

Speaker's Notes

S.A. law came originally from Holland and was strongly influenced by English law. In both systems - particularly in England in the struggle of the people against the tyranny of the kings - the idea was strongly developed that all shall be equal before the law.

Roughly speaking, law is the body of rules of a society which are enforced by the state. These rules aim mainly at preserving the given society. In a democratic society, the law will reflect the wishes of the people, and protect their welfare. In a society such as ours in S.A., where a minority enjoys economic, political and social baasskap over the majority, the law will reflect the wishes of the rulers, protect their interests, and be used to oppress the people.

So there has been a long battle between the old legal principle of equality and the increasing demands of the rulers to keep three-quarters of the population "in their place". It is still possible to keep certain liberties alive by going to Court but these possibilities are consistently reduced by statutes of Parliament aimed at discrimination and suppression.

S.A. is not the only country where there is a colour bar, but whereas other countries try to hide what is happening and pretend it does not exist, S.A. is proud of the fact and openly passes laws to keep up inequality.

This inequality is found both in what the laws say and how they are administered.

1. Inequality in the Laws

The U.N.O. Commission on the Racial Situation in S.A. considered a list of 95 Acts of Parliament which were passed from 1910 to 1953, all of which were discriminatory or oppressive. Of these 95, 7 are aimed at all sections of the population which might oppose the ruling government, and 88 have provisions aimed either at all the non-Europeans or at sections of them, i.e., an average of two statutes are passed every year to maintain the colour bar. Since the Nats. came into power the average has risen to six a year. It is clear that there is hardly a field of activity that has not been touched by discriminatory legislation. Some of the most oppressive of these laws will be mentioned :

1. The Vote The S.A. Constitution (The Act of Union 1910) and subsequent amendments leave non-whites in S.A. almost completely voteless. 80% of the people are represented by 8% of the members of Parliament and of this 8% a third are nominated by the Government. Only Europeans may stand for Parliament.

2. Land The Natives Land Act 1913 provided for permanent Reserves for Africans. Less than one-tenth of the land is set aside for three-quarters of the population, and with a few minor exceptions, Africans may not own land outside the Reserves. Africans made their living from the land. The rulers of the country took the land away from them by means of the gun. Now they legalise their robbery and make it illegal for the Africans to get back what was theirs originally.

3. Movement: The various pass laws require Africans to carry up to 27 different passes. The Abolition of Passes Act 1952 provides for one book instead of separate pieces of paper, but otherwise does not materially affect the position, except that it allows for the extension of passes to women. The pass laws enable the rulers of S.A. to control the movement of the Africans so that they can exploit their labour most effectively.

4. Labour The Mines and Works Act of 1911 forbids the employment of Africans in skilled works in mines, mills or other places using machinery, and as amended in 1925, reserves several other skilled occupations for Europeans and Coloureds. The Native Building Workers Act 1951 prevents Africans from doing skilled building work in the towns.

Africans are by law to be the hewers of wood and the drawers of water. And if they try to improve their conditions by Trade Union activity, they are met by the I.C. Act 1937 which provides that African Unions are not to be registered, and by the Natives Settlement of Disputes Act 1953 which makes strikes illegal and tries to have Government bodies without workers' representatives to act for the workers.

The pattern of laws becomes clear - the law is used to serve the interests of the ruling class. First the rulers keep political power in their hands, then they force the Africans off the land into the towns and to the farms, where they are to be used as cheap labour, and then they try to prevent them from organising for better conditions.

The above examples apply mainly to the Africans - they form the bulk of the population and suffer mostly from the inequalities. Long lists could also be given of Statutes making the Coloured and Indian people inferior in the eyes of the law, e.g., Immigration laws directed at the Indians; the Land Tenure Act restricting their rights to own property, the Group Areas Act, to be used to reserve all the best areas of the towns and village for Whites only; the Reservation of Separate Amenities Act which legalises segregation, with inferior facilities for non-Whites, etc., etc.

#### The Freedom Charter

The F.C. states that all laws which discriminate on grounds of race, colour or belief shall be repealed.

When we have a people's government, the laws of the country will reflect the wishes of the people of S.A. - for freedom, peace and equality. The laws under which we suffer today will be replaced by a new body of laws, based on our new constitution - the Freedom Charter. These laws will guarantee equality, and make it a crime to "preach or practice colour discrimination". In addition, the laws will set out the rights of citizens, which will enable members of all national groups to achieve actual equality in all fields of life.

#### Inequality in Administration of the Law

##### A. Where there is no trial at all

A noticeable legal development in the past few years has been the placing in the hands of government officials of power previously exercised by the Courts. The Government has built on old practices of treating whole sections of the population like cattle rather than as human beings with fundamental rights, e.g., the Native Administration Act 1927 makes the Minister of Native Affairs "supreme chief" of the Africans with the right to issue proclamations covering any matter concerning Africans in the so-called Native areas; Indians can't travel from one Province to another without a permit from the Immigration (!) authorities. Today we have the Suppression of Communism Act, (based on the Riotous Assemblies Act) whereby the Minister can ban people from their jobs in public organisations and from attending any gatherings. Under the Native Urban Areas Acts, Government officials can have Africans expelled from the towns, and deported to remote places. The Population Registration Act has permitted the Minister of the Interior to set up Government bodies to decide/

/which race a .....

