

1988

This year is a difficult one to analyse. It is probably characterised as involving an uneasy equilibrium, with both government and opposition forces making gains and suffering losses. In this special supplement, we look at developments in the field of labour, repression, foreign policy, the courts and the economy.



Detentions

Close on 26 000 people were detained under emergency regulations between June 1986 and June 1987, compared to 6 000 in the 12 months thereafter. This review, prepared by the Human Rights Commission, shows how the state has stopped wide-scale detentions, and is now using the emergency regulations to keep key activists out of circulation. It also looks at conditions in detention, and several legal decisions which have even further restricted the lives of detainees.

The last 18 months have seen a change in the way detention is used by the state as a tool of repression. Although there have been mass detentions recently in an attempt to smash opposition to the municipal elections, the most controversial aspects of detention in the previous year - the large scale on which they took place, and the imprisonment of children - have come to an end.

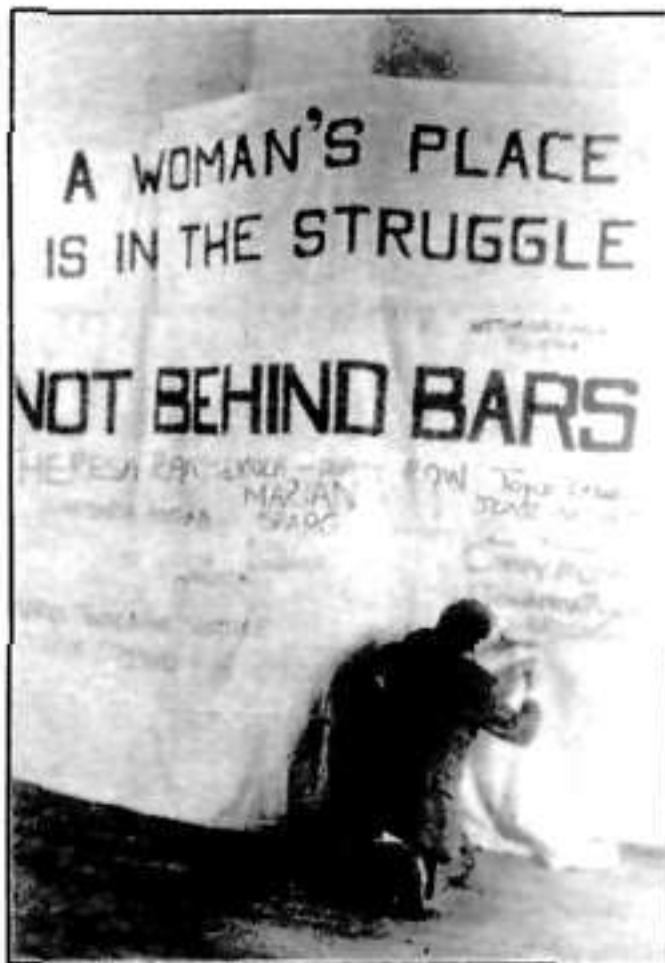
Instead we have seen the prolonged incarceration of activists under state of emergency regulations and the restriction of organisations in the democratic movement. Opposition to the state has thus been silenced by more sophisticated and subtle means than in the past.

The main target of detention has been the United Democratic Front (UDF). Apart from the senior office-bearers of the UDF being engaged in the marathon 'Delmas' treason trial, many of the leadership are into their third year of detention without trial - with no end in sight.

A number of key UDF activists in the Western Cape were recently released but were so severely restricted that there was no way in which they could legally engage in any political activities. A number of them were in fact redetained recently when it became clear that they were active again.

This targetting of the UDF is borne out by a survey conducted by the Human Rights Trust on the reasons given by the minister of law and order for the detention of a sample of detainees in the Eastern Cape. According to this survey, 56% of the detainees were being held on the basis of alleged membership of an organisation. Most of the organisations were street and area committees - UDF affiliates.

A large proportion of detainees held during the June 1987-June 1988 state of emergency were held for longer than 30 days. This is in contrast to the more common practice in the past of 14-day detentions.



Eric Miller - Afrapix
A Detainees' Parents Support Committee meeting in Soweto in February this year. Weeks after this meeting was held, the DPSC was effectively banned

Detention under the state of emergency has continued to provide the state with a means of dealing with specific regional issues.

In KwaNdebele there have been extensive detentions of those opposed to 'independence'.

In Natal, where violent clashes between UDF/Cosatu supporters and Inkatha adherents have been raging, the police response has been to detain UDF supporters under emergency regulations. The state also scotched peace talks by detaining UDF participants just as the talks got underway.

Whilst detention causes both physical and psychological damage, the hardships faced by ex-detainees on their release are of great concern. Many children have found that on their release they are not admitted back into school and are labelled as 'troublemakers'. In February a case was reported of former detainees alleging that their matric results were being withheld.

It is common for detainees to come out of prison to find they have lost their jobs, and sometimes their homes. Another problem they may face is continued harassment from security or municipal police which forces them into hiding.

