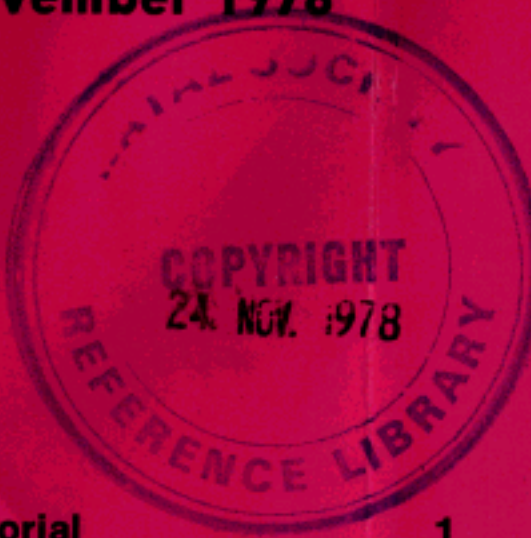


November 1978



# SASH

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1948-1978



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## Dedication...

**I**N pride and humbleness we declare our devotion to the land of South Africa, we dedicate ourselves to the service of our country. We pledge ourselves to uphold the ideals of mutual trust and forbearance, of sanctity of word, of courage for the future, and of peace and justice for all persons and peoples. We pledge ourselves to resist any diminishment of these, confident that this duty is required of us, and that history and our children will defend us.

So help us God, in Whose strength we trust.

## Toewydingsrede...

**M**ET trots en nederigheid verklaar ons ons gehegtheid aan die land van Suid-Afrika, ons wy ons aan die diens van ons land. Ons belowe plegtig die ideale te handhaaf van onderlinge vertroue en verdraagsaamheid, van die onskendbaarheid van beloftes, van moed vir die toekoms, van vrede en regverdigheid teenoor alle persone en rasse. Ons belooft plegtig om ons te verset teen enige vermindering hiervan, oortuig dat hierdie plig ons opgelê is en dat die geskiedenis en ons kinders ons sal regverdig.

Mag God ons help, op Wie se krag ons ons verlaat.



# The Black Sash Die Swart Serp

**T**HIS year, like last, has proved to us the error of heaving a sigh of relief at the end of the Parliamentary session in the mistaken belief that we know the worst the Government can do for the year.

Last year saw the death of Steve Biko in September and the crackdown of October 19. This year saw the police raid on Crossroads in September and the destruction of squatter settlements in the Buffalo and Parkside flats areas near East London in October.

The Black Sash and other bodies have continually pointed out that Crossroads is a sane, decent, law-abiding community. It has a high reputation for orderliness and its own vigilante squad. Even a commentator in *Rapport* observed 'Misdadigheid is geen kwelling nie' — 'Crime is no problem.' Thus the police pretext for the raid is absurdly flimsy.

Eye-witnesses report gratuitous aggression by the police, who are now indemnified against charges in the event of unrest. When a group of *Rand Daily Mail* newsmen walked past a squad of police an officer referred to them as 'the other terrorists'.

Similar tales have emerged in accounts of the East London raids. There are stories of pets and property burned in shacks. These stories have been denied by the authorities.

The pro-Nationalist press has laid the blame for the violence at Crossroads at the door of white liberals, and some people have remarked that the whole thing was a put-up job by Communists.

One cannot but remember where the blame for the Reichstag fire was laid.

One fails to see how white liberals can be blamed for an ideology which creates godless laws separating husbands and wives and which denies them their birth-right of South African citizenship after they have given years of their working lives to the Cape economy.

The people at Crossroads must feel bitterly cynical about Mr. P. W. Botha's remarks, made as Cape leader of the Nationalist party, that conditions at Crossroads would be cleared up, for the sake of the people there as well as for the sake of justice and civilisation. We doubt whether they would think it either just or civilised for their 'illegal' residents to be moved out of the Peninsula.

Mr Botha went on to say that he thought it was better to die for the truth than to live a lie. To many of us in South Africa it seems increasingly that we shall be made to die for a lie than live for the truth.

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'The Minister of Plural Relations, Dr C. P. Mulder, said yesterday that South Africa would stand and fall not through onslaughts on the borders, but by the way the various race groups could get along internally.

South Africa would have to see to it . . . that the blacks received what was their due and that relations were so good that all groups would be willing to defend the country.'—*The Star*, 7/9/78

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## STOP PRESS

**On November 3 Judge Mostert said:**

**'I have endeavoured to discover what particular interest of the State is furthered by suppression, albeit temporary, rather than disclosure of the evidence. I have been able to find none.'**

**On November 7 the Prime Minister, Mr P. W. Botha, terminated Judge Mostert's commission because of the 'evident and untenable difference between the Government's point of view and the action taken by Judge Mostert!**

**Cynical contempt for, and the arrogant destruction of, the Rule of Law have long been part of the South African way of life.**

**But now, for the first time, the white public at large has been forced to see that absolute power quite literally corrupts absolutely.**

**The equation: National Party = Government = country, is now proven fallacy and humbug.**

# Jailers or jailed?

G. W. H. Relly

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*An abridged version of the opening address to the Security Association of South Africa, delivered by Mr Relly, deputy-chairman of Anglo American.*

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I HOPE I will be forgiven if I digress from the practicalities of what we ought to do in the strictly professional area of security control to the broader problems of our *modus vivendi* in a complex society. After all, the perspective we have on living together will determine ultimately a large part of the need for the security measures which we think are necessary.

Your chairman referred to our living in a period of social change and many commentators take the view that the speed of this change increases exponentially. We are at least clear that change imposes great strain on individuals and the structure within which we live. This is a worldwide phenomenon and not unique to our society in South Africa.

Population growth and the intensification of urbanisation lead to inequality of opportunity and, just as important, a lack of hope on the part of more and more people that they will be able to fulfil even the most modest expectations. A growing crime rate is one response to these problems and to the extent that the frustrations of urbanisation are a common factor I dare say we are probably no better or worse off than our fellows in other countries.

However in South Africa we do have an overlay of particular features which are perhaps not so apparent in the urbanization of relatively homogeneous peoples. In South Africa the cities have to accommodate an extreme range of cultural variation. It is not an exaggeration to describe this spectrum of culture as ranging literally from nuclear to neolithic and there is no doubt that the problem of making provision for it in our cities is one of the major forces in our affairs.

Friction at the interface between the cultures is of course exacerbated by the problem of communication. Our country and our cities are linguistically a maelstrom with not less than five significantly different languages being spoken, and this is often a source of frustration, misery and bitterness at both ends of the spectrum. The sophisticated fail to communicate their outlook and justification to the unsophisticated, who in turn cannot find the means to express fluently their fears, worries and ambitions.

The final overlay is, of course, one of colour, a factor which sometimes causes people of even

the most enlightened and amiable disposition to act with heightened emotions and to behave irrationally. Those who are neither enlightened nor amiable wallow in a morass of prejudice. It is the fact that discrimination on grounds of colour is entrenched in our laws and institutions that makes South Africa unique in this regard.

We indeed live in a very complex society; a society which our authorities over a very long period of time have sought to regulate with an ever increasing and burdensome web of laws. It is not my purpose here to pass moral judgement on this legal background to our society, but rather to comment on its practical effects.

The main effect of excessive legislation is, of course, to make it progressively easier for people to become criminals. Indeed in some parts of our society and particularly at the lower end of the cultural spectrum, it is almost impossible not to fall foul of the law however law abiding and however much of a good citizen a person might wish to be. In 1977 the daily prison average in our country was close to 100 000 which compares most unfavourably on a population basis with the U.K. with a daily average of 46 000 and the U.S. with 220 000; *pro rata* our rate is four to five times higher. One of the main reasons for this is that our system forces many of our citizens into statutory default and one must query whether the detection of real crime does not suffer when so much attention is focussed on policing what might be termed civil offences. For instance, during 1977, 250 000 were arrested and charged under influx control and pass laws and if one adds those who were convicted for contravening trespass and curfew legislation the figure is increased to over 400 000.

A system of law so pervading as to make it difficult to avoid breaking the law has several important consequences which we would do well to consider.

- One is that people lose respect for the law. History tells us that the point at which civilisation shatters is when the bulk of the population ceases to have respect for the law. It may well be truer to say that the breaking point is reached when a significant proportion of the population, which can be less than a majority, ceases to see a beneficial communal purpose in a law or in a socially connected series of laws.



• Another consequence is that the jails become full and overfull. I cannot believe that it can be a legitimate or sensible political purpose to expend an ever-increasing proportion of a nation's income in the process of apprehension and detention for purely statutory criminal acts. At what point does the process of apprehension, trial, conviction and detention grind to a halt because it absorbs too great a proportion of a national income? At what point do the jailers become the jailed — unable to move towards more constructive purposes in national development because they have to keep sitting on the explosive force inherent in a system abhorrent to a large sector of the population?

• There is a third consequence which in human terms is the most important of all. What is the role of the police in a system which requires them to incessantly harass the public to conform to laws which may seem to be neither just nor desirable? The police as individuals must clearly have our sympathy and support. I believe a system of excessive regulations imposes appalling strains on the individuals in a fine profession who no more than the rest of us wish to incur the dislikes and even hatred of a significant part of the population. That criminals (defined as rapers of society) should dislike and fear the police is socially desirable; that common people who by any civilised definition are not criminals, should be forced to do so is socially unacceptable. There is another side to this. Prolonged interaction with other human beings in the degrading circumstances of their being ostensibly guilty can, I believe, have a direct and unfavourable influence on the authorities concerned who, however well disposed initially, inevitably become inured and indifferent to suffering.

These considerations lead us to the central question facing our society. Can we afford to ignore the dictates of history which tell us basically that no system of government will long endure unless there is a reasonable consensus amongst the majority of the people that the basis and purpose of the society is valid and just? To my way of thinking the greater part of democracy is really to save people from tyranny and not so much to distribute either liberty or equality — which in any event tend to be mutually exclusive. This does not mean even that pseudo-democracy in terms of one man, one vote, must exist, but simply that reasonable men — who in my view in normal circumstances tend to be in the majority — must see the system of laws under which they live as being reasonable.

When this does not happen we have the dreadful dilemma of who is the jailer and who the jailed.

We have got to develop a consensus, particularly for our urban areas, about what laws and regulations our society can tolerate and at what level discriminatory regulations become

self-defeating. You may say that to develop a consensus across the wide range of our cultural and ethnic population is impossible, but I believe there are a few simple but fundamental matters on which agreement can be reached, and must be reached, amongst reasonable men as a foundation for further civil and constitutional development in our country.

To start with I suggest we have to recognise urbanisation as a matter of fact. It has already happened to the bulk of the Indian, 'coloured' and white people and will happen to the bulk of the black people over the next 25 years. Eminent authorities calculate that the country will require 25 cities to be established of one million people each over that period to absorb the drift to the towns of the growing number of people searching for jobs.

The first things to be agreed then are not whether we will have cities, but where they should be and how big they should be and who will pay for them. The planners can no doubt deal with these issues but they would do well to bear in mind that their plans are more likely to come to satisfactory fruition if they carry the stamp of consultation on them. The crucial area of agreement, however, will need to be in relation to the rules which will govern those who live in the cities. Unless the bulk of the people can agree on some basic rules there will be no lasting foundation for proper security in the towns or for sound relationships between their citizens and those who police them.

THE FIRST rule, then, must be to define the people living permanently in a city as citizens who belong to a city and have full rights and obligations in a city. There cannot be people living permanently in a city who half belong, or who only have partial rights and obligations. I also do not believe it is possible in the long run to sustain a system where two different sorts of cities live side by side as in the case of Johannesburg and Soweto. Even if we agree that their cultural differences at present are generally too great to make it sensible to seek immediate integration, it is nevertheless true that the disparities between the two in wealth and facilities are so large that without human bridges by which people can come and go and share rights and obligations embracing them both it is unlikely that both cities can endure together in amity. Citizenship is non-divisible and in the long run must bestow on people the right neither to be forced to live together nor forced to live apart.

THE SECOND rule seems to me that citizens in an urban area should be entitled to be advised by experts on the technical limits of how big their urban area should be, given consideration of factors such as communications, water, air pollution and so on. Urban areas clearly have a finite viable size, and when this has been

reached, arrangements will have to be made to limit further substantial inflow of people. Provided such arrangements are agreed by the people themselves and provided — and this is vital to the argument — that alternative urban developments are in fact planned and developed we probably have to accept that some form of influx control under these circumstances is unavoidable. However, every city has a considerable concertina flexibility in regard to the size of its population and this should always be a balancing consideration allowing substantially free movement.

THE THIRD rule with which I want to deal is perhaps the most difficult of all. In my opening remarks on some of the governing factors of urban life I did not mention urban terrorism. In some countries this is a manifestation of classical political radicalism. In South Africa, as in so many of our affairs, something new is added which gives a further dimension to possible urban terrorism. The added factor, of course, is our peculiar system which refuses to hold out formal

hope to the mass of our urban people that they will play a full role in the affairs of the country in which they live. Our third rule should therefore be that the conditions must be created whereby people will seek fulfilment by looking inwards to their own community rather than outwards towards foreign ideologies and foreign material assistance. I believe this to be perhaps the all embracing rule and if it were fulfilled no other would be necessary.

Mr Chairman, it is against this sort of background that members of your Society will have to provide a security service to private enterprise in the future. There are many aspects of our society which it will be difficult to change, aspects which are burdensome to human relationships. However, in motivating your managements and clients to proper understanding of the security function, I am sure you will want to accept your share of the responsibility for maintaining a proper perspective of the existing problems of our society and the possible direction in which it should be encouraged to develop.

## OBITUARY

### BARBARA BROCK

**B**A BROCK is no longer with us. She slipped away so quietly it is hard to realise she has gone.

Indeflectibility is a brave word that can best describe the quality of those courageous women of the first generation of Sash. Ba Brook was one of the indeflectibles.

