

MCH91-18-2-5

F. MOPHOSHO

CRIMINAL AND CIVIL
CODE OF THE PEOPLE
OF
SOUTH AFRICA.

JUNE 4,

YEAR OF THE CHARTER.

cc1 Florence Mophoso was head of
the Women's Section and a
member of the NEC. I must have
been given her copy of this
document. I think the year
of the Charter was 1980. I don't
know who prepared it.

MCH91-18-2-5

F. MOPHOSHO

CRIMINAL AND CIVIL
CODE OF THE PEOPLE
OF
SOUTH AFRICA.

JUNE 4,

YEAR OF THE CHARTER.

VOLUME I.

CRIMES AGAINST HUMANITY.

CHAPTER I.

SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID.

Whereas the African National Congress of South Africa did on (date) under the hand of its President, deposit with the Secretary-General of the United Nations Organisation and Instrument of Accession to the International Convention on the Suppression and Punishment of the Crime of Apartheid;

Accordingly, on publication of this Volume I of the Criminal and Civil Code of the People of South Africa, the said International Convention on the Suppression and Punishment of the Crime of Apartheid will inter into force giving authority to the Courts and Tribunals of the People of South Africa as defined in Volume VII Chapter... Articles... and other relevant authorities to arrest try and punish all offenders against this International Convention.

For the purposes of accession to this International Convention, the African National Congress of South Africa shall be considered as a State Party to International Convention on the Suppression and Punishment of the Crime of Apartheid which Convention shall read as follows:

The States Parties to the present Convention,

Recalling the provisions of the Charter of the United Nations, in which all Members pledged themselves to take joint and separate action in co-operation with the Organisation for the achievement of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Considering the Universal Declaration of Human Rights, which states that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, colour or national origin,

Considering the Declaration in the Granting of Independence to Colonial Countries and Peoples, on which the General Assembly stated that the process of liberation is irresistible and irreversible and that, in the interests of human dignity, progress and justice, an end must be put to colonialism and all practices of segregation and discrimination associated therewith,

Observing that, in accordance with the International Convention on the Elimination of all Forms of Racial Discrimination, States particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction,

Observing that, in the Convention on the Prevention and Punishment of the Crime of Genocide, certain acts which may also be qualified as acts of apartheid constitute a crime under international law,

Observing that, in the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, "inhuman acts resulting from the policy of apartheid" are qualified as crimes against humanity,

Observing that the General Assembly of the United Nations has adopted a number of resolutions in which the policies and practices of apartheid are condemned as a crime against humanity,

Observing that the Security Council has emphasized that apartheid and its continued intensification and expansion seriously disturb and threaten international peace and security,

Convinced that an International Convention on the Suppression and Punishment of the Crime of Apartheid would make it possible to take more effective measures at the international and national levels with a view to the suppression and punishment of the crime of apartheid.

Have agreed as follows:

Article I

1. The States Parties to the present Convention declare that apartheid is a crime against humanity and that inhuman acts resulting from the policies and practices of apartheid and similar policies and practices of racial segregation and discrimination, as defined in articles II of the Convention, are crimes violating the principles of international law, in particular the purposes and principles of **of the Charter** of the United Nations, and constituting a serious threat to international peace and security.
2. The States Parties to the present Convention declare criminal those organisations, institutions and individuals committing the crime of apartheid.

Article II

For the purpose of the present Convention, the term "the crime of apartheid", which shall include similar policies and practices of racial segregation and discrimination as practised in Southern Africa, shall apply to the following inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them:

- (a) Denial to a member or members of a racial group or groups of the right to life and liberty of person:
 - (i) By murder of members of a racial group or groups;
 - (ii) By the infliction upon the members of a racial group or groups of serious bodily or mental harm by the infringement of their freedom or dignity, or by subjecting them to torture or to cruel, inhuman or degrading treatment or punishment;
 - (iii) By arbitrary arrest and illegal imprisonment of the members of a racial group or groups;
- (b) Deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part;
- (c) Any legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups, in particular by denying to members of a racial group or groups basic human rights and freedoms, including the right to **work**, the right to form recognized trade unions, the right to education, the right to leave and to return to their country, the right to a nationality, the right to freedom of

movement and residence, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association;

- (d) Any measures, including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups, the prohibition of mixed marriages among members of various racial groups, the expropriation of landed property belonging to a racial group or groups or to members thereof;
- (e) Exploitation of the labour of the members of a racial group or groups, in particular by submitting them to forced labour;
- (f) Persecution of organisations and persons, by depriving them of fundamental rights and freedom, because they oppose apartheid.

Article III

International criminal responsibility shall apply, irrespective of the motive involved, to individuals, members of organisations and institutions and representatives of the State, whether residing in the territory of the State in which the acts are perpetrated or in some other State, whenever they:

- (a) Commit, participate in, directly incite or conspire in the commission of the acts mentioned in article II of the present Convention;
- (b) Directly abet, encourage or co-operate in the commission of the crime of apartheid.

Article IV

The States Parties to the present Convention undertake:

- (a) To adopt any legislative or other measures necessary to suppress as well as to prevent any encouragement of the crime of apartheid and similar segregationist policies or their manifestations and to punish persons guilty of that crime;
- (b) To adopt legislative, judicial and administrative measures to prosecute, bring to trial and punish in accordance with their jurisdiction persons responsible for, or accused of, the acts defined in article III of the present Convention, whether or not such persons reside in the territory of the State or of some other State or are stateless persons.

Article V

Persons charged with the acts enumerated in article II of the present Convention may be tried by a competent tribunal of any State Party to the Convention which may acquire jurisdiction over the person of the accused or by an international penal tribunal having jurisdiction with respect to those States Parties which shall have accepted its jurisdiction.

