Row. FOPOD delivered a petition to FW de Klerk on 11 September, shortly before his inauguration as President, stating: 'We do not think there can be serious talk about reconciliation when people continue to be hanged.' This is an opinion echoed widely both within South Africa and abroad, as seen in the recent statement on negotiations by the Organisation of African Unity.

The question of capital punishment was one of the issues taken up by the Defiance Campaign. On 30 August, 200 women were arrested while trying to deliver a protest on the matter to the British embassy in Cape Town. The level of protest has forced the regime to be more open in its executions policy. Since 1983 the authorities have been under no obligation to announce in advance the date of an execution but public pressure is making secret executions increasingly difficult to effect. Political hangings in 1989 have provoked petitions, demonstrations and a vigil outside Pretoria prison.

The list which follows details all those presently on Death Row who are known to have been sentenced to death in cases arising out of political protest, in the Supreme Courts of the four provinces, in the circuit and special courts, and in the supposedly independent bantustans. This information is drawn principally from newspaper reports and is inadequate for that reason. News coverage of trials is rarely comprehensive, especially in rural areas, a fact which reflects the priorities of the press as much as the effects of censorship. All have been convicted of the common law charge of murder. This may have depoliticised the cases in the eyes of some of the international community and is true even of combatants who could have been sentenced in terms of statutory security legislation.

It is not always possible to ascertain whether a killing is politically motivated so where there is doubt about the circumstances of a case, it has not been included in the

list below. This excludes then a number of trials which show clear evidence of legal injustice but no evident political context. For instance in June this year the Supreme Court of the Ciskei bantustan in Bisho sentenced twelve men to death after convicting them of five murders carried out in February 1987. The conviction was on the basis of common purpose in so far as the men were not themselves found guilty of carrying out the killings but of associating themselves in some way with those who did.

The judgement in the appeal of the Sharpeville Six played a great part in alerting the world community to the wide application of the common purpose principle in the South African legal system. This is of especial concern because many of the country's politically motivated killings arose from mass action against policemen and other collaborators or agents of the regime. The Bisho case mentioned above and the sentencing of 14 residents of Upington in the northern Cape in May 1989 continue to highlight this aspect of the judicial system.

Criticisms of South Africa's criminal justice system, however, go much further than the interpretation of common purpose. Almost all convictions in political trials rely on statements obtained from both defendants and witnesses under some kind of coercion. The use of detention without trial in solitary confinement and the torture of potential prosecution witnesses are frequently essential to the state's case. For this reason all convictions are basically unreliable and no political opponent can obtain a fair trial. Trials are presided over by a judge sitting with two assessors and at present there is no automatic right of appeal against a death sentence. The character of the legal system - its dependence on extra-judicial powers of detention, its bias against the accused and their lawyers, and the lack of independence of the judiciary, call all verdicts into question, most especially those leading to a death sentence.

The campaign, both nationally and internationally, has had some successes with a number of reprieves being achieved. Legal representation is now much more widely available to all those on Death Row, both political and non-political, at least at the latter stages of the legal process. Prisoners are now much more likely to have exhausted all legal options - appeals and petitions to Chief Justice and State President - before being executed. This has led to a slowing down in the rate of executions as prisoners explore every legal opportunity, but it is too soon to interpret this delay as an actual drop in the total number of executions. As far as political prisoners are concerned the statistics indicate a continuation in both executions and new death sentences. Furthermore, the regime's concessions towards last-minute legal advice by no means compensate for the lack of adequate representation at the crucial initial stages of a court case. Where defendants are

detained without trial under Section 29 of the Internal Security Act the very purpose of the measure is to facilitate interrogation without hinderance from the law. The secrecy of many investigations makes it difficult for the accused to obtain lawyers of their choice and they may have to rely on state appointed *pro deo* counsel. These are poorly paid, usually inexperienced and have to work without benefit of an instructing attorney. Such concerns as these about the provision of adequate defence have led to the call for a mandatory right of appeal while the death penalty remains. Surveys on the sentencing patterns of particular judges have reinforced this view - one carried out recently in the Cape Provincial Division showed that three judges who presided over just 15 per cent of the cases nevertheless sentenced 51 per cent of the total who were condemned. One of these three was Justice Lategan who was responsible for sentencing the Bhongolethu residents whose case is covered in more detail below.

Cases on the list below which are most urgent are those where leave to appeal has been refused or where an appeal has failed. The accused have no further legal remedy, only a petition for clemency to the State President which is entirely at his discretion (see Cases 2, 4, 6, 13-16). In other cases insufficient information is available as to how near execution the prisoners may be.

The trials are drawn from the whole country, including the bantustans. Lack of information is an even greater problem in the rural areas than the rest of the country and the difficulty in identifying political cases is increased. In August this year the Bophuthatswana administration gave figures for the number of people awaiting execution and those hanged since 'independence' in 1977: 35 and 27 respectively. How many of these are political is not clear but the 35 include three women one of whom is believed to be a youth activist from Stinkwater. She was condemned with two colleagues in May 1987 (see Case 3 below). A death sentence passed in the Transkei bantustan in May this year on two ANC combatants gave rise to a protest march in October involving several thousand people (see Case 28).

