

EXTERNAL (for general distribution)

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Further information on UA 15/94 (AFR 53/06/94, 14 January 1994) - Fear of Torture / Legal Concern and new concern - Health concern

SOUTH AFRICA Theo MABUSELA - Pan-Africanist Congress (PAC) Chairperson,
Western Cape Region
Michael SIYOLO - PAC Organizer, Western Cape Region
Richard DALA - PAC Executive Member, Western Cape Region
Zola Mkululi Prince MABALA (still in custody)
Brian Vuyisile MADASI (still in custody)
Mncebisi Leonard NASO, Mr KONZAPHI, Mr RHANUGU (released)

There is concern for the physical and mental well-being of Zola Mabala and Brian Madasi, who are in custody at Pollsmoor Prison near Cape Town. The two men are apparently showing signs of being badly affected by severe torture and assaults by the police allegedly during the first two months of their detention, as well as by their prolonged detention awaiting trial including periods of isolation.

The two prisoners appeared in the Cape Town magistrate's court on 20 May 1994, together with Theo Mabusela, Michael Siyolo and Richard Dala, who had been released on bail on 2 April. The state prosecutor presented to the court "provisional charges" against the five men. The charges relate to the murder of four people and wounding of seven others by gunmen who attacked a crowded tavern with automatic weapons on 30 December 1993 in Cape Town. At the request of the prosecutor, the magistrate postponed further hearings in the case until 20 July, after the prosecutor had said that he wanted to await developments regarding a possible amnesty for politically-motivated crimes. None of the accused men have yet been asked to plead to the charges against them and none have lodged an application for indemnity against prosecution, contrary to press reports after the court hearing on 20 May.

Brian Madasi and Zola Mabala were arrested on 4 January in Elliot in the Eastern Cape and were held incommunicado under section 29 of the Internal Security Act until 3 February. Following a court appearance on that day with Theo Mabusela, Michael Siyolo and Richard Dala, they were remanded in custody after the Attorney General denied them bail. At the court hearing both Brian Madasi and Zola Mabala told the magistrate that they had been tortured and pleaded for something to be done to stop the ill-treatment. The magistrate reportedly said that he would make a note of their complaints. Brian Madasi alleged that after his arrest, the police had assaulted him at Aliwal North police station by stabbing his penis with a long pin. At Bellville South police station in Cape Town, they allegedly pulled a wet balaclava and sack over his head and subjected him to electric shocks on his fingers. He also complained of being assaulted with a gun butt at the offices of the Crime Intelligence Service (former Security Branch) in Loop Street. Zola Mabala alleged that he had been hit with batons at Elliot police station, and subjected to electric shock torture while hooded with a wet balaclava and sack at Bellville South police station. Despite their plea to the court on 3 February, both men were allegedly subjected to further torture following their transfer to Louis Le Grange police station in Port Elizabeth. Brian Madasi was allegedly subjected to a mock execution, partial suffocation with a "rubber bag" and beatings. Under this treatment he agreed to sign a statement. Zola Mabala had been forced to put his fingerprint

on a statement allegedly after the police had taken him out to "the bushes", handcuffed his ankles to his wrists, placed a wet balaclava and bag over his head and subjected him to electric shocks. The two men have not alleged that incidents of police assault or torture occurred after they were returned to Pollsmoor Prison, although they have complained of being robbed and stripped by other prisoners.

Theo Mabusela, Michael Siyolo and Richard Dala were released from Pollsmoor Prison on 2 April under bail conditions restricting their freedom of association and movement. They had been previously denied bail by the Attorney General and held at Pollsmoor since 24 January. On 18 January a Cape Town Supreme Court judge had issued an interim order restraining the police from further assaulting Theo Mabusela, who had alleged that his police interrogators had assaulted him at the Loop Street offices of the Crime Intelligence Services while he was held under Section 29. As a result of one particular interrogation session his left eardrum was ruptured. He still suffers from dizziness, headaches and problems of concentration.

On 29 April State President F W de Klerk signed into law the repeal of Section 29.

FURTHER RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express and airmail letters in English or your own language:

- expressing concern for the physical and mental well-being of Brian Vuyisile Madasi and Zola Prince Mabala, who have been held as remand prisoners at Pollsmoor Prison since late January 1994, particularly in view of their prolonged detention, including, initially, incommunicado detention under section 29, and allegations of torture at various police stations;
- seeking assurances that they will not be subjected to further torture or ill-treatment and urging that they be allowed prompt and regular access to a doctor of their choice and to medical practitioners experienced in the care of victims of torture and other detention-related trauma;
- urging that a full, independent inquiry be launched into the alleged torture of these two men and also Theo Mabusela on whose behalf the Supreme Court had issued an interim restraining order against the police last January, and that those found to be responsible be brought to justice;
- urging the new provincial authorities to commit themselves to the goal of eliminating torture and other cruel, inhuman or degrading treatment or punishment, as required under the UN Convention against Torture, which the previous South African Government signed in January 1993.

APPEALS TO:

Mr H J Kriel

Premier, Western Cape Provincial Assembly
Private Bag 9043, Cape Town 8000, South Africa

Telegrams: Premier Kriel, Provincial Assembly, Cape Town South Africa;

Faxes: +27 21 245 650

Salutation: Dear Premier

Mr Patrick McKenzie

Minister of Police Services,
Western Cape Provincial Assembly
PO Box 648, Cape Town 8000, South Africa

Telegrams: Minister of Police Services McKenzie, Provincial Assembly, Cape Town, South Africa;

Salutation: Dear Minister

Lieutenant-General N Acker
Regional Commissioner of Police (Western Cape)
Private Bag X9004, Cape Town 8000, South Africa

Telegrams: Lt-Gen Acker, Police Commissioner, Western Cape region, Cape Town, South Africa

Salutation: Dear Commissioner

COPIES OF YOUR APPEALS TO:

- Trauma Centre for the Victims of Violence and Torture, Cowley House, 126 Chapel Street, Cape Town 8001, South Africa
- Commander, Pollsmoor Prison, Post Box, Tokai 7966, South Africa

and to diplomatic representatives of SOUTH AFRICA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 8 July 1994.