Article VI

The States Parties to the present Convention undertake to accept and carry out in accordance with the Charter of the United Nations the decisions taken by the Security Council aimed at the prevention, suppression and punishment

of the crime of apartheid, and to co-operate in the implementation of decisions adopted by other competent organs of the United Nations with a view to achieving the purposes of the Convention.

Article VII

1. The States Parties to the present Convention undertake to submit periodic reports to the group established under article IX on the legislative, judicial, administrative or other measures that they have adopted and that give effect to the provisions of the Convention.
2. Copies of the reports shall be transmitted through the Secretary-General of the United Nations to the Special Committee on Apartheid.

Article VIII

Any State Party to the present Convention may call upon any competent organ of the United Nations to take such action under the Charter of the United Nations as it considers appropriate for the prevention and suppression of the crime of apartheid.

Article IX

1. The Chairman of the Commission on Human Rights shall appoint a group consisting of three members of the Commission on Human Rights, who are also representatives of States Parties to the present Convention, to consider reports submitted by States Parties in accordance with article VII.
2. If, among the members of the Commission on Human Rights, there are no representatives of States Parties to the present Convention or if there are fewer than three such representatives, the Secretary-General of the United Nations shall, after consulting all States Parties to the Convention, designate a representative of the State Party or representatives of the States Parties which are not members of the Commission on Human Rights to take part in the work of the group established in accordance with paragraph 1 of this article, until such time as representatives of the States Parties to the Convention are elected to the Commission on Human Rights.
3. The group may meet for a period of not more than five days, either before the opening or after the closing of the session of the Commission on Human Rights, to consider the reports submitted in accordance with article VII.

Article X

1. The State Parties to the present Convention empower the Commission on Human Rights:
 - (a) To request United Nations organs, when transmitting copies of petitions under article 15 of the International Convention on the Elimination of ALL Forms of Racial Discrimination, to draw its attention to complaints concerning acts which are enumerated in article II of the present Convention;
 - (b) To prepare, on the basis of reports from competent organs of the United Nations and periodic reports from States Parties to the present Convention, a list of individuals, organisations institutions and representatives of States which are alleged to be responsible for the crimes enumerated in article II of the Convention, as well

- as those against whom legal proceedings have been undertaken by States Parties to the Convention;
- (c) To request information from the competent United Nations organs concerning measures taken by the authorities responsible for the administration of Trust and Non-Self-Governing Territories, and all other Territories to which General Assembly resolution 1514 (XV) of 14 December 1960 applies, with regard to such individuals alleged to be responsible for crimes under article II of the Convention who are believed to be under their territorial and administrative jurisdiction.
2. Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV), the provisions of the present Convention shall in no way limit the right of petition granted to those peoples by other international instruments or by the United Nations and its specialized agencies.

Article XI

1. Acts enumerated in article II of the present Convention shall not be considered political crimes for the purpose of extradition.
2. The States Parties to the present Convention undertake in such cases to grant extradition in accordance with their legislation and with the treaties in force.

Article XII

Disputes between States Parties arising out of the interpretation, application or implementation of the present Convention which have not been settled by negotiation shall, at the request of the States Parties to the dispute, be brought before the International Court of Justice, save where the parties to the dispute have agreed on some other form of settlement.

Article XIII

The present Convention is open for signature by all States. Any State which does not sign the Convention before its entry into force may accede to it.

Article XIV

1. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article XV

1. The present Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or instrument of accession, the Convention shall enter into force on the thirtieth day

after the date of the deposit of its own instrument of ratification or instrument of accession.

Article XVI

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Renunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

Article XVII

1. A request for the revision of this Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

Article XVIII

The Secretary-General of the United Nations shall inform all States of the following particulars:

- (a) Signatures, ratifications and accessions under articles XIII and XIV;
- (b) The date of entry into force of the present Convention under article XV;
- (c) Denunciations under article XVI;
- (d) Notifications under article XVII.

Article XIX

1. The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Convention to all States.

CHAPTER IIPREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

Whereas the African National Congress of South Africa did, on (date), under the hand of its President, deposit with the Secretary-General of the United Nations organisation an Instrument of Accession to the Internal Convention on the Prevention and Punishment of the Crime of Genocide,

Accordingly, on publication of this Volume I of the Criminal and Civil Code of the People of South Africa, the said International Convention on the Prevention and Punishment of the Crime of Genocide will inter into force giving authority to the Courts and Tribunals of the people of South Africa as defined in Volume VII and other relevant authorities to arrest, try and punish all offenders against this international Convention.

For the purposes of accession to this International Convention, the African National Congress of South Africa shall be considered as a and Punishment of the Crime of Genocide which Convention shall read as follows:

The Contracting Parties to the Present Convention,

HAVING CONSIDERED the declaration made by the General Assembly of the United Nations in its resolution 96 (I) dated 11 December 1946 that Genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world,

RECOGNIZING that at all periods of history genocide has inflicted great losses on humanity, and

BEING CONVINCED that, in order to liberate mankind from such an odious scourge, international co-operation is required:

HEREBY AGREE AS HEREINAFTER PROVIDED:

Article I

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

Article II

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious groups, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

Article III

The following acts shall be punishable:

- (a) Genocide
- (b) Conspiracy to commit genocide
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.

Article IV

Persons committing genocide or any of the other acts enumerated in Article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

Article V

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and in particular, to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in Article III.

Article VI

Persons charged with genocide or any of the other acts enumerated in Article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

Article VII

Genocide and the other acts enumerated in Article III shall not be considered as political crimes for the purpose of extradition.

The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

Article VIII

Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in Article III.

Article IX

Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in Article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

Article X

The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall bear the date of 9 December 1948.

Article XI

The present Convention shall be open until 31 December 1949 for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation to sign has been addressed by the General Assembly.