Others will remember her early days in the Advice Office in Johannesburg where, as a foundation member, she was a daily inspiration to all working with her.

Simonstown will remember her as the back-bone of our small branch, giving us the benefit of her wider experience. As liaison between us and the Regional Council she was invaluable, bringing us in touch (through her concise and lucid reports) with the hub of the Sash. Quiet, self-effacing but utterly efficient she was an indispensable link in that valiant hub — the Regional Council of the Sash.

Her loss will be deeply felt by all members of the Sash — not least by the members of her old Branch at Simonstown by whom she was so warmly admired and loved.

**Pattie Price**

**B**ARBARA BOCK was a member of the Cape Western Regional Council for very many years and Vice-Chair during some of the more troubled times of the Region. Her contribution to the Black Sash has been invaluable. We remember especially her alert and lucid mind, her quiet wisdom that was never obtrusive, her wide knowledge that she shared so generously, her loyalty and integrity which inspired a deep respect among all of us who worked with her. And with these qualities she was able to combine a rare gentleness and a very special sense of humour.

Barbara willingly responded to anyone's need, she gave of herself unhesitatingly, and in doing so demanded of herself the very highest of standards. We are grateful to Barbara and shall remember her with very much love and admiration. To her family we send our love and our sympathy.

**Cape Western Regional Council**



# Idle and undesirable

Sheena Duncan

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*Extract from a talk which Mrs Duncan gave to the Institute of Race Relations, Southern Transvaal Region, on May 14, 1978*

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I HAVE been asked to speak tonight on the so-called vagrancy law. I am very pleased to have this opportunity to demonstrate to you how legislation passed in this 1978 session of Parliament contradicts and nullifies all the positive-sounding and hopeful statements which have been made by the new Minister of Plural Relations and Development.

I am often accused of being cynical, of not giving credit where credit is due. I am told that I do not recognise how much real change is taking place and that I do not acknowledge that the Government is moving as fast as possible within the restraints imposed by the right wing conservative group within its ranks.

I am cynical and maintain that my cynicism has been justified by the laws which have been placed on our Statute book within the last four months.

It does not really matter what Ministers say. They must be judged what they do. What they have done this year proves conclusively that there has been no deviation from the declared policy and that none of the events of the last two years have persuaded them that the policy is unworkable or that it should be changed for reasons of justice and morality.

All that has happened is that the Government has become more adept at the public relations game.

## **IDLE AND UNDESIRABLE PEOPLE — Section 29 of the Urban Areas Consolidation Act No 25 of 1945**

Section 29 is the notorious section in the Urban Areas Act which makes it an offence for an African person to be not working in any part of the Republic and imposes severe penalties on any person who is declared to be 'idle and undesirable'. These penalties may be imposed not only on the person concerned but may affect his whole family.

There are also sections in the Bantu Labour Act which make it compulsory for all black men to register to work. In prescribed (urban) areas all black men are compelled by law to register as workseekers within 72 hours of becoming unemployed or of leaving school and, even in the homelands, all black men must register as work-

seekers within one month of becoming unemployed or of leaving school with certain exceptions such as physical or mental disability.

But Section 29 gives precise legal form to the policy of the National Party Government — that blacks are only to be tolerated in the so-called 'white' Republic of South Africa if they are labouring in the white economy.

The sub-title of this section is 'Manner of dealing with idle or undesirable Bantu! 'Undesirable Bantu' are those who have been convicted of certain criminal offences and I do not propose to spend time on this aspect except to point out to you that such people may be twice penalised for their crimes. They are convicted and sentenced in the normal way and may subsequently be declared to be undesirable and made to suffer the additional penalties imposed by this section.

'Idle' people up to this year were defined as being those who, among other things, are 'normally unemployed'.

This clause has now been tightened up to give a more precise definition: A Bantu over the age of 15 and under the age of 60, if female, or 65 if male, who is not a *bona fide* student at a recognised institution, and whether or not he/she is in receipt of adequate maintenance from a parent or guardian, who is not *lawfully* employed and has not been *lawfully* employed for an aggregate of 122 days out of the previous 12 months provided that this shall not apply if he/she is registered as a workseeker and has not been lawfully offered employment in the previous 122 days.

The next sub-paragraph in the section is now irrelevant, though it still remains. It defines an idle person as one who has not accepted 'suitable' employment offered to him on three consecutive occasions. There was at least some leeway here because 'suitable' employment is a job commensurate with a man's skills and previous levels of earning. For example, if he is a skilled welder and was offered jobs as a street cleaner or construction labourer, he could claim that such work was not suitable. Now, if the Labour Bureau offer him any work at all that is work *lawfully* offered and, if he refuses to accept it, he may be declared to be idle.

For example, a man came to the Black Sash Advice Office in Johannesburg recently because

the Labour Officer had written 'FINAL' onto his workseeker's endorsement and had told him that if he came back in the following month without a job he would be arrested under Section 29. He has an eye complaint and has been told by the hospital that he must not work in a dusty environment or in any situation where his eyes might be exposed to great heat or glare. He now faces a very real risk of being declared idle.

There are other definitions, like losing two jobs in six months because of intemperance or laziness, being discharged three times in one year due to misconduct, being addicted to drug, drinks or squandering one's means by gambling/betting and so failing to provide for one's dependants.

These things may constitute reprehensible and anti-social behaviour but they do not, if you are white, lead to two years in prison or deportation as they can do if you are black in South Africa.

The last definition which has not been altered and is very important relates to a person who has been ordered to depart from an area and has failed to do so.

Last month I saw a man who had been endorsed out of Johannesburg at the beginning of 1977. He lodged his appeal with the Commissioner and says that, while he was still waiting for the decision, he was arrested, declared to be idle and sent for twelve months to be detained at the work colony at Voortrekkerhoogte.

If a person is suspected of falling within these definitions he may be arrested without warrant and be taken before a Bantu Affairs Commissioner who will enquire into the allegations against him. At this administrative enquiry he is required 'to give a good and satisfactory account of himself and, if there is any doubt as to whether he is idle as defined, 'the burden of proof that he does not fall within such category shall be upon such Bantu'.

The Commissioner may then declare him to be an idle or an undesirable person and may impose any of the following penalties upon him:

- He may be removed from the area and sent to his home or to *any place specified by the Commissioner*.
- He may be sent to and be detained in a retreat or rehabilitation centre.
- He may be sent to a farm colony, refuge, rescue home or similar institution established in terms of the Prisons Act, where he may be detained for up to two years.

- He may be sent to any rural village, settlement, rehabilitation scheme in the homelands.
- He may be permitted to enter into a contract of employment for a period of time and at a place stipulated by the Commissioner. If the contract is terminated before the stipulated period expires, he may again be held in custody and dealt with in terms of Section 29.
- The dependents of a man who is sent to his home or to a rural village, settlement, rehabilitation scheme, etc, may be removed to the same place together with his personal effects.

In addition to these things any person who has been declared to be idle or undesirable forfeits his Section 10 rights to be in a prescribed area and therefore loses his right to occupy his house in an urban township.

The Commissioner may suspend the execution of any order made by him in terms of this section and I understand that certain Supreme Court rulings mean that the fact that it has been the first such order made against an individual has been sufficient reason for the order to be suspended.

Now this clause has been amended to say that the Commissioner may suspend the order if a sound reason exists therefor, provided that the fact that such a warrant or order is the first shall not in itself be regarded as such a sound reason.

Up to the present time there have been certain restraints. If a Commissioner orders a person to be removed to a homeland where he has no home he still has been the responsibility of the South African Government. But as various homelands become independent countries, people who are their citizens can be deported as prohibited immigrants to what is now a foreign country. The South African Government can shrug off all responsibility for them.

For this reason and because of the serious unemployment there may now be a marked increase in the number of people who are dealt with under this Section.

I believe that it is a matter of the utmost urgency to make every effort to inform the black community of what the law is, how they can act in order to avoid arrest, what their rights are and how they can defend themselves at the enquiry. It is also important that members of the public should monitor the proceedings at Section 29 enquiries on a regular basis.

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'Freedom is not a finite substance to be hoarded like miser's gold, incapable of extension and enlargement. But its growth is often only possible at the expense of those who held it as of exclusive right.'

*Mr Roy Hattersley, MP, quoted in THE OBSERVER, 16/1/78*



# A permanent state of emergency

Mary Livingstone

## The Rule of Law

EVERYONE is familiar with this phrase and yet it is often misunderstood. Basically it is the principle that no person may be punished unless he has been proved guilty of breaking a law in the ordinary courts of the land. Acceptance of this principle is a fundamental distinction of a free, as opposed to a totalitarian, society. To empower politicians or police to inflict punishment without proving that a legal offence has been committed is contrary to the Rule of Law, *no matter how many laws are passed authorizing them to do so* and no matter how many people approve of such laws.

The following is a brief summary of some of the legislation passed by the National Party government in the last 30 years by which the Rule of Law has been eroded and the cherished safeguards of individual freedom removed from our political life.

## The Suppression of Communism Act No 44 1950

This empowered the Minister of Justice to impose *banning orders*, involving various restrictions (sometimes severe enough to affect a person's livelihood), on anyone who *in his opinion* is furthering the aims of communism. Proof is not required.

Only the Communist Party was declared an unlawful organization at the time by this Act, but Dr Margaret Ballinger stated that the definition of communism is 'of such wide range it could cover all political opinions, objectives and activities which the government did not like.'

The Chairman of the Johannesburg Bar Council pointed out in a Press statement that the 'objectives of communism' included objectives desired by persons and organizations opposed to communism in its ordinary sense.

It was not long before bannings in terms of this Act were imposed on non-communists, and this has been acknowledged by National Party politicians.

## The Public Safety Act No 3 1953

This empowered the Governor-General to declare a state of emergency and frame regulations accordingly. Specifically, he could order the detention of an individual without trial, but if anyone was so detained for more than 30 days both Houses must be informed.

## The Unlawful Organization Act No 34 1960

By this the Governor-General was empowered to outlaw the ANC or PAC, if he was satisfied that

public order was threatened, or likely to be threatened, by their activities.

A state of emergency was in fact proclaimed after Sharpeville and hundreds of people were detained without trial, even the publication of their names being forbidden. However, the emergency was lifted after a few months.

## The General Laws Amendment Act No 39 1961

This authorized the Attorney-General to order detention for 12 days without a charge (previously the maximum period was 48 hours). The provision was to lapse after 12 months if not renewed. In fact it was renewed each year until 1965 when it was repealed; but the Attorney-General was then empowered to forbid the release on bail of any person accused of certain offences before the end of his or her trial.

## The General Laws Amendment Act No 76 1962 (the 'Sabotage Act')

This authorized penalties for 'sabotage' equivalent to those for treason, including the death sentence. Imprisonment, when imposed, must be for a *minmum* of five years. 'Sabotage' was so defined as to include any *acts of damage to property* committed with a political objective, as well as interference with water or power supplies, postal, telephone or radio services or the free movement of traffic. The onus to disprove intention to commit sabotage was placed on the accused.

The General Bar Council protested that these provisions were so wide that they could trap people who could not by any stretch of the imagination be called saboteurs.

The International Commission of Jurists issued a statement maintaining that this Act would reduce the liberty of the South African citizen to a degree not surpassed by the most extreme dictatorship of the Left or the Right. The measure was a culmination of a determined and ruthless attempt to enforce the doctrine of apartheid, and was not worthy of a civilized jurisprudence.

## The General Laws Amendment Act No 37 1963

This enabled security offenders to be detained for further periods after completion of a prison sentence. This provision was also to lapse after 12 months unless renewed, but in fact was renewed annually until 1969. Mr Robert Sobukwe, sentenced to 3 years imprisonment for his part in the campaign against the pass laws in 1960, was thus kept on Robben Island for nine years.

The same Act empowered a commissioned police officer to detain a person for interrogation if he suspected him of a security offence or of having information concerning such an offence. Detention was to be limited to 90 days but the period could be repeated. The detainee might be kept in solitary confinement and *no court could order his release.*

On December 8, 1963 60 leading psychiatrists, psychologists and medical specialists in the Cape and Natal appealed to the Minister to abolish the system of solitary confinement as it could cause impairment of mental function.

Several judges appear to have had strong misgivings about this system. During the Rivonia trial Mr Justice de Wet was reported to have said, 'All material witnesses . . . were kept in solitary confinement until they were prepared to make a statement. The possibility must be borne in mind that suggestions made by the questioners were accepted, and that evidence was concocted to satisfy the questioners.'

On November 30, 1964 the Minister of Justice announced that the 90-day clause would be suspended from January 11, 1965.

### **The Criminal Procedure Amendment Act No 96 1965**

By this the Attorney-General was empowered to order the detention of witnesses in the trials of security offenders — and in some circumstances the witnesses in non-political trials — for a period of up to six months, if there was reason to believe they might abscond or be intimidated.

The Johannesburg Bar Council protested in a Press statement that 'the most objectionable features of the so-called 90-day law,' so recently suspended, would now become a permanent part of South African law.

### **The Terrorism Act No 83 1967**

Section 6 of this Act empowered any police officer of the rank of or above that of Lt-Colonel to arrest without warrant and *detain indefinitely* any person suspected of 'terrorism' or of having information regarding terrorism. The Commissioner of Police must advise the Minister of such detentions and give reasons for them once a month, but the Minister said he would not reply to questions about detainees in Parliament as information might thus be given to terrorists. No court has the power to order the release of a person detained under this clause.

The provisions of this Act were retrospective and could be invoked in respect of acts committed at any time after June 1962. The offence of 'terrorism' was widely defined, and the onus of proof of intent was placed on the accused.

It appears that action taken under the Terrorism Act cannot be questioned in terms of any other statute including the Children's Act. In 1977

a number of children who would have been too young for imprisonment *if convicted of a crime* were held in prisons without charge or trial. The police were not obliged even to tell their parents where they were.

