

September 16, 1991

# **SOUTH AFRICA**

## **Out of Sight**

### **The Misery in Bophuthatswana**

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## **Introduction**

**Hidden under the reforms initiated by President de Klerk since February 2, 1990, human rights violations continue unabated in Bophuthatswana, one of South Africa's four so-called "independent" homelands. Since its independence in 1977, political life in Bophuthatswana has been characterized by continued torture, arbitrary dismissals, harassment and deportation of opponents of the regime. In the past 18 months political violence has resulted in the killing of 23 people, detention of 633 and injury of 481. Political organization and expression of dissent are not tolerated and are criminalized by a battery of security laws. 147 political prisoners continue to be detained, despite a 29-day hunger strike, a concerted national and international campaign and negative publicity that finally forced the de Klerk government to intervene for their release. On August 27, in a desperate effort to highlight their plight, they went on hunger strike again, which continues at the time of writing this report. On September 12, at a press conference following a decision by the Bophuthatswana Cabinet, President Mangope announced the release of an additional 19 of the prisoners and confirmed in a statement the government's position that there are no political prisoners in Bophuthatswana.**

**The long-term improvement in the life of the people of Bophuthatswana will ultimately depend on a resolution of the underlying political conflict that has resulted from the existence of the homeland system. In their haste to reward President De Klerk for his important initiatives in dismantling apartheid laws, the United States and the European Community have failed to pay attention to unrepresentative structures explicitly created to contain political aspirations. The homeland system lies at the heart of apartheid and affects the lives and the futures of nine million black South Africans. The world should not allow South Africa to evade its responsibility to them; reincorporation of the homelands should be made an integral part of the process of reform currently underway in South Africa.**

## **Background: The Myth of Separate Development**

According to the original vision of the homeland policy, black South Africans were to be segregated from whites, relegated to a particular homeland according to their ethnic origins and consequently lose their South African citizenship. Only in the homelands would they be able to live and exercise their political rights freely. At first millions of black South Africans were physically relocated from "white" South Africa to the homelands, and subsequently regarded by South African law as aliens in the land of their birth. However, because of strong resistance to forced removals, and the negative publicity surrounding it, the state enacted the Borders of Particular States Extension Amendment Act (abolished in May 1990), in terms of which the state simply redrew homeland boundaries, in order to incorporate "black spots" in South Africa into the homeland. This was the fate of Thaba Nchu, situated in the Orange Free State, which became part of Bophuthatswana in 1983 and Braklaagte and Leeufontein, in the Western Transvaal, which were joined to the homeland in 1988.

The result of the homeland policy, as intended, has been impoverishment and economic, financial and military dependence on South Africa. Severe unemployment has generated an expanding pool of migrant labor to benefit "white" South Africa. Local level administration is run by tribal authorities who do not represent their constituencies and who have unrestricted power to control their subjects. In the short history of independence, authorities in the homelands have shown absolute intolerance of opposition. In Bophuthatswana, for example, they have been supported by the local police and the rest of the security establishment, including vigilante groups, in their efforts to suppress any hint of discontent against the prevailing political and economic conditions in the homeland.

Except for South Africa, no other country recognizes the homelands as independent states. Only South Africa has "diplomatic" relations with the homelands. However, in deciding to reward South Africa for the abolition of apartheid laws, both the European Community and the United States lifted their sanctions, despite the fact that the homeland system, which lies at the heart of apartheid, remains intact. On April 15, the 12 member states of the European Community decided to end their five-year economic sanctions against South Africa, soon after the government proposed legislation to repeal major apartheid laws. Britain, always the least enthusiastic among European Community countries about sanctions, was foremost in pressing for the relaxation thereof. The United States, whose conditions for lifting sanctions were much broader than that of the European Community and required the release of all political prisoners in addition to the abolition of laws that classify people by race, reversed, in its decision on July 10 to lift sanctions, its earlier position on the homelands. According to a report in the *Washington Post*,<sup>1</sup> the United States, decided, out of political expediency, that since South African law did not acknowledge responsibility for the prisoners held in Bophuthatswana, the US should not hold South Africa responsible for them in its own considerations for lifting sanctions. The State Department's Legal Bureau has indicated that the United States continues not to recognize the independence of the homelands and that it interprets the Comprehensive Anti Apartheid Act not to include the issue of the Bophuthatswana prisoners because Congress did not contemplate the incorporation of the homelands in the Act.

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<sup>1</sup> David B. Ottaway, "US Decision Absolves South Africa from Seeking Release of 164 Prisoners," *Washington Post*, July 10, 1991.

## **Human Rights in Bophuthatswana: A Blueprint For Repression**

On April 30, 1991, on the occasion of the homeland's 13th anniversary of independence, President Lucas Mangope tried to find a legitimate basis for Bophuthatswana's continued independence.

Its existence is based on history. It is based on the fact that there has always been and always will be a Tswana nation. The modest birth of Bophuthatswana 13 years ago symbolized a rebirth of the Tswana nation... Our present state has been born as the result of a mandate obtained from the people of Bophuthatswana.

More recently, in an article in the South African daily newspaper *Business Day*, on July 31, 1991, Mangope was reported as saying in the National Assembly that "Bophuthatswana can not and will not be wished away and...our independence and nationhood can not be made to disappear."

Black South Africans, however had never voted to join the homeland, whose existence is the product of the apartheid system, and to which they have not been allowed to express their opposition.

