



Umbutho Wamalungelo Obuntu CIVIL RIGHTS LEAGUE Burgerregtevereniging

VOL. 35 No.2

NEWSLETTER

NOVEMBER-DECEMBER 1988

CENSORSHIP

THE STATE OF EMERGENCY DECREE OF 21 JUNE 1986 BANNED THE LEAGUE AND 118 OTHER ORGANISATIONS FROM PUBLISHING ANY STATEMENT

SUBSEQUENTLY THIS PART OF THE DECREE WAS WITHDRAWN. THE REMAINING SECTIONS OF THE DECREE STILL REMAIN. ANYTHING WHICH IN EFFECT THE MINISTER OR POLICE COMMISSIONER DEEMS "SUBVERSIVE" IS A CRIME IN TERMS OF THE NATIONALIST GOVERNMENT'S FOURTH STATE OF EMERGENCY

ONLY MATERIAL CHECKED BY OUR ADVOCATE CAN BE PUBLISHED IN THIS NEWSLETTER.

EDITORIAL:

FORUM A SUCCESS!

As we quietly celebrate the 40th year of the League's existence, we find ourselves sharing this anniversary with two mutually incompatible institutions. This year is the fortieth anniversary of the Universal Declaration of Human Rights. It is also the fortieth anniversary of the Nationalist government.

An extraordinary meeting was held recently to discuss the League's future, as the renewal of subscriptions had hit an all-time low. "CRISIS HITS LEAGUE" formed the subject of an editorial in our last newsletter (Vol. 35 no. 1) and at the AGM, outgoing chairperson Keith Gottschalk posed the question: "Will the League outlive the government, or vice versa?"

Although this ebb in morale comes at a time of great repression and censorship, our members have rallied to the call. We received strong messages of support. Desmond Tutu, Beyers Naudé and Gerald

Gordon encouraged us. We received generous donations for the newsletter and for the recent "BILL OF RIGHTS" forum.

For this we are extremely grateful. However, many subscriptions have not yet been received and on this point we cannot afford to be complacent. The CRL is the oldest existing organization in SA concerned solely with civil liberty and human rights, and only through your support can we continue.

The League's established anti-apartheid credentials and the respect it has earned from friend and foe alike were amply conveyed to us at our "BILL OF RIGHTS" forum held to commemorate the 40th anniversary of the Universal Declaration of Human Rights. The forum was a resounding success. This and forthcoming issues of the CRL newsletter will include keynote addresses from some of the speakers.

HUMAN RIGHTS FORUM

The Civil Rights League in association with the UWC Community Law Centre organized the Forum: "A SOUTH AFRICAN BILL OF RIGHTS" at the University of the Western Cape on 27 August.

Prof. Jakes Gerwel, the UWC rector, welcomed this debate at the University and expressed support for the League. He said that Human Rights were a live issue on the UWC campus - sometimes leading to violently conflicting views. Mr. Keith Gottschalk then outlined the tasks of the forum.

The first plenary session was devoted to the "History and Current Thinking on Rights". Prof. Laurie Ackermann (Human Rights Chair, Stellenbosch University) was the main speaker and the respondents were Ms. Shenaz Meer, Prof. Dennis Davis, Mr. Dullah Omar and Mr. Bulelani Ngcuka. The chairperson was Mr. Keith Gottschalk.

Plenary session B dealt with "Women's and Children's Rights" with the main speaker being Mrs. Mary Burton (National President, Black Sash). Among the respondents on "Women's Rights" were Ms. Rhoda Kadalie and Moulana Faried Essack, and on "Children's Rights" Prof. Brian Robertson, Mrs. Mary Savage and Prof. Don Foster. The chairperson was Dr. Margaret Nash.

The third plenary session debated "What Rights should be included as Human and Civil Rights in South Africa" and "Mechanisms needed for their protection". The main speaker was Prof. Andre Du Toit (Dept. of Political Studies, UCT). Respondents on "Group Rights" included Prof. Lourens du Plessis and on "Mechanisms", Prof. Gerhard Erasmus and Dr. Kate O'Regan. The chairperson was Prof. Hugh Corder.

