

ABRAM (BRAM) FISCHER QC 1908- 1975

Bram Fischer occupies a unique place in the history of the struggle against apartheid and the fight to achieve a peaceful transition to a multi-racial democracy in South Africa.

By his conduct of the defence at the Rivonia trial he played a decisive role in saving Nelson Mandela and the senior leadership of the African National Congress (ANC) from the gallows. By his willingness to sacrifice his career, his family life and his liberty in the cause of securing freedom for the majority black population, he helped to influence Nelson Mandela to abandon a narrow Africanist approach and on his release from prison propose instead magnanimity and reconciliation. He showed by personal example that there were white South Africans and in particular Afrikaners who were prepared to put the interests of freedom, and justice for all above their own personal interest.

Nelson Mandela said of him: “As an Afrikaner whose conscience forced him to reject his own heritage and be ostracised by his own people, he showed a level of courage and sacrifice that was in a class by itself. No matter what I suffered in my pursuit of freedom, I always took strength from the fact that I was fighting with and for my own people. Bram was a free man who fought against his own people to ensure the freedom of others.”

Abram Louis Fischer, known to all as Bram, was born into an elite Afrikaner nationalist family. His grandfather Abram was prime minister of the Orange Free Colony. His father Percy was a nationalist Judge-President of the Free State. He himself was elected nationalist Prime Minister at a student parliament. In 1930 he won a Rhodes scholarship to New College, Oxford.

He became one of the most distinguished and sought after Queen’s Counsels (QCs) in South Africa, specialising in mining law and mineral and water rights. Had he wished, he could, by reason of his family connections and his talents, have attained the highest political or judicial office in apartheid South Africa.

As a young man Bram Fischer had a Road to Damascus experience. Distressed to feel revulsion at shaking hands with an African, he recalled that as a child growing up on a farm his two best friends had been black. He realised that he had become brainwashed with the irrational culture of racial prejudice. With his wife Molly he dedicated his life to the overthrow of a system based on discrimination. He was a man of complete integrity who, in all areas of his life, lived the change he wanted for his people and his country.

He joined the Communist Party when it was the only one open to all races and advocated an extension of the franchise. When the party was banned in the 1950s he remained a member of the successor the South African Communist Party (SACP), in due course becoming acting chairman.

As a QC in the Treason Trial from 1958 to 1961 he played a key role in the successful defence of the leaders of the ANC and other groups fighting apartheid. At the Rivonia trial he took the huge risk of being identified as one who had participated in meetings at the Lilliesleaf safe house, where most of the defendants were arrested. By proving that Operation Mayibuye, the blueprint for guerrilla war, had not been adopted, he made it possible for the judge not to impose the death penalty on Mandela, Walter Sisulu, Govan

Mbeki and the other defendants. It was an achievement that changed the history of South Africa.

When Fischer was himself arrested soon afterwards for membership of the outlawed SACP he got bail to argue a case in the Privy Council in London. He refused entreaties to estreat bail because "I gave my word". He believed it vital for leaders of the struggle to make a stand inside the country.

Facing a maximum five years in prison, he then made a further personal sacrifice by going underground in the middle of his trial. In his prophetic letter to the Court he said that any sentence passed on his co-defendants would punish them "for holding the ideas today that will be universally accepted tomorrow." He "could no longer serve justice in the way I have attempted to do during the past thirty years. I can do it only in the way I have now chosen."

At his second trial in 1966 Fischer was charged with sabotage and the prosecution called for the death sentence. Like Nelson Mandela he was a passionate believer in the Rule of Law but, as he said in his historic speech from the same dock from which Mandela had made his famous speech two years earlier, "...when the laws themselves become immoral and require the citizen to take part in an organized system of oppression - if only by his silence and apathy - then I believe that a higher duty arises. This compels one to refuse to recognize such laws."

He explained himself: "All the conduct with which I have been charged has been directed towards maintaining contact and understanding between the races of this country. If one day it may help to establish a bridge across which white leaders and the real leaders of the non-white can meet to settle the destinies of all of us by negotiation, and not by force of arms, I shall be able to bear with fortitude any sentence which this court may impose on me. It will be a fortitude, my Lord, strengthened by this knowledge, at least, that for the past twenty five years I have taken no part, not even by passive acceptance, in that hideous system of discrimination which we have erected in this country, and which has become a byword in the civilised world."

Fischer paid a heavy price for his resistance. He was sentenced to life imprisonment. The prison authorities, who viewed him as a traitor to his own people, singled him out for especially harsh treatment. When he got cancer it was left to his fellow prisoner, Denis Goldberg, to nurse him as best he could.

He died in prison on 8 May 1975. His ashes were confiscated lest his grave should become a shrine. They were never recovered.

Alone of the Rivonia defendants and their lawyers Bram Fischer did not live to see a free, democratic South Africa. President Mandela said that although he could have become Prime Minister of South Africa "he became one of the bravest and staunchest friends of the freedom struggle that I have ever known."

Bram Fischer was a part time lecturer in law at Wits while he was building up his practice at the Bar. Wits has an important place in the history of the struggle against apartheid. George Bizos described it as an oasis in the desert of racialism. Many of the future leaders of the struggle and the lawyers who acted for them studied there and some of them formed life-long friendships. They included Nelson Mandela, Joe Slovo, Ruth First, Arthur Chaskalson,

George Bizos, Joel Joffe, and Bob Hepple. Wits is a beacon of multi-racial equality and Bram Fischer was the most prominent symbol of the contribution made by brave white South Africans to the cause of freedom and equality. His contribution has already been recognised by the creation of the Bram Fischer Chair in Human Rights Law.