Following Mangope's speech at the April independence anniversary, Bophuthatswana police detained 12 African National Congress (ANC) supporters from Braklaagte, after stopping them at a roadblock on their way to Mmabatho where they were to protest the opening, on May 1, of the Bophuthatswana Parliament, a structure which they consider to be illegitimate.

Since Bophuthatswana was granted independence in 1977, when it claimed its own parliament, national anthem and national flag, Mangope's regime has sought to undermine opposition. Although the Bophuthatswana Constitution contains a Bill of Rights that guarantees freedom of expression and of association, it also states that these "rights and freedoms... may be restricted...by a law of Parliament and such a law shall have general application." The Constitution also provides for the declaration of a state of emergency, and most of the rights contained in the Bill of Rights were suspended during a state of emergency which existed until March 29, 1991. The lifting of the emergency however did not lead to the restoration of those rights, since the Internal Security Act was simultaneously amended to give to the police many of the emergency powers during normal "peace time" operations. The Internal Security Act provides for detention without trial for up to 90 days and police indemnity against prosecution. The Act also provides for imprisonment of up to ten years for those who advise or encourage people to boycott classes, engage in consumer boycotts, attend a restricted funeral or engage in civil disobedience.

### **Illegal Gatherings**

Meetings of opposition organizations are subject to severe restrictions. Any political organization which does not register as a political party requires the permission of the Minister of Law and Order, who, conveniently, is also President Mangope, in order to hold meetings. Since the

ANC was launched in Bophuthatswana in 1990, it has made numerous applications to hold meetings, which authorities have either turned down or ignored. Since amendments on March 29, 1991, the definition of an illegal gathering has been extended. The original requirement of authorization for meetings of more than 20 participants has been amended to cover any meeting irrespective of the number of participants. A new section, providing that "non-citizens" are now prohibited from participating in political activities in Bophuthatswana, even if authorized, has been included. The government now denies whole communities, who have refused Bophuthatswana identity documents, the right to organize opposition political activity.

- \* On March 14, 1991, Bophuthatswana police assaulted Shadrack Romani and Jani Monageng and asked them to identify policemen who had joined the ANC, after an ANC branch was launched in the Itsoseng area.
- \* On March 21, 1991, police opened fire on 6000 demonstrators returning from a march to government offices in Phokeng to commemorate Sharpeville Day. One demonstrator was killed and three injured. The marchers had handed over a memorandum demanding the resignation of President Mangope and the withdrawal of a deportation order against Chieftainess Semane Molotlegi. Police fired teargas, rubber bullets and live ammunition about 217 yards from Mrs Molotlegi's house, where the demonstrators were headed to pledge solidarity against her deportation. A Mr Mafatshe was killed by a puncture wound possibly caused by a high velocity missile when the police opened fire on the crowd. Bullet holes were found in the walls of the house where Mr Mafatshe's body was found. After initial claims by the police that he died from a stab wound, the police finally, in April, admitted responsibility for his death.
- \* On April 7, 1991, police arrested 61 ANC members, including Dr Paul Sefularo of the Thusong hospital, social workers, nurses, a dentist and a magistrate, in Itsoseng for attending an illegal gathering, held in the Itsoseng Lutheran Church.
- \* On May 1, 1991, police arrested Job Makgora, the ANC Mafikeng chairperson, Thabo Rangaka, Tefo Musi, Lebo Mnono, Ephraim Mteko, Botha Mahila and Mandla Magwatyane and charged them with attending an illegal gathering as they were protesting the opening of parliament. Police also searched the homes of ANC members and confiscated ANC documents, pamphlets and literature.
- \* In early May 1991, police assaulted residents of Atamelang and Ganalaagte with rubber batons and sjamboks when they attended ANC meetings. After imposing an unofficial curfew, police assaulted anyone found on the streets after 7:00 p.m., preventing ANC meetings from taking place.
- \* On May 25, 1991, police fired teargas at protesters who were leaving a canceled march. Heavily armed police had earlier threatened to open fire on the protesters who refused to disperse from what the police termed an "illegal gathering." A captain then threatened "war"

if the protesters did not disperse. The Garankuwa Civic Association, which had organized the march, finally decided to call it off. When the protesters dispersed, the Bophuthatswana police fired teargas.

Police have also clamped down on student activities.

- \* On March 4, 1991, Bophuthatswana police interrogated and assaulted four high school students who were part of a delegation elected by the student body to convey a number of grievances to the police. The grievances related to a lack of teachers and textbooks as well as high school fees and accountability for funds raised in the name of the school. At the police station, the students were interrogated about ANC and ANC Youth League members in both the school and the community. Police then assaulted them and chased them back to school where they were taken to the principal.
- \* On May 3, 1991, police teargassed Garankuwa youths and pre-school children while dispersing a meeting of youths at the YMCA where there is also a nursery school. The police claimed that the youths kicked the teargas canisters towards the nursery school and that the Garankuwa Civic Association was using the situation to promote confrontation between the security forces and the residents.

On August 29 and 30, 1991, police detained several members of the ANC after a boycott by pupils at schools in Itsoseng. The boycott is presently in its third week. Those detained at the time of writing are:

- \* Solomon Bokaba, Itsoseng ANC branch chairperson and a former public prosecutor who was previously charged with holding an unlawful gathering following an ANC meeting.
- \* Rosina Kimpie Mogorosi, a social worker and ANC branch treasurer;
- \* Bothumelo Thswete, a dismissed teacher and head of the Department of Political Education of the Itsoseng ANC branch;
- \* Molefi Mosenogi, a dental technician at Thusong Community Hospital and executive member of the Itsoseng ANC branch;
- \* Thabo Sejanamane, organizer of the ANC branch;
- \* Peter Manyebodi, secretary general of the ANC branch.