A number of those on Death Row at present are ANC combatants entitled to prisoner of war status under the Geneva Conventions, which the ANC has signed. The regime, however, refuses to recognise this and captured combatants receive none of the protection to which they are entitled. They are instead interrogated, assaulted, charged, tried and condemned. This entitlement was brought to the fore earlier this year when three combatants were sentenced to death after a trial in which they had refused to participate, arguing that the court had no jurisdiction over them. An appeal is pending (see Case 27).

Some of the prisoners may be especially isolated - such as

the two women, one in Pretoria and one in Mafikeng (see Cases 3 and 29). Also, the one Namibian amongst them who was convicted in the disputed enclave of Walvis Bay and then brought to Pretoria. He is now awaiting an appeal hearing, having been excluded from the amnesty authorised under the UN independence plan (see Case 26).

The vast majority of those facing execution are participants in mass protests, some of them members of youth congresses around the country, many more of them young people caught up in the resistance to apartheid brutality which has swept the country since 1984. The final section of this paper is a case study of Bhongolethu, Oudtshoorn, a segregated township in the southern Cape whose residents were stirred to action by their abysmal living conditions. Every peaceful attempt at organisation to improve their lives - whether through school or consumer boycotts, forming youth and community organisations, attempting to deal with the authorities - was met by police and military violence. Mass detentions and arrests became the order of the day - police shootings a regular occurrence. Bhongolethu has seen many killings since 1984 although most of them are not designated 'murders' by the authorities and require no trial. Police shootings go apparently unpunished - their perpetrators exonerated. But since 1986 four Bhongolethu residents have been sentenced to death for political reasons - one has been executed while three more are still fighting a legal battle for their lives. Their alleged crime was to kill a local councillor, an agent of the regime who had failed to tackle Bhongolethu's problems and was attacked by a large crowd of his erstwhile constituents. A journalist writing in mid 1985 said:

Oudtshoorn is not unique. It is merely one of the latest - and southernmost - sites of a chain of violent protest which has engulfed ever-larger parts of South Africa over the past nine months.

For this reason the case of Bhongolethu is presented as just one example of a community under attack and as such illustrates the political background to so many of the cases featured in the list.

PEOPLE CURRENTLY UNDER SENTENCE OF DEATH AFTER CONVICTION
IN TRIALS ARISING OUT OF POLITICAL PROTEST
(arranged by date of sentence)

1. Patrick MANGINDA (23)
Desmond MAJOLA (27)
Dickson MADIKANE (26)

Sentenced to death in September 1986 in the Cape Town Supreme Court by Justice AJ Lategan. Convicted of murder following the killing of a councillor by a crowd of over a hundred in Bridgton, Oudtshoorn in November 1985. Appeal rejected, September 1988. Lawyers petitioning State President to re-open trial to hear new evidence of an eye-witness who exonerated two of the accused.

* * *

2. Robert John McBRIDE (23)

ANC combatant, sentenced to death in April 1987 in the Pietermaritzburg Supreme Court by Justice Douglas Shearer. Convicted of the murder of three women killed in a car bomb explosion at Marine Parade, Durban, in June 1986. McBride said he had planted the bomb to protest at the State of Emergency imposed two days earlier with thousands of detentions. Appeal turned down, March 1988. Petition for clemency submitted, June 1988.

* * *

3. Daisy MODISE (25)
Thomas CHAUKE (27)
Johannes TSHABALALA (18)

Sentenced to death in the Temba court of the Bophutha-tswana bantustan in May 1987. The three are members of the Stinkwater Youth Organisation who allegedly participated in people's courts which authorised killings. No further details. Appeal thought to be pending.

* * *

4. George SKOSANA (22)

Community activist from Atteridgeville, sentenced by Justice JPO de Villiers in the Pretoria Supreme Court in June 1987. Convicted of killing a suspected police informer in Saulsville in February 1986. Refused leave to appeal. Execution set for August 1988 but granted a stay of execution to petition the State President for clemency.

* * *

5. Basayi MAQOKO (34)
Zwelinkosi MJO (29)

Sentenced by Justice Claasens in the Ciskei bantustan's Supreme Court in Bisho in June 1987. Convicted of killing a Whittlesea resident who refused to hand over firearms in February 1986.

* * *

6. Sibusiso Senele MASUKU (22)
Oupa Josias MBONANE (21)

Sentenced to death in August 1987 in the Pretoria Supreme Court by Justice Human. Convicted of murder for the alleged killing of a policeman in Soshanguve in February 1986. Masuku was already serving a 10 year sentence imposed earlier in the year for participation in the ANC's armed struggle. Execution set for 24 May 1989 but granted a last-minute stay for lawyers to try and present new evidence after a state witness retracted her testimony against Masuku.

* * *

7. Joseph CHIDI (23)

Sentenced to death by Justice le Grange in the Rand Supreme Court in September 1987. Convicted of murder for the killing of a councillor in Tembisa in May 1986. In April 1989, the Appeal Court ordered the trial to be reopened after the only state witness against Chidi retracted his evidence, saying he had given it after police assault. However, on 25 August, le Grange rejected the new evidence and upheld the death sentence against Chidi.

