

RABIE COMMISSION REPORT

Azapo 'campaigning for radical change'

Annual security laws review rejected

Political Staff

THE Rabie Commission has rejected representations by the Side Bar Council that security legislation should be valid for only one year and that there should be a permanent body to review its continued relevance.

It says that laws combating such crimes as treason, communism, terrorism and sabotage will continue to be needed and that there would be little point in making them valid for a year simply to have them revalidated at the end of every period.

Consolidation

However, it concedes there are a multitude of security laws and that there is a need for consolidation.

It says that when considering the period over which the law should apply, attention would have to be paid to the current circumstances or the threat the law is aimed at curbing.

The commission said it was difficult to see what merit the one-year system would have over one in which, depending on circumstances, the law could be adapted, amended or even repealed.

Assemblies

"Decisions over the validity of security laws is the function of the law maker and it is a task for which he, with all the information available to him, is best suited," said the report.

The commission recommends the extension of the Riotous Assemblies Act which at present prohibits fostering bad relations between whites and other races.

THE EXCESSIVE and militant language of the Azanian Peoples' Organization (Azapo) was creating a spirit of dissatisfaction and even rebelliousness which could lead to unrest, the Rabie Commission said in its report.

The commission said it was clear that Azapo was trying to obtain political leadership of the black-consciousness movement and was campaigning for "a radical transformation of the South African situation".

Azapo was "apparently prepared to use all possible means to put pressure on the authorities, even if it meant that

the country was weakened by this and placed in danger".

The organization's appeal to the US Government not to use its veto right to prevent economic sanctions being imposed on South Africa could not be seen in any other light.

"As far as the activities of the black-consciousness movement, and by name Azapo, are concerned, the evidence shows that its supporters are trying to develop a spirit of militancy and opposition, and even rebelliousness, against the authorities, a standpoint that there is little — even no —

point of consultation or negotiation with the authorities as a means of getting rid of grievances and that confrontation is the encouraged way to follow.

"Azapo and the members of the black consciousness-group who work at newspapers continually let the light fall on situations which are regarded as conflict points in the black community.

"There is nothing illicit in emphasizing grievances, but in most cases it is done in such drastic, excessive and militant language that there can be little doubt about an intention to pro-

mote a spirit of dissatisfaction and resistance, even rebelliousness.

"Where such a spirit is developed among members of the public, the possibility that it will lead to unrest and a disruption of law and order cannot be ruled out," the commission said.

It said Azapo was not in favour merely of a racially integrated society, but was for "a radical transformation of the South African society". Integration would merely create a black middle class which its supporters believed would protect capitalist society.

The use of violence was not named

by Azapo as a method to achieve its aims but there could be little doubt that Azapo would use all means available to it to eventually achieve its aims and force interim changes.

During 1980, Azapo had been involved in the organization and encouragement of the school boycotts. Together with the Congress of South African Students (Cosas) it had made calls on pupils to support the boycotts.

"The view that black people in Soweto and elsewhere — particularly the youth — have become more black conscious where the black-conscious-

ness movement has been active is consistent with the evidence the commission heard on the matter.

"At the same time the evidence showed that particularly among the black youth there had been an increase in anti-white feelings during this period," the commission said.

It also said that in newspapers where black-consciousness journalists worked there could be little doubt that articles written about grievances were written in such emotional language that they encouraged a spirit of resistance among the people.

It says this should apply to creating bad relations between all races.

"The problem involved here is not a temporary one and in the circumstances it makes little sense to suggest that it is an issue which can be curbed with measures which apply for only a limited period and which must of necessity be renewed at the end of the period," says the report.

Similar reasoning is applied by the commission to anti-communist and terrorist laws and to detention laws.

The commission said the security laws were often criticized as being "apartheid laws" which were introduced simply to maintain an unjust system.

It expected that its proposed legislation would be criticized in the same way.

ANC: 1 600 trained and more joining

Political Staff

THE CAMPAIGN of violence by the banned African National Congress (ANC) would increase and intensify in the future, the Rabie Commission has found.

The ANC strategy was, according to evidence given to the commission by the South African Police, to institute acts of sabotage against strategic targets which would be of such an extent that it would create considerable reaction to impress people.

The commission said the ANC had a militarily trained force of about 1 600 people and that about 20 men were leaving South Africa every month to join them.