The detainee's lawyer, Mr M Panchia, had access to a number of the detainees, but not all of them, as they are held at different police stations where police on duty have different attitudes to access by legal practitioners, notwithstanding a judgement of the Supreme Court confirming the right to access. Of those visited, only Boitumelo Tshwete reported having been assaulted.

## Detentions

Authorities commonly use detention as a form of harassment. Persons involved in opposition organizations are routinely detained for a few hours, questioned and then released. In an interview on August 14, 1991, Botho Mahila, a field worker for the Mafikeng Anti Repression Forum (MAREF), told Africa Watch:

There was not a month [in 1990] when I was not detained for questioning. [The Bophuthatswana police] would detain me for a whole night and release me in the middle of the night, like 4:00 a.m. Then we were arrested, a whole lot of us, with the superintendent of Bophelong, Thabo Rangaka on November 12, 1991, because we were allegedly planning to kill the president [Mangope]. The other people were released on the 9th day I think; I was released last on the 12th day, after I was charged. I was tortured as well...there is this room at the governor's offices where they torture people. It is a room without windows, and they've got - I don't know whether you would call it an air conditioner - they take you in there and they switch off the light and then they put on this air conditioner to freeze you, and it becomes so cold, so cold.

And it just went on and on and on, the detentions and the questioning. And they were very abusive - they would swear at me in front of my kids [while interrogated at home, and said] that they were going to kill me one of these days. And then we were arrested on March 30, 1991, because we were intending to march in protest at the opening of the parliament. They arrested us before we could march and we were kept for about 48 hours and charged with illegal gathering and then released on bail.

On June 10, they talked about killing me in front of one of the people whom they were interrogating...On that very night they had taken me in, they came [to] the house at about 11:30 p.m. and they drove me to the veld at the airport. It was dark and they told me to get out of the car and said "now we mean business, we are serious." I was so afraid, I thought they were going to kill me, but after hours of freezing they got frozen too and drove me to their offices, and I was released the very next morning at about 6 or 6:30.

On August 15, 1991, the reverend Tarsten Shoppe, a Lutheran Minister in Montshiwa, Mmabatho, was detained for a few hours and questioned, following questioning by the security police the day before. Reverend Shoppe had been active in visiting the political prisoners on hunger strike, and has cooperated with MAREF. He told Africa Watch, later on the day he was detained, that the police had asked him for names of members of his congregation involved in political activity, and for details of other political organizations, including MAREF and Lawyers For Human Rights, a legal aid and pressure group.

## Dismissals

In addition to restricting opposition organizations, the President also has the power, which has been abused on several occasions, to dismiss political opponents. According to the Security Clearance Act, the President may dismiss any employee of the state, parastatal and educational institutions, if he is satisfied that such a person "endangers or constitutes a threat to the public safety or national security or the maintenance of law and order." Recent dismissals include those of activists and ANC supporters Dr Thabo Rangaka, Superintendent of the Bophelong Hospital, and Dr Paul Sefularo, Deputy Superintendent of Thusong Hospital, who were dismissed without a hearing by the hospital board or without being given reasons for their dismissal. Botho Mahila, who was dismissed from the Bophuthatswana nursing college, told Africa Watch on August 14, 1991:

I was dismissed [from the Bophuthatswana nursing college] under the Security Clearance Act, and no reasons were given - except that the President was acting by powers vested in him. I got a letter on September 25, 1990, saying that I was dismissed with effect from the beginning of October. I was dismissed with three other ladies: one senior social worker, Mrs Semane, whose husband was working for the South African Council of Churches - she was not a member of anything, but her husband was working for the wrong thing I think; Mrs Motlabane, whose brother was one of the deposed chiefs; and Mrs Marake, whose husband was also a coup [staged in 1988 against the Mangope regime] trialist; but a funny thing happened - she got reinstated in June this year, because she has divorced her husband.

## Bannings

The Bophuthatswana regime has also embarked on a strategy of bannings:<sup>2</sup>

- \* Among banned organizations are the former parliamentary opposition party, the People's Progressive Party (behind an abortive coup attempt in 1988 after which it was banned) and the Bafokeng Womens League (led by the wife of an exiled chief who had opposed Mangope). On July 13, 1989, the Black Sash and its service organization, the Transvaal Rural Action Committee (TRAC), and any affiliated organizations were declared unlawful. These organizations have played a crucial role in publishing information detailing the struggle of the villagers and abuses by the security forces of both Bophuthatswana and South Africa.
  
- \* Current labor legislation prevents workers from joining trade unions affiliated to the major South African based trade unions, such as the Congress of South African Trade Unions, and severely curtails the rights to collective bargaining, union

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<sup>2</sup> Information from Mafikeng Anti Repression Forum (MAREF), "Repression in Bophuthatswana," compiled by Paul Daphne.



organization and minimum wage. Mr S Segodi, Minister of Manpower, confirmed on April 19, 1991, that South African based trade unions remain banned.