* * *

8. Nico Ledube MNYAMANA (31)
Menzi TAFANE (21)

Sentenced by Justice Solomon in the Port Elizabeth Supreme Court in September 1987 for a killing in Burgersdorp in January 1986. Convicted on the evidence of two unnamed state witnesses who were indemnified from prosecution and whom the defence stated had been offered money by the police to implicate them. Leave to appeal granted.

* * *

9. Reuben Clifford

Both sentenced in November 1987 in the Nelspruit area after being convicted of the murder of a suspected police informer. No other details.

* * *

10. Mtutuzeli Bottoman NGQANDU (22)

Sentenced in November 1987 in the Supreme Court sitting in Uitenhage by Justice Foxcroft. Convicted of killing a policeman in Port Elizabeth in September 1985. Granted leave to appeal by the Chief Justice.

* * *

11. Abraham ZEYO (23)

Sentenced in 1987 in the Eastern Cape. Convicted of murder following the death of a woman killed by a crowd searching for an informer in Kirkwood in April 1985. Appeal due, March 1989.

* * *

12. Mxolisie NCAPHAYI (20)
Vuzumsi JACK (24)
Samson BOOYSEN (35)
Bennet SONAMZI (22)

Sentenced in the Grahamstown Supreme Court in January 1988 by Justice le Roux. Convicted of murder for the death of a man stoned by a crowd in Kwezi, Hanover, in December 1985. Only Ncaphayi, a member of the Hanover Youth Organisation, was granted leave to appeal but the other three successfully petitioned the Chief Justice to be allowed to do the same.

* * *

13. Gilindoda Norman GXEKWA (22)

Member of the Uitenhage Youth Congress sentenced to death three times in three separate trials between August 1987 and March 1988. First sentenced by Justice TM Mullins in the Supreme Court in New Brighton for killing a suspected informer in Uitenhage in the aftermath of the police massacre there in March 1985.

* * *

14. Gilindoda Norman GXEKWA (22)
Vuyani Petrus JACOBS (19)

Gxekwa was sentenced again, with two others, in the Port Elizabeth Supreme Court in February 1988 by Justice Solomon for killing a suspected police informer in December 1985 in Uitenhage. Gxekwa and the third man, Stuurman, were assaulted and tortured with electric shocks. Gxekwa was found to have 'closely associated' himself, though not actively participated in, the fatal attack. Stuurman was acquitted on appeal, May 1989.

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15. Gilindoda Norman GXEKWA (22)
Vuyani Petrus JACOBS (19)
Mthetheleli LUCAS (24)
Tozamile MOOI (27)

Gxekwa and Jacobs with two others were sentenced by Justice van Rensburg in the Grahamstown Supreme Court in March 1988 for killing a suspected police collaborator in Uitenhage in October 1985. He accepted that none of the accused had administered the fatal blow but said they had associated themselves with those who did. Only Mooi was granted leave to appeal. Lucas has petitioned the Chief Justice for leave to do the same.

* * *

16. Rodney MOLOI (24)
Stanford LEBEPE (24)

From Tembisa. Sentenced in March 1988 in the Rand Supreme Court by Justice TT Spoelstra after being convicted on the basis of common purpose of killing a policeman who was believed to have killed Lebepe's brother. Extenuating circumstances were found in respect of Lebepe but Justice Spoelstra used his discretion to sentence him notwithstanding. Appeal failed, March 1989.

* * *

17. Elliot Malindana NKUNA (37)
Mpande Joseph MALHALELA (30)

Sentenced in the Supreme Court sitting in Nelspruit in March 1988. Convicted of the murder of a man at Mbuzini in June 1986. In July 1988 they were granted leave to appeal and to reopen their trial to hear new evidence. Appeal due, March 1989.

* * *

18. Mthetheleli Zephania MNCUBE (27)
Mzondeleli Euclid NONDULA (24)

ANC combatants sentenced by Justice J P O de Villiers in the Circuit Court sitting in Messina in May 1988. Convicted of murder for causing landmine explosions. Mncube was also charged with killing two policemen while escaping from custody. Granted leave to appeal.

* * *

19. Sibusiso SINDANE

Sentenced by Justice Howard in the Durban Supreme Court in May 1988. Convicted of murder for his alleged part in the killing of a Kwamakhutha councillor who died following a petrol bomb attack on his home in January 1987. Granted leave to appeal.

* * *

20. Mandla MNGOMEZULU (25)

Sentenced in May 1988 by Justice Galgut in the Supreme Court sitting in Stanger. Mngomezulu, an ANC member reportedly picked up in Swaziland, was convicted of killing a suspected police informer in May 1987.

* * *

21. Ringo FARLAND (19)
Sipho GONYA (18)
Phutumile DLABATHI (18)

Sentenced in July 1988 by Acting Justice Grobbelaar in the Supreme Court in Port Alfred. Convicted of murder for killing a suspected police informer in Duncan Village in October 1985. Granted leave to appeal. Farland absconded but was re-captured and sentenced in December 1988.

* * *

22. Israel MACHASA (25)
Jerry MOLEBENG (25)
Johannes MONO (23)

Sentenced by Justice Lichtenberg in August 1988 in the Bloemfontein Supreme Court. Convicted of killing a municipal policeman during a stayaway in Tumahole, Parys, in May 1986.

