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in this issue . . .

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EDITORIALS

1 "I WON'T BUTT IN" BOTHA

When Mr Hennie Smit, Minister of Posts and Telecommunications, in the debate on the proposed President's Council, made his outrageous statement that it was "unfeasible" to include blacks in the planning of a new constitution because they were "less developed" and had "slower thought processes" and compounded this insensitivity by making an explanatory statement as insulting as the original one had been . . . Mr P.W. Botha did nothing. He neither threw Mr Smit out of his Cabinet, which is what he should have done, nor did he even rebuke him. Instead he said he wouldn't butt in.

When the Lion's rugby tour was on, and South African sport was pretending as hard as it could that discrimination, in its field at least, was really a thing of the past, the Pretoria City Council showed how far progress had gone there by refusing to allow a match to take place on one of its grounds because black players would have been involved. The club with the black players wasn't some upstart team trying to embarrass the City Council. In its all-white days it had been using the ground for 75 years. Mr Botha said nothing.

When the Minister of Indian and Coloured Affairs, Mr Marais Steyn, addressing a white audience in the Jeppe constituency, gave his attention to the question of coloured and Indian people living in the area, and made the statement, quite as offensive as Mr Hennie Smit's, that he did not want friction and unrest because of mixing in white areas and he was particularly anxious about the reaction to it of returning national servicemen . . . Mr Botha said nothing.

Mr Botha, apart from being Prime Minister, is Minister of Defence. The armed forces he controls sometimes boast of the fact that they practise no discrimination. Perhaps they are right in some respects . . . although one sometimes wonders what kind of black person it is who is willing to risk his life not to be discriminated against "on the border", while he fights to ensure for himself the reception Mr Steyn is preparing for him when he gets home.

However, that is another question. The one we pose here is, why did Mr Botha refuse to become involved in any of these highly contentious incidents? What has happened to that knight in shining armour we were being told was our Prime Minister a year ago, the man who was going to challenge the mighty Nationalist Party machine and some of its most cherished shibboleths? Did he ever exist? If he did, he doesn't seem to anymore.

For if Mr Botha was not prepared to repudiate Mr Smit and the Pretoria City Council and Mr Steyn *at once*, which was the only point at which the damage to black feelings might have been contained, one can only conclude that he didn't think it necessary, or that he was too unsure of his position in the Party to risk it.

Either conclusion is depressing. The first would suggest that the Prime Minister is as insensitive to black feelings as the two Ministers we have quoted. The second, which his record in the first half of 1980 supports, is that for him too, as for all his predecessors, the short-term future of the Nationalist Party is more important than the long-term future of us all. □

2 AGENTS FOR CHANGE

The actions of the South African Police during the period of unrest, which started in April with the school boycott by coloured children in the Western Cape, have been as might have been expected. They have detained a large number of people without charging them, some without access to lawyers or their families. Most of these people were prominent in educational or trade union or politicial circles; none of them, so far as we know, had embarked upon a course of violence; some of them are reported, at the time of their detention, to have been trying to persuade the boycotting children to go back to school. Far from helping to end the boycotts the detentions have contributed as much as anything to their continuation. For the first reaction of most boycotters to the detention of their leaders and friends has been to say that they won't go back to school (or work, if they are strikers) until their colleagues have been released.

The police have banned other people, notably Mr Curtis Nkondo and, more recently, Mr Fanyana Mazibuko. Mr Mazibuko, was secretary of the Soweto Teachers' Action Committee, a leading figure amongst those teachers who resigned after 1976 and certainly an uncompromising opponent of Nationalist policy in general and Bantu Education in particular. He had come in for some criticism in Soweto shortly before his ban for suggesting that the time was approaching for the Black Consciousness Movement to abandon its exclusiveness, which he felt had served its purpose of establishing black self-confidence, and to start talking to friendly whites.

To ban Mr Mazibuko and to detain people who are reportedly trying to persuade children to go back to school suggests that the security police, who decide such things, are so poorly informed that they haven't the faintest idea of what they are doing. Or have they, as one suspects they have often done in the past, used the occasion of this latest unrest just to settle a few old scores?

The police have also baton-charged a lot of people, in many cases without provocation. It happened on the Market Square in Pietermaritzburg, at the gates of the Indian university of Durban/Westville, in the grounds of a large number of schools. The batons seem to have thudded down with a total lack of discrimination on anyone black who got in the way, including students at Durban/Westville who had gone there to register to start classes again.

And finally the police have shot a number of people, at least some of whom were remote from and having nothing to do with whatever incident it was that they claimed they were trying to control. All this has added up to one thing—a widespread political awakening of a great many people who probably weren't particularly political previously. This, of course, has happened before. It happened after Soweto in 1976 and it has happened in various other confrontations between the police and the public before and since then. It would indeed be ironic if, when the history of the present time in South Africa comes to be written, it were to be found that one of the more important agents for change here had been the actions of the South African Police. That their bannings and detentions and baton-charges and bullets, far from subduing and taming those they were directed at, instead caused a great many apolitical people to become political, and induced a solidarity amongst their victims that no amount of political exhortation could have done. After all, what quicker way of learning the deficiencies of one's political system than through an unprovoked crack on the head from the baton of one of its agents? □

3 LAND REDISTRIBUTION

In the last issue of REALITY we carried a long article on the redistribution of land which we hoped would give rise to a discussion in our columns on this very important subject as it relates to the future of South Africa.

In this issue we publish the first response to Norman Bromberger's article. We hope that there will be more from our readers in future issues and we invite contributions from them.

In Zimbabwe the question of the land and how to secure a fair distribution of it without undermining food production is one of the most daunting the new government faces. In South Africa where over 80% of the land is under white control, and the state of deterioration of the black areas has been brought home to everyone by the present disastrous drought, the problem will be even more urgent and difficult for any new government.

The time to start thinking about how to cope with it is surely now. □

SOME REMARKS ON LAND REFORM IN SOUTH AFRICA

A DISCUSSION

by Tom Lodge

I will first summarise briefly Norman Bromberger's article.

True land reform involves the expropriation of landowners by the State and the reallocation of land in such a way that a wider section of the population benefits from it. Such a measure normally has three objectives: equalisation of income within the rural population; reduction of urban-rural disparities; increase of output. Land reform can have both a reformist and a revolutionary content: in pursuing reform (moderation as opposed to total change of the socio-economic system)its exponents may heighten social tensions to a point where they can no longer be contained.

Land reform has been common in the twentieth century and often practised on a massive scale. Two sets of explanations are useful. One is to view it as the result of conflicts that arise when the changes arising from the transition to modern industrial society can no longer be contained within the framework of existing pre-industrial social relations. The second is to see the demand for land reform as being especially powerful in the cases in which a feudal landowning class succeeds in transforming itself into a large-scale capitalist group as opposed to the development of relatively small-scale commercial agriculture. The second explanation seems more applicable to the South African situation.

Given the hypothesis that redistribution in the South African case would have considerable popular support (whether undertaken as an ante or post-revolutionary measure) what benefits would redistribution in favour of a recreated peasantry (the strategy Bromberger chooses to consider) bring?

Experience elsewhere (Taiwan is cited specifically) suggests that reform can bring about substantial alleviation of poverty and reduction of inequalities within rural society. In South Africa, however, bearing in mind the vast size of the rural landless population, the question arises as to whether there is enough land to meet all demands. Also, in terms of level of available skills, nature of infrastructure, and ecological factors, redistribution might lead to shortfalls in production (at least temporarily) affecting both the welfare of the rural and urban populations. It is likely that in the event of a peasant oriented land reform, townspeople (or certain classes within urban populations) would have to pay more than they do at present for food and raw materials.

Many development economists argue that 'output per unit of land is inversely related to farm size'. In other words peasant agriculture, with its greater degree of labour intensity is actually more productive. Large farms only appear more productive because infrastructure, credit and markets are geared to their advantage.

Bromberger has doubts about the salience of this argument in the South African context where immense costs would be invoked in reorienting the infrastructure, credit and markets to a rural population largely illiterate, and, because of landlessness, without experience of commercial farming. He goes on to quote evidence from an Indian context which suggests the inverse relationship between output and unit size to be operative only in an overall context of backward technology.

In any case in an industrial economy such as South Africa's is labour intensive small-scale farming feasible? There is .. something else for rural labour to do ... to work for wages which could not be matched by family labour on a family farm. On the other hand existing examples of small-scale Black farming (e g Kwa Zulu sugar farmers) suggest that redistribution, if not actually leading to increases in output, will not necessarily cause dramatic deteriorations. There is a paucity of conclusive evidence.

This is the gist of Bromberger s argument.

In the South African context there can be no serious doubt as to whether the alleviation of rural poverty could be achieved without the redistribution of land either from the private sector to the state or through the peasant strategy discussed by Bromberger. Existing land allocation and influx control (not mentioned in Bromberger's paper) are the root cause of rural poverty and the puny efforts in homeland job-creation schemes and state sponsored rural development programmes are little more than propaganda exercises. At best they have the effect of helping to develop a tiny homeland bourgeoisie which may serve to deflect some political aspirations. The removal of influx control would provide powerful stimuli for an improvement in the lives of the rural poor. A massive and uncontrolled swelling of South Africa's urban population would bring with it considerable social distress but it would also present very powerful pressures favouring a massive increase in wages, vast expansion of housing, and heavy progressive taxation. Of course reform would involve considerable costs: at present white urban populations are provided with services which compare favourably with those existing anywhere else in the world at rates which are derisorily cheap.