## Deportations

Numerous people who do not possess Bophuthatswana identity documents have been deported under the Aliens and Travellers Control Act, which provides for deportation without the right of appeal and controls movement, residence and work permits of foreigners, including citizens of South Africa:

- \* In January 1991, authorities served Dr David Green, chairperson of MAREF, and Mr Paul Daphne, lecturer and vice president of the University of Bophuthatswana (UNIBO) Staff Association, with deportation orders and declared them *persona non grata* in the homeland. In an interview with Africa Watch on August 14, 1991, Paul Daphne detailed his experiences:

The government issued a deportation notice in December last year [1990]. In December I actually refused to sign for the deportation order. The university [of Bophuthatswana] had closed, I was about to go on holiday; I made it known that I would be reporting for work on January 21, which was when the university reopened, and I left on holiday. On January 21, there was a strong police presence on the campus; there was an armored car at the gate; there were security police on campus and at the gate. I managed to get onto campus in the boot of somebody's car; my objective then was to be seen to be reporting for duty. I reported for duty by making it to Professor Malope's office, the vice-chancellor. When I got to the office I discovered that the university had actually dismissed me, with retroactive effect to the end of the previous year, and I have a letter from them which in effect amounts to a summary dismissal. While I was in Prof. Malope's office I was taken away by the Bop police. They took me to the Secretary for Internal Affairs, who issued a new deportation order, which gave me three days to get out of Bophuthatswana.

At the time of my deportation I was vice-president of the staff association of the university, and I was also a lecturer in the Department of Development Studies. I think both those activities clearly contributed to the deportation. Ten staff members have been deported from the university since 1985, and four of them were in the Department of Development Studies. In development studies I think one is faced with a choice, one can either lecture within a framework of grand apartheid, where you talk about development in

the context of an independent Bophuthatswana; or you can lecture, which is the more honest course, in terms of assessing development, discussing development, within the context of a single South Africa, in relation to both politics and economics. I think that the Department of Development Studies has been particularly hard hit by deportations because credible people in the department have chosen to be honest in the way they teach.

- \* On February 14, 1991, authorities deported John Lewis, president of the UNIBO staff association. According to Paul Daphne:

John Lewis's deportation was clearly linked to his effective organization of the workers at the university; [his work] as president of the staff association; to his exposure of certain unsavory activities of the management at the university. The perception of the staff at the university is that the management of the university probably asked the Bophuthatswana government to deport him, though there is no documentary evidence to that effect.

Authorities have also deported a talented football player because he refused to play football for the Mmabatho Kicks football team, which is owned in part by Mangope's son, Kwena Mangope.

Ministers of religion who are foreign nationals are threatened with withdrawal of their permission to work if they become involved in social and political issues. Father Richter, the Lutheran minister in Braklaagte, was refused an extension of his work permit in 1990, and had to return to Germany. On August 20, 1991, the Reverend George Dalka, Lutheran minister in Thlabane, said in an interview with Africa Watch:

We would like to continue our pastoral work in the congregation, but many times we are dealing with the other social and political problems, and then again we are intimidated by security police for Bophuthatswana, who come to our office questioning us, call us at our offices, and reprimand us that we should stick to our religious duties, that that's what we got our permit for...because I am here by the grace of the Bophuthatswana government, and if they determine that my work is not religious they can expel me from this place.

The Reverend Tarsten Shoppe, after being detained on August 15, said in an interview with Africa Watch:

Now I am worried not so much for myself, but because I want to stay here, and it is very easy for the government to withdraw my permission.

## REDRAWING THE BOUNDARIES

### Braklaagte

Braklaagte, a village in the western Transvaal, continues to suffer harsh reprisals for rejecting Bophuthatswana as an independent state, for refusing to accept Bophuthatswana "citizenship" and for fighting its incorporation into the homeland in December 1988. 1991 marked the third year that the children of Braklaagte were not able to attend school, that teachers were not paid and that the elderly did not receive pensions. At least six people died and 15 houses were destroyed by vigilante attacks in January 1991, and in June, vigilantes killed a two-year old child and injured five adults.

The violence followed the launching of an ANC local branch in Braklaagte in December 1990. On the day following the launching, police fired teargas randomly in the streets of Braklaagte and confiscated ANC membership cards, instigating the fighting between government supporters and anti-Bophuthatswana factions that continued throughout January 1991.<sup>3</sup>

- \* On January 3, 1991, vigilantes tried to set fire to the house of the chairman of the local ANC interim committee, Henry Saku.
- \* On January 4, an anti-government faction torched four houses of government supporters.
- \* On January 5, police raided the village, arresting and assaulting people randomly. Two ANC supporters were killed and more than 50 people were injured. Residents alleged that police took them to the police camp and assaulted them there before either releasing them or taking them to Motswedi police station. The incident followed clashes between the Braklaagte community and a vigilante group, calling themselves "Inkatha," led by the unpopular chief of the nearby Welverdiend village, Mr Gilbert Moiloa. According to Chief Pupsey Sebogodi, chairperson of the Anti-Bophuthatswana Co-ordinating Committee and respected by the community as its leader and spokesperson, the vigilantes were colluding with the homeland police to eradicate opposition to Mangope's regime.
- \* On January 7, pro-government vigilantes torched the houses of two ANC supporters.
- \* On January 8, two residents died in a confrontation between members of the community and the police.

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<sup>3</sup> "The Braklaagte Crisis," a memorandum by Clive Plaskett of Cheadle, Thompson & Haysom.

The vigilante attacks during January, assisted in the early stages by the police, caused severe damage, but despite numerous actions to date, no compensation has been paid by the Bophuthatswana authorities. Elsie Matsusi, a Braklaagte community leader and assistant to Chief Pupsey Sebogodi, told Africa Watch on August 14, 1991:

Some houses were burned, some houses were broken, some furniture was stolen, and building materials, they stole everything from the houses...Like in my home they stole everything, even the furniture, and the building materials outside which I had [to use] to extend my house. It would be too hard to make a court case because we can't prove who took them... although somebody said they saw two police vans in my yard, but they are scared to tell.