### **The Public Service Amendment Act No 101 of 1969**

This established the Bureau of State Security (nicknamed BOSS) to co-ordinate and complement the work of the Security Police and the Intelligence Service of the Department of Defence. Parliament may not question the activities of this Bureau except in the annual Budget Debate.

### **The General Laws Amendment Act No 86 of 1969**

Section 29 of this Act stated that no evidence or information might be given to any court if the Prime Minister, or certain others authorized by him, certified that its disclosure was contrary to the interest of the State or of public security.

At a public meeting in Randburg, Mr Justice Marais is reported to have said that the Judiciary had not been consulted or informed of the provisions of this Section, and he was concerned for the dignity, independence and esteem of the judiciary, in these circumstances, as the independence of the judiciary was the cornerstone of the administration of justice.

Concern over the implications of the Act was expressed by the Bar Councils of Pretoria, Johannesburg, the Cape and Natal, the General Council of the Bar, the Natal Law Society and the Johannesburg Side Bar Association. Individuals who voiced misgivings included Mr Justice Ludorf, Mr Justice Quartus de Wet, Mr Justice Caney, and professors of law at the Universities of South Africa, Pretoria and Potchefstroom and RAU.

In 1973 the *Schlebusch Commission* was appointed to investigate the activities of certain organizations. Its sittings were held *in camera*, witnesses were forbidden to give information about its proceedings and the evidence heard was not published in full. The Commission was empowered to inquire into the personal beliefs and conduct of anyone in any way connected with the organizations concerned, and witnesses were subpoenaed.

The Commission recommended the taking of 'urgent action' against eight members of NUSAS, who were then banned under the Suppression of Communism Act, though Mr Marais Steyn pointed out that nowhere had the Commission found that they had any intention of furthering the aims of communism.

### **The Internal Security Amendment Act No 79 of 1976**

This replaced and amended the Suppression of Communism Act, 1950 and empowered the State President to declare any organization illegal if it



was considered to endanger the security of the State or the maintenance of public order: the provision that bannings could be imposed only on organizations 'furthering the aims of communism' thus fell away. In October 1977 17 organizations were declared unlawful including the Christian Institute.

After Sharpeville, a temporary state of emer-

gency was proclaimed. In 1976, when the unrest was far more widespread and prolonged, resulting in at least 10 times as many deaths, no such proclamation was necessary. Extraordinary powers for the executive are now incorporated in the permanent laws of our country and there is no sign of our returning to the normal judicial methods of the western world.

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# People are banned there

**Helen Kotze**

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*Mrs Kotze is the wife of Theo Kotze, former director of the Christian Institute, who was banned and has since left the country.*

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**T**HE banning order on Theo states that the Minister of Justice is satisfied that he engaged in activities which endangered or were calculated to endanger the maintenance of public order and in consequence would be restricted until October 31, 1982.

These restrictions (there is not space to mention all), include:

Theo's inability to leave the magisterial district of Wynberg, which is one of a number of magisterial districts in Cape Town. This means he may not travel into the city. If he needs to visit his dentist, he requires special permission. He may not enter *any* black, 'coloured' or Indian area, even within the Wynberg district. He must report every Wednesday morning to the officer in charge at the Claremont police station.

He is prohibited from attending any gathering, ie himself and more than one person. As far as we are able to ascertain, this includes family, so that Theo and I cannot meet together with one of our children. (This would not apply if there were children living with us at the time of banning.)

Theo is expressly prohibited from attending:

- Any social gathering — understood as persons having social intercourse with one another
- Any political gathering — understood as a gathering where any principle or policy of *any* State is propagated, defended, attacked or discussed
- Any gathering of scholars or students for the purpose of teaching or addressing them
- Any gathering having a common purpose, whether such purpose be lawful or unlawful.

Theo may not give any educational instruction to any person of whom he is not the parent (therefore not to his grandchildren).

He may not prepare, collate, print, publish, distribute or dispatch any document, including any book, pamphlet, record list, placard, poster, drawing, photo or picture, and it is illegal to quote him.

He may not enter any place or area which is the premises on which any private university, university college, college, school or other educational institution is situated.

No two banned persons may communicate with one another in any way, which means that Theo is effectively cut off from his former colleagues, as well as many other friends.

It would seem that church attendance and preaching fall into the category of 'forbidden gatherings', but as a Christian minister he must be faithful to his calling and he has preached several times since his banning. However, he may not greet members of the congregation at the door, as this would be socializing.

At home, Theo may see only one person at a time, so that, if several visitors arrive, we are reduced to a sort of 'musical chairs' to ensure that he is never with more than one at a time. (There appear, in fact, to be instances when meeting with one other person is illegal, if it is by appointment). Breaking his banning order makes him liable to a prison sentence of up to *three years*.

Banning is a cruel restriction (making a person his own goaler) but we must come to terms with this. With the love and support of so many friends we feel we can transcend all these circumstances and remain free people. We are overwhelmingly thankful to be together.

# Interview with . . .

## Sheena Duncan

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*Janet Sahli interviewed Mrs Sheena Duncan, director of the Black Sash's Johannesburg Advice Office, on her impressions of the Freiburg Conference, at which she was a delegate.*

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JANET: *Who called the Conference?*

SHEENA: It was called by the Arnold Bergstraesser Institute, which studies the problems of developing countries. Between 1974 and 1977 they did surveys of political and social attitudes in the white community with Professor Lawrence Schlemmer of the University of Natal.

Their findings have been published in German and will shortly be available in the English translation. They held a conference to debate the issues as they felt something more was needed if their findings were to reach South Africans, and so they held this conference at Titisee to debate the issues.

The conference was quickly arranged as, if it had been arranged for too far ahead, pressure might have been put on the more radical black movements and on representatives of the white power élite not to attend. The wisdom of this was confirmed by the comments of some of the black exiles.

JANET: *Who from South Africa attended?*

SHEENA: They tried to get the full spectrum of South African political thinking.

There were two so-called 'verligte' National Party MPs — Barend du Plessis and Louis Nel. Harry Schwarz and Van Zyl Slabbert represented two poles in the Progressive Reform Party. Deborah Mabiletsa and Leonard Mosala represented urban blacks. As you know, Dr Motlana and Mr Kambule couldn't come because of the passport issue. They have had foreign citizenship forced on them. There were Dr Alan Boesak, Minister of the Dutch Reformed Church and a lecturer at the University of the Western Cape, Hennie Serfontein, a freelance journalist, and Professor Gilliomé from Stellenbosch. Academics identified with the National Party were Professor Coetzee, Professor Cellié of *Die Burger*, and Cas de Villiers, chairman of the Foreign Affairs Association. There was the Buthelezi group, and David Currie, deputy leader of the Labour Party.

The black exiles included Benny Koapa, a member of the BPC before it was banned and a friend of Steve Biko. He had been in exile for a month. There was also Dr Pascal Ngakane of the A.N.C. He had been imprisoned on Robben

Island, banned, and is now director of the Lesotho Flying Doctor Service.

JANET: *Why should the Germans have been interested in us?*

SHEENA: Professor Hanf, one of the directors of the Institute, seemed to be very motivated by Christian conviction to be a peace-maker. He felt that people in Southern Africa do not realise the horrors of a war fought around them: there is a difference between leaving your country to fight abroad and war on your territory.

War here seems inevitable to them unless there is 'change' — I prefer the less hackneyed term 'political transformation' as 'change' means different things to different people.

There was much scepticism, cynicism even, about this among some of the delegates. Many of the exiles felt there was too much of this kind of conference, and that the Germans should prove their sincerity and make economic sacrifices. I don't agree. The Institute should not be identified with the German government, and there were many British, American, German and Dutch diplomatic people and journalists there being exposed to the depths of the South African problem.

JANET: *But didn't the exiles have a point?*

SHEENA: There is no means of knowing whether those observers took things any further, but as one of the black radical delegates said: 'There is always hope until you are on the very brink of war'.

It is a duty to go on struggling for peace. This is why Motlana and Qoboza, for example, had been prepared to attend, although they were pessimistic about the long-term results. I feel, though, that soon leading blacks will no longer be prepared to go on trying. Shortly after Freiburg there was a similar conference at Rustenburg. Some of the black delegates commented that it was absolutely the last time they would attend such a gathering.

JANET: *What were the general conclusions reached at the conference?*

SHEENA: Reactions seem to have been extremely subjective. Schwarz's conclusions as reported in the press were entirely different from my own or from, say, Louis Nel's.



On the last evening at a social gathering the bulk of people — except for the Nationalist representatives and Schwarz — were thoroughly depressed. The conference had exposed to us the Nationalists' absolute determination to carry on with their policy and their blind misinterpretation of the situation. For the first time I was exposed to their real belief that, if given time, they have the model which will prove to the world that their's is the successful political solution.

Professor Hanf pointed out that blacks are still prepared to consider any serious alternatives to this and even alternatives to a unitary state. They will consider federations, consociations etc. However the power élite will have to perceive the need for change. They don't, and we seem inevitably to take step after step on Rhodesia's path. I don't think the Nationalists felt like this. There was no evidence that the conference had in any way altered their thinking.

The white electorate is prepared to change in the economic field — equal pay for equal work, changes in industrial legislation etc. Nel said that one must distinguish between changes which flow from the policy and changes to the policy itself. For example, there will be no changes as regards group areas, but housing in the townships will be upgraded. There will be better facilities provided for blacks and they can now go to international hotels. Blacks see these changes as quite meaningless, and no longer relevant.

The white electorate is ahead of the power élite in its thinking. Graphs were done in 1974, after the riots of June 1976, and again in 1977. After the riots English-speaking people changed more positively, but as things calmed down, they slid back to their previous position. Afrikaners who changed did not slide back. Economic factors motivate English-speakers to show concern about political issues.

JANET: *Who was defined as the 'power élite'?*

SHEENA: The National Party, the people who have power, and the total power structure, not only Parliament but extra-parliamentary groups like the Broederbond, although this was never spelt out.

Hanf kept stressing that the electorate is well ahead of the power élite, although it is not startlingly liberal. He pointed out — and this has been borne out since Freiburg in June — that keeping Afrikanerdom in power is best done by doing nothing. If you move in a 'verlig' direction you will lose a significant splinter group on the right. If you move to the right you will lose the 'verlig' group. But if Vorster moves in neither direction he doesn't have to worry about unity. In fact, he hasn't made a major policy speech for five months.

JANET: *Was there any optimistic conclusion which emerged from the conference?*

SHEENA: I didn't find anything at all. I was cheered by the fact that blacks were concerned to avoid war if possible. They want transformation to come about peacefully.

But the whole thing is escalating out of the control of those who feel war is the ultimate horror. The Nationalists were saying they would never negotiate, and although blacks at the conference were committed to struggling for political rights by non-violent means, they indicated that the black community would not go on feeling that way for long. A survey showed that over one-quarter of urban blacks have relinquished hope for non-violent change.

National Party thinking was expressed by du Plessis and Nel. Nel claims that the independence of the Transkei has eliminated the power struggle and improved relationships between black and white in the Republic. Nationalist policy is to divide power rather than share it. As Nel put it: 'In no circumstances will we negotiate for our demise. We will rather fight for our survival. We shall give up the right to govern others; we will not give up the right to govern ourselves.'

JANET: *How objective did you feel the conference was?*

SHEENA: It was extremely well organised. I have never attended a conference where the debates were so focussed. The chairmen alternated and were never South Africans. Because they were outside people they were absolutely objective.

Some of the outside academics were concerned to present the consociational model as the solution to our problems. They did not say it was the ideal solution but it might be the only possible peaceful one.

We didn't spend a lot of time on how it would work. A large part of the time was spent on trying to analyse the forces which would force the power élite to radical and peaceful change. This again was very depressing. The white opposition can exert no such pressures. One of the National Party representatives said it was merely the remnants of a group which had been destroyed because it had got in the way of Afrikaner nationalism.

Blacks felt it had an educative and historical role, but nobody thought there was any real role for the white opposition.

Of the forces within the black community there is Buthelezi and Inkatha. This is the only black movement which has been allowed to organise because it falls within the Homelands system. Inkatha was undoubtedly recognised as being a force to be reckoned with, but it is a power block which is not accepted by a significant number of blacks in white areas.

Within the rest of the black community we were unable to recognise any peaceful forces for change. The Government destroyed all organisations outside the policy structure on October 19 last year by the bannings and detentions. It

is doubtful whether internal black opposition could organise non-violent change. It was said that there are now no black leaders in South Africa, only black spokesmen.

What can be organised outside South Africa is no longer peaceful. The whole debate on foreign pressure was, of course, about sanctions, oil and disinvestment. It was pointed out that foreign capital cannot easily be withdrawn from South Africa, once it is already here.

The question was asked whether the Western powers can use methods such as an oil embargo to enforce peaceful change. The answer was given that only if they all acted together, at once and quickly could change be peaceful. It is unlikely that they would take that sort of concerted action until violence had already begun.

It is very hard for outsiders who propagate sanctions to know the internal effects on people — what the effect in suffering would be. Would sanctions lead to terrible violence? Is Oppenheimer right? Not enough work has been done on all this.

On the other hand some speakers said that those who argue against sanctions haven't done their homework either. Buthelezi was asked to clarify his stand. He said he was against disinvestment unless the only alternative was bloodshed.

Where the Western powers could undoubtedly exert force they will not do so in time to prevent warfare. They made it quite clear that they will not weigh in on the side of the present regime.

They will distance themselves to keep their options open with a new regime.

