

THE DEATH OF NEIL AGGETT

by Julian Riekert

- Q. If a detainee, this man or any other, on being interrogated after he has been detained, says "I am not under any circumstances prepared to give you any information whatsoever" do you leave him alone or do you take further steps?
- A. Well, he's got to be asked again.
- Q. And again?
- A. Yes.
- Q. I see. The idea being to wear him down I suppose?
- A. I make no comment.
- Q. Well, what is the idea, you give me your comment?
- A. Well, he is there to give information that's why he is detained.
- Q. But he's already told you two or three times he won't talk?
- A. Then he'll eventually let go
- Q. Well then supposing you had a case of a suspect who was detained because you, the police, genuinely believed that he could give certain information, and if in fact your belief was wrong and this man couldn't give you information, would you keep on questioning him over and over again?
- A. I would question him, yes.
- Q. You would, over and over again?
- A. Yes.
- Q. That would be a dreadful thing to happen to a man wouldn't it, if in fact you were wrong?
- A. Yes.
- Q. It would be. And all that that man would be able to see as far as his future is concerned would be an endless vista of imprisonment coupled with repeated questioning?
- A. Yes.

(Extract from inquest proceedings into the death of detainee L S Ngudle, who died in detention in 1963).

. . . any commissioned officer . . . of or above the rank of Lieutenant-Colonel may, if he has reason to believe that any person . . . is a terrorist or is withholding from the South African Police any information relating to terrorists . . . arrest such person or cause him to be arrested, without warrant and detain or cause to be detained for interrogation at such place in the Republic and subject to such conditions as the Commissioner may . . . determine, until the Commissioner orders his release when satisfied that he has satisfactorily replied to all questions at the said interrogation or that no useful purpose will be served by his further detention . . .

(Section 6 (1) of the Terrorism Act 83 of 1967)

Neil Aggett died in the custody of the Security Police on Friday, 5 February 1982. His death is the subject of inquest proceedings and so one must be very careful not to anticipate the findings of the inquest court or to make any statement which might influence the court in coming to its decision. For most of us the findings of the inquest court are unimportant. Whether it finds that Neil Aggett's death was murder, culpable homicide, an accident or suicide, we will lay his death at the door of our security legislation, and particularly the Terrorism Act, which makes it possible for a person to be held in solitary confinement and relentlessly questioned while at the sole whim of his interrogators. That abuses might occur under such circumstances should not surprise us, for we know, or ought to know, that such abuses are inherent in the dynamics of the solitary confinement situation. South Africa is not the first country, nor will it be the last, to legalise detention without trial and all that that entails. When the rulers of any state perceive the fabric of their society to be under threat, whether the threat be real or imagined, they are likely to respond in a similar way. This is especially so where the problem is one which is not readily amenable to the ordinary processes of law. Thus it was that the British introduced detention without trial into Northern Ireland in a desperate attempt to come to grips with the guerilla warfare of the IRA. Their experience in Northern Ireland may be instructive here.

One group of detainees was arrested on 9 August 1971 and taken to an unnamed detention centre. There they were subjected to what was described as "interrogation in depth", which included solitary confinement, prolonged wall-standing, hooding, exposure to "white noise", deprivation of sleep and poor diet. As a result of this treatment the British army came into possession of a considerable amount of intelligence information which, it alleged, resulted in the saving of many civilian lives. It was this allegation which led to the justification of such techniques, subject to certain

limitations against their excessive use, by the Parker Committee which was appointed to investigate the event. A majority of the Committee held that, subject to certain safeguards, "there is no reason to rule out these techniques on moral grounds and that it is possible to operate them in a manner consistent with the highest standards of our society".