Residents fled the area and have taken shelter at various churches in the neighboring town of Zeerust. On January 11, church workers estimated that the Roman Catholic Church, the Anglican Church, the Methodist Church and township residents were providing shelter for 1500 men, women and children. The following week the number grew to more than 5000 refugees. The resident Lutheran Minister at Braklaagte said that he had heard numerous shootings and seen heavy police mobilization and scenes of conflict during that week. When lawyers from the firm of Cheadle, Thompsom and Haysom visited the deserted Braklaagte village, the only movement they saw on the roads was that of Bophuthatswana police hippos and police vans. They recorded their impressions in a memorandum.<sup>4</sup>

We also saw a tractor pulling a long flat-bed trailer in which were at least 30 young men armed with sticks and clubs. The young passenger with us claimed that these were vigilantes and on seeing them he requested that we take him out of the area as soon as possible. We watched this tractor drive straight into the police camp.

On March 8, vigilantes abducted and subsequently killed Mangole Saku, a villager from Mosweu near Braklaagte, who was travelling on a bus from Johannesburg. Bophuthatswana police have claimed that he died of bullet wounds, but his body, found in a mortuary at Lehurutse, had been mutilated.

Police have on occasion used torture. The following accounts come from statements, taken by lawyers working with TRAC.

- \* Police took one village woman into an empty room with black curtains, wherein nine men entered. They pushed her across the floor and when she fell on the ground, they kicked her in the waist, kidneys and buttocks. Later they brought a chair into the room and told her to "hide" under the chair, which she was unable to do. They continued kicking her in the buttocks and in the waist. They ordered her to do

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<sup>4</sup> "Visit to Zeerust concerning the Braklaagte Problems," memorandum by John Will and Clive Plaskett; Cheadle, Thompson & Haysom.

push-ups with her fists on the floor, and when she got tired, they kicked her in the abdomen. They ordered her to do frog jumps and later made her spread her hands on the floor and beat her fingers with an iron bar. Finally they made her stand up and then beat her on the toes. She received no medical attention.

- \* Police slapped a male resident in the face when he denied their accusations against him. They then told him to lie down and whipped him on his back with a belt. One policeman then stood on his back and stamped with both feet, while others put a dustbin over his head and demanded that he agree with their accusations. He refused. They slapped him in the face, beat him on the chest, and punched him on one eye. He remained in prison for seven days without medical attention. On the seventh day police summoned him and again told to admit to the accusations. When he refused they beat him on his back with a sjambok. He was later released on bail.

In July 1991, after a six-month exile, residents returned to Braklaagte. Social conditions have not improved, except that the Bophuthatswana government has agreed to reopen the school. The elderly people are still not receiving pensions. South African pension laws regard them as residents of a foreign country and ineligible for benefits as they have been living "outside" South Africa for longer than six months. Bophuthatswana, on the other hand, argues that they are South Africans since they rejected Bophuthatswana identity documents in protest against incorporation and excludes them from receiving pensions from the homeland.<sup>5</sup>

The clinic in Braklaagte, built by the community without government assistance, is currently occupied by police. According to Elsie Matsusi:

The Bophuthatswana government told us [the Braklaagte community] that they will give us the clinic back, because they have been using it as a barrack. The police were sleeping in the clinic, and we wanted those medicines to help our people. We came home [to Braklaagte] because we wanted that clinic. In our village there are no doctors, and there was no clinic, [and until we built this one] there was only the mobile clinic from Bop, once a month... and our people don't only get sick once a month, they get sick every day, so we must continue to build the clinic and it must start to work. But [un]til now, the Bophuthatswana government has not given back the clinic.

Fear and continued police presence make freedom of expression virtually non-existent. Elsie Matsusi added:

I think they [the police] can harass the people, and we are scared so if we hold a meeting we go to Zeerust, even the ANC meetings. The police are still here in the village. They have not said when they will leave.

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<sup>5</sup> Information from Ken Margot, TRAC.

Since incorporation, the community has repeatedly been victimized:<sup>6</sup>

- \* Over Easter 1989, schoolchildren were beaten for stating that they were South African citizens;
- \* In June 1989, all schools were closed;
- \* In July 1989, police violently suppressed a meeting between Braklaagte and Leeufontein communities and 11 people were killed in the subsequent fighting;
- \* Bophuthatswana has maintained a continuous police and army presence in the village since incorporation which has contributed to high levels of tension;
- \* A state of emergency existed in Bophuthatswana until March 1991, granting powers to the police to order persons from particular places; to detain without trial; to enter, search and seize without warrant; and to ban persons and organizations. The Indemnities Act of 1989 indemnifies members of the security forces from criminal or civil proceedings for unlawful acts done in good faith in the suppression of riot or disorder.

In May 1991 the community lost, on technical grounds, an appeal challenging the validity of its incorporation.<sup>7</sup> The government responded to numerous protests from the community with a letter stating that the decision to incorporate Braklaagte had been made in 1984, confirmed in 1985 and could not be "rescinded or renegotiated." Currently, a large police camp, consisting of 8-10 tents and at least 50 policemen, occupies the village.