Even with the removal of influx control land reform will be necessary. South African industry is increasingly capital-intensive and without the political protection they at present receive from the state, employers, forced to pay higher wages, will be induced (unless prevented from doing so) to cut down on their labour requirements. In any case, given the sort of climate in which these reforms would be possible there will be a slump in investment. Some third world economists are enthusiastic about the capacity of the 'informal' sector to soak up urban unemployment but increasingly it is doubted that activities in this sector can do more than provide a very bare survival, often at the expense of an already poor community. So obviously reallocation of land will have to take place, especially if African farmers are expected to produce the surpluses necessary for their own security and investment in improved technique.

To understand the effects of this one needs to have some idea of just how efficient South African agriculture is at present. Though the game reserves are an area where distribution can initially take place with little disruption of production, inevitably there will have to be major interventions in the commercial agricultural sector. Some of these of course, could take place without serious social conflict. By the time South Africa has developed to the stage in which these changes become possible there may have been considerable depopulation of 'white' rural areas. (Mozambique is a case in point: on the whole there has been little expropriation, rather deserted states have been taken over either by the state or by peasant farmers). Though the Kenyan example suggests that a carefully controlled reform need not bring about production falls, (in fact Kenyan agricultural production increased at a rate of 4 per cent in the 1960s), it is misleading in the South African context. The white commercial sector there was relatively small and less efficient than, for example, plantation agriculture. Landlessness was not a universal problem amongst Kenya's black population: the regulated transfer of settler land to individual African owners could resolve the immediate problems posed by landlessness amongst the Kikuyu without interrupting production patterns. The fact that the pattern of landownership and usage has remained unaltered except in the racial sense has caused some radical political economists to argue that all that has been achieved in Kenya is the postponement of social conflict. But in South Africa's case such a smooth transition would be unlikely: the demands confronted by any post-liberation regime would be far more intense and less easy to meet within an unchanged agricultural framework. Whether the breaking of this framework would, in the long term, be disastrous is, in the absence of a technical appreciation of South African agriculture, a difficult question to discuss. At present farmers are able to employ political muscle to gain state protective measures; in the past these were crucial to their success in competing with black peasants, but today, given their technological sophistication, they may only be socially costly luxuries farmers could well do without.

African precedents suggest that a post-revolutionary regime, even if it was during its revolutionary phase of development fuelled by agrarian discontent (and contemporary South African revolutionary movements are urban oriented), tends to favour the conversion of the colonial estates into state farms or at least areas in which collaborative forms of production would predominate. For example, in Algeria before independence a third of the cultivated land was taken up by large mechanised European owned farms and the rest was divided into over 600 000 Muslim small holdings, most of which were inadequate to provide subsistence for their inhabitants. The shortfall in production within the Muslim sector was made up by remittances from the Algerian migrant workers in France. Following independence, with a massive exodus of French settlers, farms were seized by farm labourers and soldiers and worked on a basis of democratically elected management committees, which were to become increasingly bureacratised and subject to state control. In the first six years production per acre fell by approximately a third (though remaining substantially higher than the 'traditional' Muslim sector), though this fall may have in part been a consequence of the State's preference for industrial as opposed to agricultural investment. Only in 1971 did expropriation in favour of the creation of a prosperous peasantry begin. In Ethiopia in 1975 peasants were given 'rights of possession' to the land and freed from the exactions of a feudal landowning class. But the Dergue has stopped short of granting individual tenure (ownership is vested in the state) and the ultimate intention is some cooperative if not collective form of production. Social equality and, in the short term, political loyalty of the formerly most oppressed sections of the rural population, have been bought at the cost of chances of increasing productivity (land redistribution has been executed with tremendous enthusiasm but in units more suitable for subsistence rather than cash agriculture). But in the Ethiopian case static production levels and even urban food shortages represent an improvement on feudal conditions. State farms have been important in the Mozambican context. For the first two or three years of the FRELIMO administration they received priority in terms of development expenditure. Communal ventures by the peasantry have not normally been at the expense of the estate sector (instead they have involved resettlement and occupation of the smaller settler holdings). The inefficiency of the estate sector as well as ideological considerations have since 1978 caused a reorientation of strategy in favour of small-scale peasant producers.

Do such case studies have much significance for South Africa? I think they do. Given a conflict free environment it may be possible to argue for the virtues of mechanised as opposed to peasant labour-intensive production. But even if the Indian evidence cited by Bromberger had a general significance (and comparisons between peasant and capital-intensive production in Eastern Europe suggest rather different conclusions), lessons drawn from it may not be applicable to a revolutionary aftermath. Shortage of skills, investment capital, social tension, sabotage and the effects of wartime disruption would make simpler forms of agricultural production the most sensible to adopt in the short term. They would also go further towards providing political stability. In the light of African evidence a socialised mechanised sector however desirable in the long term, is difficult to erect immediately on the still-warm funeral pyre of capitalist agriculture. Moreover the conservation of the estate sector even under worker management may perpetuate rural inequality (here the Algerian and Mozambican evidence is relevant), unless the labour process itself is substantially altered so it can absorb a major proportion of the rural population.

Bromberger's article is a valuable and interesting introduction to a set of complex and debatable issues. But to centre the discussion on the potential of a revived peasant sector is, I feel, a little artificial. In the kind of political environment in which land reform could take place the element of choice between one strategy and another will be subordinated to immediate political considerations. (I do not think that pre-revolutionary land reform is an option worthy of serious consideration: any measures would be of a co-optive and partial nature). What deserves more emphasis is the price which will need to be paid whatever strategy is adopted. The wealth of South Africa's white (and largely urban) society is at least partly based on massive social injustice in the countryside. Historically it involved capital accumulation at the expense of the rural poor. Any reforms in their favour will involve a drastic reduction in the grotesque levels of consumption amongst members of South Africa's ruling class.□

BEHIND THE MASK

OF THE MAIDS AND MADAMS

by Audrey Cobden

"I've been a slave all my life." So feels a domestic worker in the Eastern Cape. "They should not treat us like slaves" says another—"She can't do without a slave like me". An exaggeration? Too sensational? No, not at all. This feeling of entrapment permeates the book, *Maids and Madams* by Jacklyn Cock. It is both a sensational and a serious book. Though titled "Maids and Madams" it takes a much wider look at women, black and white, in South Africa, and at the whole institution of domestic service. Indeed it is subtitled "A Study in the Politics of Exploitation". Ms Cock feels that both maids and madams are victims of exploitation.—Their experiences of course differ greatly, and it is the examination of them that is such a fascinating aspect of this book.

The sensational part of it is that in which the direct experiences of workers and employers are explored. It is the revelations that are sensational, and many white readers will prefer to judge the expressed feelings of the domestic workers as exaggerated.

The book as a whole is an entirely serious and well documented study of women in a particular area of South Africa, the Eastern Cape, in which the British Settlers of 1820 were located. Rural and urban areas are included: Grahamstown, Port Alfred and the rural area between.

A semi-structured interview questionnaire was used, producing 225 interviews with domestic workers and employers. Fifty domestic workers were interviewed in depth by Ms Cock's field worker Nobengazi Mary Kota. Being a part-time domestic worker herself, she was able to establish a remarkable degree of rapport and trust with the domestic workers interviewed. An interesting fact about the employer interviews, conducted by Ms Cock, is recorded. She conducted a pilot survey and experienced great hostility when introducing herself as investigating the situation of domestic workers, getting a 25% refusal rate. When she changed the wording to saying she was studying "the position of women and the organisation of the home", she got only 3 refusals! Thus was she able to get through the mask of guilt behind which many "madams" hide.

Domestic servants are part of the South African way of life. In this, Ms Cock points out, our society resembles the Stuart period of English history where "a quarter or third of families contained servants. This meant that very humble people had them as well as the titled and wealthy".

Inhumanity: The truism "Man's inhumanity to man" is as nothing compared to woman's inhumanity to woman; and this is often embodied in the madam-to-maid situation. So you find workers being paid wages ranging from R4 (2cases) to R60 (1 case) per month with an average of R22,77. This figure is certainly higher in other centres but it remians an incredible indictment.

You find a worker whose daily food ration includes 2 inches of milk (the container is not specified), 2 slices of bread, 2 tea bags, 1 spoonful of jam (tea, dessert or table?) A worker records "I only get samp, but I cook everything and am not allowed to eat it. Everybody would like a piece of meat, especially if you have to cook it. The smell is enough". Another on left overs "I'm just a rubbish bin for them".

A few of the more remarkable comments made by employers about food:— "I don't like to throw anything away so I give it to her rather." "I give her what the dogs wouldn't like". 40% gave no meat.

You get full-time workers doing an average of 61 hours a week, with the range from 40 hours to 89 hours per week. 9½% do not get any time off in a day. 31% do not get a day

off in the week, so that they work 7 days a week. 23% do not get an annual holiday.

Of clothes—"anything that's too old or shabby for me, she gets". Another—"I never give them anything which I cannot use".

Family Life: The extent of disruption of the family life of a domestic worker comes through very clearly. Workers care for the children of their employers at a tremendous cost to themselves: the cost of their inability to care for their own. "We leave our children early in the morning to look after other women's families and still they don't appreciate us".

The employers' ignorance of their servants lives outside the work situation was startling. Again this is not confined to the Eastern Cape. A very typical viewpoint is that servants are like children; so that the core of the relationship is paternalistic and these women therefore do not see themselves as exploiters.