* * *

23. Dilizintaba 'Lucky' NOMGANGA

Sentenced to death in the Orange Free State Supreme Court in September 1988 by Justice Van Coller. NUM shaft steward at the Welkom Western Holdings gold mine convicted of murder after two mine officials were killed in unrest following dismissals in June 1987. Granted partial leave to appeal.

* * *

24. Wilson MATSHILI (33)
Patrick MOLEFE (27)
Takalani David MAMPHANGA (25)
George MAUGEDZO (36)

Sentenced by Justice TT Spoelstra in the Rand Supreme Court in March 1989. Four South African Railway and Harbour Workers Union members convicted of murder following the killing of four strike-breakers during a South African Transport Services (SATS) dispute in April 1987. Granted leave to appeal.

* * *

25. Nkosinathi ZUMA (25)

Youth leader sentenced by Justice Combrink in the Pietermaritzburg Supreme Court in April 1989. Convicted of killing a suspected police informer during a school boycott in New Hanover in October 1987.

* * *

26. Leonard Natange SHEEHAMA (25)

Sentenced to death by Justice Tebbutt in April 1989 in the Cape Supreme Court sitting in Walvis Bay. Convicted of murder following an explosion in Walvis Bay which killed five people in August 1986.

* * *

27. Jabu Obed MASINA (36)
Frans Ting Ting MASANGO (30)
Neo Griffith POTSANE (28)

Sentenced to death in the Delmas Circuit Court in April 1989 by Justice de Klerk after a trial in which they claimed prisoner-of-war status as captured ANC combatants and refused to participate. They were convicted of murder for killings carried out in furtherance of the armed struggle including those of two policemen.

* * *

28. Ndibulele NDZAMELA (24)
Pumzile MAYAPI (32)

ANC combatants sentenced to death in May 1989 by Justice Mitchell in the Supreme Court of the Transkei bantustan. They were convicted of murder following the deaths of two people in a limpet mine explosion. Mayapi's brother was shot dead by bantustan police in February 1988.

* * *

29. Kenneth KHUMALO (33)
Eric Tros GUBULA (30)
David LEKHANYANE (24)
Myner Gudlani BOVU (29)
Zuko XABENDLINI (32)
Andrew LEKHANYANE (28)
Justice BEKEBEKE (27)
Zonga MOKGATLE (31)
Wellington MASIZA (27)
Boy JAPHTA (24)
Evelina de BRUIN (60)
Gideon MADLONGOLWANE (60)
Xolile YONA (24)
Albert TYWILI (27)

Sentenced to death in May 1989 in the Circuit Court sitting in Upington, by Justice J Basson. Convicted, almost all of them on the basis of 'common purpose', of the murder of a municipal policeman in Paballelo, Upington, in November 1985. Granted leave to appeal by Chief Justice Corbett in September 1989.

* * *

PEOPLE PREVIOUSLY SENTENCED TO DEATH,
PRESENTLY UNDERGOING NEW COURT PROCEEDINGS

Mzwandile GQEBA (22)

Lundi WANA (20)

Thembinkosi PRESSFEET (30)

Mzwandile Roro MNINZI (27)

Monde Trevor TINGWE (23)

Wantu SALINGA (27)

: Died in prison, December
1987

Sentenced to death in June 1987 by Justice Kroon in the Supreme Court sitting in Port Alfred. Convicted of murder, on the grounds of common purpose, for the killing in Queenstown in December 1985 of a woman accused of fraternising with the police. She was killed shortly after police shot dead 14 people attending a meeting in the local Methodist Church. They were acquitted on appeal in May 1989 but the accused were immediately rearrested to stand trial again. This is scheduled to begin in October.

* * *

2. THE CASE OF BHONGOLETHU

Patrick Manginda, Desmond Majola and Dickson Madikane were sentenced to death in September 1986 for their alleged part in the killing of a community councillor in November 1985. They come from the Southern Cape, from Oudtshoorn's black township of Bhongolethu. A fourth resident, school student Michael Lucas, was executed in 1988 for his part in a bus protest.

Bhongolethu is a child of the Group Areas Act. When Oudtshoorn was zoned for 'white' occupation only, those of its residents classified 'Black' and 'Coloured' were moved to Klippies-eiland and later the segregated townships of Bhongolethu and Bridgton. The apartheid state, which had forced Africans into Bhongolethu, did not however, provide them with housing. In 1967 some 306 'sites' were established and the people built themselves shelters out of whatever materials were available. By 1985 an estimated 4,000 people were living in some 400 crudely constructed homes. For the entire population there were just 13 water points. Open drains fed into the gravel roads and sewage was disposed of only by the bucket system and night soil removal. Children deprived of recreational facilities played in the furrows which were used to channel overflow from the waterpoints and for the disposal of slop water. Thus they risked their health in the pursuit of some diversion.

Health and educational provision were two areas in addition to housing about which Bhongolethu residents had cause for complaint. The area had only two schools - a primary and a lower secondary which only went to Standard 8, meaning that students had to go elsewhere to study for their matriculation exams. The two schools catered for some one thousand pupils and the primary in particular was in urgent need of repair. There was no medical provision in the township at all and there was added difficulty in getting ambulances to take the sick to Oudtshoorn hospital. Once there, patients were frustrated by the inability of the nursing staff to converse in any languages other than English or Afrikaans. Anger at this was exacerbated by the fact that two fully qualified African nurses in Bhongolethu were unable to find employment.