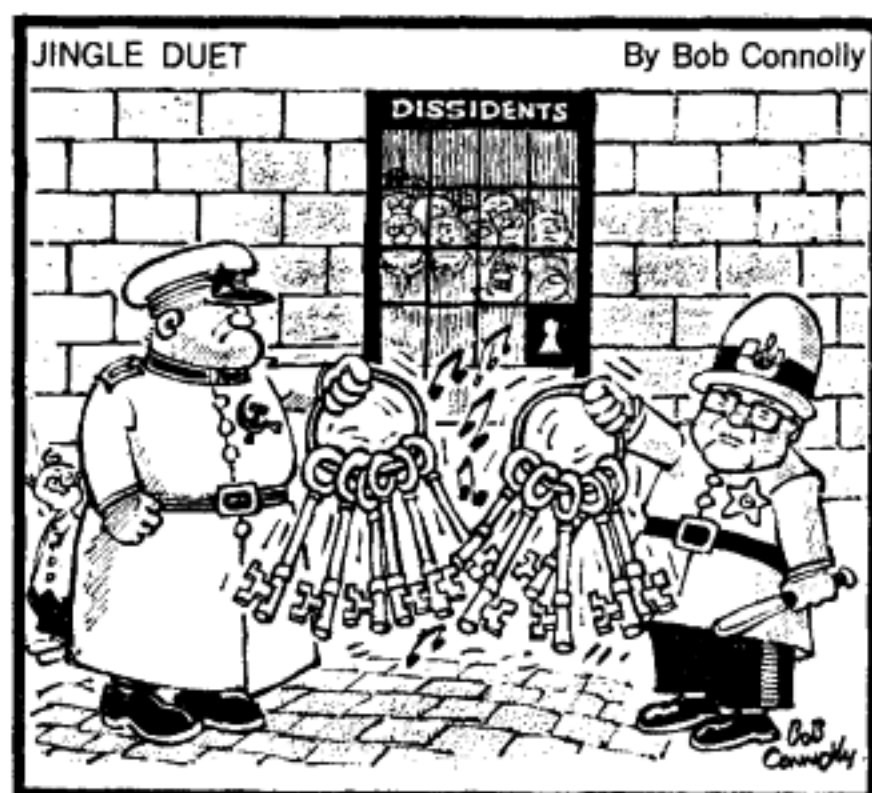
It is likely that Western pressure will go on. Countries may soon demand visas of South Africans, as one European country has done in the past month. Social distancing is also likely to go on but that kind of thing doesn't force the power élite to begin negotiations.

JANET: *Was any sort of time limit set?*

SHEENA: Hanf felt that the power élite could keep power beyond the turn of the century. There would be escalating disturbance, urban terrorism and border warfare.

One of the British diplomats who was a military historian disagreed. He felt that once the South West African and Rhodesian issues were resolved there would be a swift build-up on our borders. The internal population is so alienated that South Africa would be coping with internal violence as well. We have tremendous military reserves but economic development would slow down rapidly. Who would be running the factories and producing armaments? He thought we would be engulfed in violence long before the turn of the century.

One of the things I thought interesting was the way in which white thinking lags behind black demands. Whites might come to consider a radical partition of the country — one not on the homelands system. But by the time they had reached that point it would be out of the question for blacks. There is a lag between what whites are prepared to change and what blacks are demanding.



'So it is easy to see why the Soviet Government felt it had to act. But it is also easy to foresee that repression will not cure dissidence. Dissidence is caused by a political system and ideology that have become rigid and at many points out of touch with intellectual and social realities.'

Mark Frankland, THE OBSERVER, 16/7/78



# Black opposition: a historical perspective

Tom Lodge

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*Mr Lodge, assistant lecturer in the Department of African Government at the University of the Witwatersrand, delivered this paper to Transvaal Region's Meeting in April.*

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## Part I

**I**N this and a following article I am going to look at two themes which have been important in the history of black opposition in South Africa. First I am going to explore the development of separatist consciousness and the way it affected the nationalist movement. Then, in the second article, I will examine the trend towards integration and relate it to the various strategies adopted by the African organisations: constitutional protest, strike action, and civil disobedience. I am taking as my cut-off point the Sharpeville shootings of March 21, 1960, for this was when a tradition of legal organised black opposition came to a brutal end.

Black consciousness is not a particularly recent phenomenon but the antecedents of its present day form were less intellectually coherent or complex. For example: Jordan Ngubane tells us of two different moods in location political circles during the 1950s. On the one hand you had the atmosphere of an African National Congress meeting where the songs expressed 'the eclecticism of the new African', harmonies deriving 'from the blended traditions in the cultural amalgam, neither Western nor traditionally African'. In contrast there were the gatherings of what Ngubane calls the 'heroicals', the 'Africanists':

...the spirit is aggressively African. The songs they sing . . . are usually not those from the white man's culture; they are often the ancient chants which Africans sang through the ages when they were on the war path . . . there is a sense of destiny visible . . . To attend such a party gives one the feeling of having been inside an emotional steam-bath.<sup>1</sup>

The hostility to eclecticism or assimilation, the withdrawal from white culture, the emotional reference to resistance to conquest, the 'sense of destiny': these responses have played an important part from the beginning in black challenges to white authority. Perhaps they started with the prophet Makana, but in any case, it is appropriate to begin with his story for Makana was the first political prisoner to be confined on Robben Island.

## The prophet Makana

Makana lived on the Eastern Cape frontier in the early nineteenth century. Little is known of his origin but it is thought that contact with missionaries inspired him to establish an alternative religion for the Xhosa. A black god,

Dalidipu, was superior to the white man's god, and Makana was his prophet. Makana's task was to destroy the followers of the white god and to resurrect all who had died at their hands. He allied himself with Ndlambe, one of the leaders in the frontier wars against the colonists and together they set out to unite the Xhosa people. Their first end was to defeat Gaika, a chief who collaborated with the British, but in 1819 Gaika succeeded in gaining white military support. Makana counter-attacked but failed to take Grahamstown, and eventually, as a peace-offering surrendered himself. He was sentenced to life imprisonment in Robben Island and was drowned a year later while trying to escape.

Three features of Makana's story seem relevant to what follows. First, there is this alienation from white culture which manifested itself in the creation of an alternative theology. This cultural rejection could involve a desperate attempt to physically rid the country of Europeans. Secondly there was the theme of prophecy: Makana was Dalidipu's prophet. And thirdly there is millinerian feeling to the story; Makana's followers looked forward to a new age. Makana was going to restore to the Xhosas the cattle and the warriors who had died in previous conflicts with the Europeans. A new god was to vanquish the false god.

## The Ethiopianists

A more modern and gentler form of religious withdrawal was to be found in the Ethiopianist movement which developed in South Africa in the 1890s. It grew mainly from the activities of American negro missionaries of the American Episcopal Missionary church. The A.E.M.C. had its roots in the despair of segregation in the post-reconstruction deep South: there was no hope for the black man in America, he should return to Africa. In Africa there had survived for centuries an authentic black christianity: the church in Abyssinia: It did not owe its origins to Europeans. The Ethiopianists took heart from this: there was a special place for Africa in God's order of things. In the words of Psalm 68:31 'Princes shall come out of Egypt; Ethiopia shall soon stretch out her hands unto God.'

Now in South Africa the Ethiopians' attitude to the white community was ambivalent. In Sekukuniland an Ethiopianist leader was said to have told his followers 'that some day with the help of their Ethiopian brothers in America they

will become the possessors of South Africa<sup>2</sup> but more often the accent was on the black raising themselves, through their own efforts, to a position of equality.

One level reflected the aspirations of middle-class Africans: the churches with their subscription collections enabled some leaders to accumulate wealth and buy land. This was especially so in the Transvaal in the aftermath of the Anglo-Boer war when rural Africans tried to take advantage of the defeat of the Afrikaners by reoccupying the land which had been taken from them many years before. Ethiopianist-inspired agitation for African land-holding rights was to be rewarded in 1905 in a court case in which African land tenure was recognised, a decision which was reversed in 1913 with the passing of the Native Land Act. But there was more to Ethiopianism than élitist aspirations: it developed in a period when Africans were being forced off the land, partly as a result of the requirements of white agriculture, but also in response to the labour needs of mining capital. It is significant that its following was largest among the rural communities most threatened by landlessness and among the poorest and least secure groups in the towns: for them a doctrine of regeneration in this world would have an obvious appeal. But Ethiopianism seldom translated its religious alienation into explicitly political sentiments.

### **The Zionist movements**

A second form of religious separatism was more radical in its outlook. Whereas the Ethiopianists referred to an ancient African church as evidence of a particular destiny for Africans, the Zionist movements took their inspiration from the Old Testament historical experience of the Israelites whom God had liberated from foreign oppression. Zionist churches were usually formed round a single prophet and their hostility to Europe was universal. Unlike the Ethiopians they did not set up a parallel structure to the white churches and often they used concepts derived from indigenous religions.

The Israelite movement led by Enoch Mgijima provides us with an example of a Zionist church which transcended the limits of spiritual withdrawal. The origins of the Israelites can be traced to the second decade of this century when a Methodist preacher, John Msinkinga, returned from America as a Bishop of 'The Church of Gods and Saints and Christ.' He was joined by Enoch Mgijima of Bulhoek location near Queenstown who took over the leadership of the sect on Msinkinga's death in 1918. In 1910 there had appeared in the sky Halley's Comet. It had been last seen in 1835 and was taken then as a premonition of the death of Mzilikazi, king of the Matabeles. Its reappearance 75 years later was widely interpreted as a presage of another momentous event: the end of white rule in South Africa. Mgijima

began preaching that Jehovah was angry and that people must return to the ancient religion of the Israeli patriarchs. From 1918 the sect began to celebrate the passover by meeting every year on open ground near Bulhoek. In 1920 they settled down permanently and built huts, refusing to go, for they were awaiting the end of the world. Repeated attempts by the authorities to persuade them evoked the response that Jehovah had told them not to allow the government to burn the huts or disperse the Israelites. In May 1921, 800 police advanced on the hill. They were met by 500 Israelites armed with home-made swords and spears. In the confrontation 163 Israelites were killed and a further 129 wounded.

The notion of an impending liberation was also present in the teaching of Wellington Butelezi, a contemporary of Enoch Mgijima, who had a considerable following in the Transkei. Like the Ethiopianists, Butelezi was influenced by American Negro thought, but though his movement had a religious aspect, the political ideology of Garveyism was more important in its formation. (Garvey led an American black separatist movement which explicitly rejected any proposed integration of negroes into US society). Very little is known about Butelezi's background: he claimed to be an American and used an interpreter to speak to his congregation, but would, when excited, speak fluent Xhosa. He practised as a herbalist. He told his people that American negroes were on their way to save South Africa and that they would arrive in aeroplanes. When the negroes came the whites would be driven off the land and into the sea. His message seemed especially convincing when aeroplanes did arrive: sent by the government to discourage and frighten his followers. He urged the Transkeians not to pay poll tax and to refuse to allow their cattle to be dipped. White fowls and pigs should be slaughtered. His influence waned with the non-arrival of the negroes but some of it was retained in the so-called 'American' schools which had been established on his instructions, though they too did not survive long.

This withdrawal from the implications of the white presence, with its undercurrents of prophecy, millenarianism and religious and political separatism, was a direct response to the deterioration in the rural economy. In the first quarter of this century, with the restrictions on African land tenure under the terms of the 1913 Act (which created an especially desperate situation in the densely populated Eastern Cape and Transkei), the enforced creation of a black labour force through taxation, and the post-First World War agricultural depression with the droughts which accompanied it, the economic basis of an independent African peasantry was systematically undermined. In the movements described above, the anguish arising out of these economic tensions lies very close to the surface. But there was another strand of explicitly political separatism which de-



veloped in an urban setting and it is only after 1960 with the Poqo movement that there occurred a synthesis between the two.

## SACP

The first attempt to introduce a separatist theme into mainstream African politics, came, perhaps rather surprisingly, from the South African Communist Party. Up until 1928 SACP policy had been orientated towards class struggle but with an emphasis on solidarity between black and white workers. However, in 1928 the Communist International withdrew its support for the old policy of a non-racial class war against capitalism and instead called for 'a South African Native Republic as a stage towards a Workers' and Peasants' Government.' The new line stipulated the return of the land to the dispossessed, a revolutionary soviet-based government 'very predominantly native in character.' Certain writers, including Eddie Roux, himself a member of the SACP at the time, contend that this programme was imposed on the South African communists against their wishes. But it was argued by Jack Simons that discussion was originally initiated by J A La Guma, a 'coloured' SACP delegate and that moreover it reflected more closely the realities of the South African situation: the absorption of the white labour aristocracy into the ruling class and the proletarianisation of the African population. S P Bunting and other white communist leaders, despite their misgivings, obediently conformed to the new party doctrine.

## ANC

The response to the SACP slogan by the African National Congress does show us very clearly the cross-currents in African political thinking at that time. The constitution of the ANC, as defined in 1918, stressed integration rather than any exclusivist or self-determinist ideal. The economic and social future were seen in terms of a non-racial meritocracy. Nevertheless the new Communist policy did find some support within the ANC. There was the lonely figure of Josiah Gumede, the owner of the official Congress newspaper, *Abantu Batho*, bitterly disillusioned after the failure of the 1919 delegation which had tried to persuade the British to revise the South Africa Act (4). In 1927 he was elected President-General of the ANC. In 1930 Gumede argued in his presidential address that earlier ANC protests were too moderate, that the Soviet Union was the only real friend of subject races and that Africans had to adopt a militant policy to bring about liberation. I will discuss the character of the ANC during this period in the next article; sufficient to say here that Gumede's thesis ran counter to all the basic tenets of Congress ideology, influenced as it was by a Christian vision of racial harmony, by contact with liberal Europeans through the joint councils (5), by the professional background of many Congress leaders themselves. In

1930, after his presidential speech, Gumede was forced to resign the president-generalship.

Ironically Gumede and the exclusivist doctrine he represented were to draw their greatest degree of support, not from the urban proletariat of the Rand, but from the agricultural workers of the Western Cape who lived in conditions of quite atrocious poverty. After Gumede's defeat there was a split in the Cape ANC and a militant 'Independent ANC' was formed in support of the native republic thesis, calling for an 'African liberation movement which will not bow the knee to British and Boer imperialism.' The IANC was short-lived but its existence foreshadowed the development of another separatist movement which drew a major part of its strength from the Western Cape in the 1960s — the underground PAC-orientated Poqo movement.