Vulnerability: Domestic workers, together with farm workers, are the most vulnerable workers in the labour market of South Africa. Like farm workers, domestic workers are specifically excluded from the definition of "worker" in the labour legislation of the country, and so are totally unprotected. Until 1974 they received a modicum of protection under the "*Masters* and Servants Act" (who said the slave idea was an exaggeration?) This was then repealed and nothing has replaced it since. Both the Wiehahn and Riekert Commissions avoided or ignored the issue. As Ms Cock puts it, domestic workers are in a legal vacuum.

Wages and conditions of service are fixed in an arbitary private agreement between worker and employer. Domestic workers are excluded from the benefits of the Unemployment Insurance Act and the Workmen's Compensation Act. Strict enforcement of Influx Control regulations have the effect of forcing workers to remain with an employer rather than run the risk of being "endorsed out" of an area. Many workers are tied to a particular employer because of the restrictions surrounding all black work-seekers.

One of the Family: With this phrase many employers describe their relationship with their domestic worker. But in the depth sample in the Eastern Cape, Ms Cock reports that not one domestic worker considered herself, as "one of the family". The relationship between domestic workers and employer showed considerable variation. Most relationships showed some degree of social distance; and workers adopted a mask of deference as a protective disguise. They were powerless to truly express overt dissatisfaction.

Domestic worker–Self image: The chapter on self imagery was particularly revealing, especially where it investigated the domestic workers' perceptions of themselves as blacks and as women. As workers they all felt they were badly treated and all felt they should get double their present wage.

As blacks all felt that they were not treated fairly, with examples ranging from pass laws and influx laws, unfairness in lack of work opportunities, and poor housing, to lack of dignified treatment. During the period of the field work of the book, the Black Consciousness leadership was detained. The Black Community Programme, which had been very active in the Eastern Cape, had been banned.

Yet only 44% of the depth sample had heard of the Black Consciousness Movement. There was also a reluctance to talk about the topic.

As women only 16% of domestic workers interviewed in depth (in contrast to 24% of employers) thought women were generally inferior to men in their personal qualities. Most workers felt that although they had more difficulties than men they were better able to handle them. Although only 24% had heard of the Womens Liberation Movement, most of the black women had a much greater "feminist consciousness" or natural insight into discrimination against women. So one gains the impression that for all the oppressions they suffer, domestic workers' personal integrity remains intact.

Trapped: Through many examples Ms Cock shows how

Biddy Crewe

domestic workers are totally dependant on their employers. The feeling of being owned, as a slave, reflects a feeling of being trapped. This is epitomised in a revealing advertisement by a work-seeker in a Grahamstown newspaper "Cook-general seeks work as owner transferred". The fear of losing her job is also part of the trap. The dependence of employers on their domestic worker is revealed as well. But the curious anomalies in this quasi-affectionate dependent situation are highlighted by the situation of the employers, very comforted by the proximity of her maid, who "sits in the kitchen making her grass mats at night, while I sit here (the lounge) sewing". What a tragedy that these two women can never really share any kind of companionship in a situation which cries out for sharing.

This gap illustrates, par excellence, (to use a favourite phrase of Ms Cock) the fact that the domestic worker/employer set-up is a microcosm of South African society. Even when we share common experiences (in this case loneliness), we cannot bridge the race barrier.

Employers as women: 24% believed women to be generally inferior to men (only 16% of domestic workers thought this). 62% thought women were treated fairly in South Africa. 14% had not heard of the Womens Liberation Movement. The majority accepted their subordinate role in society. These women too are trapped in a society in which the subordinate role of women is the norm.

Some good relationships: Only the bad comments have been quoted because the majority of workers experienced only the bad side of domestic service at the hands of exploitive employers; but some workers expressed feelings about employers thus (inter alia): "I have good feelings about her because she treats me like a person". "I feel pity for her and try to comfort her when she is upset". "If she makes tea, she gives me some too". "She helps me with the housework and we have tea together".

Some employers about their workers—"She's a friend. I'm very fond of her". "We have an easy relaxed kind of relationship based on mutual trust".

The second part of the book deals with the historical overview. With much erudition Ms Cock shows how the pattern of domestic service has changed. It began with whites brought from England with the Settlers. This situation has slowly transformed in its racial character and domestic service became the prerogative of black women. One interesting piece of information concerns the capture by a British warship of some Arab dhows with a cargo of over 200 slaves from Abyssinia. The slaves, mostly women and children, were sent to Lovedale and ended up as domestic workers in various homes in the Cape.

The third part concerns "The Ultra-Exploitability of Domestic Workers". It shows with great insight, sensitivity and scholarship how discrimination of race and sex affects domestic workers, and sets this in a wider frame of reference. Ms Cock examines in detail the general situation of black women in South Africa, especially in regard to education. Women handicapped by lack of education turn to domestic work as the only work opportunity open to them. But opportunities are gradually changing because domestic service also provides an entry into urban areas and urban contacts. Ms Cock calls this domestic service a strategy of survival.

APARTHEID'S DEEP SOUTH

Ms Cock uses this phrase to describe both the geographical area in which she did the research, and the institution of domestic service itself. It is the title of the slide-tape show she has produced which could be described as a "popular" version of some of her book (mainly the first part). "Popular" meaning "*for* the people" because "popular" (pleasing *to* the people) it is not. But the slide show will bring her message to people who will not read the book.

Many will consider the book to be too one-sided. If it is, one must consider that if one side is over-exploited, the revealing of this exploitation will always be considered one-sided by the other side.

This is not a popular (for the people) book. It is a book to stretch the mind, an important book. A serious book about a serious subject. It tends to be repetitive but it is never boring. It should be required reading for all people concerned with exploitation of people by people. But alas! It may be like books about anti-semitism which are only read by Jews. *Maids and Madams* may only be read by the converted madams (and very few maids).

There is so much to this book and space prevents one doing justice to it. One hopes your appetite has been whetted. □

"CONSCIENTIOUS OBJECTION: A CHRISTIAN PERSPECTIVE"

A lecture delivered at the University of Natal, Pietermaritzburg

by Paddy Kearney.

"Any outright rejection of violence is an untenable alternative for African Christians . . . . In accepting the violence of the Cross, God, in Jesus Christ, sanctified violence into a redemptive instrument for bringing into being a fuller human life."

CANNON BURGESS CARR
All-Africa Council of Churches

"South Africa and the Church of Christ are continually under the attack of the world powers of revolution and Marxism, which try to make everyone equal. There is proof that the soldier who has faith is always better."

PRIME MINISTER P.W. BOTHA

"After much prayer, reading and discussion, I have come to the conclusion that, for me at any rate, military service is incompatible with my Christian convictions."

RICHARD STEELE
A South African Conscientious Objector

"Unless we can claim that a strenuous effort has been made to reach understanding between Blacks and Whites, including liberation movements, conscientious objection seems the only possible Christian stand."

ARCHBISHOP HURLEY

These four quotations will illustrate very clearly that there is no one Christian perspective on conscientious objection. So it was wise of the University Lecture Committee to choose the title "Conscientious Objection: A Christian Perspective".

CONSCIENTIOUS OBJECTION – A TIMELY TOPIC!

I think the Committee should be congratulated on choosing a very timely topic. It's a timely topic for a number of reasons:

1. There is evidence that an increasing number of young men are not reporting for military service. For example, in a written reply to Mr Harry Schwartz, MP the Prime Minister and Minister of Defence said that the cases of 1 589 people who had failed to report for military service in 1978 were still being investigated. It is likely that many of these are overseas; many too are thought to be graduates who are badly needed for the development of the country. So while the Prime Minister has declared that there is no "trouble between the Defence Force and conscientious objectors", there is some reason for believing that there is such conflict, and that it is escalating! Church leaders have also declared that "Through the pastoral ministry of the church and through other sources it is well known to us that there are many young men facing the same dilemma, . . . that is, whether to undertake military service in conflict with their conscience or whether to suffer the harsh penalty of refusal".
2. During the last year there have also been a number of significant developments which have kept the issue of conscientious objection constantly in the limelight:
   a) NUSAS has mounted an energetic campaign for the recognition of alternative national service, a campaign which is thought to have had a lot to do with the banning of several student newspapers.
   b) A prominent Quaker in Cape Town, Professor Paul Hare, has tried to demonstrate the viability of alternative national service, by taking a number of preparatory steps for the establishment of an ambulance unit in Namibia. His efforts have unfortunately met with very firm rejection from the Prime Minister himself, though at an earlier stage there seemed to be positive interest on the part of certain high-ranking defence officials.
   c) For the first time since the famous 1974 South African Council of Churches' debate at Hammanskraal, and the subsequent passing of the Defence Amendment Act which makes the encouragement of conscientious objection a criminal offence, the churches have once again been speaking up much more boldly about the issue. All the so-called 'main line' English-speaking churches have passed resolutions on conscientious objection and called for alternative national service to be recognised and established.
   d) Increasingly during this past year, the topic of C.O. has been seen by the churches within the wider context of civil disobedience to any laws which cannot be reconciled with the Christian faith.
   e) 1979 ended with the conviction of a Baptist, Peter Moll – who had made a very clear declaration of the reasons for his refusal to do military service. A second Baptist was tried in February for the same reason–he is Richard Steele whom I quoted at the beginning of this lecture. Both Peter Moll and Richard Steele, in refusing to do military service, asked to be allowed to do an alternative form of

national service, and indicated their willingness rather to go to prison than to compromise. Both are now in detention barracks.

For all these reasons, then, conscientious objection is a very appropriate subject for the first University Lecture of 1980!