## **Thaba Nchu**

Thaba Nchu, situated in the Orange Free State, was incorporated into Bophuthatswana in October 1983, also by redrawing the homeland's boundaries. A series of events beginning on May 26, 1991 -- when three members of the Bophuthatswana Defence Force beat and stabbed to death Toteng Tshilonyane, 16, a member of the ANC Youth League -- illustrates the tragic consequences of a police force out of control.<sup>8</sup>

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<sup>6</sup> See *News From Africa Watch*, September 1, 1989, "Bophuthatswana: Retaliation against communities fighting incorporation into Bantustan; human rights workers banned and 57 villagers charged with murder" for a detailed account of the harassment suffered by both the Braklaagte and Leeufontein communities after incorporation.

<sup>7</sup> Immediately after incorporation on December 31, 1988, the elected chief of Braklaagte, Pupsey Sebogodi, applied to the court to block incorporation. In March 1989, the court decided that the incorporation was effective as of December 1988.

<sup>8</sup> *Human Rights Update*, Human Rights Commission, June 1991.

- \* On June 5, police came to the home of Toteng's parents, to inform them that they were not allowed to keep Toteng's body at the government mortuary in Thaba Nchu and that the family had to remove the body the following day;
- \* On June 6, hospital staff and police refused family members a copy of the post-mortem report. The family was forced to postpone the funeral, which was planned for the first week of June, to June 15;
- \* On June 14, when family members went to the mortuary, a police guard refused to allow them to take the body. They were told that they were to take Toteng's body early on the morning on June 18 and that the funeral had to be finished by noon on that day;
- \* The Bophuthatswana Police and Defence forces attacked bus passengers from Botshabelo township, on their way to attend a night vigil before the burial, at a roadblock. They ordered everyone off the bus. Mourners wearing ANC T-shirts, skirts and badges were made to remove them on the spot. The authorities then told them to lie down on the road, and trampled them. The police confiscated the mourners' clothing, badges and ANC membership cards, which they returned the following day at the insistence of ANC Executive Committee members.

Toteng's funeral finally took place on June 18. The three soldiers charged with Toteng's murder have been released on bail and are reported to be back on duty. It is still uncertain when and if they will be tried.

## **Political Prisoners**

Bophuthatswana is still holding 147 political prisoners who qualify for release under the Pretoria Minute, an agreement reached between the ANC and the government concerning the release of political prisoners.<sup>9</sup> The South African government continues to argue that there are no longer any political prisoners in South Africa, merely those convicted of criminal offenses. The Human Rights Commission claims however that there are still over 850 political prisoners in South Africa, including the 147 prisoners in Bophuthatswana prisons. The majority of them were convicted of treason for their role in an attempt, on February 10, 1988, to overthrow Mangope's regime, which failed due to the intervention of the South African Defense Force.

The South African government responded to the demands of the prisoners to be released in accordance with the Pretoria Minute in a predictable fashion. They disclaimed responsibility on the grounds that Bophuthatswana is an independent state and not part of South Africa. Minister of Justice Kobie Coetsee has not disputed the political nature of their convictions but claims that they

<sup>9</sup> Reports from the MAREF, compiled by Laura Taylor and Paul Daphne.

are being held in a "neighboring state."

Since the prisoners were first convicted in 1988, they have received unfavorable treatment from the prison authorities. One prisoner told Africa Watch on August 16, 1991, about prison conditions since their arrest in 1988.

[Since being jailed in 1988] we were made to do hard labor stone-breaking, to sleep on the floor. We had bad food and no chairs or tables to eat from. The doctors would not take any interest in us and whatever sickness we had they just gave us Panadol and would be very reluctant to refer us to hospital, letting the prison authorities decide whether we should go.

According to another prisoner:

When we first came to prison on February 14, 1988, we were kept in isolation for 90 days and for some weeks without exercise. We fought very hard on the exercise and were eventually allowed 30 minutes in [the] morning and afternoon. After 90 days we were charged and appeared before the court, and transferred to awaiting trial status, all in one cell. We still had problems with a right to exercise, but eventually they allowed us to stay outside all day. After we were sentenced, in December 1989, we were transferred to section C where we again had the same problem with exercise, and only 30 minutes twice a day. We protested at this by refusing to leave our cells at all, refusing to crush stones, and finally we went on hunger strike for 23 days from February 20, 1990. During that strike we had no medical treatment, and we only suspended it when some of our demands were met.

On June 15, 1991, 23 of these prisoners started a hunger strike, demanding their release in terms of the Pretoria Minute. On June 16, the prisoners addressed a letter to President De Klerk. This is the unedited version:



Bop Political Prisoners  
Private Bag X2020  
Mmabatho, 8681  
16 June 1991

The State President  
Private Bag X193  
CAPE TOWN  
8000

Your excellency

We are the political prisoners at the above mentioned address and we are all here for fighting apartheid. Our charges vary from high treason through public violence and Internal Security Act. We would like to draw your attention to our plight, and our plight is being in prison even after the Pretoria summit agreement. The Pretoria minute is a fore-runner for peace and reconciliation.

The Minister of Justice Mr Kobie Coetsee says that those who are not released were found guilty and sentenced of crimes such as rape and murder. In our case it is very clear that we do not fall in that category, our crimes are clearly political in nature as mentioned above. Most of us were involved in the 10 February 1988 abortive coup. We were arrested by the SADF as the Mangope government had been toppled. We place the responsibility of our incarceration fully on the shoulders of your government and yourself.

Our release can be secured quite easily by yourself and your government, as we believe that Bophuthatswana is a structure of grand apartheid.

