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Out of South Africa

Justice minister relates origins of the new order

“Even though legal apartheid is ended, even though we have been able to end white minority domination in our country, the legacy of apartheid remains.”

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A key figure in South Africa's transformation from apartheid rule to majority government enraptured a crowded classroom at UB Law School during an appearance last year. Minister for Justice Abdullah Mohamed Omar spoke in John Lord O'Brian Hall at one of only four stops he made during this visit to the United States.

Said Barry B. Boyer, dean of the Law School: "For those of us who are lawyers, who appreciate how difficult it is to build a regime of law where there was none, to deal with the legacy of hate and discrimination and to build the framework of a nation, the accomplishment that they have realized in South Africa in recent years is truly monumental. That they have managed to achieve this with very little violence and recriminations, compared certainly to the experience we have had in this country, is a testament not only to their ability as lawyers and as political leaders, but to their fundamental humanity and morality as human beings."

Omar, a lawyer and close friend and adviser to South African President Nelson Mandela, conceived and wrote the law for South Africa's Truth and Reconciliation Commission, headed by Archbishop Desmond Tutu. The commission was formed to investigate crimes committed under the apartheid system.

He began with a definition of terms. "Reconciliation is not a reconciliation between democracy and apartheid," Omar said. "It is not reconciling our people to their condition. Reconciliation is reconciliation between people, but it must be on a morally acceptable basis. Even though legal apartheid is ended, even though we have been able to end white minority domination in our coun-

try, the legacy of apartheid remains.

"Our country needs social and economic transformation. We need institutional transformation. We inherited the bureaucracy of the old apartheid order: the same army, the same police, the same civil service and the same courts. These institutions served the apartheid order during the apartheid years. These institutions, which are important in any civilized society, must be transformed" — made representative of the people, made responsive to the idea of human rights, made to accept the racial and ethnic diversity of the South African people.

"We speak of building a non-racial government," Omar said. "We speak of South Africa as a country in which we build one nation and not many nations. We believe that we are one nation entitled to enjoy citizenship rights, and that everyone is entitled to equal rights as citizens, and at a political, social and economic level every individual should enjoy equal rights and equal citizenship.

"At the same time we recognize the diversity of our people, that we are a country consisting of people of different religions, different cultures and who speak different languages. We want our people to be proud of their cultures, proud of the languages they speak and proud of the religions to which they adhere.

"We have separated white domination from white people. We have always argued that our struggle is not against white people, it is against white domination. It is against the system and not against people. Of course, it is people who promote systems and defend systems, and to that extent our struggle is also against people who would defend certain courses. But that distinction is very important."

The Truth and Reconciliation

Commission, Omar said, comprises three subcommittees. An amnesty committee hears case-by-case applications for amnesty in cases of political crimes committed during the apartheid years. Why grant amnesty in the first place? Said Omar: "We could not say to the apartheid regime, 'Abdicate and thereafter we are going to charge you with crimes against humanity.' They would never have agreed to democratic elections. And therefore South Africa has a price to pay in order to achieve its future. We had to agree that amnesty shall be made available in appropriate cases. On basis of that total settlement, the de Klerk government agreed to democratic elections."

A human rights violations committee. "The objective is to identify why those violations occurred, and the commission is required to make recommendations to the government on steps to be taken to avoid similar violations in the future."

A committee on reparations and rehabilitation. "This, too, is victim-centered, the idea being that there should be reparation for victims. There should be rehabilitation, and steps should be taken to restore the dignity of victims, the dignity of communities and indeed ultimately the dignity of the nation as a whole."