The second wave of exclusivist thought in the ANC came in the early 1940s with the formation of the ANC Youth League in 1943. This should be seen against the backdrop of the Second World War. A tremendous increase in South African manufacturing in the urban centres persuaded the government to suspend the restrictions on African movement into towns. But though the increased demand for industrial labour created a massive expansion in the black urban proletariat there was no corresponding increase in social expenditure. Housing conditions were appalling and the sharp rise in food prices far outstripped any increase in wages. In the Johannesburg townships these were the years of the bus boycotts, the squatter movements, the politics of poverty. In this atmosphere the Youth League was founded. Its first members were drawn from a new middle-class generation; teachers, medical students, articulated clerks, journalists and trade-unionists, all in their 20s or early 30s. The large number of teachers is significant: black teachers in the late 1930s had become an increasingly dissatisfied and outspoken group. Strong teachers' associations had grown up; teachers had led the Transkei opposition to the 1936 Hertzog legislation (7). A significant proportion of Youth League members had been educated at Fort Hare (many of the older leaders, by comparison, were educated abroad). This was a less patient generation. An initial optimism that the war might bring an improvement in social and political conditions in return for African loyalty had been belied by the Government's rejection of reform proposals before the 1943 elections and a blunt statement by Smuts that there was to be no deviation from the 1936 Acts.

Three men are usually associated with the League's formation: Anton Lembede, Ashby Mda and Jordan Ngubane, all, incidentally, Catholics. The three were each to represent rather different positions in black political thought. The core of Youth League philosophy was expressed in their 1944 manifesto which criticised the ANC as 'a body of gentlemen with clean hands.' It went on

to define a new nationalist creed. The statement included the following points:

- a) A belief in the divine destiny of nations
  - b) a definition of the goal of the struggle as Africanism — 'Africa's cause must triumph'
  - c) the liberation of Africa 'will be achieved by Africans themselves . . . Africans must reject foreign leadership'
  - d) useful ideologies could be borrowed or adapted wholesale
  - e) there should be 'unity of Africans from the Mediterranean . . . to the Indian and Atlantic oceans . . . Africa must speak with one voice.'
- (8)

The ANCYL claimed not to be inherently anti-European but it seemed to them Africans were wasting their time if they looked to Europeans for help.

Basically Africanism involved two separate ideas: firstly a positive affirmation of racial identity which was inherently exclusive, and secondly the argument that before Africans could collaborate with other races they must have attained a social equality.

Africanist thinking was never really to dominate ANC policy except at a tactical level; there was a shift towards more militant confrontational campaigning in the late 1940s and early 1950s. The League never had more than 200 members — perhaps a hard core of around 60. Some important Youth Leaguers, like Nelson Mandela began to modify their hostility to Marxism. The SACP, as will be shown in the second part of this article, was moving away from a fundamentally class-based strategy towards an acceptance that national liberation might have to precede any advance towards socialism. This made relations with the ANC considerably easier. Some former Africanists began to fear the consequences of the racist element in Africanist doctrine. This feeling was strengthened by the Durban race riots of 1948.

## **PAC**

However if Africanist ideas at the leadership level of Congress were to become less influential after 1948, Africanism remained very much alive in the branches of certain Transvaal and Cape Town locations. Dissatisfaction with ANC campaigns and with the degree of co-operation with the white left was to provoke a split which resulted in the formation of the Pan Africanist Congress the following year. The PAC, like the Africanists, denied that there could be any fruitful political collaboration at that stage between white and black groups. Whites were unable to identify themselves with the cause of African freedom because they benefitted materially from the present situation, claimed the PAC. The Pan Africanists stood for government by Africans for Africans.

Like the Africanists of the 1940s, there were two strands in PAC thinking. First there was the

defensive insistence that Africans were too weak to collaborate on an equal basis with the Europeans — political separatism was necessary but not intrinsically racialist. The PAC president, Robert Sobukwe, represented this line of reasoning. In his graduation address as SRC president at Fort Hare in 1948 Sobukwe had insisted that radicalism did not involve being anti-white; indeed if your thoughts were those of a slave, a slave you would remain. It was up to minority groups to think of themselves as African; only then would they secure mental and spiritual freedom. Sobukwe was highly conscious of the moral complexities of the Pan Africanist position. He used to warn liberal critics that if they continued stressing the Africanists' hatred of the white men they would merely succeed in identifying the PAC with the masses who did not distinguish between oppressor and oppression. Therefore he argued, far from discrediting the PAC, such criticisms merely raised their stock among the many people who thought in such terms.

But the other current in the PAC was more embittered, more alienated and less concerned to define so carefully the subtlety of the PAC's racial stance. Sobukwe, after all, was one of that small group of Africans who, because of their professional qualifications, were able to have some contact with whites which was not based on a subordinate relationship.

## **Poqo**

And Sobukwe was absolutely correct; it was this populist current in PAC ideology rather than his calm persuasive logic which lay at the heart of its mass appeal. I will be discussing the 1960 pass campaign in the second part of this article; here I would like to refer briefly to the Poqo movement which developed after the PAC's banning. Poqo's greatest following was in the Western Cape: here the black population was suffering from the first impact of the government 'resettlement programme' and here, as a result, the migrant workers formed the greater proportion of the black population. As a transitional class, the migrants were subject to two pressures: the increasing severity of the influx control regulations which threatened their security in the towns, and the land rehabilitation measures in the reserves (especially the Transkei) which interfered with their and their families' access to land. For these people a movement which defined the oppressor in clear unambiguous terms was attractive. Moreover there was an element of prophecy and even a millennial feeling about the PAC's message: freedom was going to come in three years, the 'forces of darkness' were going to be driven away, a new age was about to be established. To his less educated followers, Robert Sobukwe, now imprisoned on Robben Island, had an almost messianic quality. One of his fellow prisoners remembers that the Poqo men on the island found it possible to believe:



. . . that the five to eight year, and nine to 15 year or life sentences would wither away when that man in the lonely house decided to act . . .

Sobukwe, who:

. . . never pushed us from the rear but led us from the front like a good shepherd . . .

A second prophet had come to Makana's Island.

What I have tried to suggest so far in this article is that there has always been a separatist tradition in South African black political consciousness. But it has mainly been a rural tradition, arising out of the quite desperate conditions in the countryside. The periods of its strength have coincided with waves of rural tension. The forcing of blacks off the land in the first quarter of the century can be linked to the development of religious separatism: the Ethiopianists and Zionists. The black republicanists of the 1930s found their chief support in the disaffected Cape farm labour. Even the Poqo movement is best understood if one sees it as the despairing response to influx control and dispossession by men who are not, in the Marxian sense, free; men in the city who have not severed their emotional commitment to the land. But, in the period under consideration, attempts to introduce an exclusivist element into the mainstream of African politics with its largely urban context, were on the whole unsuccessful. Part two of this article will try to explain why this was so.

#### REFERENCES

1. Jordan Ngubane. *An African Explains Apartheid*. New York. 1962. p 176.
2. Gwen Carter and Thomas Karis. *From Protest to Challenge*. Volume One. California. 1973. p 39.
3. The South African Act was seen by black leaders in 1910 as a major betrayal as with its passing, Britain, despite promises made during the Anglo Boer War, absolved herself of any responsibility for improving the political status of Africans in the Union.

#### LETTERS TO THE EDITOR

Dear Madam,

Your edition marking the 30th anniversary of the Black Sash reminds me of my mother and half a dozen women who used to stand outside the Post Office in Mooi River, in the late 40's and early 50's.

Mooi River was a cold place climatically and politically, and the majority of the local people passed by the stand, either with complete disinterest or possibly disrespect. All except for my father and the retired doctor, who would walk by solemnly with hats raised as they passed down the line.

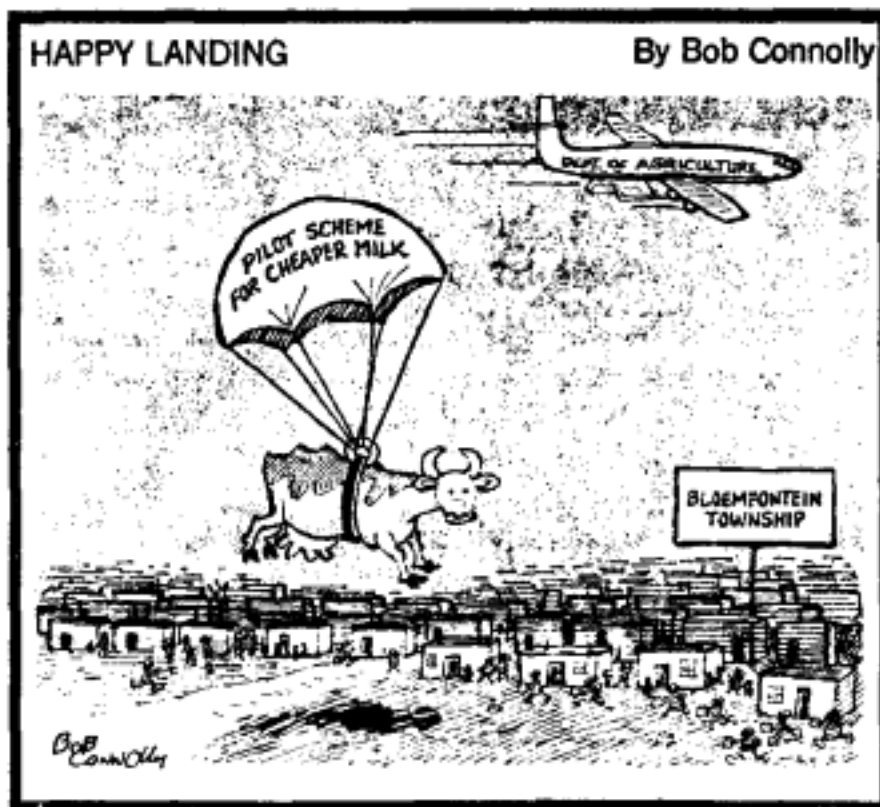
With best wishes  
Jo Thorpe

4. These were set up as multi-racial consultative bodies by leading liberals in the 1920s.
5. The Hertzog legislation concerned the removal of Africans from the common roll in the Cape and a reformulation of the provisions of the 1913 Land Act which defined the boundaries of the reserves to include 13 per cent of the total area of South Africa.
6. Gwen Carter and Thomas Karis. *From Protest to Challenge*. Volume Two. California. 1973. p 300.
7. Patrick Duncan Paper, University of York. File 6.26.
8. Z. B. Zwelonke. *Robben Island*. London. p.

#### NOTE ON SOURCES:

The best single source on African opposition up to 1948 is Edward Roux's *Time Longer than Rope*. I have relied on it heavily in writing this article. It is still in print (the most recent edition has a chapter of post-1948 developments) and it is legally available in South Africa. Peter Walshe's *The rise of African Nationalism in South Africa* is also extremely useful on pre-1950 ANC history though it is drier and more academic in tone than Roux's book. Another book which is essential to any understanding of this period is H J and R E Simons' *Class and Colour in South Africa*; unfortunately it is banned in this country.

The 1950s and 1960s are less satisfactorily recorded. There is a useful chapter by Leo Kuper in Volume 2 of *The Oxford History of South Africa*. The ANC in the 1950s has been described in a series of slightly hostile books by an American political scientist, Edward Feit. Most of them have been banned. The same applies to the books by people who were associated with or involved in the Congress Alliance. This is a pity: Mary Benson's *The Struggle for a Birthright* is one of the few comprehensive accounts of the nationalist movement in those years. Janet Robertson's *Liberalism in South Africa* covers some of the same ground. But on the whole, unless readers have access to the resources of a university library, for the post-war period they will probably have to depend on their own memories.



# The new constitution

Joyce Harris

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*A paper presented by Mrs Harris, National President of the Black Sash, to National Conference, March, 1978.*

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**T**HE one hopeful aspect of the new constitutional plan for South Africa is that it implies that the Government recognises that our country has problems and is prepared to go through the motions of attempting to resolve them.

According to Press reports the proposals contain a welter of vaguely-defined clauses allowing for a wide spectrum of interpretation, as has already been evidenced by the divergent views expressed not only by the *verligtes* and *verkrampes* within the National Party itself, but by various commentators and the English language Press.

If it was the intention of the Government to provide a plan that could be all things to all people it can be rejected as a meaningless cosmetic operation. If it is genuine in its desire to meet the needs and aspirations of the vast majority of politically impotent citizens in our country then the plan — or what is known of it — is totally inadequate.

'Government of the people by the people for the people' implies that, in the corridors of real political power, all people shall be represented, the will of the majority shall prevail, and rights, privileges and obligations shall be protected by the operation of a free and independent judiciary. The Westminster system may not be the best method of achieving democracy in a non-homogeneous country, but the Government's new 'magic formula' could well be counterproductive.

The very division of people into their racial components, with the implicit denial of their joint contribution to the corporate whole and their joint rights within that whole, is in itself a denial of the essence of democracy. However a Government which has evolved its entire policy upon the separation of people can obviously not be expected to devise a scheme wherein power is actually shared.

A more detailed examination of the scheme bears out this supposition. The concept of three

separate parliaments in one common area is pitted with problems. Despite the fact that the racial groups are compelled to live in separate parts of the area to be governed they all contribute towards the common good and have perforce to share common amenities.

In the sphere of public transport, for example, conflict is certain to arise should one Parliament legislate for mixed transport while another rejects this — a situation which could repeat itself at any number of possible flash points such as mixed cultural amenities, mixed beaches, mixed business areas, to name but a few. How much power will each Parliament exercise *viz-a-viz* the others, and how much power will they be free to wield in relation to the people they represent?

Despite the additional Parliaments, power will be concentrated in the Executive Branch, with an executive President apparently uncontrolled by such constitutional restraints on his actions as are entrenched in the constitution of the United States.

Nor has any mention been made of the inevitably escalating costs of maintaining three separate governments, and this in a country which is already overburdened with a non-productive bureaucracy. With three Parliaments, three Prime Ministers, three Cabinets, and three organisations which must be staffed, the costs will be astronomical and the demands made on tax-payers out of all proportion to the amenities and services provided.