Although no member of the banned Pan Africanist Congress had been arrested since 1978 and although the PAC was not a serious threat, there were signs of revival and these could not be ignored.

PAC's 300

Police evidence was that the PAC had an operational force of about 300 and recently 41 young men had gone to Lesotho to join them.

"In our opinion it must be expected that the activities of the ANC will not only continue but they will also increase in extent and intensity.

"During the past year or two there have been indications of an intensification of ANC activities," the commission said.

This included the despatch of arms and ammunition over the borders, greater efforts to send pro-



Mr Robert Mugabe ... "no ANC bases".

paganda literature to South Africa, attempts to infiltrate all sorts of organizations and attempts to obtain technological information about the Republic.

As with the South African Communist Party, there could be no doubt that the ANC's aim was the violent overthrow of the government.

The recent independence of Zimbabwe had added to the security problems facing South Africa, the commission said.

Although the Prime Minister of Zimbabwe, Mr Robert Mugabe, had said the ANC would not be allowed bases in his country, this did not mean that ANC men would not slip into South Africa from Zimbabwe.

Longer border

"It is a danger which the Republic must take note of and against which it, according to information before us, must already watch.

"Out of the nature of the matter this means that a much longer border than before must be watched, and it increases the burden, which is already considerable and which rests on the South African Police and the security forces in general," the commission said.

The police said in evidence that between the 1976 disturbances and the end of 1979, 5 000 "or perhaps even 6 000" black people, mostly youths, had left South Africa and that about 2 000 of these had joined the ANC.

Between 1976 and 1977 about 500 ANC members and supporters had undergone military training in Angola. At present the numbers at the camp ranged from about 30 to 100.

"Angola houses the most important camp where ANC men receive military training.

"In Maputo, a forward advance base, ANC men receive instructions over the sabotage of targets in South Africa.

"In Zambia there were—until very recently, in any event—two camps to which ANC recruits were sent from time to time in small groups to train together with Joshua Nkomo's Zipra forces."

Moscow

ANC men were also trained in Moscow as officers and there were specialist camps on the Crimean Peninsula. There was also a camp in East Germany where ANC men received training as specialist saboteurs.

People who were trained in Angola usually went to Botswana first before entering the Republic or they went to Mozambique and infiltrated South Africa from there, often through Swaziland.

The commission said the ANC had representatives in 32 countries and it received help from Russia and other communist countries.

It also found that there were close links between the ANC and the SACP.

The police told the commission that although the PAC had not been very active for some time it could carry out a spectacular deed of sabotage to try to make up for lost ground.

12 Acts may be repealed

THE 12 Acts which are recommended for repeal in part or in full are: The Suppression of Communism Act of 1950; The Suppression of Communism Amendment Act of 1951; The Criminal Law Amendment Act of 1953; The Riotous Assemblies and Suppression of Communism Amendment Act of 1954; The Riotous Assemblies Act of 1956; The Unlawful Organizations Act of 1960; The General Law Amendment Act of 1961-64; The Suppression of Communism Amendment Act of 1965/6; The General Law Amendment Act of 1964; The Suppression of Communism Amendment Act of 1967; The Terrorism Act of 1967 and The General Law Amendment Act of 1967.

'Same offence'

The commission recommends that the person who gives this aid "should be liable to the same penalty as that to which the person whom he harboured or assisted in any way or whose presence he failed to report or cause to be reported, would have been liable on conviction of the offence he intended committing or committed".

The commission also says it is necessary to continue to combat the "furthering of the achievement of the objects of communism" and that this should be a crime.

In defining communism, the commission says it is the teaching of Marxist so-

cialism as interpreted by Lenin or Trotsky, the Third Communist International or the Communist Information Bureau.

It also includes: Plans for the "establishment of a despotic system of government based on a dictator-

Assisting a terrorist 'is terrorism'

Political Staff

ANYONE aiding another person in the commission of terrorism, subversion or sabotage will be liable to the same penalties as the person who committed the act, in terms of draft legislation proposed by the Rabie Commission.

It says the necessity for combating these crimes also entails the necessity of preventing the rendering of assistance to persons who "commit or intend to commit" these offences.

The legislation provides that a person commits an offence if he suspects that any other person has committed or intends to commit terrorism, subversion or sabotage and he harbours or conceals or in any other way assists that person, or, if knowing where the person is, fails to report this to the police.

