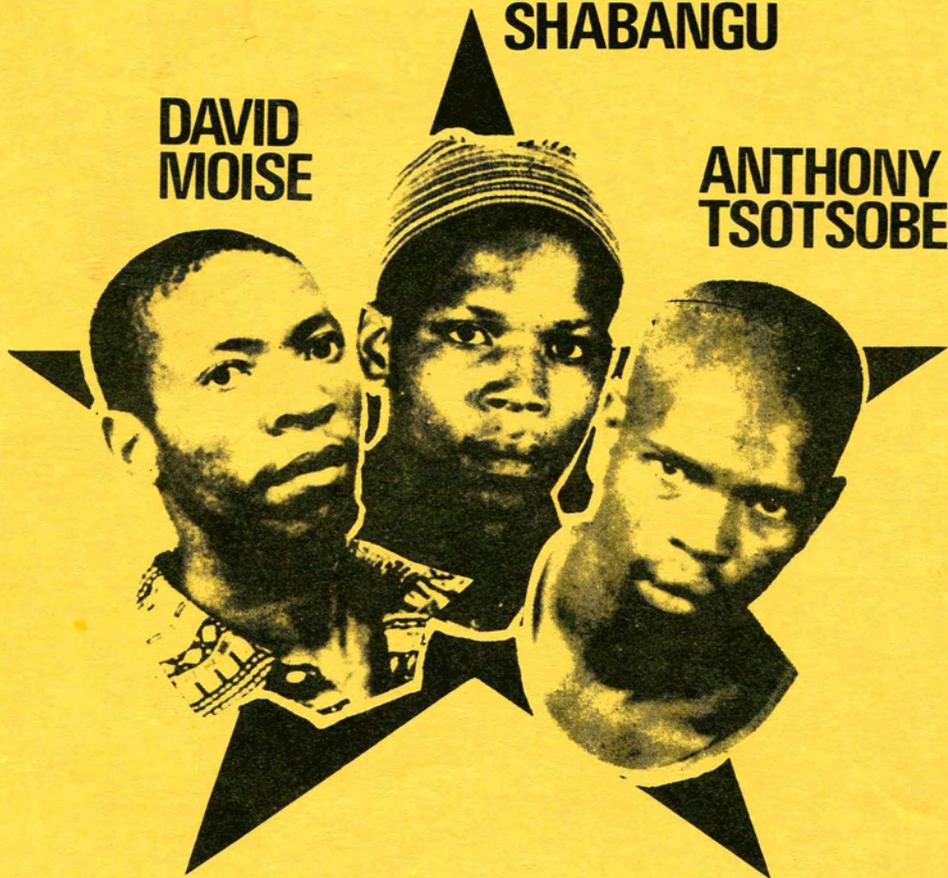


# SAVE THEIR LIVES!

JOHANNES  
SHABANGU

DAVID  
MOISE

ANTHONY  
TSOTSOBE



## NO TO APARTHEID DEATH SENTENCES

10p

## INTRODUCTION

by Des Starrs, Chairman of SATIS.

On 19th August 1981 three young South Africans - Anthony Tsotsobe (26), Johannes Shabangu (27) and David Moise (26) - were sentenced to death for High Treason. They are currently imprisoned on death row in Pretoria awaiting execution.

This pamphlet is being published on the first anniversary of the imposition of these death sentences, to focus attention on their appeal which is being heard by the Appellate Division of the South African Supreme Court on 3rd September 1982.

Readers of this pamphlet will not only be alarmed by the imminent danger facing these three young men, but they will be horrified by the brutality and injustice of the apartheid system. The pamphlet describes in detail the torture inflicted on the men whilst held in solitary confinement in order to extract "confessions", and how the legal system is so abused that "trial by law in the courtroom has been replaced by trial by torture in the detention cell." Even those familiar with the injustices of apartheid will be shocked by the brutalities of the South African police revealed as the trial progressed.

South Africa's notorious security laws have effectively made all forms of opposition to apartheid illegal. This why more and more young South Africans see no alternative but to turn to armed resistance in their efforts to end apartheid. They are following in the footsteps of Nelson Mandela, the first Commander-in-Chief of the armed wing of the African National Congress, who remains incarcerated in the dungeons of apartheid after serving twenty years of a life sentence. When Mandela himself was sentenced, the then Archbishop of Canterbury, Dr Ramsey, commented, "The men were guilty of sabotage and other offences against the law, but their actions were the outcome of

conscience...If he is guilty before the existing law, the guilt before heaven belongs to the policy which the law is designed to enforce."

Governments and people throughout the world have a responsibility to ensure that these three young men are saved from the gallows. Already this year, on 3rd June, three other ANC freedom fighters had their death sentences commuted following an unprecedented international campaign, including appeals by the UN Security Council. But this has not deterred the apartheid courts, for on 6th August three more ANC freedom fighters were sentenced to death.