The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

After 1 January 1950 the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation as aforesaid.

Instruments of accession shall be deposited with Secretary-General of the United Nations.

Article XII

Any Contracting Party may at any time, by notification addressed to the Secretary-General of the United Nations, extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting Party is responsible.

Article XIII

On the day when the first twenty instruments of ratification of accession have been deposited, the Secretary-General shall draw up a proces-verbal and transmit a copy thereof to each Member of the United Nations and to each of the non-member States contemplated in Article XI.

The present Convention shall come into force on the ninetieth day following the date of deposit of the twentieth instrument of ratification or accession.

Any ratification or accession effected subsequent to the latter date shall become effective on the ninetieth day following the deposit of the instrument of ratification or accession.

Article XIV

The present Convention shall remain in effect for a period of ten years for such Contracting Parties as have not denounced it at least six months before the expiration of the current period.

Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

Article XV

If, as a result of denunciations, the number of Parties to the present Convention should become less than sixteen, the Convention shall cease to be in force as from the date on which the last of these denunciations shall become effective.

Article XVI

A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General.

The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

Article XVII

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in Article XI of the following:

- (a) Signatures, ratifications and accessions received in accordance with Article XI;
- (b) Notifications received in accordance with Article XII;
- (c) The date upon which the present Convention comes into force in accordance with Article XIII;
- (d) Denunciations received in accordance with Article XIV;
- (e) The abrogation of the Convention in accordance with Article XV;
- (f) Notifications received in accordance with Article XVI.

Article XVIII

The original of the present Convention shall be deposited in the archives of the United Nations.

A certified copy of the Convention shall be transmitted to each Member of the United Nations and to each of the non-member States contemplated in Article XI.

Article XIX

The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

CHAPTER III

NON-APPLICABILITY OF STATUTORY LIMITATIONS TO WAR

CRIMES AND CRIMES AGAINST HUMANITY.

War Crimes and Crimes against Humanity shall be justiciable at all times, regardless of the lapse of time between their commission and trial in keeping with the provisions of the Convention on the Non-Applicability of Statutory Limitations to War Crimes against Humanity.

CHAPTER IV

OTHER VIOLATIONS.

Other violations of the Charter of the United Nations; the Universal Declaration of Human Rights; the Declaration on the Granting of Independence to Colonial Countries and Peoples; the International Convention on the Elimination of all forms of Racial Discrimination; and /or all acts which are deliberately and consciously intended to obstruct or make impossible the realisation of the provisions of the Freedom Charter of South Africa as well as all acts which are deliberately and consciously intended to reverse or undo any gains achieved in the implementation of these provisions shall be justiciable and shall, depending on the gravity of the violation or misdemeanour be subject to trial as Crimes against Humanity.

CHAPTER V

CRIMINAL PROCEDURE.

All Courts trying Crimes against Humanity shall, for the purpose of properly executing their tasks, base themselves on the Principles of the Nurnberg Criminal Procedure for the Prosecution and Punishment of Nazi Criminals.

VOLUME IICRIMES AGAINST THE REVOLUTIONCHAPTER I

1. Any Act committed with the aim of preventing the realisation of the demands contained in the Freedom Charter and/or reversing them once they are realised in part or wholly shall constitute a felony.
2. Any counter revolutionary act aimed at obstructing by force, threat, fraud or in any other similar manner the accomplishment of objectives or elimination of achievements of the liberation struggle of the people of South Africa shall constitute a felony.
3. Any counter revolutionary act committed during combat or in a state of imminent danger of an enemy attack and causing death or accompanied by severe violence or rendering difficult the accomplishment of objectives or reversing partly or wholly the achievements of the liberation struggle shall constitute a felony.

CHAPTER IITREASON

1. Any act which according to the opinion and judgement of the duly constituted judicial authorities is a breach of the duty of allegiance owed to the liberation movement or to the people of South Africa shall, according to the gravity of the act, be liable to trial as a treasonable offence.
2. Any adherence to the enemies of the people and of the liberation movement, in and outside South Africa giving them aid or comfort inside South Africa or elsewhere, shall be liable to trial as a treasonable offence.
3. Any Act that in the eyes of the judicial authorities can be interpreted as disloyalty, faithlessness or perfidy towards the aims and objectives of the movement shall be liable to trial as a treasonable offence.
4. Acts committed with the aim of preventing the realisation of the demands contained in the Freedom Charter and/or reversing them once they are realised in part or wholly shall be liable to trial as treasonable offences.
5. Any Act aimed or directed at undermining the authority, prestige or aims of the movement or towards the unconstitutional or forceful overthrow of its leadership shall be liable to trial as a treasonable offence.
6. Any South African (member of the Movement) serving in an enemy army or any other armed formation and/or participating in the struggle against the movement during the liberation struggle shall be liable to trial for the crime of treason.
7. Any act of assistance in circumstances of struggle, or revolution aimed at enforcing coercive measures against the South African population, collaborating in any way with the enemy and/or supporting hostile enemy activities or of unfriendly states or hostile organisations shall be liable to trial as a treasonable offence.

WAR TREASON

War treason is a general term for various acts of hostility inside either lines of the belligerents, with intention to help the enemy. The term "war treason" refers principally to the following acts:

- (a) delivery of information to the enemy
- (b) provision of equipment to the enemy
- (c) assisting enemy military operations
- (d) aiding the escape of prisoners of war
- (e) destruction of military installations

The difference between war treason and treason, is that treason can be committed only by a person who owes allegiance to the country against which he commits treason, while war treason can be committed by any person. Soldiers can be punished for war treason only when they carry out such acts of treason while not wearing the uniform of the army to which they owe allegiance.