DEFINITION OF CONSCIENTIOUS OBJECTION

The topic is of course immensely emotional and controversial—it seems to touch on a very raw nerve ending. The controversy starts even with the definition of the C.O! Some insist that only those who make a clear declaration of their objection can be regarded as C.O's, while all others should be classified as 'draft dodgers'.

Others prefer to include all who refuse to do military service whether they stay in South Africa or not, whether they make a clear declaration or not. The problem with the latter definition is that it leaves one in the realm of speculation. How can we be certain that a person who doesn't report for military service is not simply afraid of the dangers involved? The problem with the former definition, is that only very few of the South African conscientious objectors would have the courage to make declarations such as those made by Peter Moll and Richard Steele.

VARIOUS TYPES OF OBJECTORS

What are the various categories of objectors?

1. Some C.O.'s refuse to be conscripted for any form of national service, whether military or otherwise. These are called CONSCIENTIOUS NONCONSCRIPTIVISTS.
2. Other C.O.'s refuse to be conscripted for military forms of national service. This group are called CONSCIENTIOUS NONMILITARISTS.
3. A third group, are those who refuse to do their military service in a combat capacity—that is, they refuse to carry arms. These are referred to as CONSCIENTIOUS NONCOMBATANTS.

The focus of this Lecture will be on the second group, those who refuse to do any form of military service, but would be willing to do an alternative form of national service not controlled by the Defence Force. There are very few CONSCIENTIOUS NONCONSCRIPTIVISTS here, or anywhere in the world. The Jehovah's Witnesses are in this category but no other religious group. A much bigger group are the CONSCIENTIOUS NONCOMBATANTS, but as they enjoy a very grudging recognition and some provision in South Africa, I have decided not to deal with them at any length.

All three groups further divide themselves into two types—those who are selective and those who are universal in their objection. Thus there are people who would refuse to do any form of national service for any country in the world (universal nonconscriptivists) and those who would only refuse to do it for a particular country or countries (selective conscriptivists). If we look at group two, i.e. the CONSCIENTIOUS NONMILITARISTS – in South Africa, the great majority of them are selective in their objection. They refuse to do any form of military service for South Africa because they reject apartheid, and see the Defence Force as propping up that system. However they make no statement about war in general. A much smaller group are the universal nonmilitarists or pacifists, those who would refuse to do any form of military service, any where, at any time.

I'll need to say quite a lot more about each of these groups i.e., the selective and the universal nonmilitarists, but that will be sufficient for an introduction.

CHRISTIAN ATTITUDES TOWARDS VIOLENCE

The emphasis in the title of this lecture is on the words 'A Christian Perspective' and this leads me to deal in a general way with Christian attitudes towards violence. The church and Christians need to approach the topic of violence in a spirit of repentance—it's actually difficult for us Christians to be very convincing in upholding non-violence or the right to conscientious objection. For the great part of its history the church has itself used violence. Cross and sword have frequently advanced together. Church history is stained with brutality and cruelty, often brutality and cruelty against other Christians.

FIRST THREE CENTURIES

But there was a time when the Church could hold its head high on the subject of violence—a time when she did not allow herself to be embroiled in violence. For the first three centuries after the death of Christ, as the church contemplated his words and actions, they decided that Christians could not be involved in war. They reached this decision not by looking at particular statements made by Jesus. There certainly are statements that indicate a rejection of violence ('Those who live by the sword, shall perish by the sword' Mt. 26: 52) but also others that seem to support the use of violence ("I have not come to bring peace, but a sword"). They did not reach their conclusion on the basis of one or two chosen texts, but rather by looking at the overall content of Jesus' ministry which was very largely directed at healing, giving life, and winning people by instruction rather than destruction.

At this stage the Church was so confident of its attitude towards violence that it rejected any of its members who became soldiers, and many Christians were martyred by the state because they refused to do military service.

CONSTANTINIAN AGE

With the conversion of the Emperor Constantine, this attitude was to change very dramatically. Through its alliance with the state, the Church had discovered what it regarded as a much easier way to spread the Gospel. Very soon the Church realised that its fortunes stood or fell with the fortunes of the Roman Empire. The Roman army inevitably gained in respectability, and gradually attitudes towards military service changed to such an extent that the church virtually took on mutual responsibility for the violent conflicts embarked on by its political ally.

JUST WAR THEORY

But even then, the Church did not give blanket approval to war and military service. Over several centuries it developed certain criteria for assessing whether Christians should be involved in particular wars. In the Middle Ages this was very clearly formulated in Thomas Aquinas' doctrine of the 'Just War' a doctrine which had secular origins in the writings of Aristotle and Cicero, and which can be summed up as follows:

a) A war can only be just if it is declared by a legitimate authority.
b) If the cause is just.
c) If the war is undertaken only as a last resort.
d) And if the means employed are just.
e) Finally, it must have a reasonable chance of success.

It is clear that those who accepted this doctrine perceived war as evil and the doctrine was meant to be a brake on participation in war. Unfortunately the church frequently found itself having to justify more or less any war that the state undertook, even when the state was seriously in the wrong.

WARS OF LIBERATION

A fourth Christian perspective on violence is very current today, particularly in Third World countries, but it too has a long tradition behind it. It is a form of the holy war concept. The doctrine is that wars of liberation or revolution should be supported by Christians because in no other way (so it is held) can God fix exploitation, etc.

Those who hold this theory perceive God as very much on the side of the poor and dispossessed and Christians have an obligation to make their support visible, by their involvement in wars of liberation. For some Christians of course involvement in such wars is less enthusiastic and would be founded on the Just War rather than upon the Holy War theory.

SUMMARY OF CHRISTIAN VIEWS ON VIOLENCE

Those then are the four basic Christian attitudes towards war and violence:

a) The early Christian view which has survived as the pacifist tradition–
b) The post-Constantinian or just war theory.
c) The concept of the Holy War;
d) Religious sanctification for wars of liberation (a sanctification derived either from the Holy War or the Just War theory).

This lecture began with a quotation which represented each of these views. Each of these views takes for granted that God and his will come first for the Christian, though the cynic might argue with some justification that God's will appears to be very much in the eye of the beholder!

The debate between representatives of the four views is centuries old, and shows less sign of resolution than ever. Protagonists of each view can quote from the Bible and Church history to support their view–and claim that all the others are using those sources selectively.

The international debate, amongst Christians particularly in the Third World, tends to focus on justification for wars of liberation–whereas in South Africa the debate amongst white Christians focuses on the issue of C.O. If Black Christians here were free to speak their minds quite openly there is little doubt that they would be much more involved in the international debate about liberation wars.

HOW IS SOUTH AFRICA'S WAR EFFORT PERCEIVED?

How is South Africa's war effort perceived? The Government and the Defence Force, I think, generally see it as a Holy War to defend Christianity against the communist onslaught. As a result they have no doubt about the justice of their cause, and no doubt too that all Christians should be willing to take up arms to defend the country. Nevertheless, every now and then, they seem to leave all religious justification behind, especially in relation to C.O. Thus Mr P.W. Botha said in 1970, as Minister of Defence, "The honour and duty to defend one's country should not be made subservient to one's religious convictions"–a statement which puts him right outside the debate I referred to above–of which as I said all the participants see God and his will coming first for the Christian!

While the white Dutch Reformed Churches have generally agreed with the Government in regarding South Africa's defence cause as a holy one, most English-speaking white Christians have taken a more moderate line. Those who support the war, tend to regard it as a just war, because they would say: "The country must be defended". They might agree that big changes need to be made, but while these are being made internally, the borders must be safe. Or from the comfort of a white perspective, they would hold that the present injustices in S.A. are a much lesser evil than the one that threatens to engulf us.

HAMMANSKRAAL RESOLUTION

The view of the multiracial assemblies and synods of these same English-speaking churches has been strikingly different. This was especially so in 1974 at the South African Council of Churches' annual conference in Hammanskraal, when the official representatives of these churches passed a resolution reminding Christians that they were not obliged to fight when they considered a war to be unjust, declaring also that the present war is unjust because South African society is fundamentally unjust and discriminatory, and challenging their members to consider whether "Christ's call to take up the cross and follow him in identifying with the oppressed, does not in our situation, involve becoming conscientious objectors".

Note the very sound Calvinist conclusion–that each person was to decide in his own conscience, though pretty clear guidance had been given! Of course all hell broke loose, especially from the Government, and from the White community, even from many white sections of the churches whose representatives had passed the resolution!

The Minister of Defence made ominous noises about handing the whole resolution to the Governments' lawyers, no idle threat as subsequent legislation was to show.

Not very long after the Hammanskraal resolution, Archbishop Hurley took the debate a step further. With something of the pre-Vatican II propensity to decide issues for the faithful, he made the following statement to the Sunday Times:
"In the South African situation, conscientious objection should be adopted as a principle by the churches. I believe", he continued, "that the churches should adopt this view even at the risk of open confrontation with the government."

That is, by contrast, a very Catholic statement, because it does not leave the decision to individual conscience. It is like the SACC statement in that it is also based on the Just War theory.

DEFENCE AMENDMENT ACT AND CONSEQUENCES

With indecent haste, Parliament passed the Defence Amendment Act, and it became a punishable offence (penalty 5 years in prison and/or a fine of R1 000) to give any form of encouragement to people to become conscientious objectors. This is a very extraordinary piece of legislation which could make not only a discussion of the Gospel, but proclamation of the very words of Christ, a criminal act!

