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Umbutho Wamalungelo Obuntu CIVIL RIGHTS LEAGUE Burgerregtevereniging

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NEWSLETTER

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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SUBSEQUENTLY THIS PART OF THE DECREE WAS WITHDRAWN.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:

BILL OF RIGHTS

Amid a national and international outcry for the plight of the hunger striking detainees (who have asked simply to be tried or released from arbitrary detention), the government has again displayed its knack of bad timing. While many detainees continue to starve for freedom, the SA Law Commission recently released a working paper (compiled under the chairmanship of Mr. Justice Pierre Olivier) on a "Bill of Rights" for South Africa.

While many have hailed this document as "profound" and "very enlightened", which gives the Freedom Charter and ANC constitutional proposals "a lot of space" (Cape Times 13.03.89), the Civil Rights League is reserving comment until this lengthy document has been properly studied. Our next newsletter will include an overview of this government document and some of its possible ramifications. The working paper is open for comment until

31 August, after which a final report will be submitted to Parliament.

The forthcoming (mid-June) launch of our FORUM PROCEEDINGS: A SOUTH AFRICAN BILL OF RIGHTS produced from a Civil Rights League conference held on 27 August 1988 could not come at a more opportune time. This, the third of four newsletters advertising these FORUM PROCEEDINGS, contains extracts of the papers presented in Panel B: "Women's and Children's Rights". The keynote speaker was Mary Burton (National President, Black Sash), and the respondents on "Women's Rights" - Rhoda Kadalie (Dept. Anthropology, UWC), Maulana Farid Esack (National Co-ordinator, Call of Islam); and on "Children's Rights" - Prof. Brian Robertson (SA Assoc. for Child and Adolescent Psychiatry), Mary Savage (Early Learning Resource Unit), Prof. Don Foster (Dept. Psychology, UCT).

WOMEN AND HUMAN RIGHTS

by Mary Burton

The subject of women and human rights needs to be set in the context of the Universal Declaration of Human Rights of 1948 and of subsequent conventions and charters: the Women's Charter drawn up by the Federation of South African Women, and the Black Sash Charter for Women.

When we look at the position of women in South African society, where the denial of human rights to the majority of the population is of such great importance, we see that the struggle for women's rights has been subsumed within that wider struggle... But I think we need to remember that, although it may not be written into our history books, the contribution that women have made to that struggle has been of vital importance. The fact that there are women serving sentences for political offences, or being detained is testimony to the extent of their involvement.

Why then should there be a need to look specifically at women's rights? If human rights include the rights of women, then why talk about women as a particular category? I would argue three main reasons:

- 1) Women are oppressed and exploited by the state (through discriminatory legislation), by employers (through unequal pay and working conditions) and also by the family environment.
- 2) The problems of all who are oppressed are often suffered even more acutely by women, who experience poverty, repression, detention, imprisonment and persecution not only for themselves but through the families for whom they are responsible.

- 3) The ideal of building solidarity among women, based on the common bond of womanhood, has been damaged by the experience of women suffering at the hands of other women as their employers, particularly in domestic service. Women who seek unity across racial and class barriers encounter social and legal obstacles.

The history of South African women is interwoven with that of women around the world. In the past few generations the role of women in industrialized society has changed enormously. Nevertheless, the struggle of women for the vote only resulted in the enfranchisement of white women in 1930 - and this exemplifies the divisions which existed in South Africa well before the advent of the National Party government in 1948. The granting of the vote to white women was not due to any recognition of their rightful claim to it, but to the necessity to gain support for the Hertzog Bills, and to diminish the significance of the vote which still existed at that time for people classified as "coloured".

The 1950's were years of particular activity in women's organisations: a period of building the Federation of South African Women and the Black Sash. After the Soweto uprisings of 1976 and the spread of anger and rebellion throughout the country, several different Women's Movements for Peace were established around the country: various feminist groups established on university campuses at the same time as many conservative women's organ-

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isations implicitly or explicitly countered the attraction of liberal and progressive women's organisations. There have been calls from churches to focus on the rights of women within the religious denominations, special focus groups such as Rape Crisis and a Campaign for Abortion Reform.