CHAPTER IIITERRORISM

Any terrorist act committed against the people of South Africa and the liberation movement, its members or property thereby endangering life and well-being or property and/or including the taking of life or the destruction of property shall constitute a felony. Terrorism shall be understood as any act carried out with the aid of weapons of war against unarmed persons and/or civilians and against non-military installations to achieve objectives which constitute an offence against the provisions of the this Criminal and Civil Code.

CHAPTER IVCONSPIRACY

1. Any conspiracy and/or establishment of a cabal or any other organised group with an aim of committing crime against the aims and objectives of the liberation movement as set out in the Freedom Charter and the relevant constitutional documents and/or any association with any of the aforementioned cabals shall constitute a felony.
2. Any renegation of the liberation movement with an intent of establishing an association hostile to the aims and objectives of the liberation movement and/or enlistment in such an association shall constitute a felony.

CHAPTER VESPIONAGE

1. Any communication and/or conveyance of confidential political, military or any other information of the liberation movement to the enemy, foreign state, or organisation and/or any person in the service thereof without authorisation and with malicious intent shall constitute the felony of espionage.
2. Any establishment of an intelligence service/or group or cell aimed at systematic secret observation, reconnaissance, surveillance, sleuthing of information or movement for the sake of supplying the enemy or

foreign state or enemy organisation or enlistment in such a service, collection of information on its account or any form of assistance in the activity thereof shall equally constitute the felony of espionage.

CHAPTER VI

IMPARTING SECRETS

1. Any unauthorised communication, conveyance or demonstration to an unauthorised person of documents or information constituting a secret of the liberation movement, representing classified information the disclosure whereof affects adversely the political, military, or any other interests, or might adversely affect the further pursuance of the struggle by the liberation movement/or any acquisition of such information with an intent of supplying therewith an unauthorised person or organisation shall constitute a felony.
2. Any imparting of a secret by negligence shall equally constitute a felony.
3. Any member of the movement, who trespasses or brings another into a camp or any other Movement facility without authorisation to this effect although he knows that entrance therein is prohibited, or who makes, without due authorisation, photographs or drawings of personnel, facilities or installations of the Movement shall have committed an offence.

CHAPTER VII

COUNTER REVOLUTIONARY PROPAGANDA

1. Any propaganda using publications, pamphlets, leaflets written and/or oral and/or visual presentation or any other means, to incite to struggle against the South African Liberation Movement / and/or vilifying the movement and its leadership, disrupting the unity of the South Africa people, sowing seeds of animosity among the ethnic and national groups shall constitute a felony.
2. Whoever conveys a malevolent and an untruthful picture of activities conducted by the liberation movement and/or organises agitators; and/or prepares copies, stores, imports and disseminates hostile propaganda material shall have committed a felony.
3. Any utilisation of propaganda or any other means to incite hatred or friction among national, ethnic, racial and/or religious groups within the South African liberation movement shall constitute a felony.

VOLUME IIICRIMES AGAINST THE ORGANISATION.CHAPTER IFAILURE TO FULFILL AN ASSIGNED TASK

Any failure by any member of the Movement to fulfill a task given to him by the relevant authority, which was within his scope or ability shall be considered an offence and will be punished according to its gravity.

CHAPTER IISUBMISSION OF FALSE REPORTS

Any malicious submission of a report by any member of the Movement, whose contents are found to be false or any withholding of reports or facts which ought to be made known to the Movement shall be considered an offence.

CHAPTER IIIDISOBEDIENCE OF ORDERS

Any member or authority of the Movement which fails to act, or refuses to act, upon an order or directive relative to the furthering of the struggle of our people and issued from the relevant authority or office shall have committed an offence.

CHAPTER IVRESISTANCE TO AUTHORITY

Any member of the Movement or group of members who resist an order or directive given by a superior or relevant authority and refuses to execute it and/or refuses to fulfill his/her duty, notwithstanding whether he/she used force, violence or threats offering resistance shall have committed an offence.

CHAPTER VEVADING PERSONAL DUTIES

Any undue protection or assistance by any member of the Movement or its officials and officers of any person or member of the Movement who fails to fulfill his duties or fails to answer a call or fails to carry out an order of the Movement shall be considered a negligence and will be treated as an offence.

CHAPTER VIIARBITRARY ABANDONMENT OF THE MOVEMENT

Any member of the Movement who deserts therefrom; or abandons his post in the Movement or fails to assume again his duties after a leave, or fails to report back by physical appearance at the Headquarters or approved place after finishing his studies abroad and/or completely breaks his relations or contact with the Movement shall have committed an offence and will be charged with desertion.

CHAPTER VIIIFAILURE TO INFORM OF AN EVENT

Any failure by any member of the Movement to report any event or facts which ought to have been known by the Movement or relevant authority will be considered an offence.

CHAPTER IXFALSE DEPOSITION

1. Any sworn evidence which is given falsely before a court or any other body of authority or commission responsible for enforcing the authority or legal measures or regulations of the Movement or of enforcing human relations within the Movement, shall constitute an offence.
2. Any false deposition before a court or any body of authority of the liberation movement while giving evidence as a witness, expert witness, interpreter in a suit shall have committed an offence. A defendant may not commit this offence in his own defence.

CHAPTER XABUSE OF OFFICE OR OFFICIAL AUTHORITY

Any deliberate acquisition for oneself or any other person of an advantage or affliction of a harm upon another, provocation of trouble, deprivation of a right, favouritism or unjustified patronage of one's relatives, tribesman or any other person or persons committed by abuse of one's office or authority in the Liberation Movement shall constitute the crime of abuse of office.

CHAPTER XIFAILURE TO FULFILL RESPONSIBILITIES

Any member of the Movement who when given a responsibility or task fails to fulfill the task or responsibility, which is within the scope of his/her ability shall have committed an offence.