You are being wined and dined by the International Community for your bravery in removing apartheid from the statute books and its structures. We applaud you for that. We were involved in removing a structure of apartheid being Bophuthatswana as it stands today. Our incarceration is thus anomalous to your government's actions in bringing a New South Africa. We were involved in the same thing you are doing today, although we beat you to the mark by two years. Our incarceration is thus unjust.

We plead with you to correct this anomaly.

We are one-hundred and sixty five (165) in all.<sup>10</sup> We thank you in anticipation.

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<sup>10</sup> The letter refers to only 165 prisoners. Human rights organizations have since established the number of political prisoners in Bophuthatswana as 166 in total. On September 12, Mangope announced the release of 19 prisoners. See page 20.

We are the Boph. Political Prisoners Committee.

On June 20, the total number of hunger strikers was 68. According to lawyers, who visited the prisoners daily, certain privileges were denied, clearly with the aim of breaking the spirit of the hunger strike:

- \* Although the prison authorities have claimed that the prisoners have running water in their cells, their warm water had been turned off.
- \* The prisoners were only given 60 minutes daily for outside exercise.
- \* Although the authorities claimed that the prisoners were monitored by doctors daily, doctors who saw the strikers were not allowed to examine them.

On June 24, the first two strikers were hospitalized. By June 27, 22 strikers were in the hospital in Bophelong at Mafikeng.

On June 28, Bophuthatswana prison officials moved 18 of the 22 hospitalized strikers. Despite being told by doctors that some of the patients were too weak to be moved, the prison officials persisted, allowing the strikers, including those on drips, a mere five minutes to pack their belongings. Minibuses transported them to a private hospital in Mafikeng. Five of the strikers, among them those perceived by the authorities to be leading the hunger strike, were moved to the Odi hospital north of Pretoria.

On July 7, a MAREF delegation visited the strikers at the Odi hospital on the 23rd day of their strike. The group reported the physical conditions of the hunger strikers as shocking. Strikers suffered from kidney problems, back pain and loss of eyesight. Some were confined to their beds.

On July 9, the prisoners addressed a letter to President Bush. This is the unedited version:

Odi Hospital  
Ga Rankuwa  
South Africa

President George Bush  
Washington  
United States of America

Dear Mr President

We are political prisoners currently on hunger strike in South Africa - our crime is treason. We have been imprisoned in one of the "homelands" of South Africa, i.e., Bophuthatswana, and our continued imprisonment is therefore at the discretion of either Lucas Mangope or his immediate boss, State President De Klerk.

You made a statement recently in which you offered your own definition of political prisoners. Your definition is very different to the definition agreed to by the SA government and the ANC, and it is a definition which ignores the pain and horror of our history. Be that as it may, your definition would certainly include us, Mr Bush, and we wonder why you seemed so unconcerned with our fate?

We always believed that your government did not recognise the "homelands," but it would appear that you have forgotten this in your haste to drop sanctions. Maybe we need to remind you that the "homelands" are the very cornerstones of Apartheid, they were created by the 1913 Land Act which has now been abolished in a flurry of publicity. Maybe this convinces you that Apartheid is dead - it does not convince us. We live in these creations and we are now imprisoned by those who run them.

We have decided to embark on a hunger strike until such time as we are released. We fall well within the definition of political prisoners, as outlined in the Pretoria Minute, and in terms of our offenses we qualify for immediate release. We require your urgent intervention in this matter. Some of us are close to death, but that has not lessened our determination. If you are to be true to your non recognition of these children of apartheid, the "homelands," then you and other international governments should be at the forefront of calling for our release.

You are rewarding the South African government for moves they have made toward abolishing racist laws, and you are at liberty to do so. However, when you hand out this reward we wish you to do so with the clear knowledge that racism has not ended here and for us, things are pretty much the same. We, as political prisoners falling within even your limited definition, are still in prison. We face death with clear hearts and strong wills. All we require from you is that you examine your conscience in this matter as you collude in our continued imprisonment.

Yours sincerely

Laurence Mahila

On behalf of the political prisoners in Bophuthatswana.

On July 15, following a visit by Nelson Mandela, the prisoners suspended their hunger strike. Of the 22, 17 were about to enter the 30th day of the hunger strike. Mr Mandela, accompanied by Walter Sisulu, ANC Deputy President, and Cyril Ramaphosa, ANC Secretary General, waited eight hours before being allowed into the hospital. They were accompanied by Leon Wessels, South African Deputy Minister of Foreign Affairs, who was also initially refused access, but was allowed to enter after the Foreign Minister, Pik Botha, and President De Klerk intervened.

As of this writing, the prisoners are still in jail. One of them told Africa Watch on August 19, 1991:

We still have problems, for instance there is only hot water at 3 a.m.[the hot water was only turned on after the hunger strike was suspended], so that if we want to wash in hot water we have to get up and then go back to bed again. Also there is a problem with medical treatment: when we are prescribed treatment by doctors, the nursing sister who is one of the warders does not give us that treatment; even if she does, it may take months to come, and if you have a drug that must be taken three or four times a day you will get it in the morning and evening and sometimes not at all. I wrote to Chief Justice and my lawyer complaining at this, but I have never received any reply, and I think the letters may never have been passed on. I also wrote to the head of the prison.