This clumsy and top-heavy Government contrivance will not resolve the racial dilemma in our country, nor can the country afford it. The Government has stated its intention to consult with the Coloured and Indian communities before proceeding with legislation to introduce a new constitution. White opposition parties, urban blacks, dependent Homelands — indeed all the people — should be included in these deliberations in order to find a solution acceptable to all.

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'Worst of all our Government has created an idol called Security, in whose name public information can be suppressed almost at whim.

It means that the voters who have placed the politicians in power are denied information about the use of some treasury funds. It also means that the individual is denied news which is vital for any assessment of the country's security and of his own family's safety.'

*Mr Harvey Tyson, editor of THE STAR.*



# Constitution or party policy?

M. L. Wiechers

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*Prof Wiechers, Professor of Constitutional Law at the University of South Africa, delivered this lecture to the Cape Town Summer School School early this year.*

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**I**T IS significant that the Government's new constitutional plans were first divulged to the caucus of the National Party and afterwards at closed sessions of the four provincial congresses of the party.

The process illustrates their very nature: They are basically guidelines for future party political action aimed at constitutional reform, and do not, in themselves, constitute broad proposals which have to be considered by all interested groups and parties concerned. This poses a major obstacle to any serious analysis of these proposals.

I should have preferred the debate on the new constitutional reforms to have taken place at a higher level of national interest and disinterested science. As they stand now, they are conceived and born in party politics and nurtured on the breast of the caucus of the Nationalist Party.

I am convinced that the government, in choosing to elaborate these proposals within the confines of its cabinet and the inner circles of its policy-making organisations, has rendered itself a tremendous disservice. The result is that much of the criticism that has been levelled against the current constitutional proposals does not spring from a sincere concern for what is best for South Africa as a whole, but from naked anti-government sentiments.

## Fundamental ambiguity

I shall try to make this an objective critique of the current constitutional proposals and I do not intend to touch on the important financial implications the proposals may have, especially the enormous burden which three extended parliaments and administrations may have on state finances.

The proposals spring from a very deep ambiguity, if not profound *malaise*. The government while adhering to its past policy of parallel development, and rejecting any notion of direct representation and joint decision-making for the 'coloured' group accepted that serious problems do exist in regard to the present constitutional dispensation for the 'coloured' group, to such an extent that the present Westminster-founded system of government will have to be changed. In other words, the government was not prepared to consider the fact that its policy of parallel development may be at the root of the problems as stated by the Theron Commission in its five chapters on the constitutional

position of the 'coloured', but places the blame squarely on the present Westminster-founded system. For this reason, the main strategy that emerged from the Commission's report and the government's white papers was to amend the Westminster-founded system, not to change policy.

## The Westminster system

But how do you change a system which, up to now, has in fact provided the means whereby you have been able to wield final power and transfer your policies into practice? For it is the Westminster system itself which afforded the government the power and authority to implement its grand designs for a separate development.

Through the sovereignty of our parliament, which is the hallmark of our Westminster system, the government was able to create autonomous homelands, an independent Transkei and bophuthatswana and to institute separate institutions such as the Coloured Representative Council and Indian Council.

*The only solution to this dilemma was to institutionalise and entrench the gravity of the existing political power and then to bolster it with other bodies, such as 'parliaments,' committees and councils.*

Essentially, the Westminster system is the oldest form of parliamentary democracy, which has as its secret of efficiency the interdependence of legislature and executive. Cornerstones of this constitutional constellation are the venerable institutions which are above party political conflict and culminate in the monarchy, the sovereignty of parliament, the independence of the judiciary, the subordination of the executive to parliamentary authority and control and the role of the opposition as a viable possibility for alternative government.

The Westminster system of government is the embodiment of a majority rule democracy with its foundations in an electoral system whereby the winner takes all (although it must not be forgotten that, as a result of constituency delimitation with its accompanying loading and unloading of the percentage of voters, it is not necessarily the majority of voters who will, through their representatives, win a majority of seats in the House).

More than any other system of government in the world, the Westminster system has shown an

indestructible ability for adaption and survival. It has overcome revolutions without ever becoming revolutionary; it has withstood social and economic upheaval without becoming exclusive, oppressive or unstable. The reason for all this is that the system is the outcome of a time-tested balance between representative and responsible government. That this is the result of the relative homogeneity of the British people and their deep sense of constitutionalism, cannot be denied. But none of this detracts from the fact that the British system is the most flexible and adaptable system of government which exists in the free world today.

The reasons for the failure of the Westminster system in the Third World, and especially in Africa, must be sought not in the system itself but in the absence of the historical roots of that system as it existed in Britain. In that sense, the demise of the Westminster system of government in Africa is not so much an abolition of the system but a regression to a stage where that very system stood at the time of the Stuarts in the 17th century before the Restoration.

One wonders whether the 'change' of the Westminster-founded system as contained in our present constitutional proposals does not reflect a similar regression, since, as will be pointed out, the current proposals do not in themselves contain so much a departure from the Westminster system as an uprooting of the foundations of that very system.

### **Criticisms**

Since the announcement of the proposals, much criticism has been levelled against them. Much of this criticism is from a constitutional law point of view eminently relevant and correct, but some of it reflects such a strong anti-government bias that one must deal with it carefully. For instance, statements that the current proposals are aimed at the creation of a dictatorship should be viewed with caution. On the other hand, the government must be aware that it is exactly this kind of criticism which will find an echo among those groups to whom they intend 'selling' their plans and on whose acceptance the success of the proposals will largely depend.

To summarise, some of the most valid criticisms, especially from a constitutional point of view, should be reiterated: The proposals are vague; they do not explain the composition of the electoral college that will be responsible for the election of the president and especially the role of opposition parties in such an electoral college; they do not circumscribe the powers of the president, particularly as regards his powers to assent to legislation on matters of mutual interest; the composition of the separate parliament is still a matter of speculation — will the 'coloured' parliament, for instance, be free to nominate non-'coloureds' as members

It is also not clear how the government intends

to introduce the proposed constitution amendments, by means of separate acts or by adopting one single new constitution: is the new constitution to be entrenched (and how?) in so far as the demarcation of matters of particular and mutual interest is concerned and is it foreseen that this demarcation of legislative powers will be controlled by the judiciary, the president's council, the council of cabinets or the president himself?

Which parliament or parliaments are to control the exercise of emergency powers? Will the existing conventions of appointing the leaders of the respective parliaments as prime ministers and ministers (both for the three cabinets and the council of cabinets) still apply, and, if not how is it foreseen that the proposed system (which in essence remains a parliamentary opposed to a presidential system of government since the members of the executive are at the same time members of their respective parliaments) will operate if these conventions are discarded?

It stands to reason that if the ministers cannot rely on the support of the majority in the different parliaments, it becomes a matter of doubt whether they will be able to have legislation passed in their parliaments. Also, most important, is the president to be a member of one of the parliaments? Since, if he is to be elected and dismissed by a parliamentary electoral college but at the same time distanced from that very source where he can wield personal influence and power, he might easily run the risk of being ousted by the caucus which used to be his stronghold.

Such a possibility is not far-fetched if one considers the fact that the president, as supreme arbiter in national affairs, may face the risk of incurring the disfavour of a majority in the white parliament. The only solution to this particular problem is for the president, as in the case of a true presidential system, to derive his mandate from an extra-parliamentary source.

One can continue like this and think of many other obscurities and objections. I am convinced that many of the present quandaries can be cleared up if more particulars are given. On the other hand, I am also convinced that these proposals have certain serious, intrinsic defects which cannot simply be cured by technical detail, but which ask for serious and fundamental rethinking.

### **Major flaw**

Perhaps the most serious shortcoming of the Government's new constitutional proposals is that they endeavour to enshrine the premises of a policy of separate development which simply cannot be achieved in constitutional terms.

These premises rest on the assumption that whites, 'coloureds' and Asians have such different spheres of interest that these spheres of interest can form the basis of separate political institutions.



Political institutions are centres of power which operate within a given time and space; they may be instituted to accommodate certain group interests but in order to be a means of government they must exercise their authority over defined areas of jurisdiction and persons.

A local authority can certainly care for local interests, but it is always within the confines of a given territory, over the people who live in that territory and within the scope of autonomy which is afforded to it. A national body such as the white Parliament must exercise its authority on a national scale and if it has to co-exist with another two bodies such as the 'coloured' and Asian Parliaments which both operate on a national scale, then a horizontal demarcation of jurisdiction on the basis of group interests is an impossibility, unless a hierarchy of power is established and a division by way of delegation from one body to the other is provided for.

But this has been proved in the case of the Coloured Representative Council to be utterly futile.

### **Fragile basis**

The only way in which group interests can be accommodated on a national level is to create one single institution and to employ the consociational devices of grand coalition government, mutual veto and proportionality. In short, one cannot create 'interest homelands' in the air and propose to build separate constitutional institutions for them.

Another alarming aspect of the current constitutional proposals is the extremely fragile basis on which they rest. For they have as their *raison d'être* a system of race classification and residential separation (as embodied in the Population Registration and Group Areas Acts) which, in order to be effective, must be upheld and enforced by a white parliament.

The truth of the matter is that neither of these statutory foundations, which are basic to the feasibility of the Government's proposals, will be honoured or upheld by the 'coloured' or Asian parliaments, certainly not at the level of particular or national interest.

The current constitutional proposals reflect in themselves many of the problems which beset the erstwhile mother countries in the periods of decolonisation. In fact, the Government's policies of separate government with its strong (and I think honest) insistence on the principle of self-determination of the various South African 'peoples', is moulded in the classic form of decolonisation. For that reason homelands are given 'sovereign independence' and nations in our midst 'are made free'.

### **Motherland**

However, since the one prime element for a successful policy of decolonisation is totally lacking — that is, the existence of a white decolonising motherland — the execution of the policy be-

comes a bizarre, mostly legislatively ordained, castle of dreams, rationalisations and emotions. This is why millions of black South African 'foreigners' remain in the Republic after their scattered patches of independent fatherlands leap on to the map, why millions of brown South Africans must as a nation-in-being continue to seek for themselves a destiny in distant spheres of interests.

The current constitutional proposals presuppose a political framework which simply does not for the moment, find any support in existing political realities. How can a consensus in the council of cabinets be postulated if the present political system does not allow for such a possibility?

It has to be foreseen that there will be a wide divergence of opinion and conviction among the members of the council. Is the council to embark on a long process of conciliation every time it cannot reach consensus or will the president use his authority to break the deadlock?

### **Role of Senate**

It has been reported that under these new proposals it is foreseen that the Senate will be phased out and that the provincial councils may be abolished. This is, if it is true, an alarming prospect. I am convinced that the provincial councils as South African representative institutions which have a long standing in our history could have proved to be instruments on which a solid constitutional infrastructure for future development could have been built.

The Senate, because of its own history and origins, is indeed the only institution where group interests could have been represented, not directly, perhaps but as a balancing factor in the process of State legislation.

Instead of creating a separate Parliament for separate interests which have to co-exist with two other interest-parliaments — which is, as has been pointed out, an impossibility — it is on the other hand clearly possible to have in a single legislature a constituent part where group interests are accommodated. The Senate could have served such a purpose excellently. At the same time, it could have been the starting-point for coalition and co-operation which is so completely lacking at present and which could have afforded the basis for a new constitutional order.

### **Conclusion**

We must search for a new formula of political dispensation. The current proposals, albeit vague and imperfect, constitute the first step towards such a new formula.

As a final formula I very much doubt that these proposals will be successful, for the reasons I have given, but I do acknowledge their usefulness as a step in the right direction in the sense that they may form a basis for negotiations.

With acknowledgements to the CAPE ARGUS

# A prophet in his own country...

**Anthony Lewis**

WASHINGTON, March 1 — A few times in his life a newspaper reporter meets a political figure and senses authentic greatness; a magnetic external presence combined with a sense of inner serenity. That happened to me on June 9, 1975, in the South African mining town of Kimberley. I met Robert Sobukwe.

He was despised and rejected by those who hold power in his country. He lived in enforced obscurity, unable to travel, his countrymen forbidden to read his words. But there was a power in him that shone through all the petty cruelties of official suppression. It was the power of belief in humanity, in non-violent change toward justice, and those who suppressed him should pray that it will survive his death this week.

Robert Sobukwe suffered indignities that would destroy most of us. As leader of the Pan-Africanist Congress, he was sent to prison in 1960 — and his organization banned — for protesting against the pass laws that bind the blacks of South Africa. When his three-year sentence ended, the Nationalist Government passed a law to keep him in detention without any charge or proof of a criminal offence.

For six years he was kept in a stockade on Robben Island — alone, without even the companionship of other prisoners. Then he was sent to Kimberley, a town he did not know, and banned: forbidden to meet more than one other person at a time, to leave home at night, or to venture outside Kimberley without special permission.

He was invited to lecture at the University of Wisconsin in 1970 and got the necessary permit to leave South Africa, but the Ministry of Justice would not relax the banning order to let him go to the airport in Johannesburg. Even when he was dying, official harried doctors and friends to keep to the rules.

But none of that showed in Robert Sobukwe. Meeting him, one saw a man utterly at peace with himself — and with his tormentors. He laughed a lot. And when he spoke of some ingenious twist of racial discrimination in South Africa, he shook his head as if in amazement at human foolishness and said: 'Honestly. . .'

I said I thought the Afrikaners who rule South Africa still had a strong sense of having been treated unfairly by the English-speaking whites. 'I agree with them,' Mr Sobukwe said. 'I think there's a lot in that. But then why don't they understand how we feel when we suffer discrimination? Honestly. . .'

Of his detention on Robben Island, he said: 'It gave me an opportunity to read.' He got a

degree in economics from London University by correspondence in those years. In Kimberley, despite the restrictions, he trained as a lawyer and was admitted to practice. And he made a point of saying that the authorities had treated him with courtesy.