VOLUME IV.CRIMES AGAINST THE PERSON.CHAPTER IHOMICIDE

1. Any unlawful taking away of another's life shall constitute a felony.
2. Whoever
 - (a) commits a homicide with an intent of weakening the ANC or any of its allied organisations or with the aim of preventing the attainment of its aims and objectives and the victim was a civilian member thereof or a member of Umkhonto we Sizwe
 - (b) Commits premeditated murder in a perfidious and cruel manner by inflicting unnecessary pain or using dangerous means shall have perpetrated a grave felony and may be tried under the provisions contained in Volumes I and II.
3. Homicide by negligence other than negligence with intent to bring about death shall constitute a milder category of the crime of murder.

CHAPTER IIRAPE

Whoever acquires carnal knowledge of a women without her oral and/or passive consent, not living in matrimonial union with her and does so by violence, force, threat or intimidation or by direct attack on life or limb shall have committed a felony.

CHAPTER IIIBODILY HARM

1. Any deliberate infliction of bodily harm or impairment of another's health shall constitute a felony.
2. Any infliction of bodily harm or impairment of another's health by wilful negligence shall equally constitute a felony.

CHAPTER IVINSULT AND SLANDER

Any insult, that is, disparagement of another's values causing harm to the honour and reputation thereof and/or any treatment with scornful abuse, or infliction of an indignity on a person shall constitute an insult and shall be an indictable offence;

Any slander, that is, any false statement maliciously uttered to injure somebody's reputation, standing or character, or any false oral or written defamation shall constitute a calumny and shall be an indictable offence.

VOLUME VCRIMES AGAINST PROPERTY AND TOWARDS SELF-ENRICHMENTOR PERSONAL ADVANTAGECHAPTER ILACERNY AND ROBBERY.

1. Any felonious taking away of another's personal goods with intent to convert them to one's own use or any appropriation thereof shall constitute the crime of lacerny.
2. Any removal of another's property with an intent of obtaining by appropriation thereof, unlawful material gain for oneself or any other person, committed with violence or threat against life or limb shall constitute the crime of robbery.
3. Lacerny (paragraph 1) and robbery (paragraph 2) committed by several persons associating for the purpose of perpetuating such criminal acts, and breaking into closed premises, and resulting in actual injury to other persons shall constitute the crime of aggravated robbery.

CHAPTER IIDEALING IN STOLEN PROPERTY.

Any acquisition, purchase, secreting, acceptance in pledge or any other dealing in objects known to have been obtained by a criminal act and any disposal of such objects by sale, barter or gift shall constitute a felony.

CHAPTER IIIFRAUD

Any deception of another by false representation or suppression of facts inducing him to do or fail to do something to the injury of his own or another's property perpetrated with an intent of acquiring thereby unlawful material gain for oneself or any other person shall constitute the crime of fraud.

CHAPTER IVEMBEZZLEMENT

1. Any appropriation of another's property entrusted to a person which is committed with an intent of acquiring for oneself or any other person unlawful material gain shall constitute the crime of embezzlement.
2. Any fraudulent diversion to one's use of any property of or any property intended for the liberation movement, shall constitute a grave felony.

CHAPTER VFORGERY

1. Any counterfeiting or alteration of a genuine document with an intent of using such document as genuine and/or any use of the counterfeit or altered document as a genuine document shall constitute the crime of forgery.
2. Whoever
 - (a) inserts without authority a statement bearing on legal relationships in any paper or object already duly signed by another or
 - (b) induces another by deceiving him about the content of the document to undersign it believing that he is undersigning some other document or some other content or
 - (c) issues on another's behalf a document without authorisation or issues a document on behalf a non-existent person/ or
 - (d) describes falsely his status or rank alongside the signature of the issuer of the document although he does not enjoy that status or rank having an important bearing on the evidentiary value of the document or
 - (e) drafts a document using without authorisation the genuine seal or mark or
 - (f) deceives the authorised agency so that it certifies in a public document something false which is to serve as evidence in legal affairs or uses such document knowing that it is false
 - (g) destroys or conceals a public document which he was bound to keep, shall have committed a crime of forgery.

CHAPTER VIEXTORTION AND BLACKMAIL

1. Whoever compels another by violence or serious intimidation to do something or refrain from doing it to the detriment of his or another's property with an intent of acquiring thereby unlawful material gain for oneself or any other person shall have committed a felony.
2. Whoever compels another by threatening him with the disclosure of a matter which may be damaging to his honour and reputation or those of persons close to him with an intent of forcing him to do something to the detriment of his or another's property and acquiring thereby unlawful material gain for oneself or any other person shall have committed a felony.

CHAPTER VIIBRIBERY

1. Any acceptance of or request for, a gift or any other gain, or any acceptance of a pledge of a gift or any other gain which may not be justified by tradition while in relevant military, political or legal or other public office enabling the performance of an action which should not be performed or making possible the failure of an action that ought to be performed, shall constitute the crime of bribery.

2. Whoever gives or promises a gift or any other gain to a person holding an office as specified in paragraph 1 so that the latter should use his office to perform an action which he should not perform or that he would fail to perform an action which he ought to perform and the presentation or promise of a gift may not be justified either by tradition or conditions in the struggle shall equally have committed a crime of bribery.
3. Mediation in bribery shall equally constitute a criminal offence.

CHAPTER VIII

UNCONSCIENTIOUS BEHAVIOUR TOWARDS THE PROPERTY OF THE MOVEMENT

1. Any member of the Movement who when given authority of possession or control over any property of the Movement and fails to comply with the envisaged standards of taking care of such property or purposely damages or through lack of conscientiousness or care causes damages or wrecks the property to such an extent that it is either destroyed or falls in value shall have committed an offence and may be charged under the provisions contained in Volumes 1 and II, depending on the prevailing circumstances.
2. Any light hearted attitude or lack of seriousness towards the property, documents or equipment of the Movement, or any carelessness in carrying out a mission or fulfilling a duty resulting in damage to such property, documents or equipment shall constitute an offence.