Unemployment was one of the major grievances of the local community. Some 73 per cent of residents earned less than R150 per month. Those surviving on pensions received them only once in two months and were thus subject to extreme hardship. Furthermore although unemployment was very high some firms preferred to recruit workers from the bantustans rather than employ local labour. Workers often had to travel to George to get work, paying more than half their weekly wage out in transport costs. (South 17.9.87; *The Last Affidavits*, SACBC, 1987)

All these grievances were of long-standing concern to the residents of Bhongolethu but it was only in the 1980s that they began to get together to address their problems. The formation of the United Democratic Front in 1983 and its campaign against the new constitution the following year proved a great spur to mobilisation in remote areas like Oudtshoorn, as did a number of community newspapers which sprang up. *Saamstaan*, an Afrikaans-language paper committed to unity amongst the oppressed, was founded in 1984 based in Bhongolethu's neighbouring Coloured township of Bridgton. The paper has been a target of repression ever since and a measure of the wider attack on the community it represents.

As early as December 1984 Derek Jackson and Humphrey Joseph, both *Saamstaan* workers, were among 25 people charged with attending an illegal gathering. Although finally acquitted, this result only came almost a year later. By that time the two men, together with Louis Noemdoe, the paper's treasurer, had been detained under the Internal Security Act and were facing more serious charges of subversion. Again the case ended in acquittal, in February 1986, but the ever-vigilant authorities charged Joseph the following day with contravening the Police Act for his coverage of the incident described below. (Weekly Mail 15.5.87)

In October 1985 television pictures which flashed around the world showed what has become known as the Trojan Horse incident - police hiding inside packing cases on a lorry shot dead three children after driving through Athlone trying to tempt youngsters into stoning the vehicle. The duplicity as well as the brutality of the police's behaviour shocked the world community. In fact such ambushes had already been practised elsewhere in the country, albeit away from the glare of media attention. One such incident occurred in Oudtshoorn in June of that year.

On 16 June 1985 residents of Bhongolethu planned a commemoration for those killed in the Soweto Uprising nine years previously. For the entire weekend the community was virtually under siege. During the service the township was cordoned off and afterwards the crowd was dispersed with teargas and birdshot. Over 2,000 people attended, between two and three hundred of them defying restrictions and coming from Bridgton. Police fired teargas down the narrow streets and even through the open doors of houses, causing distress especially to young children.

The following day, 17 June, a controversial incident occurred in which three children were shot dead. Armed police hid inside a house belonging to a policeman - his furniture had been removed that day and no guard left at the place, leading residents to suppose it was empty. However, as people gathered, a volley of shots rang out - the first of a number which were to leave two children

dead and a third fatally injured. Residents accused the police of placing a container of petrol next to one of the bodies in order to provide justification for their actions. This allegation was to feature in the subsequent trial of Humphrey Joseph. Those killed were named as Fezile Thomas Hanse (14), Andile Simon Majola (13) and Patrick Madikane (14). An inquest in Oudtshoorn ruled that no-one was criminally liable for the boys' deaths, deciding that the police had fired to save themselves from a petrol bomb attack. (Cape Times 29.6.85; Daily Dispatch 14.11.85)

The magistrate's version of events was at variance with the community's, as reported both in *Saamstaan* and the commercial *Cape Times*. In 1987 Humphrey Joseph was fined R100 or 25 days for reporting an eye-witness account which maintained the children were empty-handed when shot and were subsequently framed by the police. He was also criticised for saying three children, not two, were shot dead - one died later of his wounds. (Star 6.5.87)

Though this was the worst incident of its kind in Bhongolethu, according to residents it was by no means an isolated occurrence - in November 1984 what police described as a 'normal crime clean-up operation' had involved police use of batons, sjamboks and teargas. One doctor alone treated 17 people, most of them for head wounds, and one man was shot. The detention of students during a school boycott led to more protests and an attack on 29 April 1985 on the house of a policeman who had fired at demonstrators. One hundred and fifty-five youngsters were arrested on public order charges. Between 29 April and 9 May some ten people were shot by police and on 2 May police and army 'occupied' Bridgton and Bhongolethu using 14 hippos and a tank. Writing some weeks after 17 June a journalist said -

The situation in Bhongolethu resembles nothing as much as that of people living under the heel of a foreign occupying army. Armoured vehicles rumble through its narrow lanes day and night. Residents are dispersed with dogs, sjamboks and shotguns. They talk of police indiscriminately firing teargas into open doors. (Cape Times 28/29.6.85)

Detentions and arrests of Bhongolethu residents continued throughout 1985. In late June the headmaster of the primary school, Sicelo Mhlawuli, was assassinated with three members of the Cradock Residents Association. Mhlawuli was returning from Port Elizabeth with Matthew Goniwe, Fort Calata and Sparrow Mkhonto when their car was apparently waylaid. Their mutilated and charred bodies were found the following day. The inquest into their deaths, concluded only this year, ruled that they had been killed by a person or persons unknown. Goniwe had assured colleagues before leaving that he would not stop for anyone

except the police. (Focus 83 p.5)