The fact that women experience oppression in specific ways means that their demands demonstrate those concerns. They seek adequate health care for mothers, birth-control, access to education for their children, adequate housing, sanitation and medicines, access to land and freedom of movement, equal pay for equal work, equal marital rights with men in property and guardianship of children etc.

In this situation of demands for women's rights juxtaposed with the systematic violation of rights, what would be the value of a Bill of Rights? Debating a Bill of Rights is part of the important process of imparting awareness, creating a climate in which women's rights are recognised, in which women's claims are seen to be just. But a Bill of Rights under the present government would be a sockery. The validity of the debate lies in starting to formulate the kind of demands that we want for a future society, for a constitution in which such rights would be guaranteed.

Women in other countries - in Africa and on other continents - who have played a part in the struggles for liberation have sometimes found that even after equality is written into a new constitution or a new system, they are once again relegated to second class status in society. As women work towards bringing about a total transformation of an unjust system, they need to ensure that their rights remain on the agenda.

WOMEN'S RIGHTS

(Kadalie)

The experiences and position of all women in SA are a product of the interplay of class, race and gender relations. This means that women experience their structural position differently from their male counterparts; that white women experience their structural position differently from black women; and that black women experience their position differently from black men. More particularly, black working class women in SA suffer a triple oppression as blacks, as women, as workers. This implies that the political, economic and ideological controls are different for different groups of women in this country.

(Kadalie)

The nature of this subordination is qualitatively different for different races, classes and groups of women. For example, white women in this country have the privilege to exploit and dominate black women in isolation from other workers in their homes. This is what makes nonsense of the notion of sisterhood, while at the same time, if women align themselves with the broader democratic movement, they can work together regardless of their race and/or class position. In this sense, white women should realise that the struggle for liberation belongs not only to black women, but to all women in SA.



(Esack)

I cannot... understand the idea that the struggle for the economic rights of workers must be an integral part of the struggle for justice whilst the struggle for the liberation of women as women must await a Bill of Rights in a new South Africa... I believe in the prophetic words of the Freedom Charter that "the People shall govern", but it is our task to ensure that the people and not men govern and that we are actually going to have something to govern. All of this means that our process towards liberation must be an holistic one.

(Esack)

Professor Dennis Davis and Advocate Dullah Durr have argued that the political process will determine the contents of a South African Bill of Rights. Their idea is that the process whereby a particular socio-political order is actualized is going to be the determining factor of the contents and effectiveness of a Bill of Rights and that the active involvement of women in the destruction of the "ancien regime" and the creation of a new order will necessarily mean guarantees for their rights in a new South Africa.

The Bill of Rights of the USA - was never a guarantee against slavery... The constitution of the USSR... goes further than most constitutions as regards the guaranteeing of the rights of women. The sad reality is that today - there is not a single woman in the visible political leadership of that country (Russia).

(Kadalie)

The accusation that feminism is divisive of the national liberation struggle, and that it is secondary and contingent upon national liberation, loses sight

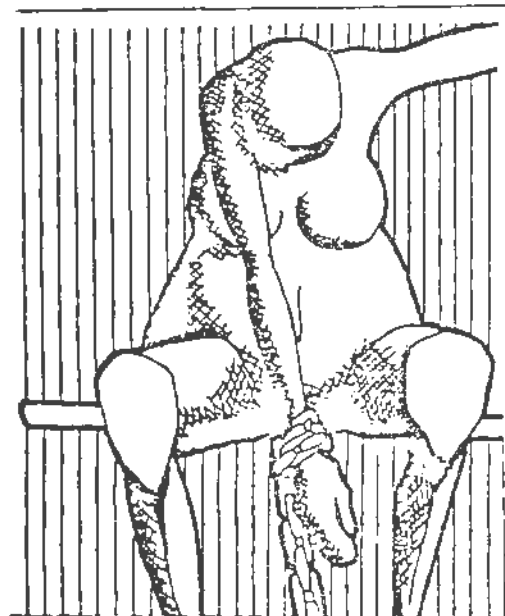
of the fact that all national liberation struggles have a gender component to them... If a feminist perspective is not taken seriously, a Bill of Rights would indeed be necessary as a guarantee that women will have some measure of protection by the courts of law.