Mr. Keith Gottschalk then led a general discussion on practical suggestions "To Carry

Forward the Struggle for Human and Civil Rights" for implementation by individuals and organisations. Dr. Allan Boesak of the Foundation for Peace and Justice gave a closing message.

CHAIRPERSON'S INTRODUCTION

by Keith Gottschalk

Compatriots in the struggle for human rights: as Chairperson of the Civil Rights League and lecturer in Political Science at the University of the Western Cape, I welcome you to this Forum. We are strengthened by your commitment.

I learnt the need for Human Rights, enforced by a justiciable Bill of Rights, through chairing the League, and through studying and teaching Political Science.

I learnt the need for Human Rights through becoming detainee M4/85. I learnt the need for Human Rights through seeing my friends, Philosophy lecturer Ric Turner, and NUSAS Vice-President Jenny Curtis Schoon assassinated by bullet and bomb.

I will briefly outline the need for this Forum and some tasks to be taken.

TASKS

First, the need for this Forum arose when the Government, having for 40 years denounced Human Rights as "communism, liberalism and humanism", recently instructed the SA Law Commission to invite evidence and make recommendations on "group and human rights".

The rhetoric of National Party leaders makes it clear that by "group and so-called human rights" they mean not criminalizing apartheid and racism, but re-naming it "group rights"...

continued on page 3

continued from page 2

If the day after any Human Rights Bill is enacted, racism and detention continue without remedy at law, this will not reduce opposition to racism or tyranny. It will merely discredit Human Rights as government propaganda, like the preamble to the tricameral constitution.

Second, we note that different interests naturally seek to impose their own agenda on the content of Human Rights. The USSR government before Gorbachev emphasised the right to work, vs unemployment in market economies. But when pressed on the imprisonment of its political opponents, or jamming of foreign radio broadcasts, it would assert "state rights" as having precedence over individual rights to liberty or freedom of information.

Closer to home, business ideology will typically argue that while economic and social rights, such as homes, security and comfort are "unexceptional aspirations, they are not legally enforceable and cannot be usefully included in a bill of rights as commonly understood" (Hans Middelmann: Cape Times, 25.08.88). More doctrinaire free market ideologues, such as those in the Free Market Foundation, denounce "so-called social and economic rights" and emphasise not human rights, but property rights as having precedence over the rights of tenantry.

Similarly, "group rights" used as a euphemism for ethnic or racial rights, or perpetuating white supremacy, discredits the concepts of "group rights", federation, or other constitutional autonomy. We notice that those who use the concept "group rights" very seldom mean "groups" such as gender, womens' rights. Still less seldom do they mean class,

such as rights of the working or tenant classes.

The actual rights any country enjoys at a particular time depend upon the political compromises, on the balance of power in the social order. Here I will merely note that the concept of "natural", of divine, of secular rights is one of a safeguard for the powerless against abuse of power.

Whenever a bill of rights is hijacked by the agenda of vested interests, to reinforce the imbalance of power of state or corporation against the citizen, tenant, worker and consumer, this discredits the concept of limits on power, and makes the resistance more militant and more extreme.

Third, in South Africa "white civilization" in most cases imposed capital and corporal punishment on "black barbarians". Welsh's work on Shepstone notes that civilized Victorian settlers regarded blacks as "barbarians" because, inter alia, Zulu and other African common law did not impose capital punishment for murder.

During 1986, the government hanged at least 137 persons in SA, including its satellites: Transkei, BophutaTswana, Venda, Diskei (RACE RELATIONS SURVEY, 1986, II:857). But in the same period the police shot, usually lawfully, 716 persons, including 92 children (ibid:862). That is, around 853 persons were lawfully executed, of whom over five-sixths had no charge, no trial, no lawyer - only summary execution by a cop in the street. Human rights lobbyists can only succeed in abolition of the death penalty by campaigning for the repeal of the police statutes which so savagely widens the definition of

continued on page 4

"justifiable homicide".

Over the same period, 40 655 persons were whipped as a result of court sentences (ibid:856). But it is routine policy since 1984 to issue police with sjamboks for the express purpose of flogging crowds at meetings and protests "to assist them to disperse", in Louis Le Grange's unforgettable words. It is presumably reasonable to assume that the numbers of persons lawfully flogged without trial or lawyer shows a similar ratio to the capital one above, that is, of the order of two or three hundred thousand persons lashed ?