The inquest which exonerated the police for the killings in Bhongolethu was concluded much more speedily, in November 1985. Later the same month a local community councillor, Patrick Marenene, was killed by an angry crowd of residents. He had been chased out of Bhongolethu two days previously and was killed when he returned to fetch some things. Estimates of the crowd's size vary between one and three hundred. Patrick Manginda's father remembers it: 'Looking at the group of people then, I didn't think three would hang.' One report said that Desmond Majola is a relative of one of the children killed by the police. While this is difficult to verify, there is no denying the impact the deaths of the three children had on this small community. (Leadership, Vol 7. No.3; South 17.9.87)

In fact in a massive police and military operation, over 200 people were initially arrested. By this time news of the level of repression in Bhongolethu had leaked out and a delegation went there to take down statements. These were published by the Southern African Catholic Bishops Conference under the title *The Last Affidavits* in recognition of anti-apartheid campaigners Brian Bishop and Molly Blackburn who were killed in a car crash on their way home from the area. The documents are an unanswerable testament to apartheid brutality in the township and the years of neglect endured by the population.

Eight people were eventually charged with murder, of whom three were sentenced to death. The main state witness was an acknowledged police informer and drug dealer who had already testified against one of the accused at another trial. On that occasion he said that he had witnessed the burning of a delivery vehicle on the same day and at the same time as the killing, but in a different part of the town. In spite of the doubts cast on this witness' evidence, and the protestations of innocence by the accused, the three were condemned to die. (City Press 10.8.86; *The Last Affidavits*)

Two years after their conviction lawyers sought to re-open the trial in the light of evidence from a new eye-witness. Jennifer Maclean, who was related to another councillor, had not come forward at the time of the incident for fear of becoming 'involved'. However, on learning of the death sentences, she offered her evidence which stated that neither Manginda nor Madikane were anywhere near the scene. The Appeal Court refused to re-open the trial and subsequently rejected the men's appeal. They are now petitioning the State President on the matter. (New Nation 22.9.88; City Press 2.10.88)

The families of the men have stood by them but are inhibited in what they can do to save them. Madikane's sister Louisa says:

Because this is an apartheid country where people who speak the truth are locked up, we feel helpless even in expressing ourselves. We have experience of people being incarcerated as "political" just for telling the truth. If I say what I think about my brother being executed for something he didn't do, then I am being political.

His father believes:

The government won't have any mercy on black people in this country. If the judiciary was independent, this couldn't happen.

(Anti-Apartheid News, London, October 1988)

Not only is the South African judiciary not independent but Justice Lategan, the presiding judge in the case, has a history of making legal mistakes in death penalty cases. An appeal judge in November 1988 replaced a death sentence imposed by Lategan by a three-year prison term, saying the sentence was 'shockingly inappropriate' and a 'gross misdirection'. He found it 'particularly disturbing' that Lategan had made an identical mistake in an earlier case. In the previous three years, six death sentences passed by him had been overturned. Lategan was the subject of controversy when first appointed to the bench in 1979. He was then Attorney General in the Cape a post which the Bar Council said would inevitably bring his 'impartiality' into question.

The Bhongolethu community has endured more police violence in the years since 1985. Two Supreme Court injunctions were sought against special constables, known as kitskonstabels because of their lack of training, to prevent unlawful arrest, assault and intimidation. The first was initiated in July 1987 and by the time it came to court in February 1988, a second injunction had been sought. A survey by a research team from the University of Cape Town in 1987 showed 80 per cent of residents felt they were treated badly by the kitskonstabels, 70 per cent of them reported aggressive behaviour, 65 per cent had seen police beating people, 48 per cent had seen them pointing guns at residents and 31 per cent had seen them shooting people without apparent reason. A local church leader described their behaviour as 'a reign of unchallengable terror and unbearable oppression'. *(Cape Times 16.11.87)*

In January 1988 one of the kitskonstabels cited in the July application was stabbed after assaulting a resident who was protesting at harassment of his daughter. His colleagues then went on an orgy of revenge, killing three residents and injuring a further ten. In February the Minister of Law and Order gave an undertaking on behalf of the special constables while denying all the allegations that had been made. *(New Nation 14/21.1.88; Cape Times 20.1.88, 19.2.88)*

One of those injured by the kitskonstabels was Saamstaan journalist Patrick Nyuka who was shot in 1987 while he was covering a welcome home celebration in September for two Bhongolethu residents who had completed serving prison terms for public violence. He was spattered with shotgun pellets, one of which lodged in his spine, and was held in custody charged with public violence following his release from hospital. All charges were subsequently dropped and in March 1989 Nyuka was paid R10,000 damages in an out of court settlement in which the Minister of Law and Order continued to deny liability. (South 1.10.87; Cape Times 24.3.89)

A case in nearby Sandkraal involving police seconded from Oudtshoorn indicated that police violence goes beyond the excesses of supposedly untrained special constables. In May 1989 Andre Schutte was sentenced to 12 years for beating to death a young activist Andile 'Ace' Kobe in March 1988. Two colleagues who dumped Kobe's unconscious body on a beach were sentenced to seven years for attempted murder. Kobe's fiancée was unable to save him even though she followed him to the police station and had to listen outside while he was assaulted for 30 minutes. In June police seized over 300 copies of an issue of Saamstaan which covered the result of the policemen's trial. Local people had been quoted comparing the policemen's sentences with the death sentences passed on their fellow residents. (Weekly Mail 31.3.88, 26.5.89; Southscan 14.6.89)