Many individuals and organisations have already taken up the campaign on behalf of Tsotsobe, Shabangu and Moise. On 27th August 1981, addressing the UN Security Council, Sir Anthony Parsons, the Permanent Representative of the UK to the United Nations supported appeals for clemency. He said, "My government has noted with concern the death sentences which have been passed in South Africa on these three young men...My government's understanding is that the judicial process in this case may not be complete...however...my delegation wishes to take this opportunity to put briefly on record our view that, on humanitarian grounds alone, these death sentences if confirmed, should call for clemency."

Whilst this statement is warmly welcomed, there is much more that Britain and other countries with extensive links with South Africa can do in the international campaign to stop these executions.

May I on behalf of the SATIS Committee urge individuals and organisations to support the campaign;

\*Write to the Foreign Secretary, Downing St., London SW1, urging him to take all appropriate and urgent measures to stop the executions.

\*send telegrams immediately to the Appellate Division, South African Supreme Court, Bloemfontein, South Africa, by 3rd September.

19th August 1982

(ii)

Des Starrs.

On 19th August 1981 three ANC Freedom Fighters were sentenced to death in the Pretoria Supreme Court. Anthony Bobby TSOTSOBE, Johannes SHABANGU and David MOISE were convicted of High Treason. Their appeal is due to be heard on September 3rd 1982. The three are members of the African National Congress and its armed wing, Umkhonto We Sizwe. They are of the generation who left South Africa following the Soweto uprising of 1976; protesters who have become soldiers in an armed struggle against the intransigent racist regime.

On the day of the judgement an angry crowd outside the court voiced its opposition to the verdict. Nine people were arrested when police moved in and broke up the demonstration. This rejection of the verdict is being taken up and echoed around the world. International solidarity can save the lives of Tsotsobe, Shabangu and Moise. Since 1978 eleven death sentences have been passed on ANC freedom fighters. Solomon Mahlangu was executed on 6th April 1979. The death sentences on four others have been commuted on appeal or by act of the State President. In addition to Tsotsobe, Shabangu and Moise, three other young men, Thelle Simon Mogoerane, Jerry Semano Mosololi and Marcus Thabo Motaung, sentenced on August 6th 1982, are awaiting execution on death row. The international community must not only campaign to stop these executions but also to expose and oppose these legal processes in South Africa which make a mockery of justice. Force and torture are the means by which defendants are convicted. Trial by law in the courtroom has been replaced by trial by torture in the detention cell.

#### ARMED STRUGGLE

In recent years open resistance to the apartheid regime has mounted steadily with demonstrations, strikes and mass

political campaigns. Alongside this there has been an intensification of the armed struggle by Umkhonto We Sizwe (MK), the armed wing of the African National Congress which in 1981 marked twenty years of armed resistance. Armed actions by MK in solidarity with the people's struggles have evoked clear support. The regime is becoming more desperate in its attempts to contain protest. The last state witness to give evidence before sentence in this trial reminded the Judge that between 1st January 1981 and 19th August 1981 there had been 37 incidents of sabotage. At the same time during 1981, according to the regime's own statistics there were 342 strikes involving 90,000 workers. The trial was conducted amid a wave of detentions aimed at defusing the anti-Republic Day protests in which the South African masses rejected 20 years of racist oppression.

#### HIGH TREASON

Although South African has security legislation specifically designed to contain all forms of political opposition, the regime is increasingly charging its opponents with High Treason as well as alternative charges of Terrorism and Sabotage. In this way the state is able to combine what would be separate trials by establishing a common conspiracy of purpose among the defendants. It is not necessary for the state's purposes to prove that the defendants committed a joint act, or indeed that they even knew each other before the trial. In the Treason Trial of Tsotsobe, Shabangu and Moise their joint "treason" consisted of belonging to the ANC, and subscribing to its aims. The judge accepted the state's proposition that each of them was responsible for acts of sabotage allegedly committed by the others.

The three were charged in connection with six incidents of armed struggle. Tsotsobe was allegedly involved in four and Shabangu and Moise in one each. There was no suggestion that any of them had collaborated with each other in any of these.