Historians confirm that death sentences were not used in most precolonial African jurisprudences. King Moshoeshoe abolished it for example, in a remarkable policy of rehabilitation for people with a record of murder and cannibalism. This is all the more remarkable considering that Moshoeshoe's own grandfather was killed and eaten by starving cannibals (TYLDEN, 1950: 6,8).

Fourth, the Civil Rights League should not pretend that there is no civil war when campaigning against detention without trial, torture and other abuses of power. The League must explicitly ask: What human rights can one have in war ?

The Director of the International Red Cross noted that not all acts of, for example, the French Resistance against the Nazi occupation would be covered by rules of war. The assassinations of civilian collaborators might be one example.

Here, human rights organizations note that not every act of resistance against racism and tyranny in South Africa falls under the rules of

war. Burning opponents at the stake, both Muslims and Jews, is ineradicably associated with the Spanish Inquisition. White racists of the Ku Klux Klan lynched and burned negroes tied to trees.

But widening the protection of POW status widens the incentives for insurgents to adhere to the laws of war. At least three practises of SA Government Armed Forces are against the rules of war. First, the SADF increasingly operates out of uniform, in civilian clothes - Wynand Breytenbach, Deputy Minister of Defence, parliamentary answer (OUT OF STEP, November 1987: 1,4). Ironically this is a practice conservatives use to justify denying POW status to insurgents. Second, during their recent Gaborone raid the SADF shot three Botswanans, then burnt their corpses. Third, the Special Branch take hostages, detaining persons until a relative will surrender for detention, or forcing a relative to stand next to an insurgent in case of boobytraps (CAPE TIMES, 17-06-88).

Remember government soldiers saved a village from communism by raping a 13 year old girl, and murdering her, then massacring most of the village ? That almost all the soldiers got off free ? That the only ones charged got trivial sentences ? That the state president pardoned them almost before they began to serve their sentence ?

You remember the name of that village ? My Lai. You remember the name of that president ? Nixon. But the media exposé, with less censorship than ours, saved other villages. The Pentagon issues all soldiers with written orders:

"The Enemy is in Your

continued from page 4

Hands. As a member of the US Armed Forces anywhere in the world you will obey the Geneva Conventions to which your country adheres... you cannot and will not illtreat or humiliate your captive."

Of course there were further violations of the rules of war on both the Vietnamese and US sides. But the media exposé, and re-assertion of discipline by the Army must have reduced the number of such violations, and saved many more My Lais.

Earlier this year the People's Republic of China abolished its pass laws. Gorbachev's perestroika is not multi-party democracy, but it is a return from absolutism to constitutionalism. In recent months Gorbachev has permitted the return of the Crimean Tartars; the Magopa of the USSR.

When will the three and a half million persons forced to move in South Africa be permitted to return to District Six, Cato Manor, Sophiatown, South End and Magopa?

PRACTICAL POINTS

Political movements have published party programmes which include Human Rights. The biggest of these is the Freedom Charter. Rival political movements have published the 10-Point Programme and the Azanian Manifesto.

The ANC last year publicly and explicitly accepted the principle of a Bill of Human Rights entrenched at law; and a multi-party state. Trade unions have published a manifesto on working class rights.

The League asks all speakers to mention practical ways in which we and our organizations,

and compatriot organizations not here today, can sustain and strengthen the struggle for human rights until, and after the achievement of majority rule.

The Civil Rights League is not affiliated to any political party. We hope to facilitate the propagation of a Human Rights Culture in all liberation movements.

MEDIA

The League succeeded in placing statements in the media on the following topics:

- * Vernon Brent - CIVIL RIGHTS LEAGUE SOLDIERS ON discusses some of the aims and achievements of the League (Argus, 6.06.88).
- * Brandon Broll - LIBERALISM ATTACKED in response to statements made by Dr. Andries Treunicht at a CP meeting in the CT City Hall (Argus, 24.09.88) reprinted (Argus, 1.10.88).
- * Dot Cleminshaw - CLEMENCY FOR SHARPEVILLE SIX (Weekly Mail, 26.02.88), WEEK OF THE INNOCENT (Argus, 18.05.88), CHILDREN IN DETENTION (Cape Times, 1.06.88), amongst other important letters and articles.
- * Molly Murray - ACT AGAINST PRESS to protest against increasing censorship (Cape Times, 1.06.88).
- * Margaret Nash - On the ignorance of whites of the ANC concern for human rights (Cape Times, 20.07.88).