This amounts to an extension of the provision of Section 3 of the Terrorism Act which does not require reporting to the police.

A person can also be declared to be a communist by the State President after being given the chance of making representations to him. A per-

son who only one political organization is recognized".

"The bringing about of political, industrial, social or economic changes in the Republic through the promotion of riots and disorder.

'Hostility'

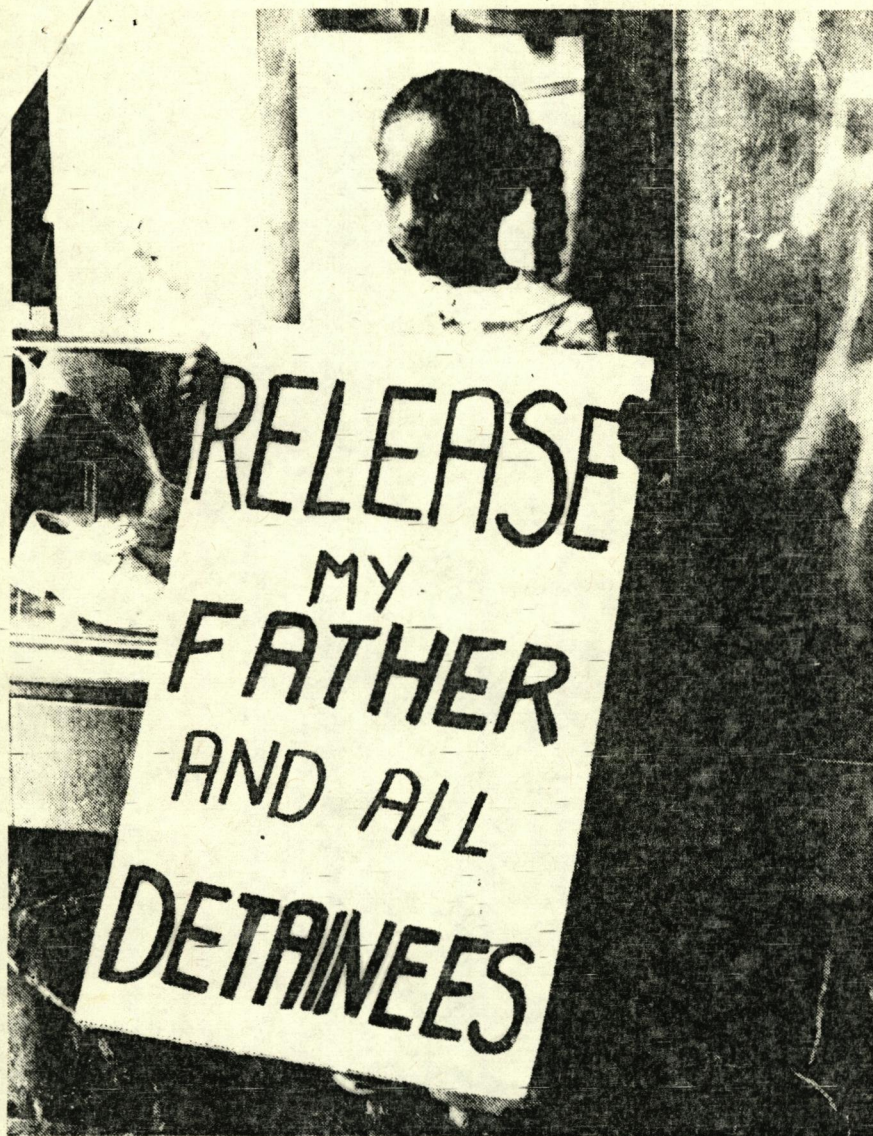
"The bringing about of political, industrial, social or economic changes in the Republic in accordance with the directions, or under the guidance or in co-operation with a foreign government or foreign or international organization which aims to establish a system (as described above) in the Republic;

"The encouragement of a spirit of hostility between the white and non-white races of the Republic with an eye to achieving objectives as set out above."

The report also describes "communist", among other things, as a person who at any time, before or after the introduction of the draft legislation, testified that he was a communist.

son will also be regarded to be a communist if he has been an active supporter of an organization propagating the aims of communism.

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Many children in South Africa grow up with the knowledge that a member of their family has been detained under security legislation. Detention is a fact of life for eight-year-old Leila Issel, whose father, community leader, Mr Johnny Issel, is detained. After holding a placard calling for his release during the opening of Parliament last Friday, she was arrested. She was later released.