(Esack)

To talk about a Bill of Rights without addressing the question of "under whom and under what kind of system or government" is not only naive but fraught with dangerous consequences for those committed to a non-racial democracy for South Africa. I say this because our government has this wonderful knack of usurping the language of civilization and appropriating it for itself. The Immorality Act, for example - with the only thing immoral about it being the law itself.

(Esack)

I therefore find it quite sinister that the government has asked the Law Commission to look into a Bill of Rights for South Africa. The very basis of this government is the antithesis of every single Human Right and the hypocrisy of its new-found interest in a Bill of Rights will only fool the most naive of observers.



CHILDREN'S RIGHTS

(Robertson)

I'd like you to take a psychiatric look at our society at the moment in SA. We seem to be having an epidemic of street children, child abuse, sexual abuse, delinquency, teenage pregnancies, to name only a few phenomena which seem to be becoming more frequent. What does that mean? It means to me that large numbers of our children are being exposed to neglect by adults and to intolerable living conditions. And what is very frustrating and hampering as a health professional, is that when one does come across these conditions, when one does make an attempt to deal with them, there are no facilities where they are most needed.

(Robertson)

I see in my work that certain children are so affected by problems of their environment, that when they go to school, they are not able to learn. And it is a critical period because if they are not helped within the first year or two of formal learning, then they are going to develop learning problems, severe learning problems, on top of all their other problems, and find it very difficult then to make adequate adjustments in later life.

(Savage)

What we have at present in South Africa is that decisions made at the highest levels are not addressing problems at the local level. At the highest levels of policy making we do have standards such as those embodied in the Child Care Act and the Health Care Act, but such standards are easily circumvented and undermined such as in the present situation where the State of Emergency overrides these provisions.

(Savage)

Earlier this year the Department of Education and Training announced that subsidies would be frozen, that the State has no money... Let me remind you that preschool care and education is not a luxury, it is a necessity for the very reasons related to how children grow and develop that Prof. Robertson has pointed out so clearly. The fact is that human infants and preschool age children are very vulnerable and fragile and we have plenty of statistics in SA to illustrate this situation.

(Foster)

We have the recent Child Care Act with noble and magnificent words, but in the same breath we detain children, lock them away without any kind of legal due process, which makes a complete mockery of those kinds of apparently protective Acts... Any talk, I will argue here, breaking the silence on the rights of children is to be commended, but that I think is wholly insufficient. I believe we have to begin thinking at a much deeper level of what it would mean to us in a fundamentally restructured society, what then the very image of the child will be.

(Savage)

I am pleading for children's rights to be isolated as a specific category but this plea assumes the place of children in their families and within the concerns of particular communities. It is very important in SA that we take on this issue of advocacy for children... If we neglect as we are doing the early years (of a child's life) and the relationships between parent/s and children, then we neglect our future. Neglecting the future for the vast majority of South Africa's children is in fact part of the present dispensation.

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(Robertson)

My own work in the townships shows a lot of depression among children and adolescents, much more than I see in the hospital setting in the suburbs... In the townships I also come across a lot of learning problems and anti-social behaviour... And there is such large-scale poverty that thousands of children may be growing up undernourished and susceptible to "political" illness.

(Foster)

There is a judge in Cape Town who has a quirky habit of referring to people he finds to be liars in his court as people who are "strangers to the truth". Turning that odd phrase, I think it is reasonable to say that the South African apartheid state is a stranger, a semantic stranger, to any whiff or notion of human rights, and more particularly this is apparent when one considers the question of children's rights. I am sure that all the ghastly books are still waiting to be written, and they will be written in the future, of the horrors over the centuries of the systematic abuse of the talent of all of our children in South Africa.

(Foster)

In SA a child is not a child, but a black child or a white child... A 1928 commission investigated children with a mental handicap - and only investigated white children. A 1967 commission of inquiry into mental handicaps only looked at white children. A 1974 Act which enabled legislation to provide facilities for mentally handicapped children begins that Act with various definitions. It opens with what we call a South African definition - it says we have to define the child. The South African Act says a child is a white child. There are no other children, according to the

1974 Act. There is no further enabling legislation at this present point in time for any other categories of children in relation to mental handicap, other than for the white child. So in South Africa, the child was never a child.