LETTERS TO THE EDITOR

JILL WENTZEL, Press secretary,
SA Institute of Race Relations:

In the December 1987 issue of the League Newsletter, Mr. Keith Gottschalk defines liberalism thus: "The concept of human rights, and bills of rights to enforce them, are arguably liberalism's greatest heritage to politics."

He criticises the SAIRR for identifying with liberal ideology, because: "If radicals and conservatives perceive human rights as specifically part of liberalism, during adversarial contests against liberal parties, this will increase the extent of their dismissal of it."

Obviously the Institute is a liberal institution, with its liberalism fact-based and non-ideological. Through the years its research has chronicled the cruelties of apartheid, and it is this evidence, rather than any liberal ideology, which argues the case for human rights versus social engineering.

Mr. Gottschalk says: "Human Rights' greatest chance of efficacy, and indeed survival, depends on acceptance by not only liberals, but also the greatest possible range of persons within democratic radicalism and democratic conservatism." Quite so - and that is why the Institute has withdrawn from active political participation into a more independent position, so that its research will be respected right across the political spectrum. The success of this policy is borne out by the wide range of organizations that now seek out our material and the number of institutions that have joined us.

The Institute aims to encourage sober analysis rather than those quick-fix ideas which have led the government into

blind repression, and its opponents, as Mr. Gottschalk warns elsewhere in the newsletter, into campaigns involving violent coercion. Nobody at the Institute believes that human rights "concern primarily legal technicalities and only involve a tiny elite of advocates specialising in constitutional law." On the contrary, in a recent speech its Executive Director, Mr. John Kane-Berman, said, "The strategic message is obvious: if you wish to get rid of apartheid in the law, work first towards eliminating it on the ground and the law will have to be changed accordingly - not the other way round."

Mr. Gottschalk quite rightly points out that "political struggle and power, sometimes trade union leverage, is the instrument to prise civil rights out of authoritarian regimes." Indeed, the Institute acts positively on this theory and two years ago set up a policy research unit especially geared to assisting political actors and pressure groups by identifying strategies which can erode apartheid. And the Institute is well aware that apartheid will not be eroded quickly enough unless opposition groups move ahead of government rather than expect creative action from government, or for that matter depend solely on the work of human rights lawyers.

Thus when our research reveals the compelling political and economic need to integrate public amenities, we hope that government will take account of it: when it throws up strategies to push integration ahead of government policy, we hope opposition organizations will think about using some of these ideas. We hope that the work of our policy research unit will encourage all parties, from government officials on the right to radicals on the left, and all manner of people in between, to bargain with each other, recognizing that human

continued on page 7

continued from page 6

rights have to be negotiated and fought for every inch of the way.

* Keith Gottschalk responds: My cautioning against believing that human rights concern primarily legal technicalities and advocates was not directed at the SAIRR. This was part of my self-critique of us at the Civil Rights League, in our choice of strategies, and speakers at our public meetings.

On the other points that Jill Wentzel raises, what do members think? The editor invites contributions.

NEWS ITEMS

* Remember HUMAN RIGHTS DAY on the 10th December. The League is taking part in a "Campaign for Human Rights Now!" Watch the press for details.

* Have you put your name to the AMNESTY INTERNATIONAL SIGNATURE DRIVE in support of the Universal Declaration? Write to us promptly for signature forms, and spread the word to others.

* Hugh Corder gave an excellent inaugural address at UCT entitled - "Crowbars and Cobwebs: Executive Autocracy and the Law in SA" (5.10.88).

* Brandon Broll represented the CRL in support of MOYCD's group areas initiative to form neighbourhood watches to protect against snooping government officials.