The threat of these penalties seemed to have been sufficient to get the churches back into line for at least the next five years. During the years 1974–1978 remarkably little was heard about C.O. from the churches, and when the issue was discussed at synods and assemblies there was frequently a lawyer present to ensure that no-one overstepped the mark, not only of the Defence Amendment Act but also of the Terrorism and Internal Security Acts.

Of course this reluctance to discuss the topic was understandable–Christians could argue that it was best not to debate this issue because only those who supported the war would be free to speak, while those who were opposed or proposed universal pacifism stood the risk of very heavy penalties. Sadly, it looked as though the State now had the power to limit Church agendas, and the church seemed unable to do anything about it.

STATEMENTS OF 1979

But the Church's courage seemed to revive in 1979, when the top decision-making bodies of the Anglican, Catholic, Methodist, Presbyterian, Congregational and Baptist Churches all made statements in support of their own right to discuss the issue freely, and the right of individuals to be conscientious objectors. In addition they called upon the Government to allow C.O.'s to do alternative forms of national service, and several of them set up counselling services for C.O.'s within their own churches. Several of these Churches, and the S.A.C.C. also passed resolutions in 1979 in which they urged civil disobedience to all unjust laws.

AWARENESS OF CIVIL WAR

The deep uneasiness of the Churches about South Africa's war involvement relates not only to their awareness of all the injustices practised in South Africa, injustices which are butressed by the Defence Force, but also to an awareness that we are involved in a civil war. This awareness was powerfully present in the S.A.C.C. 1974 Conference when Black and White ministers informed their fellow delegates that they had sons involved in the war but on opposite sides of the fighting. Ten Black delegates stood up to say that their sons had left the country to fight for guerilla forces.

The eyes of many other Christians were opened to the civil nature of the conflict in 1976 and 1977 when the army was called out to quell disturbances which began in Soweto and spread all over the country. Putting the dilemma for the young white person called up by the Defence Force as graphically as possible, some commentators noted that it was now possible for two Christians to join together in worshipping the same God at a Sunday service, even to receive Holy Communion together and then to leave the church and find themselves—the one taking part in a march or protest in a township, and the other in camouflage uniform at the end of a rifle in the same township. The Defence Force role in upholding the status quo was now undeniable. The crisis faced by many young men even more intense.

In the statements of conscientious objectors who are now in exile, this awareness is identified as an important influence. Said one "What is really taking place in South Africa is a civil war—South Africans fighting South Africans, and I was not going to be part of that".

WEAKNESS OF THE CHURCH STATEMENTS

The great weakness of the church statements is that they can easily be attacked because the churches appear to be publicly allied with one side of the civil struggle through for example their provision of uniformed chaplains paid by the state rather than by the church, with no equivalent effort to minister to the needs of the guerilla forces, through allowing obligatory cadets at church schools, through regimental flags prominently displayed in churches, and through events such as the recent opening of a Catholic church at Voortrekkerhoogte—in the presence of the Archbishop of Pretoria and the Prime Minister.

At a much more fundamental level, the church statements on violence are sapped of much of their force by the relationship between Christianity and militarism which goes very much deeper than the superficial indicators I have referred to. In summarizing his research on this topic, Wolfgang Huber states:

> ". . . . the tighter a person binds himself or herself to the traditional doctrines and patterns of behaviour of his or her church, the greater is the probability that he or she has developed militaristic attitudes and patterns of behaviour."

This has happened because the church has either relied upon State power or has imitated such power in its own life-style, rather than totally renouncing secular power. The dominant image of God in such orthodox Christianity has been of an authoritarian figure who punishes and rewards, very much a reflection of the power hierarchies of this world. But this is not a Christian image of God, "God is rather", says Huber, "he who delivers himself up for the benefit of mankind, who takes the powerlessness of the cross upon himself in order to give mankind its freedom".

TWO CASES

More compelling then, than the statements of church councils and synods, have been the declarations made by two conscientious objectors over the last 12 months—the one a selective conscientious objector—Peter Moll, the other a universal pacifist—Richard Steele, both of whom are in detention barracks for their beliefs. Their statements are more compelling because they are more personal, and because they have been willing to undergo suffering rather than compromise with their consciences.

Peter Moll:

Moll, a committed Baptist, in a letter to the Defence Force explaining why to obey the call up would have been 'a grave moral compromise' of his faith, lists the most glaring injustices that he sees in South African society: vast inequalties in wealth, land, power and education, the system of migrant labour (condemned by all the churches, including the Dutch Reformed), and the pass laws designed to keep the whole structure intact. "This," he says, "is a situation of fundamental injustice. Until it is the Government's express intention to remove it, I will be unable to defend it."

He goes on to say that blacks have been totally frustrated in their efforts to change the situation by constitutional and peaceful means, and we should therefore not be surprised that some of them have turned to violence and left the country.

Many young white people who are called up for border duty, he says, are already asking: "Just what are we fighting for, just what are we being required to die for? Are we going to die for a better society? Are we really defending the last bastion of Christianity as we are so often told? Is what we are defending really 'civilisation' in contrast to 'barbarism'? How civilised are those left cold by the extraordinarily barbaric death of Steve Biko?"

His conclusion then is "In my opinion the war the South African Defence Force is fighting at this moment in history, is not for a just cause, is not the last resort, and does not have a reasonable hope of success", a conclusion which he supports by referring to various statements from the churches.

So he now finds himself in detention barracks—regularly in and out of solitary confinement.

Richard Steele:

Richard Steele, in his declaration of C.O. concentrates on the scriptural reasons for his total rejection of violence. He first sets out fully how he has considered the matter of military service very carefully, and concluded that "violence is the antithesis of love, and love as taught and practised by Jesus Christ is at the very centre of the Christian way of life."

He makes clear that he too has a specific reason for objecting in the South African situation. ". . . . as far as I can see, the military is one of the central features of apartheid and what is maintaining its power, and so I see my stand as non-cooperation with the apartheid structure."

He commits himself to be a peacemaker. I want to be used by God in the process of reconciliation between the peoples of our land so that we may live together in true peace—a peace undergirded by justice and righteousness . . . . I am striving to cultivate a non-violent lifestyle: non-violence is the refusal, ever, to leave out of consideration the affirmation of the dignity of the other person, because he/she bears the image of God." He rejects the theory that war can ever be justified—whether to maintain the status quo or to overthrow it.

The nine-page letter ends with the statement that he is "perfectly willing to do National Service as long as it is in a non-military capacity. I do not want to avoid my responsibility to serve my country's people. If there were an officially recognised non-military alternative to military service I would definitely go into it. For instance, if I am able to finish this year of studies I will graduate as a qualified high school teacher and would be more than willing to do my service somewhere in the field of education."

OTHER ASPECTS OF THEORY OF NON-VIOLENCE

Some important aspects of the theory of non-violence are not dealt with in Steele's letter, and deserve elaboration here. The use of non-violent strategies has been described as "an active, highly political, often controversial, and sometimes very dangerous form of engagement in social conflict." I quote those words because non-violence is so often perceived as a soft option—cowardly passivity. The S.A.C.C. decision to urge civil disobediance is of course the logical consequence of their support for non-violence.

The person who commits himself or herself to use non-violent methods of bringing about change, while refusing to use violence, does not seek to avoid violence and in fact has little hope of doing so.

Those who favour the use of non-violence concentrate their attention upon the injustices which lie at the root of all violent conflicts. They call upon the state to stop spending vast amounts of time, energy, human life and money on military defence and rather to devote these resources to eradicating the basic causes of violence. Their concern is with very disturbing statistics such as the fact that every day approximately R1 billion is spent on defence by all the governments of the world combined, and despite such expenditures wars and insecurities multiply.

WHAT DOES THE CONSCIENTIOUS OBJECTOR ASK OF THE GOVERNMENT?

In conclusion, I want to make a plea on behalf of South African conscientious objectors both non-combatants and non-militarists. What are they in fact asking of the Government and the Defence Force? To those who claim to have a Divine mandate to uphold Christian civilization against Godless Marxism, they say: Yes, by all means uphold Christianity, but be aware that the central tenet of that religion is that each individual is of infinite worth, and therefore, as the churches have made clear, should be entitled to decide on his/her own conscience whether he or she will be involved in military activities or not. To a basically Calvinist Government the conscientious objectors point out that the right of individual conscience is especially characteristic of Calvinist Christianity!

As 17 very prominent Church leaders said in defence of Peter Moll's stand: "if the Prime Minister himself is convinced that change is necessary before injustice drives people to revolution, surely others have the right to claim that their perception of the injustice around them gives them the right to conscientious objection."

While the Government has steadily maintained that it has no problem with C.O.'s and that it is actually making very adequate provision for them, there are in fact very severe limitations to those provisions and indeed in their attitude towards C.O.'s. The principal limitations can be summarised as follows:

Limitations of Present Provisions:

1. Government spokesmen like to blur the distinction between military service and national service to suit their own purposes. They claim that C.O.'s who refuse to do any form of military service, are refusing to do any form of national service, seeking in this way to lump selective and universal non-militarists together with conscientious nonconscriptivists—as much more easy to ridicule as either unpatriotic, lazy or very odd!
2. The second limitation is that they recognise that there are certain religious groups such as the Seventh Day Adventists, Quakers and Mennonites which forbid their members to take part in war, but only the members of such churches can enjoy any certainty (note I do not say total certainty) of being assigned to non-combatant duties. No account is taken of the fact that other churches, though they do not forbid their members to do military service, recognise their right to object.
3. The third limitation relates to those who do not belong to churches which forbid their members to carry arms but who nevertheless apply for non-combatant status. A few years ago the Minister of Defence stated that no C.O. would be compelled to carry arms but the S.A.D.F. legal authorities have been refusing exemption on the grounds that the Minister's statement has no force in law. In fact it appears that non-combatant status depends rather more on the army's need for skills than upon the individual's request to be accorded such status.