#### THE CHARGES

The six incidents with which Tsotsobe, Shabangu and Moise were charged took place between April and October 1980. The most spectacular was the sabotage attack on the SASOL oil-from-coal complex in June. The ANC claimed responsibility for the attack on two installations at Secunda and Sasolburg which caused millions of rands worth of damage. Two incidents involved attacks on the police, symbol of state repression. On 4th April a group of about 11 guerillas launched a rocket attack on the police station at Booysens, a suburb of Johannesburg. Later in April a hand grenade was thrown into the house of a police constable at Malelane in the Eastern Transvaal. In May 1980 guerillas set fire to the building where rents were collected in Soweto, known popularly as "Uncle Tom's Hall". This was the day that Piet Koornhof, Minister of Co-operation and Development, was provocatively given the "freedom" of Soweto, by the "Mayor of Soweto" and other black collaborators. Later the same month a hand grenade was thrown at the West Rand Administration Board offices in Diepkloof following the announcement of a rents increase. Such actions aimed at symbols of apartheid repression are typical of the tactics which have ensured mass support for the ANC's armed struggle.

#### PRE-TRIAL TORTURE

The period between the detention of alleged offenders and their appearance in court is crucial to the whole legal process in South Africa. Detainees may be held indefinitely in solitary confinement forbidden all

contact with family, friends or lawyers. The dangers for detainees are notorious - over 50 of them have died in police custody. Less well known perhaps is the extent to which security trial convictions rely on statements and confessions tortured out of detainees during this period when they are at the mercy of the security police. Johannes Shabangu was detained on 1st August 1980 and held in solitary confinement for 252 days until 10th April 1981. David Moise was detained on 26th October 1980 and held for 166 days. Anthony Tsotsobe was detained the following month on 20th November and held for 141 days. The statements they made during this period were the main evidence against them in their trial and the evidence of torture gives a harrowing account of life as a security detainee.

#### LEGAL DEFENCE

The Treason Trial of Tsotsobe, Shabangu and Moise began at a committal hearing at Pretoria Regional Court on 10th April 1981. That morning they were brought without warning straight from solitary confinement to court. During the full court proceedings they each testified that no-one told them they were charged with High Treason. However at this first hearing, after months of isolation, they were made to plead to a detailed charge sheet. Pleading is an elaborate process which in this case lasted over 1½ hours. The magistrate questioned the accused in detail on the charges to ascertain the nature of his defence and to elicit certain admissions which would speed up the eventual court case by reducing the number of charges in dispute.

The defendants, bewildered after months of isolation, unaware of the seriousness of the charges against

them, and deprived of all legal advice, confirmed statements extracted under torture which were extremely prejudicial to their case. In the later full trial the defence argued unsuccessfully to have these admissions ruled inadmissible on the grounds that the regional magistrate lacked the necessary jurisdiction to elicit them and had prejudiced their chance of a fair trial.

### THE TRIAL

When the full court proceedings got under way in June 1981 it was clear that the state had very little evidence against the three except their own confessions obtained after torture in detention, and the admissions at the preliminary hearing. The trial consisted almost entirely of legal arguments over the admissibility of various statements and whether the accused had pointed out certain places to the security police freely or under duress. Independent evidence was scarce. An unnamed state witness allegedly captured by SADF forces in the Matola raid on ANC and SACTU residences in Mozambique was soon discredited. He claimed to have been captured with Moise at a time when the latter had already been in detention for over three months. During this witness's evidence Judge Theron refused a defence request that all security police be asked to leave the court. Like the accused, the state witnesses may be held incommunicado, in solitary confinement, isolated from all but their interrogators.

### TORTURE

Statements by each of the defendants were challenged in what were virtually three separate trials. The first and most detailed "trial within a trial" concerned the admissibility of a statement made by Tsotsobe implicating himself in certain armed actions. He was called to the witness box to tell of his treatment at the hands of the police. He described interrogations in the "Truth" room at Protea

Police Station, Soweto, involving more than a dozen assaults. He told of how he was stripped and handcuffed and beaten with a length of hosepipe. During his evidence Tsotsobe removed his shirt to show Judge Theron the scars left by the beating. The judge claimed he was unable to see any marks, but a medical certificate accepted by the court confirmed that a series of parallel were consistent with the described beating. Tsotsobe was also submitted to a horrifying form of torture using a wet canvas hood to suffocate him. In evidence he stated, "The (wet cloth) sack was again pulled over my face while somebody pulled the sack tight over my head. I could no longer breathe. I thought I was dying."

Tsotsobe was followed into the witness box by five former detainees who had been tortured at Protea police station. Four of them - Themba Shongwe, Vuyisile Mdleleni, Norman Monyepote and Patrick Kgabutloeloe - were acquitted of charges under the Internal Security Act in February 1981. Each had horrifying tales of being stripped, beaten and given electric shocks. Some were made to stand naked for nights on end during the cold winter months. Many of the torture claims implicated Lt.A.Trollip, a state witness against Tsotsobe. It was Trollip who has manacled Mdleleni's wrists so tightly with handcuffs that firemen had to be called in to cut them off. A young girl of 17 years told of being whipped when she failed to identify a photograph for the Protea police. Judge Theron indicated in court that he was hostile to this line of defence. In the event he flew in the face of the evidence of torture and ruled that Tsotsobe had acted freely throughout.