For my part, I prefer the dissenting report of Lord Gardiner, who differed sharply with the majority view. He said that:

"If it is to be made legal to employ methods not now legal against a man whom the police believe to have, but who may not have, information which the police desire to obtain, I . . . have searched for, but been unable to find, either in logic or in morals, any limit to the degree of ill-treatment to be legalised. The only logical limit to the degree of ill-treatment to be legalised would appear to be whatever degree of ill-treatment proves to be necessary to get the information out of him, which would include, if necessary, extreme torture. I cannot think that Parliament should, or would, so legislate".

What became of the detainees in this particular instance? According to an independent psychiatrist who examined some of them after their release, three of the men had become psychotic within twenty-four hours of the commencement of the interrogation. Their symptoms included loss of time sense, perceptual disturbance leading to hallucinations, profound apprehension and depression and delusional beliefs. Of the other cases examined by him, almost all suffered from overt psychiatric illness. Anxiety, fear, dread, insomnia, nightmares and startle response were common and almost all of the detainees suffered depression. Some had also developed peptic ulcers which have a strong psychosomatic connection. The British government later paid out sums ranging from £10 000 to £25 000 in out-of-court settlements to all the detainees.

We know too from evidence given in South African security law trials that it is not necessary to apply techniques as brutal as those used in Ulster. Mere solitary confinement can have startling effects on the human personality. In one trial in Pietermaritzburg, an American expert on brainwashing techniques and solitary confinement offered the opinion that solitary confinement in an interrogative environment could, if sufficiently prolonged, result in a detainee saying anything at all, regardless of its truth or falsity. His wish would be to terminate the interrogation and to do so he would respond to direct, or even unconscious, suggestions from his interrogator. He will tell the interrogator what he thinks the interrogator wants to hear. It may take him some time after his release to realise that he has given false information. This may be an explanation for the phenomenon of detainees repudiating their evidence given under oath in court after they have been released from custody.

This expert, Dr L J West, also told the court of an experiment conducted in the United States involving a simulated prison. All the voluntary participants were screened for physical and psychological suitability and were then divided into two groups – guards and prisoners. The mock prison, in the basement of a university building, included a solitary confinement cell. The experiment was scheduled to last for fourteen days, but was aborted after only six, because the experimenters were profoundly disturbed by the changes that had taken place in the subjects. A number of persons were released before the sixth day for the same reason.

The prisoners developed a "prison mentality" and became preoccupied with the minutiae of prison life. Although they knew that they could withdraw from the experiment at any time, they did not do so but became increasingly passive and depressed. Some even attempted to smuggle notes out of the "prison". A different change was observed in the guards. They became increasingly authoritarian and began to punish the prisoners with increasing severity by withholding "privileges" like toilet visits, and imposing solitary confinement frequently. They seemed disappointed when the experiment was prematurely ended, unlike the remaining prisoners, who were delighted.

A recent correspondent to a Natal newspaper, a retired magistrate, wrote after Neil Aggett's death:

"My first experience of the effects on a human being of detention in solitary confinement occurred many years ago . . . I sentenced a criminal with a very bad record to a term of imprisonment which included solitary confinement and spare diet on two days of each week for the first six weeks of the sentence. This was the usual punishment in cases of the same kind . . . At this time it was part of my duties to visit the jail twice weekly and to allow all prisoners an opportunity of voicing any complaints or grievances they might have. During one such visit, after checking the prison records, I found that one prisoner was missing. On inquiry the jailer informed me that he was in his cell undergoing the punishment of solitary confinement which I had imposed on him. I then visited this prisoner in his cell and was shocked to see the state of physical and mental degradation to which he had been reduced after 45 hours of solitary confinement in a dark cell.

I decided then and there never again to impose this form of punishment. I maintained this attitude towards solitary confinement until I retired because I know it to be a cruel and brutal form of punishment."

But do we need such evidence of the harmful effects of solitary confinement?

As a South African judge observed in a case which involved the withholding of reading matter from certain political prisoners:

"In truth, it does not require medical evidence, one way or the other, to satisfy me that to cut off a well-educated, intelligent prisoner from all news as to what is happening in the outside world for a long period . . . is a very serious psychological and intellectual deprivation indeed".