Warning on civil resistance

Political Staff

A CIVIL-disobedience campaign, as advocated by some church leaders, would lead to unrest and eventually violence, the Rabie Commission said in its report.

Over the past year or so, a number of church leaders had talked about a civil-disobedience programme to force changes so that black people would obtain a share in the government.

The secretary-general of the South African Council of Churches (SACC), Bishop Desmond Tutu, had on more than one occasion raised civil disobedience as a method to bring about radical changes.

The subject had also been raised at a SACC conference at Hammanskraal in 1979.

The supporters of civil disobedience emphasized that their campaign should be regarded as non-violent but, the commission said, the question was whether there was not a danger that this so-called peaceful campaign would lead to violence.

'No guarantee'

"In other words, when it appears that the civil-disobedience campaign is not having the anticipated success, there is no guarantee that it will not lead to the use of more drastic means, including more violence," the commission said.

It quoted editorials from the Cape Times, the Sunday Times and the Burger all of which warned against the potential dangers of civil disobedience.

"We regards these views as reasonable. In our view it is realistic to expect that a large-scale civil-disobedience campaign, as is envisaged, can lead to unrest and eventually violence.

Laws no answer to problems

Political Staff

SECURITY laws alone are no guarantee for the preservation of law and order, the Rabie Commission has found.

The commission said it was "convinced that the security legislation alone was no guarantee in the end for the preservation of law and order in the country".

"This view is actually self-explanatory: Laws that were drafted to combat and control unrest and violence cannot eliminate the circumstances which lead to the unrest and violence."

The commission said it wanted to emphasize that the laws which it felt should be retained were concerned with law and order and should not be seen as a solution for the problems which lead to violence and unrest.

Socio-economic

"The elimination of those problems, it seems, is to be found in the first place in solutions on a socio-economic and political terrain, on which the commission does not express itself," it said.

It would be simplistic to blame the unrest and school boycotts in 1980 on agitators.

The commission could accept that the boycott action had been exploited by certain people for their own ends, "but all the events cannot only be regarded as work of agitators".

"Such a view of the situation will provide little comfort from a security point of view because it would mean there are large parts of the country which are fruitful areas for the agitators to sow the seeds of unrest, and therefore can do so again in the future."

Changes

The term "official secrets" is dropped because, the commission says, South African law does not comprehensively define an official secret and it would be impossible to do so satisfactorily.

Proposed changes include:

- Replacement of "an enemy" to whom informa-

tion may be useful by "a foreign state". It also recommends prohibiting the passing of information to illegal organization such as the ANC and the PAC.

- Specifying that it is to be an offence if information is gathered with the intention of passing it on to a foreign power.

Banned groups

- A distinction between information prejudicial to the interests of the state and information whose disclosure would have little or no such effect.

- Extension of the ability to hold a trial in camera where the security of the state is affected to include cases which could prejudice state interests, such as international relations.

The commission recommends that any banned organization be regarded as "a hostile organization" in the Act. Its proposed legislation also empowers the State President to declare

'Revise scarecrow Secrets Act' call

By MICHAEL ACOTT
Political Correspondent

A COMPLETE overhaul of the provisions of the Official Secrets Act, and its replacement by a more carefully worded measure, are recommended by the Rabie Commission.

The commission's report notes numerous complaints about the vagueness, wideness and "scarecrow nature" of many of the Act's provisions. These included complaints that they gagged newspapers unnecessarily and hindered academic researchers.

It recommended that the Act be replaced by a new measure called "The Protection of Certain Information Act".

any organization abroad "hostile". The commission proposes a maximum penalty of 20 years' imprisonment for contravention of the new Act.

'Terrorism, sabotage, subversion' defined

Political Staff

CERTAIN aspects of the country's security laws could be regarded as strict and even drastic in normal, peaceful circumstances, says the Rabie Commission.

However, it believes that it has overcome this problem in its definitions of terrorism, subversion and sabotage which are included in proposed legislation contained in its report.

Proposed penalties for terrorism are the same as for treason and subversion — a maximum of 20 years' imprisonment if violence is not involved, 25 years if it is, and for sabotage, a maximum 20 years.