Torture is not an aberration in the South African system. It is found throughout the country wherever detainees are held. Shabangu was so badly beaten up at Lebombo

police station that a fellow detainee heard his screams and gave evidence in his defence. In evidence Shabangu told of being assaulted by Sgt. Otto. "He broke my jaw, held a brick, crushed my ankle and pulled me by my leg irons so that I fell on my knees." Police witnesses did not deny that a doctor had had to reset Shabangu's jaw - they merely claimed that he had fallen downstairs. After days of assault torture and interrogation at the police station Shabangu was driven to open country. Police used shackles round his ankles to tie him to a tree. There, they suspended him upside down as he was whipped and interrogated. On another occasion a doctor had to be called to revive him when he collapsed. He was also partly suffocated. Under cross-examination he explained in court that he had not complained of these assaults to a doctor or magistrate when making a statement as he had lost confidence in everyone, and saw them all as police agents.

"I was tied upside down from the cross-bar of a soccer goal and punched like a punching-bag." So testified David Moise, explaining what led to him making a statement to the police admitting participation in the sabotage attack on SASOL II. He feared for his life when security police drove him to open veld, tied him to the goal-post with his leg irons, placed a wet sack over his head, and interrogated him. When he was brought down a fire was made to burn his heels. Later a police officer balanced a drink on Moise's head and took aim at it. After this period of open-air interrogation he was taught how to formulate his statement to the magistrate.

The Treason Trial effectively ended when Judge Theron rejected defence evidence of torture and ruled all the statements inadmissible. The defence did not deny that the accused were members of the ANC - after judgement they led evidence in mitigation showing how the brutal

police action against unarmed children in Soweto in 1976 had a seminal effect on the three, motivating them to leave the country and join the liberation struggle. Judge Theron ignored the mitigating evidence and passed the death sentence on August 19th 1981.

#### APPEAL HEARING

On 3rd September the appeal of the three Treason Trialists will be heard. International attention must be focussed on Bloemfontein Appeal Court to ensure that the sentence is reversed. Their trial was over before they entered the court. They had been "tried by torture" in the detention cells by their interrogators. Their official trial only confirmed the verdicts. They were denied full and adequate defence. They were convicted on the strength of statements they had made after horrifying assault and torture. These young ANC fighters must not be sacrificed to the increasingly desperate racist regime.

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#### THE ACCUSED - BIOGRAPHIES AND CHARGES

The three faced charges of High Treason, Terrorism, Attempted Murder and Robbery. All were charged with membership of the ANC, unde going military training in Angola, possessing and using explosives, and carrying out armed attacks on buildings.

#### Anthony Bobby Tsotsobe

Tsotsobe is 26 and from Soweto. He will be 27 on the day of the appeal, 3rd September 1982. He worked as a labourer after leaving school, and left South Africa in 1976.

Tsotsobe was charged with: - stealing a car to be used in the Booyens attack, attacking the police station at

Booyens in April 1980, attacking the West Rand Administration Board Offices in Diepkloof in October 1980, gutting Uncle Tom's Hall in Soweto in May 1980, placing explosives on the railway line at Dube in October 1980, and establishing an underground base for the ANC.

Johannes Shabangu

Shabangu is aged 27 and comes from Driekoppies, Middleburg. He left South Africa when he left school in 1978.

Shabangu was charged with attacking the house of a Malelane police constable with a hand grenade in April 1980.

David Moise

Moise is aged 26 and comes from Sebokeng. He is the eldest of three children, and his mother is a domestic worker. He left South Africa in 1978.

Moise was charged with participating in the attack on the Sasol II oil-from-coal installation in June 1980.

SOUTHERN AFRICA - THE IMPRISONED SOCIETY (SATIS)

SATIS campaigns on behalf of political prisoners and detainees in South Africa and Namibia.

Support the campaign to stop the executions of Tsotsobe, Shabangu and Moise:

- \* Write to the Foreign Secretary, Downing St., London SW1, urging him to take all appropriate and urgent measures to stop the executions.
- \* Protest to the South African Ambassador, South Africa House, Trafalgar Square, London SW1.
- \* Send telegrams urgently to the Appellate Division of the South African Supreme Court, Bloemfontein, South Africa, by 3rd September, the date of the appeal hearing.
- \* Raise this issue urgently in any organisation of which you are a member to secure their support for the campaign.

Further copies of this pamphlet are available from SATIS at 10p each. If you would like further information about this, or other campaigns in solidarity with South African and Namibian political prisoners, please contact SATIS at the address below:

SATIS, c/o 89 Charlotte St., London W1.  
Tel: 01 580 5311



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