/which race a person belongs to - whether he must carry a pass, where he can live, and what work he may do. The Land Tenure Advisory Board, constituted in terms of the Group Areas Act, decides where people may live and work.

B. Factors operating against a fair trial

Examples of inequality of sentences and harshness towards non-Europeans appear regularly in the press, e.g., the following headlines appeared in a Newspaper: "Farmer who shot Kudu Fined £40". "Coloured Boy shot Dead: Farmer Fined £20"

Two years after the Defiance Campaign had ended, John Alwyn was sentenced to 18 months imprisonment for his participation.

Some of the reasons which make for this social injustice are as follows:

1. Rich people can afford lawyers to give them the best defence. The non-Whites, doomed to economic subjection, cannot do so.

2. The Courts are staffed completely by Europeans, with all the prejudices of the "baas".

Furthermore, proceedings are carried on in a language strange to most of the accused, and if they do understand it, in terms of complicated legal jargon.

3. The police force, whose main work consists of enforcing the oppressive laws, is completely under the control of Europeans. There are eight ranks above Sergeant, all filled by Whites only. Non-European police, the "good boys" of the Government, are paid less than half the wages of Europeans equal in rank, and are treated, invariably as inferior.

The police, the most feared people in S.A., spend their time in activities such as checking up on passes and making beer raids. When a gang of tsotsis terrorised the inhabitants of Newclare, Johannesburg, the authorities clamped down on the people's Civic Guards which they formed to protect themselves, instead of dealing with the gang.

Terrible torture is used to obtain enforced confessions, e.g., in Durban this year two policemen were gaoled for culpable homicide following the death of a prisoner whom they beat. In 1954, no less than 284 members of the police force were convicted of crimes of violence.

Freedom Charter

"No one shall be imprisoned, deported or restricted without a fair trial"

"No one shall be condemned by the order of any government official"

The basic principle of the F.C. is that the Government of the country shall be based on the will of all the people, and be the servants of the people, not their masters. So when the Charter becomes law, Government officials who behave like little dictators will themselves be condemned and punished by the law. No one shall have his rights taken away unless he breaks one of the laws based on the F.C. and then only after a fair trial. At such a trial everyone will have the chance to be properly defended. Proceedings will be straightforward and in the language of the accused. The laws will be clear and simple so that the ordinary people can understand them.

"The Courts shall be representative of all the people.  
Africans, Coloureds, Europeans and Indians will all be judges and prosecutors. They will come from all walks of life so as to represent the whole community. We can then have confidence in the courts. We will feel that justice has been done.

"The police force and army shall be open to all on an equal basis, and shall be the helpers and protectors of the people.  
To see that the new laws of the country based on the P.C. are obeyed, the people's government will need a police force drawn from the ranks of the people, and having their confidence. \*All people will be treated by them with respect and politeness. Similarly with the army. Together they shall protect the new way of life in S.A. and be regarded as the helpers of the people, not their enemies. \*There will be no colour bar in the police force.\*

III. The Function of Law

Today S.A. is ruled on a basis of inequality and exploitation. The law serves to maintain "baasskap" and hence bears heavily on the vast majority of the people. It is almost impossible for a non-White person to avoid committing one of the many technical offences. Further, thousands are driven through poverty and frustration to crime. The answer of the Minister of Justice is to increase the number of prosecutions each year, establish farm gaols and use barbaric treatment in the form of flogging to terrorise people into obeying the laws.

<u>Prosecutions</u> :	1948 -	1,074,372
(all races)	1952 -	1,306,037

Nearly one million Africans were convicted in 1952. Of these, 200,000 were for liquor offences, and 250,000 under the heading "native supervision and control". Only 45,000 were for serious offences. One-quarter of the Africans convicted were women, while for Europeans the figure was one-twelfth.

Convict labour :

"Farm prisons had partly solved the labour problem. Mr. Paul de Villiers said in his chairman's address at the annual meeting of the Farmers' Association (Paarl) on Saturday." (Cape Times 15.5.1955.)

In 1934 Smuts started the system of hiring out prisoners at 9d. a day. In 1953, 53,000 convicts were so hired out to farmers.

In 1948, Swart proudly began the institution of farm gaols. By 1954, Farm Gaol Societies and Prison Co-operatives had built sixteen farm gaols, at a cost of about £45,000 each, for 4,500 convicts.

<u>Flogging</u> :	<u>Persons</u>	<u>Strokes</u>
1950	4,400	26,028
1952	8,724	50,077
1954	14,379	78,573

- Freedom Charter :

"Imprisonment shall be only for serious crimes against the people, and shall aim at re-education, not vengeance"

1. Poverty and despair will be abolished as everybody works together to build up the new S.A.
2. All the laws which are used to oppress the people will be repealed.
3. Only the dangerous criminals, and particularly the exploiters and the preachers of racial hatred, need fear imprisonment under the new laws which will come into being.

4. It is the system of each man for himself and hatred towards others which produces such criminal elements.
  5. In the new S.A., therefore, everyone will be educated to love his neighbour and to work together for a happy, prosperous S.A. This means that the criminals in gaol will themselves be taught about the kind of society which turned them into anti-social elements, and will learn to take their place as equals and brothers amongst their fellowmen.
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**RECORDS RELATING TO THE 'TREASON TRIAL' (REGINA vs F. ADAMS AND OTHERS ON CHARGE OF HIGH TREASON, ETC.), 1956 1961**

**TREASON TRIAL, 1956 1961**

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