This was the second police move against Saamstaan directly related to their support for the people on Death Row. In June 1988 journalist Mbulelo Grootboom was due to appear in court charged with making a subversive statement at a service held for the Bhongolethu residents facing execution. Another worker Reggie Oliphant was told to appear as a state witness and identify a voice on a recording allegedly made by police at the service. (Weekly Mail 13.5.88)

Saamstaan has suffered through the detention of its workers and more recently from their restriction under emergency regulations which has severely hindered their work. Jackson, Oliphant and Grootboom are all restricted at present although they are defying their orders as part of the Defiance Campaign. In May last year the South African Society of Journalists awarded the paper the prestigious Pringle Award for its commitment to press freedom. (Sunday Tribune 15.5.88)

In 1987 a fourth person from Oudtshoorn was sentenced to death - Michael Lucas, a school student who had completed standard 8, then the most senior class available in the township. He was convicted of killing a bus inspector during an attempt to set alight a bus in Bhongolethu in April 1986. Lucas admitted culpable homicide, saying the killing was an accident, but Justice Williamson rejected

this and convicted him of the more serious charge of murder. Lucas was described during his trial as a 17-year-old youth but after conviction the case was adjourned - apparently to establish his age. Under South African law it is not mandatory to pass a death sentence on someone who was under 18 at the time of an alleged offence, even if no extenuating circumstances are found. After the postponement the court ruled that Lucas was aged between 20-21 years and he was accordingly sentenced to death. He was refused leave to appeal and was executed in March 1988 in spite of last minute legal moves to prevent this. Slogans in support of him were daubed around the township and one thousand people attended a service in Cape Town on the eve of his execution. (*Focus* 76 p.4)

A number of changes have taken place in Bhongolethu since 1985 - in both the administration and facilities of the township. However, the continuing repression of the community, the shooting of residents and the impending threat of more executions indicate that the liberation for which the people are working has yet to be achieved. Two events in August and September brought Bhongolethu back into the news. On 28 August some 60 students at the University of the Western Cape held a 48-hour fast in solidarity with the 'Bhongolethu Three'. The action followed a mass rally of some 2,000 students protesting against the death sentences. During election week in September the tombstones on the graves of the three children killed by police in 1985 were smashed beyond repair. The memorial, engraved with the words 'Freedom or Death, Victory is Certain', had only recently been erected after years of saving by the community. On 22 September, almost three years to the day since Manginda, Majola and Madikane were sentenced to death a march of 5,000 people made its way from Bhongolethu to Oudtshoorn calling for protection for the grave, the lifting of the State of Emergency, a moratorium on executions and the lifting of restrictions on people and organisations.

3. PEOPLE EXECUTED SINCE 1979 AFTER CONVICTION IN TRIALS
ARISING OUT OF POLITICAL PROTEST

1979

6 April - SOLOMON MAHLANGU

1983

9 June - THELLE SIMON MOGOERANE
JERRY SEMANO MOSOLOLI
MARCUS THABO MOTAUNG

1985

18 October - BENJAMIN MALESELA MOLOISE

1986

9 September - SIPHO XULU
CLARENCE 'LUCKY' PAYI
ANDREW SIBUSISO ZONDO

5 December - SOLOMON MAOWASHA
ALEX MATSHAPA MATSEPANE

1987

19 August - ELILI WEBUSHE (also known
as RAYMOND GWEBISHE)

1 September - MLAMLI WELLINGTON MIELIES
MOSES MNYANDA JANTJIES

1988

18 March - TSEPO LETSOARE

25 March - MICHAEL LUCAS
MLONDOLOZI BENJAMIN GXOTHIWE

1989

20 April - NDUMISO SILO SIPHENUKA
MACKEZWANA MENZE

25 May - ABRAHAM MNGOMEZULU

29 September - MANGENA JEFFREY BOESMAN

FURTHER DETAILS OF POLITICAL PRISONERS EXECUTED SINCE
1979

Solomon MAHLANGU (21)

ANC combatant sentenced to death by Justice Theron in the Kempton Park Circuit Court in February 1978. His conviction was on the basis of common purpose as the court accepted that Mahlangu did not fire any shots during the incident which gave rise to his trial. His co-accused was committed indefinitely to a mental hospital after being found unfit to plead due to injuries inflicted by police at the time of arrest.

EXECUTED, 6 April 1979

* * *

Thelle Simon MOGOERANE (23)

Jerry Semano MOSOLOLI (25)

Marcus Thabo MOTAUNG (27)

Sentenced by Justice D Curlewis in the Pretoria Supreme Court in August 1982. The three were convicted of high treason and murder for their participation in armed attacks on police stations organised by the ANC's armed wing Umkhonto we Sizwe (MK). As members of MK they should have been accorded prisoner-of-war status under the Geneva Conventions. Instead they were assaulted, interrogated and charged.

EXECUTED, 9 June 1983

* * *

Benjamin Malesela MOLOISE (28)

Sentenced by Justice H van Dyk in the Pretoria Supreme Court in June 1983. Convicted of killing a security policeman notorious for his role in the arrest and prosecution of apartheid's opponents. The ANC claimed responsibility for his death but stated that Moloise was not involved. At one time Moloise lived with Marcus Motaung (see above) and seems to have been victimised after he was subpoenaed as a witness in Motaung's trial and failed to give the required evidence.