CHAPTER IX

ILLICIT DISPOSITION OF THE MOVEMENT'S PROPERTY

Any member of the Movement who appropriates, abstracts, gives in pledge, confers use to another, all without legal authority any property of the Movement shall have committed an offence.

VOLUME VI

OFFENCES OF PERSONAL MISCONDUCT

CHAPTER I

Any person other than those who are mentally disturbed, who transgresses the usually accepted norms of moral behaviour, and thereby unlawfully or commits any forbidden act wilfully, shall have committed an act of personal misconduct, and shall be liable to punishment.

CHAPTER II

INDECENT BEHAVIOUR

Any behaviour that is offensive to common propriety, or offends against modesty or delicacy, is grossly vulgar, obscene, lewd, unseemly, unbecoming indecorous or unfit in normal and accepted norms of society shall constitute an offense.

CHAPTER III

INDECENT EXHIBITION

Any public exhibition of the human body wholly, or in part that is contrary to good morals (contra bonos mores) shall constitute an offence.

CHAPTER IV

INDECENT LIBERTIES

Any taking of liberties with children as the common sense of society would regard as indecent or improper constitutes an offence.

CHAPTER V

INDECENT PUBLICATION

Any printing, distribution or attempt to print obscene or lewd publications or any publication that is offensive to the accepted standards of modesty or delicacy, or tends towards the corrupting of morals shall constitute an offence.

CHAPTER VI

INDECENT ASSAULT

Any act of any person taking indecent liberties with any other person of the same or the opposite sex, without the consent of the affected person and against his/her will, but with no intent to commit the crime of rape shall constitute an indecent assault and shall be an offence.

CHAPTER VII

Drunkenness and abuse of drugs shall constitute offences of personal misconduct. Drunkenness and abuse of drugs which occur while any member of the movement is performing official duties shall be liable to prosecution under the provisions contained in Volume III.

VOLUME VIIADMINISTRATION OF JUSTICECHAPTER ITHE NATIONAL COURT

1. The National Executive Committee of the A NC shall establish a National Court for the Whole Movement which shall discharge its revolutionary judicial functions in accordance with the Constitution, and norms of the ANC and established humanitarian traditions and customs of the South African liberation movement and those of progressive mankind.
2. It shall be the highest specialised judicial authority of the Movement and shall try the **gravest offences**.
3. Its punitive powers shall be unlimited, unless so specified by the NEC of the ANC.
4. In spite of this, this Court or any other Court of the Movement, shall have no competence or power to inquire into or to pronounce upon the validity of any decision or directive of the NEC of the ANC except in circumstances where a litigation brought before Court necessitates such a process.
5. This Court shall have original and appellate jurisdiction in all political, criminal and civil matters. Appeal lies from it to the NEC and the President of the ANC, sometimes as a right, sometimes requiring its consent and if this is refused, the consent of the NEC or the President.
6. The NEC shall appoint all prosecutors of the High.
7. The Court shall be composed of a Chairman and four other members who should all be of impeccable character, unquestionable loyalty to the ANC and should possess high moral qualities and a rich life experience. When possible they should have a general idea of legal procedure. They shall hold office at the pleasure of the NEC. They shall determine amongst themselves who shall be chairman. Three members sitting together shall constitute a quorum.
8. All appeals should be heard and judged in the shortest possible time but not later than three months after they have been lodged.
9. If an appeal has been lodged, the previous judgement cannot be executed until the results of the appeal are known. This does not apply to cases involving military personnel in the frontline or in the battlefield.
10. All sentences involving capital punishment or sentences above 10 years shall be subject to automatic review by the NEC. Any refusal of an appeal will depend mostly on the length of the sentence, the gravity and nature of the case.
11. The National Court will see to the good Administration of Justice in the Movement and will keep all judicial records of the Movement.

CHAPTER IIREGIONAL COURT

1. The NEC of the ANC shall establish Regional Courts for all regions of the Movement which shall discharge their regional judicial functions within an area specified by the NEC and in coordination with the authorised Regional Political Authority of that region. The NEC of the ANC shall also appoint the prosecuting personnel of the Regional Courts.
2. The Regional Courts shall try all cases which in the first instance do not fall under the jurisdiction of the National Court.
3. The Regional Court has original and appellate jurisdiction in all cases involving the region. Appeal lies from it to the National Court.
4. The Regional Court has punitive powers and can impose all sentences and fines provided for in the legal code except those which involve capital punishment and sentences above 10 years imprisonment. Any sentences above 5 years must automatically be reviewed by the National Court.
5. The Court shall be composed of five people appointed by the NEC of the ANC. They shall elect a Chairman amongst themselves. Three members sitting together shall constitute a quorum.
6. All cases should be heard in the locality in which they were committed.
7. All appeals should be heard in the shortest possible time but not more than 3 months after the appeal has been lodged.

CHAPTER IIIDISTRICT COURT

1. The Regional Political Committee shall appoint district courts for all the districts in the region whose area jurisdiction will be specified by the RPC.
2. It shall be composed of five members who shall elect a Chairman amongst themselves. Three members sitting together shall constitute a quorum.
3. It shall try all cases which in the first instance do not fall under the jurisdiction of the Regional Court.
4. The District Court shall have original and appellate jurisdiction in all cases involving the district. Appeal lies from it to the Regional Court.
5. It has punitive powers and can impose all fines and imprisonment for terms not longer than six months.
6. The prosecuting personnel shall be appointed by the R.P.C.
7. All cases should be heard in the locality in which the offence was committed and all appeals should be heard in the shortest possible time and not later than 3 months after they have been lodged.

