

# License to ?

A comparison of the 1960 and 1985 State of Emergency regulations gives a great deal of insight into the direction of government policy in South Africa.

The 1985 regulations make the 1960 regulations look like child's play. For, on July 20 when the State President announced the new powers, he gave every single officer in his forces — police, railway police, army and prisons — absolute power over anyone that officer may choose to detain, search, raid, or whatever. It is obvious that the people in line to fall under this power are most likely to be opponents of the National Party Government.

Mr GEOFF BUDLENDER, director of the Legal Resources Centre in Johannesburg explained the differences between the two sets of regulations at a meeting arranged by NASAS students on the Wits Campus on July 24.

In 1960 the State of Emergency enactment gave the Government certain powers that it had not had before. These were primarily:

- Detention without trial — At that stage the power to order the detention of a particular person was given, for the first time, to the Minister of Justice, magistrates and commissioned officers of/or above the rank of lieutenant — a fairly senior position.

In the 25 years since then that power has become part of ordinary law and extended in various stages from 14 days to indefinite detention. The current regulations widen this power to include *any* member of the police force and also the army, the railways police and the prisons department.

- Suppression of 'subversive' organisations — In 1960 the Minister of Justice could direct any organisation to 'discontinue' during the State of Emergency. But, in the same year the parliament passed the Unlawful Organisations Act by means of which organisations such as the ANC and PAC were banned.

So this principle is now catered for in the ordinary law of the land and is not necessary for the present set of emergency regulations.

- Prohibition of meetings — Here again the present emergency does not need to cater for the power to ban and disperse gatherings because the ordinary law of the land goes far beyond the 1960 regulations.

So ordinary law already gives the State more power than it had in 1960 to deal with the situation of unrest that occurred after the Sharpeville massacre. Today's regulations include some additional powers. In effect they add the finishing touches, as it were, to absolute power, and secrecy, if necessary.

Mr Budlender summarised the principal purpose of the new regulations as follows:

- To widen the network of authorities with the power to detain

- To give the authorities power to suppress information. For instance it is an offence to publish the names of individuals who are detained without the permission of the commissioner of police. The Minister may forbid newspapers printing any information about any particular area, or comment on news about the declaration of emergency or on acts done in terms of the regulations.
- To give the police very wide powers — for example, to close any place, industry and even businesses; to impose curfews; to disperse crowds.
- To provide the State and its officers with protection against legal prosecution by means of an INDEMNITY CLAUSE. No person who for example is assaulted, robbed, tortured in detention or whatever, may bring a case against any officer acting with the power given to him by these regulations.
- To give the State and its officers protection from interdicts. The OUSTER CLAUSE in the current regulations prohibits any person from applying to the courts for an interdict to stay or set aside any of the emergency regulations.
- To provide for press censorship.

In essence the regulations give the police uncontrolled power by excluding public knowledge, the expression of public opinion and the control of the courts.

(At a meeting between the National Press Union and the Commissioner of Police in Johannesburg on July 22, the press were informed that there is a press monitoring group within the police force. It will monitor what newspapers print. If the police are not satisfied with what the press prints, without formal censorship more stringent regulations will come into force.)

As Mr Budlender put it, 'the purpose of the state of emergency is to give the authorities a free hand to do as they wish. It's true there is escalating violence. But the way to control it is not to introduce official lawlessness. The state of emergency will do nothing to stop the crisis in our country.'

**VUKANI MAKHOSIKAZI**  
South African Women Speak

A book which reflects the lives of African working class women under apartheid. The book talks for and about women in their struggle to make ends meet in the face of rising rents and high costs. It tells of their fight for adequate housing, child care facilities, through church groups and township women's organisations. These women fight for a society free from class exploitation and racial and sexual oppression.

Vukani Makhosikazi was written by a Johannesburg-based women's collective. It is the product of many interviews with women keen to tell the stories of their lives. The participants in the collective are Jane Barrett, Aneene Dewber, Barbara Klugman, Ingrid Obery, Jennifer Shindler and Joanne Yawitch.

VUKANI MAKHOSIKAZI is available from your local bookshop, or write to:  
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