* We took part in the election PLACARD STAND around the peninsula (25.10.88). The placard read: "APARTHEID STRUCTURES NO SOLUTION".

* Dot Cleminshaw and Brandon Broll met delegates from the Japanese NIWANO PEACE FOUNDATION who would like to support the League in its endeavours.

* The stickers supplied with this newsletter are NOT waterproof. CRL t-shirts with the logo HUMAN RIGHTS NOW will soon be available to members at R 10 each, large size only.

COMMITTEE FOR 1989

PRESIDENT: Sir Richard LUYT

SECRETARY: Heather WEBBER

TREASURER: Dot CLEMINSHAW

MEMBERS: Brandon BROLL

Mary BURTON

Dot CLEMINSHAW

Hugh CORDER

Ken HUGHES

Cheryl UYS (UCT SRC)

Garth DELPORT (UCT SRC)

NEWSLETTER

EDITOR: Brandon BROLL

Thanks to Ken Hughes for editorial assistance. The role of convenor will be rotated among committee members.

We thanked our departing secretary, Ms. Bree Loosz, for her all round effort and wished her success in her teaching career.

CAMPAIGN GOALS

Keith Gottschalk is stepping down after a successful and dynamic run as chairperson. At the AGM held on the 8th September, he reviewed the state of the nation and urged the League to renew campaigning for three goals:

- 1) A justiciable Bill of Human Rights in South Africa.
- 2) The abolition of capital and corporal punishment.
- 3) The implementation of the 1977 protocol to the Geneva Conventions which extends POW status to captured insurgents who have themselves adhered to the rules of war.



ALAN PATON

1903—1988

WELCOME

A hearty welcome to all new members for supporting us in our membership drive both at the "Bill of Rights" FORUM and at the recent Black Sash morning market. To our old members, we are grateful for your continuing support.

FAREWELL

The League pays tribute to Keith Gottschalk for his work as chairperson over the past five years. Apart from his appointed duties in the chair which he assumed in inimitable style, Keith published numerous press statements on human rights issues as divergent as: SA AND USSR: A COMPARISON (Argus, 12.03.87); AUSSIES CALLED SA'S BLUFF (Sunday Tribune, 29.11.87); TRIBUTE TO RIC TURNER 10 YEARS AFTER HIS MURDER (Sunday Tribune, 10.01.88); DETENTION AND ABUSE OF POWER (Cape Times, 12.01.88); THE DIAS BOYCOTT (Argus, 26.01.88). He represented the League at anti-apartheid rallies, seminars and debates; acted as our newsletter editor, as well as having been harassed by the police and detained in 1985 without trial. We wish him well in his task as lecturer in political studies at UWC. HANNAH KAHLE Keith !

IN MEMORIAM

D. Cornell, dec. 6 July 1988

Mary Burton paid tribute to Doug Cornell's sterling work as League treasurer, and his work for the End Conscription Campaign's Parent Group and much other community work. She thanked his widow, Bea Cornell, for the labour of love she had put into helping the secretary of the League, and standing in as secretary when necessary.

ANNUAL MEMBERSHIP FEES

Due 1st January

Pensioners, unemployed, on fixed income or limited means:	R2
Students:	R4
Salaried persons:	R10
Donor members:	R20
Overseas subscription to newsletter:	UK £12 or USA \$20

PLEASE HELP THE STRUGGLE FOR HUMAN RIGHTS IN SOUTH AFRICA BY SENDING THE LEAGUE YOUR RENEWAL TODAY!

Prompt payment enables the League to benefit from the interest, and plan publications and meetings with confidence. Please post your membership renewal fees now to:

The Treasurer
Civil Rights League
P.O. Box 23394
Claremont 7735
Cape Town, SOUTH AFRICA.

CUT ON DASHED LINE

To: The Treasurer
Civil Rights League
P.O. Box 23394
Claremont 7735
Cape Town, SOUTH AFRICA.

NAME:

ADDRESS:

POSTAL CODE:

PHONE: H:

W:

PLEASE TICK RELEVANT BOX:

- ENROL ME AS A DONOR MEMBER
 ENROL ME AS A MEMBER
 SEND ME ONE YEAR'S SUBSCRIPTION TO THE NEWSLETTER