CHAPTER IVLOCAL COURTS

1. The RPC shall appoint local courts.
2. Their jurisdiction will be determined by the District Court.
3. They are to try the lightest infringements of discipline and other light offences.
4. They can pass light sentences but not imprisonment.
5. The local court shall be composed of 3 members who shall elect a chairman from among themselves. Two members sitting together shall constitute a quorum.

CHAPTER VREGIONAL TRIBUNAL

1. The Revolutionary Council shall appoint regional tribunals which shall be confirmed in their posts by the National Executive Committee of the ANC.
2. They shall be composed of five persons each, members of Umkhonto we Sizwe, one of whom shall be from the Commissariat, one from the security organs of the movement and three others. Three members sitting together shall constitute a quorum.
3. The Revolutionary Council shall determine their areas of jurisdiction.
4. They can impose any sentence including the death sentence.
5. They will act as a court of appeal and review for all lower courts.
6. All appeals shall be heard as soon as possible but not later than 3 months after they have lodged.
7. The results of appeal should be heard before the previous sentence is executed.
8. All appeals from it should be lodged with the National Court.
9. All death sentences and sentences above ten years are subject to automatic review by the NEC of the ANC.
10. Prosecutors shall be appointed by the Revolutionary Council.

CHAPTER VIDISTRICT TRIBUNAL

1. The district tribunal shall be appointed by the regional command of Umkhonto we Sizwe.
2. It shall be composed of five persons, one of whom must be from the Commissariat and another from the security organs of the movement and 3 others. They shall elect a chairman amongst themselves.

3. Its area of jurisdiction shall be determined by the Regional Command.
4. It will try all cases which in the first instance do not fall under the jurisdiction of the Regional Tribunal.
5. It can impose all sentences and fines provided in the legal code except those which involve capital punishment and sentences above 10 years imprisonment. Any sentences above 5 years must automatically be reviewed by the Regional Tribunal.
6. It has original and appellate jurisdiction in all cases involving the district.
7. All cases shall be heard in the locality in which the offences were committed.
8. Appeals should be heard in the shortest possible time but not later than 3 months after they have been lodged.
9. Prosecutors will be appointed by the Regional Command.

CHAPTER VII

CAMP TRIBUNAL

1. The Camp Tribunal shall be appointed by the Regional Command.
2. It shall be composed of 5 persons one of whom should be from the commissariat and another from the security organs. Three members sitting together shall constitute a quorum.
3. The camp will be its area of jurisdiction.
4. It will try all cases which in the first instance do not fall under the District Tribunal. Graver offences should be referred to the District Tribunal.
5. It cannot impose sentences above 6 months imprisonment.
6. Appeals from it should be referred to the District Tribunal.
7. Its prosecutors shall be appointed by the Regional Command in consultation with the district and camp command.
8. It is a court of appeal for all lower courts. Appeals should be heard as soon as possible but not later than one month after they have been lodged.

CHAPTER VIII

UNIT TRIBUNAL

1. There shall be two types of unit tribunals:
 - (a) for units in action in the battle-field
 - (b) for sub-units within a camp.
2. For units in action, the Commander and the Commissar will decide the composition of the tribunal. All sentences passed by such tribunals shall be subject to automatic review by the relevant commanding authority. The Commander and the commissar shall bear responsibility for any abuse of power.

3. For sub-units of a camp, the commander and the commissar and another member of the unit have a right to try and punish any minor infraction of discipline. All appeals can be lodged with the camp commander or tribunal and should be heard as soon as possible.

VOLUME VIII

TRIALS

CHAPTER I

INDICTMENT

When circumstances allow the indictment sheet shall contain:

1. Name, surname, address, birthplace and date and other personal data and information on the accused including his/her marital status and personal history.
2. The offence should be fully described and the laws violated fully quoted on the charge sheet and the legal provisions which empower the prosecuting authority to prosecute.
3. The names of all witnesses and expert witnesses including copies of documents produced in court as evidence and physical objects serving as prima facie evidence.
4. The sentence asked for by prosecution.

CHAPTER II

TRIALS

All trials shall be open to the general membership unless the secrets of the Organisation are at stake. The exclusion of the public shall not relate to the parties concerned, that is, the plaintiff, the defender, their legal representatives (if there are any). For closed cases the Court may permit, for justified reasons, the presence of individual relatives and/or close relatives and comrades, officials and other persons when conditions demand. The language used shall be understandable to court, accused and plaintiff. All accused persons shall be entitled to a defender who shall not necessarily be a trained lawyer and who shall be acceptable to the court.

CHAPTER III

RECORD

A duly appointed Clerk of the Court shall record all the evidence in the Court which shall be made available to both partners when requested in the language in which it has been given.

CHAPTER IV

REOPENING OF THE TRIAL

1. Any concluded court case may be reopened if new facts and evidence appear at a later date indicating convincingly that the decision of the court could have been substantially different had the new facts been known at the time of the trial.

2. Motion for the reopening of the trial may be presented to the Court by the prosecuting authority when notified of new facts or evidence by the persons concerned.

CHAPTER V.

REVIEW OF CASES

All cases in which the death penalty has been imposed or sentences of 10 years or more shall be subject to automatic review by the NEC of the ANC. All cases in which sentences of five years or more have been imposed by the Regional Courts and/or Tribunals shall be subject to automatic review by the National Court. Death sentences shall not be carried out until the results of the review have been given.

CHAPTER VI.

CONTEMPT OF COURT

Any person who refuses to carry out the instructions of the court or behaves in a disrespectful manner towards the court shall be liable to prosecution for contempt of Court. Convictions for contempt may lead to imprisonment or less severe forms of punishment.

