

piecing the picture together

mary burton

*In her Presidential address delivered at the National Conference's public meeting, **Mary Burton** cut through the confusion, and analysed the major trends of a politically intense and violent year. This is an extract from her speech.*

Looking back on the past year in preparation for this National Conference, it is the words 'terror' and 'disorganisation', that seem more and more to express what is happening in South Africa. The government tries to convince the extreme right wing that the on-going State of Emergency is permitting it to restore 'law and order'; instead the inhabitants of the towns and townships, the urban squatter settlements and the rural or semi-rural villages, are subjected to terror and disorganisation by those very forces which ought to exist for their protection. In Crossroads in 1986, in the Pietermaritzburg area, in KTC in Cape Town, in so many towns in the Eastern Cape there are violent confrontations between different groups. Time and time again we hear allegations that the security forces favour one group above the other, providing protection or even support.

The Rule of Law

The grip of terror replaces trust in the Rule of Law where Emergency regulations are invoked to quell opposition to government policies, and when the courts seem to offer little or no protection against arbitrary detention and other official action. The ap-

proach of the (then) Acting Chief Justice Rabie is not reassuring:

'We must be realistic. We have strangers coming in across the borders with bombs and mines. There is nothing in the common law to deal with a situation like that. We must get information from people we arrest, especially when they are carrying weapons from the Soviet bloc, otherwise we can't defend ourselves. The situation in the country is pretty near that of a civil war. It is naive to think you can quell it by bringing people to court' (*Sunday Star* 3 May 1987).

Parliament may pass legislation, and the security forces may enforce regulations, but the South African legal system is 'on the brink of dying', as Professor Dennis Davis has said.

It is inevitable that there will be a degree of conflict in any society, particularly one which is in a process of transition, about how to reconcile the protection of freedom with the need to maintain necessary restraints. This is where there is a need for guarantees of basic human rights, which I shall discuss further. But it is also essential for a legal code to have the acceptance of the majority of the population. That is the only way to ensure reverence for the body of the law. Laws which are passed by an unrepresentative govern-

ment cannot command this kind of respect.

If the Rule of Law is to be respected, the laws must have the legitimacy that stems from the participation of all the citizenry in their formulation, and they must be seen to protect rights as well as ensuring that justice takes its course.

When, for example, 'warlords' in areas surrounding Pietermaritzburg are believed to act with impunity and to have the tacit approval of the police, the law is brought into disrepute. When laws allow discrimination on the basis of skin colour and ethnic origin, the law is brought into disrepute. And when this happens, when a legal system loses legitimacy, or does not meet the needs of the people, the people will formulate other systems of justice. (This theme has been covered by Wilfried Schärf in the article on 'People's Justice,' SASH Vol 30 No.4, March 1988).

The Year Behind Us

The events of the past year are somewhat overshadowed by the announcement on 24 February of the latest and most overt attack of recent times on opposition groupings. Here indeed is disorganisation at its most visible.

Looking back, we follow the chain

of events bringing us to this point. Last March we were concerned about the growing militarisation of our society and the rise in emigration figures. These two factors persist. We had to face the prospect of the whites-only election, and this resulted in the 'lurch to the right' which jostled the National Party off its 'reform' path and replaced the Progressive Federal Party with the Conservative Party as the official opposition in the House of Assembly.

Since then there has been a string of interconnected events, all of which have been influenced by, and have had an effect upon, one another:

- the swing to ever more conservative attitudes continues in several sectors of the white population, evidenced by the Standerton, Schweizer-Reneke and Randfontein by-elections.
- increased poverty and unemployment, despite schemes initiated or supported by the Department of Manpower.
- the escalating cost of maintaining the homeland system where barely viable, overcrowded entities are spuriously defined as independent or self-governing states.
- ongoing dissatisfaction and anger

with schools and other centres of education. (It is not coincidental that education and student bodies figure prominently among those restricted by the new regulations.)

- the struggle of the homeless, which continues on the bitter soil of dispossession and alienation from the land.
- the tense relationship between South Africa and her neighbours. Disturbing questions about the role of the SADF in our contiguous countries are a major factor in the decision of young men to risk prison or exile in preference to military service.
- government attacks on its critics, especially the press, the universities and the churches.
- the continued resistance to the government's proposed restructuring of regional and local administration, with no sign of willingness among credible black leaders to support them.
- ongoing detentions in terms of the State of Emergency and security legislation.

These developments culminated in the restrictions on 17 organisations, so severe, that they are effectively

banned. At the same time 18 individuals were restricted.

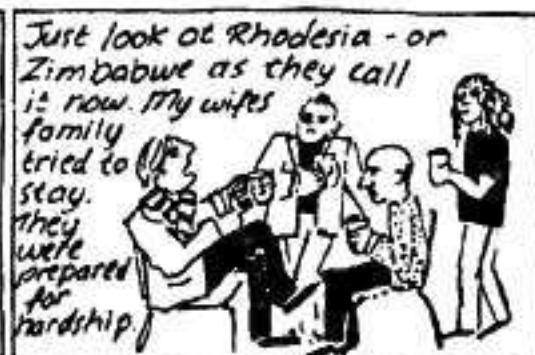
In spite of this the spirit of resistance is not broken. There is a strong determination in many communities that a new society must and will be carved out. Not only among the voteless and the ever more militant youth, but also in the electorate there is a growing need to be more widely involved and more deeply committed. Alliances over specific issues, which have allowed cross-fertilisation of ideas, have been notable developments.

This is the 40th year since the adoption of the Universal Declaration of Human Rights by the General Assembly of the United Nations.

We believe the defence of human rights and the pursuit of democracy to be a challenging and noble vision for us to follow. In this year ahead, culminating on 10 December with the anniversary of the United Nations Declaration of Human Rights, we re-dedicate ourselves to the long, hard struggle to make South Africa a country in which those ideals are shared and upheld and where the reality will keep step with the dream. □

WHO'S LEFT?

by Stent



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