How much more so when the withholding of sensory stimulation is virtually absolute?

Neil Aggett's death came shortly after the tabling of the report of the Rabie Commission which inquired into our security laws. That report suggests the retention of the system of detention without trial permitted by section 6 of the Terrorism Act, but suggests certain safeguards which, though they may improve the situation, will not eliminate abuses. One reads the report with what Sydney Kentridge has described as "growing astonishment, amounting in the end almost to disbelief", for it makes no attempt to answer the basic questions relating to the condition in which detainees are held. The Commission did not ask, again in Kentridge's words, "How are detainees actually interrogated?"

Are they physically or mentally maltreated? Why have more than 40 people died while in detention for interrogation?" This leads Kentridge to dismiss the report as "a scholarly and elaborate irrelevance".

Sooner or later those questions must be answered by the government which now rules us. It is vitally important that we should keep asking them, if only not to allow our government to seek shelter behind a pretence of ignorance of the facts. And as we ask the questions, and look at the facts as we know them, a terrible apprehension begins to grow. We ask ourselves why it is that the Government has sometimes paid substantial sums of money in "ex gratia, out-of-court, without prejudice" payments to the dependents of detainees who have died in detention. In 1971 the widow of the Imam Haron was paid R5 000. In 1979 the widow of Mr Joseph Mdluli was paid R15 000. Also in

1979, the widow and children of Mr Steve Biko were paid R52 000. Why are these amounts paid if the Government denies responsibility for the deaths? Is it possible that in a civil court, where the facts must be proved on balance of probabilities, and not beyond a reasonable doubt as in a criminal trial, the jealously guarded secret might come out? Is it because the Government cannot bear the thought of a court of law formally proclaiming the awful truth? That the Security Police have caused, directly or indirectly, the deaths of more than forty South Africans? By means of a law sanctioned by Parliament?

Yes, the questions must be answered and we must keep on asking them. We, as South Africans, who must share the burden of guilt if these things are true, have a right to know what is being done in our name and for our alleged protection. □

THE STUDY OF SOUTHERN AFRICAN PRECOLONIAL HISTORY: "BANTUSTAN PROPAGANDA"?

By C.A. Hamilton

The student of southern African pre-colonial history is increasingly forced to examine the purpose of his or her work, to assess the function and impact of pre-colonial studies on contemporary society. This is the case particularly in the face of that sort of criticism which condemns the pre-colonial historian as a producer of 'Bantustan propaganda'. The basis of such opposition to pre-colonial history lies in an objection to the ethnic divisions which have characterized and sometimes defined pre-colonial studies. These divisions are repeated and emphasised in the text-books, in which the histories of the different language groups of southern Africa are treated separately, and cultural differences are stressed. Obviously, the continued presence and manipulation of ethnic divisions presents an immense tactical problem for anybody working for change in South Africa, and it is from such a position that these denouncements are made.

Similar criticisms are made of the emphasis, within pre-colonial history, on aspects of tribal authority such as rule by a hereditary monarch or a royal lineage, and on the

ideological bases and symbols of their power (for eg, amongst the Zulu, the **ubukosi** of the kingship, and the **inkatha**, the symbol of the unity of the nation; two often cited types of identification of the people with the tribal authority). This kind of emphasis is considered to contribute substantially to the legitimation of present day tribal authorities, since it provides an historical precedent for their position. It also obscures the reality of their meaninglessness today.

It is in terms of such present day effects, that the study of pre-colonial history is rejected. "History consists," in the words of Carr, "essentially in seeing the past through the eyes of the present, in the light of its problems." (1) In this sense all relevant history must take the present as its point of departure. Consequently for those opposed to current government ideology, pre-colonial history is rejected as having no meaning or function today, in no way enabling man "to increase his mastery over the present." (2).