There are a number of popular misconceptions about alternatives provided by the Government. These misconceptions lead many to think that there are already quite adequate provisions made for C.O.'s and they therefore cannot understand the campaign to have alternative national service recognised.

1. Many people, not a few of them members of the clergy, believe that the Medical Corps is an adequate alternative for C.O.'s. It is important to note that the Medical Corps in South Africa regard themselves as combatant, and do not want C.O.'s to be assigned to their ranks.
2. Other people talk about the Civic Action Programme, in which servicemen work e.g. in schools and hospitals in the homelands, as if this should satisfy any conscientious non-militarist. They seem not to know:
   a) that before going into the Civic Action Programme, servicemen must first do basic training which is of a military nature.
   b) that it is compulsory for those involved in this programme to wear uniform.
   c) that though they do not carry FN Rifles, they are obliged to carry 9 mm pistols.

All of these factors would make service in such a programme unacceptable to conscientious non-militarists. But quite apart from these considerations, the Civic Action Programme is not an option for C.O.'s because this programme aims to give Black people a positive image of South Africa's Defence Forces. Indeed the Defence Force has made it clear that they do not want C.O.'s in the Civic Action Programme.

3. Some people also think that service in the S.A. Police, S.A. Railway Police, Dept. of Prisons and S.A. Merchant Navy are alternatives for C.O.'s. This is simply not so. First of all very few posts are available each year in these services (apart from the Police) and all of them (other than the Merchant Navy) are of a para-military nature, and therefore completely alien to the conscientious non-militarist. Moreover it would take 13 years in any one of these services to complete all obligations to the Defence Force, and then one could still be called up for military service if there was a general mobilisation!

In the light of all these severe limitations there is a very great need for the Government to recognise conscientious objection by making it a legal right which can be contested in the courts and by creating alternative forms of national service not under the control of the Defence Force.

CONCLUSION:

All the indications are however that the Government is very unlikely to change the law for moral or religious reasons, especially when one recalls Mr P.W. Botha's claim that 'The honour and duty to serve one's country should not be made subservient to one's religious convictions'. Perhaps the Government will only yield for pragmatic reasons, when it realises that the very harsh penalties it imposes are not succeeding in lessening the number of those who object—but rather the opposite. Also as it sees that pacifists and conscientious objectors become bolder in setting out the reasons for their objection—as we have seen in the cases of Peter Moll and Richard Steele.

But the road ahead for conscientious objectors in South Africa certainly does not appear to be a smooth or easy one.

FOOTNOTE:

Since this lecture was given representations have been made to the authorities on behalf of Peter Moll and Richard Steele in respect of

1. Relief by means of a new "rule" in Detention Barracks to stop the repetitive sentences upon Richard and Peter in solitary confinement because they will not wear the military type punishment overall issued to military detainees.
2. The urgent need to enhance the law to accommodate men who on religious or moral grounds will not participate in war, to put an end to the threat of recurring sentences once this initial period in Detention Barracks has been served . . . as the law stands at present, technically Richard and Peter could be incarcerated for 42 years!
3. The urgent need to identify and provide opportunities for approved alternative service which could form the whole (or part if necessary) of an extended time, serving the country, but which would win exemption at the end of the "Sentence".

Early in August the authorities responded to the first of these representations and recognised Peter Moll and Richard Steele as conscientious objectors to the extent that they will no longer be subjected to terms of solitary confinement for refusing to wear the detention uniform. (Editor) □

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LUXURY ONE-LINERS

1. Total Strategy
   a con-
   stipation of states
2. Separate but Equal
   you in your small corner
   and me down the mine
3. Urban Foundation
   city
   brick!
4. Western Civilization
   draw!
   a blank—
   robber bank
5. Romantic Capitalism
   the lute
   continues

NOW

Someone is dying now,
  Somewhere; or being born:
Now as I take the air
  Somebody mows a lawn.

Now they are digging fields
  Out of the land.
We take the money now—
  Or take a hand.

Now she turns back to him
  Or leads a band:
Now as we sing a hymn,
  Someone is banned.

The poor are not with us—
  Now is not always here:
Songs do not grow like wheat
  Out of one ear.

SONNET

Some of the townships had run short of rations,
Rumours of typhoid ran through the locations;
Despite official warnings to the nations,
There seemed no reason to control the passions:
Occasionally trains arrived at stations,
Some frequencies broadcast the latest fashions:
Others demanded generous donations,
Offering relief to new and strange compassions.
Deep in the suburbs there was talk of fire:
Housewives and widows chattered in the town.
One danger passed; the bare electric wire
No longer menaced. Slowly the dark came down.
It became necessary to face survival
Before we started thinking of revival.

PIETERMARITZBURG INTERSECTIONS

As I walked out one evening
  All in my weekday vest,
I saw the black whores waiting
  At Burger Street and West.

They waved as I crossed the Dusi,
  Murmuring in the dark,
And turned to where the pictures
  Proclaim our part in the Ark.

Then up to where Colenso
  Spelled the prophets and the loss
Of Eden in the Colonies,
  To the fire of the cross.

I saw the children gather
  By the fountain and the pond;
I saw the policeman waving
  His baton like a wand.

Between terror and pity
  The ghosts of history lurch;
At the heart-beat of the city
  Commercial crosses Church.

THE LEGAL RESOURCES CENTRE:

Why it was established and what it hopes to achieve

Extracts from an article by A Chaskalson SC

(Reprinted with the permission of De Rebus the SA Attorneys' journal).

Origins of public interest law

Much has been written about lawyers and by and large most of what has been written is not complimentary. The *Oxford English dictionary* tells us that from an early period the word "attorney" was often used reproachfully in the sense of a knave or a swindler[1] and Boswell records an observation by Johnson that *"he did not care to speak ill of any man behind his back, but he believed the gentleman was an attorney".*[2]

In Sussex the name "lawyer" is given to a bramble full of thorns because: *"When once they gets a holt an ye, ye doant easy get shut of em."*[3]

In Australia there is a plant called the lawyer palm, so named because the stems and leaves are studded with the sharpest thorns which continually cling to you and draw blood.[4]

Honourable profession

Lawyers see themselves differently. We belong to an honourable profession which takes pride in its integrity and independence. Traditionally lawyers have stood for the protection of individual rights and freedom and there are many examples of lawyers having fought strenously for such causes. It is not unusual for lawyers to act *pro amico* for persons who cannot afford their services and in South Africa the profession has given its support to the legal aid scheme under which attorneys and advocates work at reduced rates for people who qualify for legal aid. Both the attorneys' profession and the bar have supported voluntary legal aid agencies such as the Johannesburg Legal Aid Bureau and the bar also supports the *pro deo* system under which its members go to court for extremely low fees in cases in which the death sentence is competent. Although there is clearly a gap between the way lawyers perceive themselves and the way they are sometimes seen by the general public, most South African lawyers would agree with the president of the USA when he said in a speech delivered on the occasion of the one hundredth anniversary of the Los Angeles County Bar Association: *"No resources of talent and training in our society even including the medical care, are more wastefully or unfairly distributed than legal skills."*[5]

The skills are unfairly distributed because they are available to the rich and the powerful but are not readily available to the poor or in an increasing degree to the middle class. They are used wastefully because protracted litigation consumes the time and skills of the lawyers engaged upon it. A single case can last for months during which the judge, the court officials and the lawyers engaged in the contest do nothing else. It is a catastrophe for an ordinary person to find himself caught up in such litigation and many persons are afraid to turn to the law for that reason.

Complex process

It is not that lawyers are unwilling to work for the poor or the weak. It is simply that the legal process is so complex, so time consuming and thus so expensive that the poor cannot easily gain access to the system. And the irony of this is that the poor probably have a greater need for legal assistance than any other group in society. Poverty is frequently associated with ignorance upon which unscrupulous persons prey; the poor and the weak are easily overreached. And *"the very fact of poverty fiercely intensifies an individual's need for legal representation in almost all facets of life".*[6]

The provision of legal services to the community at large has never been viewed in the same way as e.g. the provision of medical services. Less money is spent on the provision of public legal services than on the provision of public medicine and the legal profession itself has had to subsidize legal aid in a way that no other profession has been required to subsidize public services. Understandably the profession has not been able to meet all needs and the result is that a large section of the public is unable on economic grounds to gain access to the profession. This may not be the view of all legislators, but few lawyers would disagree with Lord Gifford when he said to the House of Lords in a recent debate on legal aid that legal representation *"is not. . . some luxury of life (it is) a service without which one could say that people cannot be fully citizens of a democracy. If there is unequal access to law then society is not governed by the application of law but controlled by those who can afford to use the law"?*

It is the need for legal representation on the part of individuals and groups who are unable to secure such services that has led in England and America to the growth of what the Americans call public interest law.