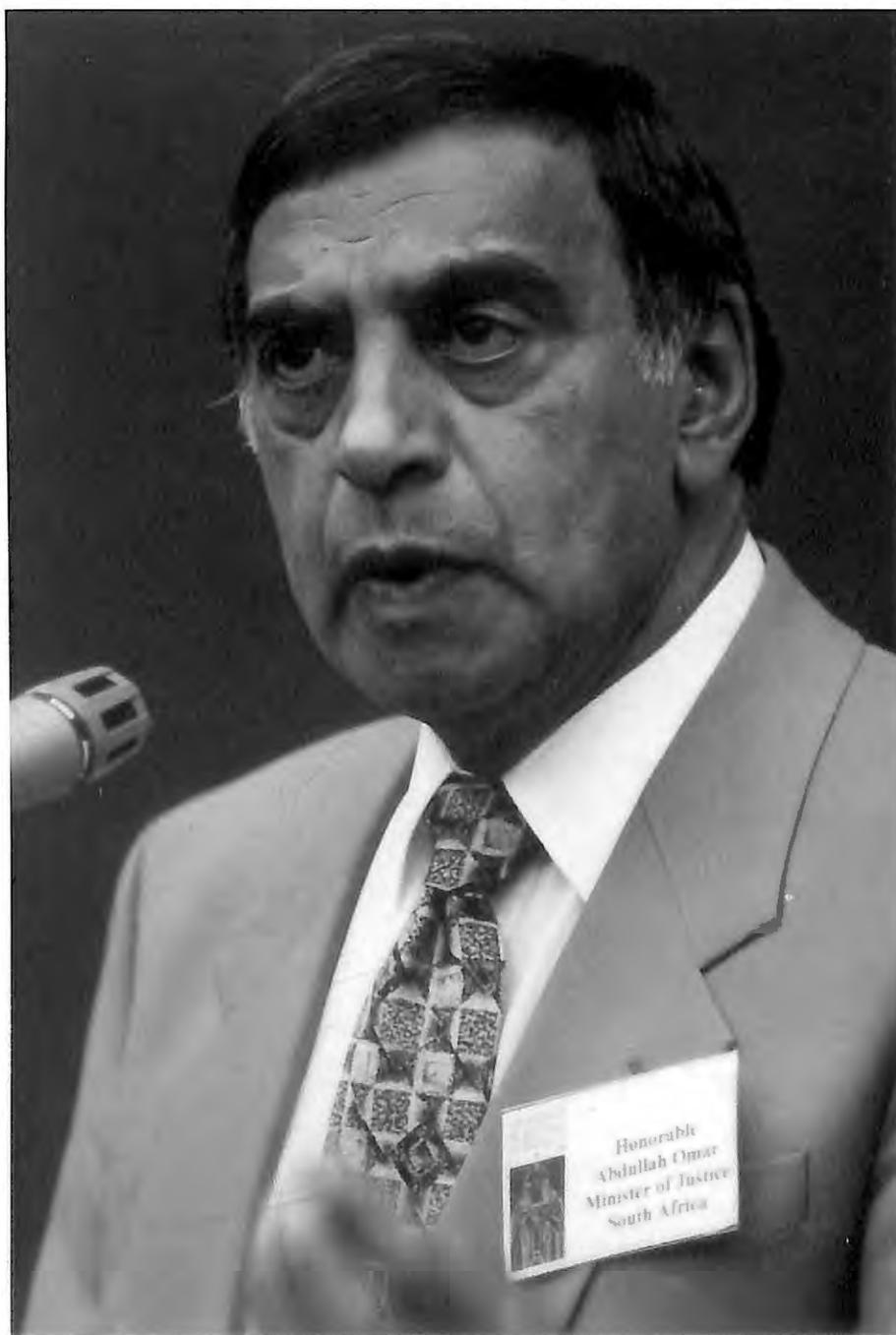
Omar stressed, "What we are trying to achieve is not only reconciliation between people, but also to establish the principle of accountability for human conduct. Every individual must be accountable for his or her actions. We believe that is the only way that we shall be able to establish the rule of law in our country. We have a tradition of violence, a culture of violence, a history of violence, a history of people taking the law into their own hands, a history of people not being accountable for what they do. Terrible murders and other crimes have been committed and people have not been held accountable.

"So ending violence is a priority, ending the culture of violence is a priority, establishing accountability and the rule of law is a priority. That is the only way that we will send a signal to our people that every person who commits a violation on our people shall be held accountable.

"We may have had a miracle transition in the sense that we were able to remove the white minority regime from power through elections, but ours is not a fairy-tale ending. There is still a long struggle ahead."

Omar's appearance was sponsored by the Law School and the UB Human Rights Center. ■

*South Africa's Minister for Justice
Abdullah Mohamed Omar*



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PHOTO: JOHN HICKEY

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