

# £SOUTH AFRICA

## @Human rights violations and the security forces - a problem of accountability

On 5 February 1991 Amnesty International made an oral statement about its concerns in South Africa to the United Nations Commission on Human Rights in Geneva, Switzerland. The statement emphasised the organization's concern that, despite recent government initiatives to reduce violations of basic civil and political rights, it continued to receive reports of serious violations of these rights in South Africa, in particular incommunicado detention, torture and extrajudicial executions in South Africa (see South Africa: Oral statement by Amnesty International to the 47th session of the United Nations Commission on Human Rights, AFR 53/05/91, 5 February 1991).

Amnesty International told the UN Commission on Human Rights that the South African government had failed to repeal laws which permit indefinite, incommunicado detention without charge or trial and grant indemnity to the security forces against prosecution, provisions which have the effect of encouraging the assault and torture of detainees. Several months on, the situation is unchanged. On 8 February 1991 the Minister of Law and Order declared that the government would not repeal its most notorious detention law, section 29 of the 1982 Internal Security Act, which permits indefinite, incommunicado detention in solitary confinement for the purposes of interrogation. During 1990 two people died while being held under this provision. An inquest court is currently hearing evidence about the circumstances surrounding the death of one of them, a 26-year-old teacher, Donald Madisha, who apparently committed suicide on 1 June 1990 after six months in solitary confinement. The evidence presented to the court so far indicates a clear pattern of gross negligence on the part of the prison medical officers who were responsible for the care of the detainee. The evidence also indicates that the police falsified their records regarding events prior to Donald Madisha's death. Detentions under the terms of section 29 of the Internal Security Act continue and the government acknowledged on 18 March that 16 people were at that time held under this provision. Even more prisoners, about sixty, are currently in custody under equivalent provisions in the nominally-independent "homelands" of the Transkei and Bophuthatswana.

Amnesty International also told the UN Commission on Human Rights on 5 February that the South African government was failing to take adequate steps to investigate and bring to justice members of the security forces implicated in the torture and killing of government opponents. This concern, too, remains. In the case, for instance, of 16-year-old Mbuyiselo "Nixon" Phiri, who, police acknowledged, died during interrogation at Welverdiend police station in January 1990, an inquest into his death did not occur until mid-February 1991 and was effectively held in secret. The inquest court apparently ruled that

no-one could be held responsible for his death. The detainee's family and lawyer were informed of the hearing only after the inquest had been held. The manner in which the inquest was conducted meant that the court did not receive the evidence, for instance, of the independent pathologist who, in January 1990, concluded that the youth died as a result of a cerebral haemorrhage associated with external injuries, nor the evidence of fellow detainees who heard Mbuyiselo "Nixon" Phiri screaming while he was being interrogated in another room of the police station. Lawyers for the family have asked the Attorney General to reopen the inquest. Despite assurances from State President F W de Klerk in June 1990 that the inquiry into Mbuyiselo "Nixon" Phiri's death would be conducted in an unbiased manner and that justice would prevail, a cover-up of unlawful activities by the police seems to have occurred.

The lack of accountability of the security forces is particularly serious when it results in large-scale loss of life. Amnesty International expressed concern to the UN Commission on Human Rights on 5 February 1991 about the government's lack of response to the findings of a judicial commission of inquiry which had harshly criticized the conduct of the police in Sebokeng on 26 March 1990 when 12 demonstrators were shot dead. On 6 February 1991, some eight months after the commission's report, the Minister of Justice finally announced in Parliament that the Attorney General intended prosecuting nine police officers for murder, although the nine would remain on duty pending the outcome of the prosecution proceedings. Amnesty International welcomes the government's decision to bring to justice police officers who appear to have been responsible for the killings of unarmed civilians in circumstances which amounted to extrajudicial executions, but believes that, at the very least, the officers concerned should be transferred to other duties pending the outcome of proceedings against them. This decision notwithstanding, the government continues to be faced with allegations of security force involvement in unlawful killings. On 22 March 1991, the judicial inquest into the death of 42 people in Sebokeng on 4 September 1990 concluded with the presiding judge finding members of the South African Defence Force criminally responsible for the deaths of four people and rejected claims that the soldiers concerned were provoked to shoot in self-defence. Both Sebokeng inquiries exposed a pattern of unlawful behaviour by members of the security forces and lend weight to allegations of unprovoked use by the security forces of lethal force arising from recent incidents, such as in Daveyton on 24 March when 12 African National Congress (ANC) members were shot dead by the police.

Allegations persist of security force complicity in killings and other acts of violence carried out against members and supporters of the ANC and allied organizations. As in the past the nature of the complicity attributed to the security forces ranges from a failure to act impartially to involvement in covert assassinations. On 27 March 1991 in Alexandra township, Johannesburg, at least 14 people were killed when men armed with automatic weapons opened fire on mourners at a night-time vigil. The victims included seven student activists, among them three members of the ANC-allied Congress of South African Students

who had recently taken part in a hunger-strike over education grievances. At the time of the killings the township had been declared an "unrest area" by the Minister of Law and Order, effectively under emergency rule with a curfew in force. The police had been asked by the organizers of the vigil to provide protection after an incident earlier in the evening when some 200 suspicious-looking men appeared outside the house where the vigil was being held. According to eye-witnesses, the police came to the house only briefly on two occasions during the night before the massacre occurred at about 4 am. The apparent failure of the police to act promptly and effectively in this situation, including their failure to apprehend a large group of armed men under conditions of curfew in the township on the night of 27 March creates the suspicion that police were colluding with the attackers.

On 16 February 1991 Bheki Mlangeni, a human rights lawyer and an ANC branch chairman, died when a parcel bomb exploded at his home in Soweto, Johannesburg. The device was contained in a tape recorder he had received in the mail. Bheki Mlangeni had been active during the past year in gathering evidence on the activities of alleged police hit squads. The lethal device he received in the mail was intended, apparently, for former security police captain Dirk Coetzee, who gave evidence in 1990 to a government commission of inquiry (the Harms Commission) about assassinations of government opponents by members of his police unit. Although the government has ordered a police investigation into Bheki Mlangeni's death, human rights lawyers are concerned that the investigation will not be sufficiently independent, as the circumstances of the killing point to members of the South African Police as being the most likely suspects. A biased or incomplete investigation will inevitably hamper an inquest court's inquiry into the cause of death and the identities of those responsible.

In the meantime, the government has refused to take any steps against General Lothar P Neethling, the head of the police forensic laboratories, following the Supreme Court judgement on 18 January 1991 in favor of two newspapers which, in 1989, had published Dirk Coetzee's allegations that General Neethling had supplied him with poisons to kill government opponents. On 8 April 1991 the Supreme Court refused General Neethling leave to appeal against its judgement. Though General Neethling has the remaining option of petitioning the Chief Justice for leave to appeal, human rights lawyers and liberal members of parliament have pressed the government to suspend him from his duties and to institute prosecution proceedings against General Neethling for perjury, as he was found to have lied to the court, as well as attempted murder and other charges.

Amnesty International is continuing to call on the South African government, as it did on 5 February 1991 in its statement to the UN Commission on Human Rights, to bring to justice those members of the security forces responsible for human rights violations. The government still has to face up to the challenge of making the security forces accountable for their actions and thereby contributing to the establishment of the rule of law in South Africa.