'When I ring the prosecutors about legal business,' he said, 'I say "Sobukwe here" and they say "Yes, Meneer." The security chief here has been consistently polite, too. As human beings I think that man and I could be friends. I know he has his job. He knows I am a politician, with my views.'

His view was that whites and blacks have to live together in South Africa. 'A non-racial society,' he said. 'That remains my goal, I would make racism a crime, no matter from which side it came — like an American civil rights law.'

But he saw, in 1975, that time was running out for his ideas, that anti-white feeling was growing among blacks. He noted with quiet irony that whites were shocked at expressions of black antagonism: 'Until now it has been the white prerogative to hate.' He predicted, correctly, that students would lead the way in expressing black feelings, and that they would be suppressed. The Government would discount the students' protests, he said, 'but they are in fact the barometer of black opinion.'

He had no illusions of quick change in South Africa. No easy revolutionary slogans came to his lips. He thought it would be a long, hard struggle to persuade the white minority that its own true interest lay in treating non-whites as fellow human beings. In the end, he said, as whites felt the pressures of the world, they would find themselves needing 'the loyalty of the blacks. That will be the crucial dilemma.'

Robert Sobukwe made the same extraordinary impression on many Americans who came to see him in his isolation. Senator Dick Clark of Iowa, who saw him in December, 1976, said after his death: 'He was a very gentle man. More than any other person I met in South Africa he represented what I had read about: that people could still be rational in the demand for change, not bitter. I could hardly understand it — the lack of bitterness.'

The tragedy of Robert Sobukwe's isolation and death is for the white people of South Africa more even than the black. By refusing to talk with him, those in power lost what may be their last best hope of rational accommodation to change, to humanity. Cry the beloved country.

With acknowledgements to the New York Times



# Instant economics

Daphne Venturas

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*Ms Venturas, lecturer in Economics at the University of Cape Town, gave this talk to Cape Western's General Meeting on July 5, 1978. (Some delegates at Conference had felt that many in the Sash were too ignorant of the basics of economics. Hence this talk.)*

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**E**CONOMICS is simply the study of how to allocate scarce resources to various alternative and competing uses.

Within that definition are contained the three basic elements of all economics — *scarcity, choice and cost*. One is forced by *scarcity* to make a *choice*, and in doing so, one incurs a *cost* — the cost of sacrificing other alternatives.

## a) Scarcity

People's wants are many, but the resources required to produce the desired objects are limited in supply — i.e. the resources of land, labour and capital (in the form of plant and machinery or raw materials, or even in terms of the finance necessary to purchase them). There are insufficient productive resources in the world to produce the entire amount of goods and services to satisfy all of the wants of the world's population. Thus, to economists, all productive resources are, at all times, scarce.

## b) Choice

If all resources are scarce, then people (and governments) cannot satisfy all their wants, and are therefore forced to make a choice — to enjoy some things necessitates doing without others.

## c) Cost

This is the consequence of choice — the satisfaction of one want involves going without something else. Thus, the real cost of any choice is the foregone alternative. This can be seen most clearly in the allocation of a country's budget: expenditure on one item is at the cost of another and, if the choice is between tractors and guns, the more guns produced with scarce resources, the fewer tractors can be produced.

Basic economics is concerned with those who make the choices and pay the costs of these choices — households, firms and governments. It is here, from the beginning of economics, that the capitalist and socialist systems diverge; the way in which decisions on allocation are made depends entirely on the kind of economic system governing a country.

A capitalist economy allocates resources on the basis of a price system and does so in the interests of efficiency — the idea is that the market

place makes all buying and selling desires and information available and so resources are allocated in the most efficient way.

A socialist system makes its allocation decisions on the basis of equity — scarce resources are allocated so as to achieve a fair distribution to all the people within that economy. Thus, it is out of the very first decision of *how* to allocate scarce resources that the basic divergence arises between the two systems.

I should like to go into the characteristics of the two extreme types of economic systems, but before I do so, a few explanatory comments may clarify some of the economic terms used so casually by economists, but making little sense to anyone else...

- *Capital* is not money, although money could be used to purchase the things that constitute capital: plant, machinery, raw materials. Taking this further, a *capital good* is one which is used in the creation of other goods, e.g. a tractor, but not a gun; a spade, a sewing machine, but not an electric toothbrush.

- *Factors of production*. I have already mentioned this term; the classic factors of production are land, labour, capital and, for some economists, entrepreneurship or managerial skill. The payment made to land is rent; the payment made to labour is wages; the payment made to capital is interest and the payment made to entrepreneurship is profit.

I have qualified the factor called entrepreneurship, because it is used only by capitalist economists; socialist economists consider managerial skill as part of labour, i.e. any level of skilled labour is merely a multiple of unskilled. The other three factors are used in the same terms by both schools of thought.

- *Inflation*. The classic definition of this phenomenon is 'too much money chasing too few goods', and this can be seen more clearly if I point out that money has no real value in itself. Its value lies in its claim to goods and services: the paper money in your pocket has value only if you can exchange it for goods and/or services. By itself, say on a desert island, it is almost good for nothing. If that paper money can purchase fewer and fewer goods because the prices of those goods are constantly rising, while you get the

same amount of paper in exchange for your labour, the economy is in a state of inflation.

• *Economic systems*: The free market (or capitalist) and the socialist systems in their pure forms, are the two extremes; there are varying mixes of the two in between. Briefly, here are their main characteristics:

### 1) Free market/Capitalist system

In a free market economy (also known as a free enterprise economy), consumers have a free choice as to what they buy, limited only by the amount of money they have to spend. The relative strength of consumer demand for various commodities determines the amount of each that will be produced. Note that a desire to have a good or service does not constitute what economists call 'demand'. Effective demand is to the desire to buy, backed by the financial ability to do so. In this way, limited resources with alternative uses are distributed among the various producers — who bid for them. Productive resources are, therefore, allocated among different lines of production and the commodities desired by consumers are distributed through the workings of the price mechanism.

In a free market economy, then, decisions regarding the quantity demanded of a good are made by households and firms and the decisions regarding the quantity supplied of the good are made by firms, subject to the price of the good in question. *In this system the factors of production are privately owned.*

### 2) State-controlled/command economy (Socialist)

In a socialist economy, the State and not the consumer decides what shall be produced and in what quantity. Some degree of choice is taken away from the consumer and the extent of choice left depends on the extent of planning. In a fully-planned economy, *the State makes all the choices*

*as to what shall be produced and what quantities, and allocates productive resources among various producers in accordance with these decisions.* Sometimes, how much of each commodity a consumer may have is also decided by the State and some system of rationing is then used to distribute the limited quantities of the rationed good. (This is generally an emergency measure, also used by free market systems in times of stress — Rhodesia and petrol or Britain in wartime). Other goods, not as limited in supply, are offered for sale, at fixed prices, in state-owned or private shops. Note that it is entirely possible to own a store, as long as it is a small family one. As soon as an outsider is employed, it becomes state-owned. *Under this system, the factors of production are publicly owned.*

### 3) Mixed economies

No country has an entirely free economy — although some do have almost entirely planned economies — but all have a public and a private sector. Even in countries where individuals have

Most economies tend to be mixed: what varies expenditure and production, some choices are left to the State (such as in the USA which is possibly the nearest to the free market model). In many other capitalist countries, some choices affecting production are made by the state, but distribution is effected through the price mechanism, so leaving some choice for individuals.

Most economics tend to be mixed: what varies is the degree of the mix. South Africa, for example, has a high degree of government ownership (ISCOR, SASOL, SAA, SAR) combined with a price system of distribution.

Finally, in making a judgment on whether a country is capitalist or socialist, the criterion is not the degree of planning, but the ownership of the factors of production. If the productive resources are privately-owned, the economy is capitalist; if the productive resources are publicly-owned, it is socialist.

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'The fact that blacks in some African states are worse off as far as material welfare... is concerned, is not seen as a justification for the structural violence which exists in South Africa.

Blacks and others compare the restrictions placed on their potential capacities with those of the whites in South Africa and not with those of the inhabitants of other states.'

*Mr J. H. Kotze, lecturer in politics at the Rand Afrikaanse University*

'The Afrikaner mustn't think he is fooling us. Our people know why he is holding on to the concept of separation. And as long as he persists with it, there will be conflict in the country.'

*A black speaker at a meeting between prominent whites and blacks organised by DIE TRANSVALER in Johannesburg*



# Self-tax

Paddy Kearney

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*A paper presented to the Durban Black Sash group on July 26, 1978, by Paddy Kearney, co-organiser of Diakonia.*

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IT isn't necessary to stress to a group like the Black Sash the existence of vast inequalities of wealth both here and in many other countries. I know that you are concerned about these inequalities, and the fact that they mean very real poverty for the majority of the world's population.

My second assumption is something that has only dawned on me comparatively recently. There is very little point in making statements like: 'Why don't *they* do something about this problem?' whoever may be implied by the word 'they'. Ultimately the only meaningful question, at least initially, is: Why don't *I* do something about this problem? and then: What *can* I do

It's so easy to blame the Government, or Afrikaners, or big business, or the police for our present plight. This leaves us free to sit around in a paralysis of inaction. The question of what we do with our money is one area where we have quite a lot of freedom, and my question is why do we make so little use of that freedom? In relation to poverty, I think we will have to accept severe limits to our own wealth and possessions if we have a genuine concern about poverty.

There is a very lengthy tradition in the Christian Church of certain men and women taking a vow of poverty. For centuries this has been the custom of religious orders, chiefly in response to Christ's words:

'If you want to be perfect, go, sell what you have, and give to the poor, and come follow me, and you will have treasure in heaven.'  
(Matthew 19:21)

But over the last few years a fascinating development has taken place. More and more people not even Christians, have freely taken to living in a simple way — some of them in a very much poorer style even than religious. And several social scientists are now advocating the idea of voluntary restraints, not only for religious orders, nor even only for Christians, but for whole societies. Thus Lady Barbara Ward has said: 'The vows taken by religious bodies, of poverty, obedience and loving restraint . . . are symbols of the kind of vow whole societies have to consider.'

And Ivan Illich has started: 'For the first time in history . . . one will be able to give *scientific* proof that "blessed are the poor" who voluntarily set community limits to what shall be enough and therefore good enough for our society.'

It is necessary to distinguish right away between the sort of poverty advocated by Ward, Illich and others — which might be called a poverty of restraint or simplicity — and the poverty of misery which prevents humans from reaching their potential, and which provides constant provocation to violent conflict all over the world. The sort of poverty of restraint being advocated takes account of the fact that the very survival of mankind is threatened by an amalgam of problems: the resource crisis, pollution, inflation, food shortages, over-population, gross inequalities of wealth and racial discrimination.

The setting of upper limits to wealth is a very novel idea here as elsewhere. Over the last 10 years much attention has been focussed on the 'Poverty Datum Line', in a campaign promoted by University social scientists, Nusas and the Wages Commission. As a way of persuading employers to increase the wages of black workers, they were told that unless they paid such wages they should hold themselves responsible for a serious degree of malnutrition suffered by their workers' children. Attention has also been focussed on the 'Effective Minimum Level', a slightly more generous index taking into account a few expenses beyond the barest survival needs. All very commendable, one might think at first glance. But who has ventured to discuss the need to determine the highest or maximum that anyone should be allowed to receive in a society? Do we not need a campaign for a 'Wealth Datum Line' or an 'Effective Maximum Level' which will make the lower levels possible to attain? But this is a question that I leave for economists to get their teeth into.

The report entitled *Limits to Growth* presents the findings of a team of outstanding scientists, educators, economists, industrialists, national and international civil servants. The title may be understood in both ways:

(i) Acknowledging that we live in a world of *limited resources* — that there is an objective limit to growth, and the way resources are presently being used by nations which believe in unlimited economic growth (wealth gathering without restriction, would be another way of describing it) can only lead to major ecological disaster. For example: The United States which has only 5,6 per cent of the world's population, has been consuming 42 per cent of the world's

annual output of aluminium, 33 per cent of its copper, 44 per cent of its coal, 33 per cent of its petroleum and 63 per cent of its natural gas. And all of these are non-renewable resources.

(ii) The second way in which the title can be interpreted is that we need to impose our own limits to growth if such an ecological disaster is to be avoided. The earth's resources need to be used in an entirely different way. Societies must agree to restrict their use of these resources.

Perhaps the key to such societal limits is the individual decision to do with less, to be less orientated towards the accumulation of wealth, and more concerned with real need than with the needs the advertisers say we have. In Illich's thinking such individual anarchic action may be the way to usher in the societal change:

'The change which has to be brought about can only be lived. Each one of us and each of the groups with which we live and work must become a model of the era we desire to create.'

Statements and concerns of this kind seem to have come to the fore in all the more industrialized countries at about the same time, and have led to what is known as the 'Life-Style Movement'. Some of the more important concerns of this movement could be summarized as follows:

1. Living more simply than others may simply live, recognising that our greed denies another's need.
2. Deciding what to buy, how much to spend and what to do without in the light of the urgent need to conserve the earth's resources and to distribute them more fairly.
3. Deciding on what percentage of our net disposable income we are going to give away for the benefit of those in need.
4. When circumstances allow, joining or helping to start a 'Life Style Cell'. These cells meet regularly for mutual support, study and action.

South Africa has developed its own indigenous version of this movement, called the 'Self-Tax' Movement. Those who have joined this movement hold that the structures of our society determine that only a small section possesses most of the wealth of the richest nation in Africa. Whites, who constitute only 17,3 per cent of the country's population, receive 70-76 per cent of its total income. Or, to put it another way, the income of most African families is more than 10 times

less than that of whites, and the majority of blacks live below the Poverty Datum Line.

The Self-Taxers recognise that they have become unwillingly the recipients of an unjust distribution and the exploitation of others. They realise too that in the peculiar South African situation the only way they can opt out of privilege is by giving up wealth. They cannot give up job, house or vote to a black person. In taxing themselves, they stress that it is a surplus which actually doesn't belong to them. So, from an ethical point of view, they see it as *restitution* (almost as if of stolen goods) and not as charity.

