



Security Council

Distr.
GENERAL

S/15461
19 October 1982

ORIGINAL: ENGLISH

LETTER DATED 19 OCTOBER 1982 FROM THE PERMANENT REPRESENTATIVE OF
SOUTH AFRICA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF
THE SECURITY COUNCIL

I refer to Your Excellency's statement transmitted to me on 4 October 1982 concerning the death sentences imposed on three persons convicted of high treason, involving murder, attempted murder and robbery with aggravating circumstances. Your statement is proof of the fact that the Security Council has intervened, without attempting to obtain the facts, in a matter which falls entirely within the domestic jurisdiction of the Government of the Republic of South Africa. In terms of Article 24 of the Charter of the United Nations, the Security Council's responsibilities are limited to "the maintenance of international peace and security".

Nevertheless, since the Council has thought fit to raise the issue, may I acquaint it with the facts.

In his judgement, delivered on 6 August 1982, the presiding judge in the court case, Mr. Justice Curlewis, found that accused No. 1 took part in the attacks at Moraka Police Station, where one person was killed and five injured, at Orlando Police Station, where two were killed and two injured, and at Wonderboompoort Police Station, where one person was killed and four injured.

He similarly found that the second accused took part in the attack at Wonderboompoort and that the third accused took part in the attacks at Moraka and Orlando Police Stations.

In his judgement, Mr. Justice Curlewis remarked that "it would be perfectly idle to say that there was no intention to kill ... we are satisfied that there was an intention to kill".

Mr. Justice Curlewis also referred to the fact that a guard at the gate of the Moraka Police Station, Mr. Bongani Brian Tembe, was conversing with his wife when he was confronted by two of the accused and, while his hands were in the air in a token of surrender, he was shot and killed. A member of the public, Mr. Sam Salatil Sangwene, while in the process of getting out of his motorcar, was also shot and wounded.

During the evening of 1 November 1979, two of the accused, together with three others, launched an attack on the Police Station at Orlando, near Johannesburg. Members of the public and of the Police Force were in the building at the time. They fired a number of AK-47 sub-machine-gun bullets at the building and caused several hand-grenades to explode on the premises. Constables Ntsieni Jerry Musindane and Christopher Zibi died. Another constable and a member of the public were wounded.

On the night of 26 December 1981, two of the accused, with three others, attacked the Wonderboompoort Police Station in Pretoria with AK-47 sub-machine-guns, hand-grenades and RPG-7 rockets. Constable Daniel Makhosonke Nkosi died, and four of his colleagues were wounded.

In addition, the accused fired random shots at the occupants of motor vehicles travelling in the main thoroughfare which passes the Police Station and at a member of the public who was standing in front of his home near the Police Station.

In an incident leading up to the murder at Wonderboompoort, a witness, Mr. Frans Thobela, who had given a lift to two of the accused, was ordered to stop and give them the car. They shot him at point-blank range, striking him three times, before he managed to get clear of the car and hide in long grass nearby.

In his judgement Mr. Justice Curlewis found that the evidence against the accused was overwhelming.

In terms of South African criminal law, the three accused have the right to lodge an appeal against their sentences with the Appellate Division of the Supreme Court of South Africa.

Death sentences passed by South African courts are reviewed by the State President, acting on the advice of Ministers of State constituting the Executive Council. In doing so, he takes into consideration not only the relevant facts as they appear in the court record and the judgement of the court itself but also other considerations brought to his attention by way of counsels' memoranda, petitions and so forth. The legal system of the Republic of South Africa is based on an independent judiciary which is known for its high standards of judicial practice.

Not only did the Security Council and the General Assembly contravene the provisions of the Charter pertaining to their respective areas of responsibility but neither showed any regard for the facts involved. The action of the Assembly and the Security Council is entirely uncalled for.

I should be grateful if you would arrange for this letter to be circulated as a document of the Security Council.

(Signed) David W. STEWARD
Permanent Representative