VOLUME IX

PENALTIES AND THE EXECUTION OF SENTENCES

CHAPTER I

CAPITAL PUNISHMENT

1. Capital punishment shall be imposed on the perpetrator of the gravest offences like treason, genocide and terrorism. Capital punishment may also be imposed in murder cases. In all these cases it will serve as the maximum penalty.
2. The death penalty shall be executed by a firing squad and, as an exception, by hanging.
3. Capital punishment may not be imposed on a minor or on a pregnant women. A minor shall be any person below 16 years of age.

CHAPTER II

IMPRISONMENT

1. Punishment by imprisonment may be pronounced for a specified period when and where conditions allow.
2. Where possible the convict shall be assigned to work during his term of imprisonment.
3. Offences of personal misconduct shall not be punishable by imprisonment.
4. Imprisonment shall be for serious crimes against the people and shall aim at reeducation and not vengeance.

CHAPTER IIIEXPULSION FROM THE MOVEMENT

1. Any member of the Movement who commits an offence or commission which makes him/her unworthy of the membership of the ANC and/or Umkhonto we Sizwe shall be expelled and as such shall forfeit all rights and privileges which he/she enjoyed as a member of the ANC and Umkhonto we Sizwe.
2. Expulsion is for a life time.
3. Sentences of expulsion shall only have the force of recommendations to the NEC.

CHAPTER IVMONEY FINES

1. In areas where the conditions permit money penalties shall be pronounced but the financial standing of the comrade or person should be duly taken note of.
2. The payment of the fine should be within a fixed period.

CHAPTER VDEGRADATION FROM OFFICE

Any member of the Movement who commits offence which embarrasses the ANC or/and the South African Liberation Movement or puts it in any invidious position and/or proves by his actions that he/she is unworthy of office or rank he/she hold within the movement may be degraded from that rank and/or removed from that office either for life or a specified period. Sentences of degradation from office shall only have the force of recommendations to the relevant political authority.

CHAPTER VIDEPRIVATION OF DECORATION

Any member of the Movement who proves by the offence he/she committed that he/she is unworthy of the decoration that has been bestowed on him/her or does not live up to the standards that are expected of him/her may be deprived of the decoration conferred on him/her. Such sentences shall have the force of recommendations to the relevant political authority.

CHAPTER VIIDEBARRING FROM CAMP, OFFICE, PREMISES

A member of the Movement may be debarred from a camp, office, residence or any premises of the Movement for a specified period not exceeding one year for the commission of an offence not necessitating his/her expulsion from the Movement but requiring him to be debarred from access to certain premises which would otherwise be accessible to him by virtue of his membership in the Movement.

CHAPTER VIIISUSPENSION FROM MEMBERSHIP

Any member of the Movement who commits an offence which although grave does not necessitate his/her expulsion from the Movement may be suspended from membership of the Movement for a specified period of not less than three months but not more than a year.

CHAPTER IXSUSPENDED SENTENCE.

1. A penalty for an offence may be pronounced but suspended for a specified time. This means that the pronounced sentence will not be executed and the offender for a fixed period which will be pronounced by the court, may not commit any other offence or felony of the same or worse gravity. Should he commit any such offence the sentence follows automatically.
2. If a person on probation commits during the probational period another criminal act or offence or fails to fulfill conditions imposed thereon, the suspended sentence shall be revoked and the penalty shall be imposed together with the one pronounced for the perpetration of the act which has led to the revocation of the suspended sentence.
3. In pronouncing the penalty of the newly committed offence and revoking the suspended sentence pronounced for the previous act, the penalty envisaged by the revoked sentence shall be considered as the already established one and in pronouncing the one for the new offence, the same procedure shall be followed as in the case of concurrence of criminal acts or offences.

CHAPTER XSEIZURE OF PHYSICAL OBJECTS AND MATERIAL GAIN

1. Physical Objects used or destined for the commission of an offence or any criminal act or physical objects engendered by the commission of a criminal act may be seized as punishment.
2. Money, valuables or any material gain acquired through a criminal act shall be seized from the perpetrators. When possible they should be returned to the owner.

CHAPTER XIFORFEITURE OF PROPERTY

1. Punishment by forfeiture of property shall mean the confiscation of property of the sentenced in whole or in part without redemption thereof.
2. When the forfeiture of the whole property is imposed, a sufficient part thereof shall be left to cover basic necessities of the sentenced and his family.

CHAPTER XIIREPRIMAND

1. A reprimand shall be pronounced if the criminal act or offence is so light that it shall suffice to reprimand the perpetrator thereof.
2. During the pronouncement of the reprimand, the damaging effects of the act or offence shall be pointed out to the perpetrator and the culminating effects of such an offence to the Movement must be clarified to him/her.
3. A reprimand may be pronounced privately, that is, between the offender and the punishing authority, or within the unit/branch of the offender of publicised in the region in which he/she lives and works.
4. The pronounced reprimand must be recorded and will entail legal consequences. The reprimand shall be carried out by the relevant political authority.

CHAPTER XIIIADMONITION

1. Admonition shall be pronounced only for light offences which do not necessitate severe sanction.
2. Punishment by admonition shall not entail any legal consequences. The admonition shall be carried out by the relevant political authority.

CHAPTER XIVAMNESTY AND PARDON

The NEC of the ANC may grant immunity from prosecution, exempt completely or in part from the execution of the sentence or substitute the pronounced sentence or penalty with a milder one for a group of persons (amnesty) or individually specified persons (pardon).

CHAPTER XVPUNISHMENT AND EXECUTION OF PUNISHMENT

1. The choice of punishment and its execution shall depend, inter alia, on the existing conditions in the given area and on the political situation created by the advancement of the liberatory struggle.
2. In execution of a sentence due consideration will be given to the political, social and moral attitude of the offender and in executing the sentence care must be taken that in no way is the personality of the offender belittled or that any undue physical pain is inflicted on him/her or that his/her basic human dignity is in any way offended.