Because they regard the money as a form of restitution they renounce all say over how it will be spent and give it to the black community for the promotion of self-help schemes.

Built into this scheme is the sensible awareness that the white standard of living does not provide a realistic model for all in a future, more just society: that if justice is to be achieved, then it is not enough for all obstacles to be removed that prevent blacks from being as affluent as whites. Justice will only be possible if the affluent choose to (or are compelled to) live differently (and you and I are in national and global terms part of that small affluent group) and if those who are desperately poor do not have models of unrealistic affluence placed before them as goals after which to strive.

In conclusion, I would like to list some of the ways in which the self-tax money collected in Durban is being used at the present time. It is proving very useful in the unemployment crisis for helping people to set up small 'cottage' or self-help industries. Thus grants have been made to a carpentry workshop at the Anglican church in Chatsworth (which employs five men), to a carpentry workshop at the Catholic church in Wentworth (which employs 12 men), to a market garden at the Anglican church in Sydenham (employing about 12 men), to a sewing group at the Methodist church in Kwa Mashu (employing about 30 women, and we are hoping to employ a few men on woodwork projects as well). All these are very small-scale projects, but they are creating a climate of self-reliance and a mood of hope amongst people who had reached desperation because they had been unable to find employment. In addition, grants have been made to enable people to attend courses which will help them to obtain skills that they need to find jobs.

#### RECOMMENDED READING

Ivan Illich: *Tools for Conviviality*  
E. F. Schumacher: *Small is Beautiful*  
Club of Rome: *Limits to Growth*.

'We were under the impression that we had worked out an effective formula to combat jumping out of windows.'

*Mr J. T. Kruger, Minister of Justice and Police.*



# Advice office report

## ATHLONE

March 1 — April 30, 1978

### Section 29

Problems relating to unemployment are increasing and it is important to note in this respect that under the Bantu Laws Amendment Act 12 of 1978, subsection (2) of Section 29 of the Urban Areas Act has been amended so that an African may be declared idle if 'though capable of being employed is not lawfully employed and has, for a period of or for periods in the aggregate of not less than 122 days during the preceeding 12 months, not been lawfully employed...' A further amendment provides that if he has registered for employment and has not lawfully been offered employment he will not be declared idle.

It therefore becomes vital that all unemployed Africans register as unemployed the minute they become so, call regularly at the Labour Office, and do not refuse any employment offered, however unattractive or unsuitable.

A 'Section 29 office' is now operating in Langa and several unemployed African males have been referred to it during the last three weeks. We have had two requests for help from men who have been charged under Section 29 and appeared at Langa Court where their cases were remanded to be heard at Observatory Court. They have been provided with defence. In two instances a call to a senior official at Langa explaining why the youth was unemployed has averted a charge being brought against them. So many youths become disheartened and cannot see the point of registering for non-existent work but it is essential that they do so.

T. M. had already been sent for by the Section 29 office when we first interviewed him, but a call to a senior official at Langa and to his father resulted in his registering for work and being given time to find a job which he has now done. He was a school leaver with a serious eye defect and was more concerned with a cure for a blind eye than in finding employment.

MR. M. became mentally ill in 1972 and left Cape Town to be treated by a herbalist in Worcester. He returned to Cape Town in 1976, cured but unable to find employment. In 1977 he was sent to Section 29 office where he was given an extension until 3/4/78. On the day that his extension expired he was arrested and charged under Section 29. Through legal representations, there is a chance that the case may be withdrawn, but the outcome is still uncertain.

### Section 12

Section 12 of the Bantu (Urban Areas) Consolidation Act has been amended to read as follows:

'Notwithstanding the provisions of Section 10,

but subject to the provisions of Section 13, a Bantu who is not a South African citizen, or who is not a former South African citizen who is a citizen of a state, the territory or part of the territory which formerly formed part of the Republic, shall not enter, be or remain in a prescribed area, and no person shall employ or continue to employ any such Bantu within such area.'

This seems a reprieve for those people whose rights as former South Africans seemed threatened. It also highlights the fact that no child born here after Transkeian Independence, although both parents may be second-generation Cape-tonians, can be anything but a 'foreigner'.

MISS N. C., who was born in Umtata, was charged under Section 12 of the Urban Areas Act on the grounds that she was 'not born in the Republic...' She was defended on the grounds that Umtata was in the Republic when she was born, and was acquitted. Transkeians are now being charged under Section 10(4) of the Urban Act and not under Section 12.

MR TSILE PETE THOMAS was born on a white farm in 1909 at Victoria West and first came to Paarl in 1947, where he has worked legally ever since until 1975 when he became ill with TB. He has always lived on the farm where he worked, with his wife and children. Now that he cannot work he has no right to live anywhere although he qualifies under Section 10(1)(b) for permanent residence in the rural area of Paarl. A kindly farmer is illegally permitting the family to live on his farm and brought them to this office. Although his wife, whom he married by Christian rites, has lived with him since 1969, she has never had permission to do so. Where must this couple go? They cannot return to the white-owned farm where he was born. His wife wants to look after him now that he is old and ill and is not prepared to return alone to Glen Grey where she was born and which she left in 1949.

### Successes

MRS P. NOBAZA, a delighted Pandora, a widow who had been consulting us on and off since 1971, reported that our recent efforts on her behalf and on behalf of six children, all born in Cape Town, but officially non-existent, had resulted in permission to squat at KTC Nyanga until permanent accommodation becomes available. Those of her children who are under 16 or over will be issued with Reference Books as soon as they apply and the whole family can hold up its head and move about freely for the first time for many years.

MRS. Ngamlana, who was born in Queenstown in 1939 and has lived in Cape Town since about 1945, has been trying since September 1975 to establish that she qualifies under Section 10(1)(b) of the Urban Areas Act. Her husband died in

1957, leaving her with three children, and after re-marriage she had three more children, all born in Cape Town. She divorced her second husband in 1969, but was allowed to remain in Cape Town in order to work to support the children. We referred her to a lawyer who has finally managed to persuade the Bantu Affairs Administration Board that she qualifies to remain in Cape Town. After years of insecurity she can now feel secure in the knowledge that she has been accepted as a permanent resident.

**R. N. ROBB  
B. H. KNIGHT**

May 1978

**T**HE sensational event in a quiet month was the final complete success of the case of Mr Gideon Mtima. It resolved itself very quietly in Chamber, when the attorney representing BAAB brought a document signed by Mr Maclachlan, Director of BAAB which was a 'Consent to Judgement'. This conceded that, in view of the Appeal Court in Bloemfontein's 1977 ruling in favour of Mr Mtima's plea that he qualifies to reside in the Cape Peninsula Area in terms of Sec 10 (1) (b) of the Bantu Urban Areas Act, his wife must now be recognised as qualifying in terms of Sec 10 (1) (c) of the same Act. The Supreme Court ordered that her reference book is to be endorsed accordingly.

The story call's for recapitulation.

Mr Mtima first came to the Advice Office in March 1972, to complain that his wife had been refused extension to her permit to live with him at his home, which is his mother's house. She had lived with him lawfully from the time of her marriage to him by Christian Rites in 1961 until 1968, when she had been endorsed out to Herschel, the district from which they both came. Only one relative was left living at Herschel and Mrs Mtima found that this uncle was not someone with whom she could share a home, so she soon returned to the Peninsula but was again endorsed out. In 1972 she was back with a 'visiting' permit and was once more lawfully under the same roof as her husband. They asked to be given a residential permit but were told that a 'visitor' could not claim permanent rights under Sec 10 (1) (c). As she had entered the area lawfully to join her lawful and Sec 10 (1) (b) husband at his lawful home, they were at this point referred to our attorneys who claimed that her circumstances entitled her to Sec 10 (1) (c) recognition after the Supreme Court precedent set in the 1967 case of Christine Nqwandi. The authorities now brought a new and serious objection to bear on the case. Quoting another Supreme Court judgement in the case of John Manyaka, BAAB claimed that Mr Mtima himself was not qualified as a permanent resident at the time that Sec 10 of the Act was amended. The amendment, introducing the exemption to Sec 10 for people who

could prove lawful residence in the area for over fifteen years or lawful work with one employer for ten years (Sec 10 (1) (b)) was gazetted on June 24 1952. The Supreme Court Judgement quoted as precedent ruled that the wording of this Section was to be read as applying to the exact date of its gazetting, and that only people who could prove that they had already achieved Sec 10 (1) (b) or Sec 10 (1) (a) rights, by June 24 1952, could call themselves qualified for exemption from the blanket prohibition on Africans remaining more than 72 hours in any prescribed area.

Now Mr Mtima only came to Cape Town in 1953, at which time the law was being much less stringently administered. He was allowed to remain and work, and had been with Grosvenor Motors for ten years and one month when our attorneys took up the case in January 1973. Unless he was recognised as qualified to reside here permanently, his wife had no case. In June 1976, Mr Mtima's claim to Sec 10 (1) (b) rights was rejected in the Supreme Court for the same reason as John Manyaka's. He had not been 'qualified' when the law became law, despite his ten subsequent years with one employer. However this was not the end of the story. His case was taken on appeal to Bloemfontein. Many similar cases waited for the outcome, the Board refusing to admit any qualifications except those already secured by June 24, 1952. In practice, people whose qualifications had been accomplished later were not actually endorsed out but no wives of such men were given 10 (1) (c) permits. Thousands of people were in a very insecure position, which was mercifully not generally realised.

The appeal was finally heard on May 20 1977. Judgement was reserved and it was not until September 23 that it was delivered in Mtima's favour, three of the Appeal Court judges ruling that it was *not* the intention of the law that the wording of the exemptions contained in Section 10 be read retrospectively and that qualifications *could* be gained subsequent to its passing, while the other two judges in the panel of five ruled against.

Mr Mtima was not recognised as qualifying under Sec 10 (1) (b) of the Act and it was time to go back to the beginning and claim his wife's rights, which depend firstly on his. This has now (on May 30, 1978) been achieved! It sets a precedent for many similar cases, at least a dozen of which are expected to come up at the Supreme Court one by one in due course.

Meanwhile, the Department of Plural Relations is unwilling to allow any wives from outside prescribed areas to join their husbands inside these areas, where they earn their livelihood, unless the husband is already the official occupier of a township house. This might help widowers, but virtually no one else. 'Plural Relations' seems to be a euphemism for singularity.

**B. D. VERSFELD  
R. N. ROBB**



## BOOK CORNER

### THE PASSING OF PAGEVIEW, Manfred Hermer

The book recommends itself and there is little the critic could add that would not be superfluous.

The author, a Johannesburg architect, has made his tribute to Pageview in the form of his own paintings. The accompanying text is based on his interviews with officials, traders and community leaders. His introduction provides a brief human and architectural history of Pageview.

The book is a poignant record of the vibrant, idiosyncratic community swept away by apartheid.

*Ravan Press, hard cover, R15*

### MISSION AND COLONIALISM IN NAMIBIA, J. Lukas de Vries

The author, born in Rehoboth in 1938, is one of Namibia's foremost Christian leaders. In his book he aims to 'disclose the gruesome reality of colonialism in Namibia' by tracing the unhealthy close relationship of mission and colonialism from its historical origins to the present.

He outlines the history of German colonialism, and shows how it was prepared and reinforced by mission work. A popular slogan among colonised peoples was 'first religion, then financial exploitation, then political suppression'. The Church tended to use a narrow interpretation of Luther's doctrine of the two Kingdoms as justification for conforming to the status quo.

Much of this, of course, still applies to the Church in Southern Africa and even more so to the State's attitude towards it. By separating the temporal from the spiritual one runs the risk of neglecting one's duty to one's fellow man. Mr de Vries' examination of the Church's history in Namibia helps explain why it was only in 1963 that the South African Lutheran Church took a stand against the system of race discrimination.

One-fifth of the book is devoted to an account of the Rhenish Missionary Society in SWA. Missionaries failed their congregations because they were caught between the two stools of loyalty to their flock and loyalty to the German fatherland. They partially redeemed themselves by their work in saving the remnant of the Herero nation after the 1904 Herero Rebellion.

The author's conclusion is that the Church in Namibia must become a suffering and confessing church, prepared to confront and resolve 'the consequences and guilt of the colonial period'.

This is a scholarly work, which tends to read like a thesis. It provides many quotations and full notes at the end of each chapter, although, curiously, no index. Sometimes the author permits himself generalisations, e.g. p 50 'From the beginning colonialism stood in radical opposition to every theological concept of man'. One may agree with this from the vantage point of hindsight, but at least some of the colonialists must have been sincere, if misguided, Christians.

The book provides a detailed history of Namibia, with which few of us are already acquainted. It left me at least with the depressing feeling of 'Plus ça change...': For example, p 82, 'How often have the missionaries been branded as criminals instead of those who committed the crime. To call a crime by its name was regarded as a greater offence than to commit it'.

*Ravan Press, hard cover R6,90, soft cover R5,50*

### LINDIWE, by Shimane Solly Mekgoe

This is the third of the Ravan Playscripts. It is about the union between Deborah Makhoni and her husband's younger brother, Dumdum. Her husband, Dabula, is impotent and she passionately desires a child. The play ends with Dabula's death from ulcer and kidney trouble, while in police custody and erroneously convicted, and the church wedding of Deborah and Dumdum in the presence of their daughter, Lindiwe, and others.

The author says in an introductory note: 'My play... effects an uneasy compromise which accords with the reality as we have it. We must accept western culture, but not embrace it'. The reader is indeed left with a vague impression of dissatisfaction, triteness almost, which compromise and reality so often engender.

*Ravan Press, soft cover, R2,75*

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'...whites should remember they do not have an automatic right to survive. "Adapt, or perish" is a law we cannot escape.'

*Dr Anton Rupert in his lecture as honorary professor of the University of Pretoria's department of business economics*

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