Public interest law

Public interest lawyers provide services to non-paying clients. They are called "public interest lawyers" because they enable particular individuals or groups to have access to a legal system which might not otherwise be accessible to them. The public interest exists in making the legal system accessible and not in the particular case that is being pursued. It is, I think, an important distinction, for what is or is not in the public interest is frequently a matter of great dispute. No group of persons, least of all lawyers, can claim to have a monopoly on deciding this question and the term "public interest lawyer" if not properly understood, may prove an unfortunate one. Lawyers are agents and not principals; they have traditionally represented any client who required their services and was willing to pay their fee and it is impor-

tant that they should continue to do so. The Johannesburg bar stipulates in its rules: *"It is the duty of every advocate to whom the privilege of practising in courts of law is afforded, to undertake the defence of an accused person who requires his services. Any action which is designed to interfere with the performance of this duty is an interference with the course of justice."*

Obligation

Consistent with this rule is the requirement that counsel must accept briefs offered to him in a court in which he practises at a proper professional fee. There is also a generally recognized obligation on the part of the attorney's profession to see that members of the public are supplied with legal services but this too is subject to the proviso that a proper professional fee is paid. The proviso is obviously necessary for no lawyer could hope to survive in private practice if he were obliged to act for anybody irrespective of the fee which might be offered. But if it is a denial of justice to refuse legal representation to persons willing to pay for it, it is equally a denial of justice to refuse legal representation to persons who are unable to pay for it. The principle that everyone is entitled to legal representation which is a fundamental tenet of the legal profession, condemns a system which denies access to people or groups who are unable to afford the entry fee. The public interest requires that the legal system should be made accessible to all.

America

The development of public interest law in America is very much an aspect of the American plural society which contains many groups who see themselves as being in a disadvantaged position. Several of these groups have sought to protect and advance their interests through the legal system and defence funds have been established for this purpose. There are poverty law centres, centres serving racial or ethnic minorities, centres concerned with the rights of women, environmental law centres, consumer law centres, civil liberties centres, centres concerned with the protection of children and no doubt other types of law centres as well. There are also legal service corporations which are federally funded and which provide wide ranging legal assistance to disadvantaged persons. The annual expenditure on legal service corporations is presently substantially in excess of $200m.

Fundamental rights

Because of the American consitution which guarantees to all persons certain fundamental rights including equal protection under the law, public interest lawyers in America have engaged in "test case" litigation directed to asserting and upholding constitutional rights. But this is only a small part of their work. Law enforcement is as much the concern of public interest law firms as test cases. Gary Bellow, a well-known American lawyer and professor of law at Harvard University, makes the point: *"California has the best laws governing working conditions for farm labourers in the United States. Under Californian law, workers are guaranteed toilets in the fields, clear, cool drinking water, covered with wire mesh to keep the flies away, regular rest periods, and a number of other 'protections'. But when you drive into the San Joaquin Valley, you'll find there are no toilets in field after field, and that the drinking water is neither cool, nor clean, nor covered. If it's provided at all, the containers will be rusty and decrepit. It doesn't matter that there is a law on the books."*[8]

Law enforcement

What the agricultural workers in California required was not test cases to establish what the law was, but enforcement mechanisms to secure their entitlement under the law. For this reason some public interest law firms have concentrated on law enforcement litigation rather than on test case litigation. Other public interest law firms in America have concentrated on research and lobbying with a view to supporting particular law reform projects which might include not only the securing of changes in the substantive law but also the securing of changes in the way that the law is applied in practice.

The American style, though appropriate in that country, is not necessarily appropriate in countries having different judicial and political structures.

England

In England public interest law had developed along somewhat different lines. The doctrine of parliamentary supremacy applies in that country as it does in South Africa. This means that there is no scope for challenging the validity of acts of parliament and only limited scope for challenging subordinate legislation. Although there are some dissidents, members of parliament tend to vote along party lines and the legal profession does not engage in lobbying in the way that it does in America. There is limited scope for test case litigation, and public interest law is mainly concerned with advising and law enforcement.

England has probably one of the most extensive legal aid schemes in the world. It is one under which services are in the main provided by the legal profession in the conventional way. Clients go directly to their solicitors who arrange for legal aid if the client qualifies for such assistance. The scheme which was introduced in 1949 has been amended from time to time and the money voted in its support has increased over the years. In February 1979 the Lord Chancellor informed the House of Lords [9] that the government was spending £44,5 million per annum in providing legal aid. But in spite of the large sums expended by the state on the legal aid system it was found that there were nonetheless deficiencies in that system and in 1977 the senate of the Inns of Court reported that *"a substantial proportion of those who need but cannot afford legal services cannot get them"*.[10]

Agencies

In practice the legal aid system did not provide adequately for all those who required advice or assistance. One of the reasons for this was that law schools have been training students in those areas of the law which are traditionally of concern to private practitioners and many lawyers have no experience or training which equip them to deal with problems of the poor. To meet this deficiency there grew up a support system of agencies to supplement the services proviced by the legal aid. These are neighbourhood law centres, legal advice centres, citizen advice bureaux, housing centres and consumer aid centres. As an indication of the volume of work handled by these agencies it is worth mentioning that in 1976 the citizens' advice bureaux which provide but one of the supplementary services, dealt with 2,7 million enquiries. Barristers and solicitors began working at the law centres and advice bureaux first on a voluntary basis and later as salaried employees. They were supported in this by the law society and the bar council who changed their rules to make such work possible.

In 1977 the senate of the Inns of Court in a report dealing with law centres said:

"(Its) support of law centres and its support for the extension of the legal aid limits is based on the conviction that means and methods must be found to enable all citizens to enjoy and if necessary enforce all their common law rights and those which the legislature has given them. This is essential if the cohesion of the social fabric is to be maintained and strengthened. Free legal advice for those who cannot afford to pay for it is an essential service . . .

The need for (law centres) is proved by the response of the public. All neighbourhood law centres which have been opened have a very heavy case load . . . The law centres have been effective in demonstrating the unmet need in certain areas of law . . . and in showing that such need in these areas can be met by salaried lawyers giving a free service to those in need."[11]

In the same report the senate pointed out that

"it would not be reasonable to complain that solicitors do not practise in areas where potential clients have not been able to pay them . . . or that most barristers and solicitors in private practice are not familiar with parts of the law which they have never been taught and on which in the past they have never been consulted".[12]

Because of the need to supplement and strengthen the legal system and to provide specialized advice in fields which were not adequately served by private practitioners, the senate of the Inns of Court recommended the establishment of regional legal resources centres employing full-time qualified lawyers and agreed that barristers and solicitors could work together at such centres. It stressed that legal resources centres should be independent of both central and local government as they would often be the opposite parties to an issue in which a law centre client is involved. Whilst urging the central and local governments to make funds available for law centres the senate expressed the firm view that such funds should be administered by independent management committees.

South Africa – the LRC

The LRC had its origins in discussions which have taken place during recent years between advocates and attorneys including representatives of the Transvaal law society and the Johannesburg bar council in regard to new ways of making legal assistance available to the poorer people who are so often ignorant of their legal rights and who, because of their limited resources, frequently have difficulty in securing access to the legal system. By 1976 the University of the Witwatersrand had established legal clinics which it used for the purposes of an LLB credit course known as practical legal studies. Students who enrolled for this course were required to work regularly at the clinics where they received an insight into the training and the practise of law. The experience of these clinics showed that they were capable of rendering a valuable service both to the public and to the students who worked in them, but they suffered from the weakness that students did not have the right to appear in court and practitioners who were asked to assist the clinics on a voluntary basis were usually unable to take cases to court for the clinics and were also unable to devote sufficient time to the clinics to provide the ongoing thinking about problems and the follow-through which is a feature of regular full-time law practice. The idea of employing qualified lawyers to supervise the students and to work at the clinics on a full-time basis gained ground and it was felt that if such clinics could be established they would provide important educational and community services.

Memorandum

The director of the practical legal studies course at the University of the Witwatersrand was Felicia Kentridge. She prepared a memorandum in which she suggested that a law foundation should be established to provide alternative forms of legal aid and to work in the field of legal education. This memorandum suggested that law centres should be set up along the lines of neighbourhood law centres which existed in England, and that qualified lawyers should be entitled to work at such centres and to advise and represent persons in certain fields of civil law. This memorandum was submitted to the Johannesburg bar council which considered the principle and decided in May 1977 after full discussion that it would give its support to the establishment of such a foundation and to the setting up of what were then referred to as "legal workshops" at which advocates as well as attorneys could work on a full-time basis. As a result of this decision a firm proposal was formulated to set up a pilot scheme for the extablishment of a law centre in Johannesburg. The SA legal aid system and its judicial and political structures are closer to the English than the American model and the proposed law centre was in many respects similar to the law centres which had been accepted by the profession in England.

Law Clinics

The proposal which was put to the Johannesburg bar council and the Transvaal law society was that they should agree to the setting up of a legal resources centre which would work in co-operation with student law clinics. The legal resources centre would help to supervise the students' working at the existing law clinics which were being run by students from the University of the Witwatersrand and it was suggested that other universities should be encouraged to set up their own clinics and to draw upon the assistance which could be provided by the legal resources centre. Based on the English experience it was argued that the centre would not be effective unless it was staffed by competent practitioners working on a full-time basis and that in accordance with the English model the centre should employ both attorneys and advocates. A similar structure had been adopted by the legal profession in England after full investigation and special rules had been devised by the English bar and the English law society to govern the conduct of barristers and solicitors who took up such employment.

The Johannesburg bar council considered the proposal and decided that it should follow the example of the bar in England and support the establishment of such a centre. It felt that the centre would not only provide a community and education service of great importance but if backed by the profession would enhance its reputation. The rules for law centres which had been formulated by the English bar council were adopted in principle. The Johannesburg bar council having taken this decision consulted the general council of the bar of South Africa. The proposal was first considered by the executive committee of the general council itself when it met in July 1978. At its meeting in July 1978 the general council gave its unanimous approval to the proposal. The Transvaal law society also considered and agreed to the implementation of the scheme and by the end of 1978 both branches of the profession had consented to the establishment of the Legal Resources Centre.