ACKNOWLEDGEMENTS

Newsletter editor:

Brandon Kroll

Thanks to attorney David Kessler for the following kind words regarding our February newsletter: "... a pleasure, and uplifting, to read..." and for his further donation towards our efforts.

League members and subscribers to this newsletter may be interested to learn that, apart from its SA circulation (which includes 9 libraries), this newsletter reaches such countries as Lesotho, Botswana, Zimbabwe, Austria, W. Germany, England, U.S.A., New Zealand and Australia.

CORPORATE MEMBERSHIP

For only R 50 (\$ 30, £ 20) per annum, corporate members in 1989 will receive a free copy of our "FORUM PROCEEDINGS: A SOUTH AFRICAN BILL OF RIGHTS". They will be placed on our newsletter mailing list and will have the opportunity for participation in League activities.

HUNGER STRIKERS

The League expressed its solidarity with the hunger striker detainees by supporting the red-ribbon campaign run by Cape Democrats, by attending two crowded church services at the Methodist church (Greenmarket square) and St. George's Cathedral. We observed a minutes silence during a lighting of candles at our public meeting on 22 February when Ms. Lynne Bowie spoke out strongly on this issue.

NEWS ITEMS

* Our "Human Rights Now" T-SHIRT has sold fantastically well with orders received from as far afield as Lesotho and Zimbabwe. Archbishop Tutu has expressed delight with one we sent him and has been wearing it. Similarly, Executive Director Laurie S. Wiseberger of Human Rights Internet, Harvard Law School, says that she will "wear (it) with pride". Now selling at R15 per unit (second consignment), the Black Sash liked our logo enough to feature it on the cover of SASH Magazine vol.31 no.4, March 1989.

* Our first public meeting of 1989 titled: "HUMAN RIGHTS: FROM CAPE TOWN TO NEW YORK TO HARARE" (22 February) was chaired by Brandon Broll. A substantial audience listened to Lynne Rowie (NUSAS/UCT SRC) discuss the plight of the hunger strikers; Mary Burton (CRL/Black Sash) who at the invitation of Human Rights Watch attended the celebrations around International Human Rights Day in New York on 10 December; Hugh Corder (CRL/UCT Prof. Public Law) who with a SA delegation of academics recently had talks with the ANC in Harare on Human Rights and a Bill of Rights for South Africa (Argus 23.02.89).

* Brandon Broll represented the League at the first 1989 public meeting of the "Society for the Abolition of the Death Penalty (Western Cape Region)". The agenda included procedural aspects of death penalty trials and the many difficulties (resulting from apartheid) that surround the defence of those accused of capital crimes.

* Dot Cleminshaw is to be congratulated on her excellent letters to the press: "Treason? That won't stop us fighting for our rights in SA" (The Star

6.12.88; Weekly Mail 9.12.88) in response to the Delmas judgement; and "Society is degraded by the death penalty" (Cape Times 19.01.89).

LETTER ON DETENTION

The Cape Times (9.03.89) published part of our letter entitled: "ALL MUST PROTEST AGAINST DETENTION", signed by Sir Richard Luyt, Hugh Corder, M. Burton, D. Cleminshaw, K.R. Hughes, B.W. Broll, H.M. Webber. For the record it is printed in full here -

Once again we voice the strongest protest against the injustice that allows anyone to be detained (and with the possibility of mistaken identity) without the right of access to one's lawyer, priest, doctor or family, and without any right to appear in court to state one's case against a known charge and there to be set free, or not, by the decision of a judge - and not of the Minister.

We are appalled by the self-inflicted blow to our legal system delivered by the Appellate Division under ex-Chief Justice Rabie in yielding up to the Executive arm of Government its power to protect the last remnants of a detainee's rights (the Omar and other judgements). No lawyer trained in the traditions of the British and Roman Dutch legal systems can accept their devastation, particularly when done in terms of a State of Emergency, the necessity and duration of which has been determined solely by politicians.

We call on lawyers everywhere to make public protest against the injustice of endless arbitrary detention without due process. Without such protest the future of any legal system in this country is placed in the gravest doubt.