

INSTITUTE OF CURRENT WORLD AFFAIRS

JCB-20: The Mandela Trial

February 3, 1963
1239 Arcadia Street
Pretoria, Transvaal
Republic of South Africa

Mr. Richard Nolte
Institute of Current World Affairs
366 Madison Avenue
New York 17, New York

Dear Mr. Nolte:

The Old Synagogue in Pretoria, banked by jacarandas, is a gracious South African landmark. Once a place of worship, it was converted into a law court five years ago when it was the scene of the Treason Trials. In October of last year it again housed a trial of political importance; that of Nelson Mandela, 44 year old lawyer and leader of the banned African National Congress. He was tried before a special regional court on charges of inciting people to strike on Republic Day, May 31st, 1961, and leaving the country without proper travel documents.



Although he was ordered to resign from the ANC in 1953 after leading the Congress Defiance Committee that year, he has been involved in ANC affairs continuously since 1944. In 1956 he became one of the accused in the Treason Trials and during the 1960 "emergency" he was arrested and detained for several months.

While he has been one of the most active leaders of the ANC since it went underground after the 1960 banning, he has also been one of the strongest proponents of non-violent resistance within its ranks. Whether he accepted the ANC decision for violence before his arrest is not known. But with his absence violence has rapidly increased. (JCB-19)

A minister who has known Mandela for many years and who visited him during the time he was being held for trial claims that while he doesn't have a strong allegiance to a Christian church "he is a good Christian at heart." Other European "Christians" might question this.

Mandela has shown no hesitation in working with Communists. But an official in the American Embassy here told me that the American Government had "cleared" him of Communism to their satisfaction.

"Black Pimpernel"

His arrest last August ended a year's search which had earned him the name "Black Pimpernel". He had moved freely in and out of the country in a number of disguises. When he was finally caught in Howick, Natal, he was masquerading as chauffer to Cecil Williams, a Johannesburg producer who was subsequently placed under house arrest from which he fled the country. (JCB-18)

The scene of the trial

When I arrived at the Old Synagogue for the trial the courtyard was a colorful multi-racial scene with uniformed police and Africans in tribal dress or business suits. Inside the building 150 Africans and a few Indians were crowded into the main floor while another 75 packed one side of the gallery above. About 30 Europeans shared the opposite section. Six reporters sat at a table on the ground floor in front of the spectators and more were in a special press section at the rear of the gallery.



Mrs. Mandela in tribal and European dress. She also wore a sari to the trial.

When Mandela was brought in talk ceased and the non-Europeans (with three Europeans as well) gave him a standing salute with raised right fist and the word "Amandla" (strength). He wore a traditional Tembu jackal-skin over his khaki trousers and shirt. His wife and the women who accompanied her arrived the first day in full tribal dress. During the trial she also appeared in a sari, and on the final day, in European dress. His choice of clothing was interpreted as an appeal to African consciousness while hers stressed their multi-racial outlook.

During the trial the Synagogue looked more like a police station than a law court. On the outside uniformed police virtually surrounded the building; on the inside they were at every entrance, seated here and there among the audience and constantly coming and going. At one time I counted 30. In addition there were uncounted plain-clothes men scattered strategically, I presume, among the spectators. They were very evident in the European section where at times they outnumbered the civilians.

They closely scrutinized every European who came (and probably each other as well) and kept their ears open among the non-Europeans. Some of the African Special Branch men even wore Mandela pins in order to lessen suspicion. At one luncheon recess, Mrs. Mandela recognized an African SB man, quickly walked over and tore off his Mandela pin and handed him a shilling to cover its cost.

The Minister of Justice imposed a ban on any demonstrations at any trial (JCB-18) but it was evident that officials were less than confident that the ban would be honored. There were a few short-lived spontaneous demonstrations when, at the end of a day's proceedings, Africans were moved to sing as they filed out. "Nkosi Si-kelele I' Afrika", the African National Anthem was followed by "Cho Cho Loza Mandela" (specially composed, it has been said, by a band leader for a banned leader) a popular song which praises Mandela's exploits and leadership.

While the court room demonstrations were at a minimum, a series of sabotage acts coincided with the trial. The closest one to the court was the explosion that severely damaged the Pretoria offices of the Minister of Agricultural Economics and Marketing.

The case against Mandela

In its case against Mandela the Government stressed his position as honorary secretary of the National Action Committee of the "All-In" National Conference which was held in Pietermaritzburg in March of 1961. This Conference, made up mostly of ANC supporters, was held after the ANC and PAC had been banned. It asked the Government to hold a national convention of elected representatives of all races by Republic Day, May 31st. When the Government refused to consider this request the National Action Committee appointed by the Conference



The police actively reducing the possibilities of a demonstration

sent letters to many organizations and individuals urging them to make public protests against apartheid on May 31st. They also made plans for a three day strike, a "stay at home" protest. (Before the Conference had even been held, 13 of its original planners were arrested and later found guilty of pursuing the same objectives as an unlawful organization, the ANC. On appeal they were acquitted.)

The prosecution called in police and superintendents of Native Townships who identified the documents and letters signed by Mandela urging the disruptive action. The court's attention was also directed to the law that makes it an offence for most Africans to absent themselves from work without cause. Witnesses were presented to explain that if all the workers had stayed away on strike severe damage would have been done to business and industry.

Documents were produced to show that Mandela had been in and out of the country without a valid travel permit.

Mandela's defense

Mr. Joe Slovo, a banned Johannesburg attorney and a listed Communist, was given permission to come to Pretoria to conduct Mandela's defense. But when Mandela announced that he would defend himself with help from Mr. Slovo, the permission was withdrawn and Slovo was sent back to Johannesburg. Later another attorney assisted but for the most part Mandela was on his own.