Constitution

In January 1979 the LRC was constituted as a non-profit making association. It has offices on the second floor at Innes Chambers. I was appointed by the trustees as the first

director of the LRC. This is a full-time position; there are in addition two advocates and two attorneys on the full-time staff of the LRC. The LRC's funds come from the Legal Resources Trust whose trustees are Mr C. Cilliers who is the chairman of the trust, Mr C. Geach, Mr J. Kriegler SC, Mr S. Kentridge SC, Mr I. Mohamed SC and Mr B. Wunsh. I am also an ex-officio trustee. The Legal Resources Trust is supported by a number of companies and charitable foundations and has raised sufficient money to ensure that the LRC will be able to employ lawyers on a full-time basis at reasonably competitive salaries commensurate with their experience, and that it will be able to operate according to its fixed budget for a period of at least three years.

The work of the LRC

The LRC seeks to perform a community service through its supervision of law clinics and through the handling of cases itself, and to assist in the training of lawyers both by the instruction which it gives to the law students who work at the clinics and by the employment which it will offer to recently graduated law students.

Clinics

At present there are four clinics which have been established by the University of the Witwatersrand which are now supervised by members of the LRC. The LRC has itself opened a new clinic in Hoek Street, Johannesburg which is staffed by students from Unisa operating under supervision of members of the LRC. The students working in the clinics get course credit from their universities and so the work is done not on a voluntary basis in their own time but as a requirement of their degree course. The fact that the students are obliged to work in the clinics makes for regular attendance and continuity. The students have without exception set about their tasks with zest and enthusiasm. There are over thirty students and five clinics working with five lawyers. They can and do accomplish a great deal. In the first two months of its operation the Hoek Street clinic had taken on over 140 cases and it is already providing a valuable service to persons who might not otherwise have access to the legal profession. The LRC has also established links with other universities and has offered to make available to them its services to help with the setting up of clinics by such universities.

Teaching

The teaching done by members of the LRC consists of conducting seminars at which students are instructed in interviewing techniques, in the conduct of cases, in ethics, and in the practical side of law generally. This makes for greater efficiency at the clinics and the practical and theoretical side of the instruction complement each other. The importance of this type of instruction has been recognized in America and many universities now give course credits for work done by students at law centres with the result that law centres are increasingly becoming places at which students are trained and at the same time are able to make a practical contribution to social services. Well known law schools such as Harvard, Yale, Columbia, New York State, UCLA, Stanford, Georgetown and others run such programs.

Test Cases

The LRC, apart from supervising the clinics and teaching students, will itself take on cases which may have a particular community interest in the sense that they affect a large number of persons where a ruling in one case can be of benefit to many other persons in a similar position, and also cases which are of particular interest to the work done in the clinics in the sense that they are typical of a particular form of abuse or exploitation which calls for redress. It is not contemplated that the LRC will deal directly with the public; it will take cases which are referred to it by the clinics or by other legal aid agencies.

The clinics, though not limited thereto, deal mainly with problems relating to consumerism and labour and it is contemplated that a substantial portion of the LRC's work will be in these fields; the LRC will also deal with other problems which are encountered at the clinics such as housing, influx control and complaints by individuals who feel that they have been exploited or overreached in some way by private individuals or government employees. The very fact that the LRC is able to take on cases itself provides a strength to the clinics which they would not otherwise possess. In clear cases where persons have been exploited and cannot obtain redress through negotiation, the clinics can see that legal rights are enforced. The knowledge on the part of respondents of this capacity by the LRC will almost certainly lead to many settlements which might not otherwise have been possible. It is not intended that the LRC and the clinics should work in opposition to the Legal Aid Board or the Legal Aid Bureau. On the contrary, it is hoped that there will be a good relationship between the LRC, the clinics, the board and the bureau. Until now the relationship has been good and in appropriate cases the Legal Aid Board provides assistance to persons referred to it by the clinics. The bureau has referred cases to the legal aid clinics and in turn has taken cases referred by clinics – such as matrimonial disputes – which are not handled at the clinics. The LRC will obviously not be able to take on every case that comes to the clinics but by adopting the criteria mentioned above it will be able to utilize its resources to the maximum extent. Of course the fact that the LRC conducts cases itself adds to the value of the educational service it provides, for students can see how the cases which they initially dealt with are taken through the courts.

Help by profession

Although it is contemplated that the LRC will itself handle litigation through its full-time employees, there will be occasions on which it will turn to the private profession for help. It may request attorneys in private practice to handle cases (possibly on a *pro amico* basis) and may also turn to members of the bar for assistance with its own work-load. This type of co-operation between public interest law firms and the private profession has grown up in America and several of the bigger firms in America have established departments to deal with *pro bono* work and others have undertaken to make employees available for such work. The LRC has had many offers of help both from members of the bar and from attorneys and is confident of the support of the profession. With such support the LRC will be able to broaden the scope of the services which it offers to the public.

Practical training

It has previously been mentioned that the LRC intends to give practical training to recent graduates by offering them employment. In particular, employment will be offered to recently qualified black lawyers, many of whom have been trained at places where they will have had no practical experience and who may find difficulty in obtaining articles of clerkship or in coming to the bar. It is hoped that by offering such persons employment for a year during shich they will work in the clinics and at the LRC under the supervision of the lawyers employed there, the LRC will be able to contribute towards their training and that it will be able

to offer some sort of a bridge between university and private practice. Naturally the presence of these graduates will enable the clinics to take on a greater workload.

Assistance to the poor

It cannot be disputed that all individuals and groups who feel that they are not dealt with according to law should be able to turn to the legal system to protect their interests. That after all is the function of the legal system – it is the institution provided by society for the resolution of disputes and the settling of grievances. The work which the students and lawyers do in the clinics and the LRC should demonstrate to the public the capacity which the legal profession has for assisting all sections of the community and not only the rich. Hopefully that experience will lead to a greater awareness on the part of lawyers of the problems of the poor – who number amongst their ranks the majority of the black population in this country, to the development of new skills necessary for dealing with such problems, and to an awareness on the part of the people who experience these problems that some of them can be resolved constructively through the institutions created for that purpose – the courts. □

Footnotes

[1] Attorney sb 3 *Oxford English dictionary.*
[2] James Boswell *The life of Samuel Johnson 1831 vol 1 385.*
[3] Lawyer sb 3 *Oxford English dictionary.*
[4] Lawyer sb 6 *Oxford English dictionary.*
[5] Cited by the Honourable Lawrence H Cooke, Chief Judge of the Court of Appeals of the State of New York in the *Record of the Association of the Bar of the City of New York* vol 34 at 6.
[6] Borosage and others "The new public interest lawyers" 79 *Yale Law Journal 1072.*
[7] *House of Lords debates* 8 February 1979 at 918.
[8] Cited by Borosage and others 79 *Yale Law Journal 1077–1078*
[9] *House of Lords debates* 8 February 1979 at 894.
[10] *Senate report XX.1 (A.1.3).*
[11] *Senate report XX.2 (A.1.6) and XX.5 (A.8.2).*
[12] *Senate report XX.2 (A.1.4).*

APARTHEID, POWER AND HISTORICAL FALSIFICATION

by Marianne Cornevin (UNESCO, 1980)

reviewed by T.R.H. Davenport.

The author of this work, a French historian, tries here to nail apartheid by demolishing the historical myths through which it seeks to justify itself. It is an avowedly propagandist work, which relies almost entirely on secondary (mainly South African) authorities for most of its judgments, and performs a rather crude hatchet job on a piece of timber which others have been cutting into for years.

The pity is that a book like this, which will almost certainly encourage new myths, was probably necessary as a counter to the historical arguments still used internationally to bolster the policies of the South African Government.

I do not have much quarrel with Ms Cornevin's selection of myths for demolition, though perhaps her defence of Shaka is a trifle exaggerated, and certainly not properly substantiated. The synchronic arrival of blacks and whites south of the Limpopo, the myth of the empty land into which the Voortrekkers moved, the notion that land legislation since 1913 has tried to protect black interests, and the suggestion that the Homelands of today actually comprise territorially the limits to which Africans have a valid historical claim, all need to disappear. Even if there has been some movement away from the crude formulations of Theal's 1890 phase, as I think there has been, especially on the archaeological points of which Ms Cornevin makes so much, there is still a long way to go before official postures catch up with authenticated research. Nor is this a simple case of inertia, which undoubtedly plays a part, for resistance to new interpretations can be shown to have been very very stubborn.

There is little that South Africans can do about the propagation of counterfactuals in the outside world, if we cannot control the outpourings of our public relations officers. But we need to ponder seriously the extraordinary fact that, in a country dominated by a racist philosophy, the only academic debate among historians worth mentioning is that between opponents of racism, the liberals and the Marxists, which has now been moving at a cracking pace for a decade or so without involving the racists at all. Racist historiography still does sit on the ideological distribution points, and Ms Cornevin is right to stress this. School textbooks are of particular significance, as Frans Auerbach was able to demonstrate years ago, though the textbook is not the only, or perhaps even the main, vehicle of prejudice. At bottom, but with the noteworthy exceptions of the Joint Matriculations Board and the Natal Education Department, our high school public examination system encourages the propagation of historical myths rather than their extinction. This is where we need to strike. □