The Mangope regime originally appeared determined not to release the prisoners. On July 15, General Delpont, Commissioner of Prisons in Bophuthatswana, said on South African Broadcasting Radio that "reports that the Odi Hospital hunger strikers are to be released soon are false. These prisoners will serve their full sentences." However, probably due to discussions with South African officials, the homeland authorities are now saying that they are assessing the issue and will do what is best "in the interests of the people of Bophuthatswana." On August 27, 64 prisoners reembarked on the hunger strike, which they are continuing at this writing. On September 12, following a decision by the Bophuthatswana cabinet, Mangope announced the release of 19 prisoners. Two of them, S. Bopolamo (64) and S. Motswatswa (68), were released on humanitarian grounds. The other 17, who were soldiers in the abortive coup attempt, were released after an assessment of their court records and their behavior in prison. Mangope again confirmed his government's position that there are no political prisoners in Bophuthatswana. As of this writing, there has been no response by the South African government to the releases.

A question related to the prisoner issue is the safe return of exiles, a condition that is also

stipulated in the Pretoria Minute, but is not being applied in Bophuthatswana. There are no guarantees that returning exiles will not be arrested, as demonstrated in the case of Rocky Malebone Metsing, ex-leader of the Peoples Progressive Party. Although the South African government granted him indemnity, Bophuthatswana authorities have threatened that he will be arrested if he enters its borders. On September 4, 1991, police took Peter and Lucas Leew, who were indemnified by the South African government and returned to the home of their parents at Kraaipan in Bophuthatswana, for questioning by the security branch at Itsoseng. They were released only after 7 hours and told that they would be summoned again on September 6 for further interrogation.

## **Conclusion**

The South African government should not be allowed to evade its responsibility towards the residents of Bophuthatswana and the other homelands. The attempt to create a "white" South Africa, with black homelands at the peripheries to contain black political aspirations, has failed. Instead a blueprint for repression was created. As intended, the homelands are impoverished and thoroughly dependent on South Africa. Characterized principally by unrepresentative tribal structures, they are an unacceptable and ineffective substitute for black political rights in the country. The reincorporation of the homelands as part of a broader process of reform is a problem the government would rather ignore. But it should not be allowed to exclude from the agenda an issue that lies at the heart of apartheid and affects the lives and future of over 9 million black South Africans.

## **Recommendations for Action**

The authorities in Bophuthatswana should:

- \* Release all prisoners who qualify as political offenders in terms of the Pretoria Minute who are still being held in Bophuthatswana;
- \* Repeal the Bophuthatswana Internal Security Act which provides for indefinite detention without trial, requires authorization for meetings of more than 20 participants and prohibits non-citizens from participating in political activities.
- \* Unban all banned organizations and ensure freedom of political expression and association according to the standards of international human rights law;
- \* Put an end to arbitrary dismissals and at minimum provide for an effective appeal against dismissals;
- \* Cease arbitrary deportations and at minimum provide a means to appeal against such deportation;
- \* Establish independent and thorough judicial commissions of inquiry into the role of the

police and military and act on the evidence collected. The authorities should investigate on its own initiative serious human rights cases that come to its attention, regardless of whether a formal complaint has been filed;

- \* Make public the results of these investigations, including information about disciplinary action taken or any prosecution initiated;
- \* Launch an investigation into damage inflicted on property of communities such as Braklaagte, and after publication of the results of the investigation, ensure adequate compensation. Likewise, launch an investigation into pensions due residents and ensure adequate payment thereof;
- \* Hold joint forums with all representative groups in order to establish guidelines according to which Bophuthatswana can peacefully be reincorporated into South Africa.

To the South African government:

- \* Insist that the Bophuthatswana government release all prisoners who qualify as political offenders under the Pretoria Minute;
- \* Call on the Bophuthatswana government to amend the Internal Security Act in accordance with international law to ensure freedom of political expression and association, and demand an end to arbitrary dismissals and deportation;
- \* Establish independent and thorough judicial commissions of inquiry into the role of the South African police and military in their assistance to the Bophuthatswana authorities and act on the evidence collected. Make public the results of these investigations, including information about disciplinary action the government has taken;
- \* Hold joint forums with all representative groups in the homelands in order to establish guidelines according to which they can peacefully be reincorporated into South Africa.

To the international community:

- \* Demand that the Bophuthatswana government ensures the release of the remaining 147 political prisoners and amends repressive legislation within the standards of international human rights law;
- \* Call on both the Bophuthatswana and South African government to publicly investigate the role of the police and military in formal and informal repression;
- \* Urge the South African government and the homeland authorities to engage in negotiations with all representative groups in the country for the peaceful reincorporation of the

homelands into South Africa;

Address appeals to:

Lucas Mangope  
Bophuthatswana President  
Mmabatho  
Bophuthatswana  
Republic of South Africa

The State President F.W. De Klerk  
State President's Office  
Private bag X 213  
Pretoria 0001, South Africa

Mr. H.J. Coetsee  
Minister of Justice  
Private Bag X81  
Pretoria 0001, South Africa

Ambassador H.H. Schwarz  
Embassy of South Africa  
3051 Massachusetts Avenue, N.W.  
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Bophuthatswana: Retaliation Against Communities Fighting Incorporation into Bantustan; Human Rights Workers Banned and 57 Villagers Charged with Murder, September 1, 1989

Forced Incorporation in Ciskei Bantustan, January 12, 1990

*Africa Watch is a non-governmental organization created in May 1988 to monitor human rights practices in Africa, and to promote respect for internationally recognized standards. Its chair is William Carmichael; its Vice Chair is Alice Brown; its Executive Director is Rakiya Omaar; its Associate Director is Alex de Waal; its Research Associates are Janet Fleischman and Karen Sorensen; its Associates are Ben Penglase and Urmi Shah.*

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