Mandela created a striking image in his defense. He used the opportunity to bring out in an interesting way the discrimination that exists against the non-European and their feelings about it.

One superintendent refused to answer Mandela's questions in English and, since Mandela's Afrikaans was rather halting, an interpreter had to be employed. The actions of the superintendent gave the definite impression that it wasn't the language that bothered him as much as the fact that he was being directly questioned by an African. He revealed in the cross-examination that mail to people living in the townships is often opened by the police or the superintendent.

Mandela was able to get an Indian police sergeant to agree that Indian political organizations oppose the Group Areas Act and that some Indians would lose trading rights in European areas. But the sergeant then concluded that Indians generally were not unhappy about being moved in terms of the Group Areas Act. Mandela responded, "Mr. —, if that is what you think, I think you have lost your soul."

When he cross-examined a journalist of a Johannesburg Sunday newspaper who had written an article in May, 1961, about Mandela and the then-proposed strike, he said, "I will try to show through your answers that I may have been motivated to act as I did."

The journalist agreed that the franchise was a fundamental right, the only right a citizen had to determine his destiny; that the denial of rights to the Natives was bound to create resentment and irritation, especially when African countries were winning independence from White rule; that a European could reside with his people

and could follow the occupation he chose and that generally speaking this was not true for an African. He also agreed with Mandela that all publicity for the planned strike stressed that it should be peaceful.

Then Mandela asked, "If you were in my position in May of last year, would you have done exactly as I did?" The journalist replied that he couldn't answer that question, but he added that he thought Mandela must have been frustrated by the circumstances.

A fair trial?

Early in the trial it appeared that Mandela was carefully laying the groundwork for an appeal. He told the court that his trial could not be just because he would be tried by a judiciary controlled entirely by Europeans and enforcing laws enacted by an exclusively European Parliament, a legislative body in which he had no representation.

On the second day of the trial he asked the judge to recuse himself. The judge had been seen leaving the courtroom at a lunch break with one of the Government's investigating officers (who had testified and would testify again) and a member of the Special Branch. "This has created the impression that the court has associated itself with the State's case."

The judge said he didn't have to give any reasons for his actions and added that he did not communicate with the people referred to. Mandela's application was refused.

Sentence is passed

In handing down his verdict, the Justice said that since Mandela hadn't presented any contrary evidence, the evidence of the State became clear, uncontradicted and conclusive. Mandela was trying to make a martyr of himself. He had no regret for what he had done; in fact he was proud of his achievement. The judge could not take this attitude lightly; Mandela's actions "were calculated to inspire alarm." He was sentenced for three years imprisonment for incitement and two years for leaving the country without a valid passport.

Even before he was sentenced Mandela had decided not to appeal. He claimed it would do little to change the laws he considered unjust. "I am prepared to pay the penalty," he said in his closing address, "even though I know how bitter is the situation of an African in the prisons. More powerful than my fear of the dreadful conditions to which I might be subjected is my hatred for the dreadful conditions to which my people are subjected outside the prison, throughout this country.

"Nothing that this Court can do to me will change in any way that hatred in me which can only be removed by the removal of the injustice and inhumanity which I have sought to remove from the political, social and economic life of this country.

"Whatever sentence your Worship sees fit to impose upon me...may you ...rest assured that when my sentence has been completed I will still be moved by my conscience. I will still be moved to dislike of the race discrimination against my people. When I come out I will take up the struggle again for the removal of those injustices."

Mandela has gained much prestige among many Africans for this decision to suffer a martyr's imprisonment. By going to jail he followed the example of Robert Sobukwe, President of the banned PAC, who was sentenced for three years for incitement in 1960. Several observers feel that Mandela (or any other ANC leader) must be able to match the penalties of the PAC leaders if he is to keep any influence. By this test Mandela should emerge in higher esteem since he didn't appeal his sentence (Sobukwe did) and he will be serving a sentence that is two years longer.

While his name will be used as a rallying cry for the ANC cause it is doubtful that his martyrdom alone will retain for him a portion of influence within the now changing African organization. Already his non-violent approach has been dropped and, although he may change his mind it isn't likely that the leaders who have established themselves during his absence will readily step aside on his return.

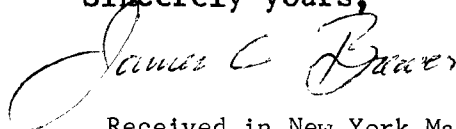
Further, it has been rumoured that Mandela was 'sold out' to the police by Communist members in the ANC who wanted him out of the way. His absence has certainly made it easier for the militant wing of the ANC to swing more fully behind the pro-Communist underground activities of the Spear of the Nation (JCB-19). Robert Resha, an ANC leader in exile, said at the Afro-Asian Conference in Tanganyika that now "Umkonto" (the Spear) was the active arm of the ANC. While some ANC members have joined the National Committee of Liberation and others, with no penchant for violence, have probably joined the Liberal Party or are living in limbo, most of the ANC leaders seem to be involved in the Spear. It is now a question whether the ANC exists any longer outside its name.

If it does exist, with Mandela's conviction the major leaders are no longer directly active in South Africa. Walter Sisulu is under trial for incitement and undoubtedly will receive at least a three year sentence. Luthuli has been cut off from a leadership role for some time (although Mandela did slip in to see him from time to time). Moses Kotane and Duma Nokwe (JCB-18) have left South Africa after being placed under house arrest. They join Oliver Tambo and Robert Resha, other officers of the ANC who have been out of the country for some time.

P.S.

Mrs. Mandela has now been banned; she will not be able to see or talk with her husband for five years.

Sincerely yours,



Received in New York March 4, 1963.