It says that in its opinion, it can no longer be said, as is alleged of existing laws, that the new measures are too drastic or that "innocent behaviour" can be included.

In its new definition of terrorism, an element of violence is involved in all situations. Subversion does not necessarily have to involve violence; but, in terms of the proposed legislation, heavier penalties are suggested when violence is involved.

'Character of state of emergency'

In these crimes the state or public would have to be endangered.

The commission said existing laws were often criticized as being too vague in definition and as a result relatively "innocent" people could become involved in serious terrorism charges.

Another criticism voiced in commission hearings was that measures were being applied which had the character of a state of emergency but one had not been declared.

The commission was not prepared to accept representations that these measures were not justified, even though a state of emergency had not been declared.

In a summary of its main findings and recommendations released with the commission report, this is how terrorism, subversion and sabotage are described:

● **Terrorism:** "The proposed offence of terrorism, briefly, consists in the commis-

sion by a person with intent to overthrow or endanger the state authority or to achieve, bring about or promote any constitutional, political, industrial, social or economic aim or change in the Republic of an act of violence or in his threatening or attempting to commit such act or in his performance of any act which is aimed at such act or threat of violence.

"The penalty proposed by the commission is the penalty which may be imposed on conviction of treason."

● **Subversion:** "The proposed offence of subversion consists in the commission by a person with intent as in the case of the proposed offence of terrorism of any one or more of the acts referred to in paragraphs (a) to (i) of clause 54 (2) of the draft bill or in his conspiring with or inciting or encouraging any other person to commit any one or more of such acts.

'Impeding of essential services'

"The acts concerned — acts which endanger or prejudice the state or society — do not necessarily involve violence, but if the accused's act did result in the commission of violence and he should have foreseen the commission of violence as a reasonable possibility, he will be liable to a more severe penalty (ie imprisonment for a period not exceeding 25 years) than that to which he would have been liable had violence not been committed (ie imprisonment for a period not exceeding 20 years.)"

● **Sabotage:** "The proposed offence of sabotage consists in the commission by a person of an act (or his attempting or conspiring with or inciting or encouraging any other person to commit an act) with intent to bring about any of the results referred to in paragraphs (a) to (f) of clause 54 (3) of the draft bill.

"These results, briefly, relate to the destruction or damaging of vulnerable and strategic buildings and installations as well as the impeding of essential services.

"The penalty proposed for the commission of the offence is imprisonment for a period not exceeding 20 years."

No probe of banned

Political Staff

THE Rabie commission refused to investigate individual cases of banned people.

It said in its report that it had been asked to review the cases of people who had been restricted in terms of the Internal Security Act.

"To give effect to such requests, the commission would have had to investigate the facts and circumstances of each individual case which lead to the particular actions.

"It is not actually part of the commission's mandate.

"It is our task to investigate the existing legislation and not to investigate the actions taken in terms of them," the commission said.

The commission also said it had been asked to review laws on the grounds that they were a damper on the articulation of black aspirations and for this reason it was asked to relax or scrap them.

"As far as suggestions of this nature are concerned, it is the view of the commission that it cannot involve itself in the political arena."

'Small group of blacks' support ANC

Political Staff

ONLY a very small minority of the black community were sympathetic to the banned African National Congress (ANC), the Rabie Commission has found.

But this minority was not so small that it could be ignored from a security point of view, the commission added.

"It was said in evidence before us that those people in the black community who had pro-ANC feelings, particularly those who supported the ANC's violence,

constituted a very small minority of that community and that their influence should not be over-estimated.

"The commission is prepared to accept the evidence that those who harbour such feelings constituted a very small minority of the black community but at the same time there was considerable evidence given which showed that they were not so small that they could be ignored when the issue is examined from a security point of view.

"A disturbing aspect of this situation is the fact there are often reports in certain newspapers which could leave members of the public with a very different impression of sympathy with the ANC and its activities in the Republic," the commission said.

An example of this was the image of Solomon Mahlangu, who had been condemned to death for murder. He had been praised as a freedom fighter.

The impression had also been created that the ANC flag was the flag of all blacks.

It also had to be considered that those who sympathized with the ANC and its activities but were not necessarily involved in violent actions would help ANC men to come into the country or protect them in one way or another.

"Such an attitude on the part of members of the public must necessarily complicate the task of the South African Police who are trying to prevent sabotage and terrorism and to capture those involved," the commission said.