EXECUTED, 18 October 1985

* * *

Sipho XULU (25)

Clarence 'Lucky' PAYI (20)

ANC combatants sentenced by Justice J Kriek in the Pietermaritzburg Supreme Court in February 1985. Convicted of murder for the killing of a man they were led to believe was a police informer. Both had left the country for military training, Payi when aged only 15, after the repression of peaceful protests in which they were involved.

EXECUTED, 9 September 1986

* * *

Andrew Sibusiso ZONDO (20)

ANC combatant sentenced in April 1986 by Justice R Leon in the Supreme Court sitting in Scottburgh. Convicted of murder for his part in a bomb attack on a South African Airways office in Amanzimtoti in December 1985 in which five people were killed. Zondo was held in solitary confinement, brought to court without a lawyer, refused psychiatric examination, repeatedly assaulted in prison and refused leave to appeal. While awaiting execution he was offered a reprieve if he gave state evidence against fellow combatants. This he refused.

EXECUTED, 9 September 1986

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Alex Matshapa MATSEPANE (23)

Solomon Mankopane MAOWASHA (20)

Sentenced to death in June 1986, Tzaneen Circuit Court by Justice FH Grosskopf. Convicted of murder for the alleged killing of two police informers in September 1985.

EXECUTED, 5 December 1986 (Information from British government 9.9.87)

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Elili WEBUSHE

Sentenced to death in June 1986. Convicted of murder following a 'necklacing' in Jansenville. (Report from Bureau for Information, no other details available.)

EXECUTED, 19 August 1987 (under name of Raymond GWEBISHE)

* * *

Moses Mnyanda JANTJIES (21)
Mlamli Wellington MIELIES (22)

Sentenced to death in November 1986, in the Port Elizabeth Supreme Court, by Justice TM Mullins. Convicted of murder following the death of Uitenhage community councillor Benjamin Kinikini and other members of his family killed when his business premises were burned down. Application for 'special entry' turned down January 1987. Leave to appeal turned down late May 1987.

EXECUTED, 1 September 1987

* * *

Tsepo LETSOARE (22)

Member of the Port Elizabeth Youth Congress sentenced to death in September 1987 by Justice TM Mullins in the Supreme Court sitting in New Brighton. Convicted of murder for the killing in Motherwell in October 1985 of a woman believed to be a police informer.

EXECUTED, 18 March 1988

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Michael LUCAS

A secondary school pupil sentenced to death in August 1987 by Justice Williamson in the Cape Town Supreme Court. Convicted of the murder of a bus inspector killed during an attempt to set fire to a bus in Bhongolethu in April 1986. Lucas' age is unclear - he was first said to be 17 years but before sentencing him the court ruled that he was over 20.

EXECUTED, 25 March 1988

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Mlondolozzi Benjamin GXOTHIWE (27)

A member of the Port Elizabeth Youth Congress sentenced to death in September 1987 by Justice Solomon in the Port Elizabeth Supreme Court. Convicted of killing a policeman in Swartkops in December 1985.

EXECUTED, 25 March 1988

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Ndumiso Silo SIPHENUKA (25)
Mackezwana MENZE (40)

Among four members of the Addo Youth Congress sentenced to death in January 1987, in the Port Elizabeth Supreme Court, by Justice Kroon. Convicted of murder on the basis of common purpose for allegedly killing a farmer and his wife in Kirkwood in June 1985. Petition for clemency rejected by President Botha. Execution date set for 4 October 1988 but all four subsequently granted a stay of execution for lawyers to seek permission to present new evidence showing that Similo Lennox Wonci was two years younger than the trial judge had thought. Wonci and Mziwoxolo Christopher Makeleni had their sentences commuted to 25 years' imprisonment in April 1989.

EXECUTED, 20 April 1989

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Abraham MNGOMEZULU (23)

Sentenced to death in November 1987 in the Rand Supreme Court by Justice O'Donovan. Convicted of killing a suspected police informer during a stayaway in support of the rent boycott in Soweto in April 1986. Execution set for 14 July 1988 but granted a stay in order to petition the Chief Justice for leave to appeal. This was rejected as was a petition for clemency.

EXECUTED, 25 May 1989

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Mangena Jeffrey BOESMAN (37)

Sentenced to death by Justice Zietsman in the Grahamstown Supreme Court in October 1988. Convicted of killing a suspected police informer during a school boycott in Sterkstroom in October 1985. Refused leave to appeal, March 1989. Two co-accused had their death sentences commuted to 25 years' imprisonment on 22 September 1989.

EXECUTED, 29 September 1989

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ADDITIONAL LIST OF PEOPLE EXECUTED SINCE 1979
for offences which seem to have arisen out of political
protest but whose cases were only publicised at time of,
or after, date of execution

1986

Exact date unknown - PHINDILE QEKEMA

1987

6 November - MLUNGISI LUPHONDO

1988

29 January - MLUNGWANA LAMANI

29 March - SIPHO MAHALA
LUNGILE REWU

15 April - SIPHO LANDE
TOBILE LLOYD

24 November - KHOLISILE DYAKALA
ZWELINDUMILE MJEKULA