Disability grants and pensions are not being paid to detainees as the department of home affairs claims

that the state gives detainees food and shelter while they are behind bars, and therefore do not need their grants. They may re-apply for their grants once they are released, but in the meantime their families receive no contribution to rent or food. Even after they are released, it takes a long time to get payment of the grant or pension re-established.

It has become a matter of course that emergency detainees are released with restrictions. In some instances, these restrictions are very severe, placing the former detainees under virtual house arrest or self-imposed detention. Recently many ex-detainees have been restricted from participating in discussions on the municipal elections.

Legal opportunities to challenge detention without trial have been severely eroded in the last 18 months.

Although several applications for release were made, only a few succeeded. Among the most important were those regarding detentions by the KwaNdebele police in South African territory.

A number of decisions handed down by the appeal court were of significance for detainees' rights. During 1986 several rights had been won for emergency detainees in successful applications. The state appealed and in its judgment in June 1987, the appeal court denied emergency detainees the following rights:

- * the right to be given reasons for the detention;
- * the right to make representations to the minister of law and order before being detained beyond the initial period of 14 or 30 days;
- * the right to legal representation.

The appeal court found that the minister of law and order was not obliged to give reasons for the detention of an individual and that access to legal representation was a privilege, to be granted at the discretion of the commissioner of police.

It has been argued that the appeal court has tended to uphold the rights

of the state to act in the interests of state security as more important than the rights of the individual.

However, in March 1988, the appeal court upheld the right of emergency detainees to appear in court in applications regarding their detention.

Since June 1987 there have been at least 19 applications for interdicts to restrain the police from physical abuse of individual detainees held under the state of emergency and under section 29 of the Internal Security Act.

There are widespread allegations of mistreatment in detention. Particularly notorious is the handling of detainees in KwaNdebele, although applications for interdicts are made all over the country.

In September 1987, parliamentarian Helen Suzman raised the issue of abuse of detainees during a debate and concluded that there were enough allegations from different sources that a 'cast-iron case has been made out for a proper investigation, an independent inquiry with special reference to the indemnity clause which I have no doubt encourages excesses by the security police'.

Between June 1987 and October 1988 three people died in detention, two while being held under emergency regulations and the other while being held under Transkei security legislation. In the same period, at least four people are known to have died while being held in political circumstances.

According to Minister of Justice Kobie Coetsee, teargas was used against detainees in prison on nine occasions between February 10 1987 and January 31 1988.

Conditions in detention vary widely from prison to prison and from police station to police station. Detainees are at the mercy of the authorities with respect to visitors, food parcels and study conditions. They have few, if any, rights and most concessions to their needs are regarded as privileges granted at the discre-

'It has become a matter of course that emergency detainees are released with restrictions'

tion of the police or heads of prisons.

Over the past year there have been more reports of detainees experiencing psychiatric problems than ever before. Many detainees have been hospitalised and others referred to psychiatrists as outpatients.

In KwaNdebele, where there has been severe repression, many detainees have been held in police stations where conditions have been appalling. In an application for an order restraining the police, Frans Phatlane described conditions at the Verena police station in KwaNdebele. He alleged that he was forced to drink from a toilet bowl in his cell because it was the only water available. The toilet in the cell allegedly had no cistern. He also said he was forced to sleep on a mat five centimetres thick on a stone floor, had no pillow, and that his diet was 'grossly insufficient'.

In June 1987, the National Medical and Dental Association (Namda) prepared a dossier of information and called for an urgent investigation into detention conditions at Fort Glamorgan prison in East London. Issues raised related to overcrowding, food, medical care, and the physical and psychological effects of detention. The document said detainees were given two thin mats to sleep on and four blankets.

'Most detainees complain of general aches and pains and backache on release and attribute this to sleeping on cement'. Almost without exception, ex-detainees complained about the food. The dossier said medical treatment was one of the 'major areas ex-

detainees bring up'.

According to the minister of justice there were 15 hunger strikes by emergency detainees in prisons between February and December 1987. Seven hunger strikes have been reported during 1988 with a particularly successful strike in the St Alban's Prison in Port Elizabeth where detainees won a number of concessions.

In January, section 29 detainee Thozamile Taai was hospitalised after being on hunger strike with fellow unionists for 24 days. He continued the hunger strike, reiterating his demand that they be released or charged, until he was charged in a court convened around his hospital bed.

The massive number of detentions in the year June 1986 to June 1987 was not repeated in the following 12 months.

The state has released an official figure of 2 896 people detained under the emergency regulations for more than 30 days between June 1987 and June 1988. The Centre for Applied Legal Studies at the University of the Witwatersrand has a list of 4 591 names of detainees for this period and estimates that at least 5 000 people were detained under the 1987 - 1988 state of emergency.

For the period June 1987 to June 1988, the centre estimates that there have been between 300 to 400 detentions under the Internal Security Act and bantustan security legislation. This excludes the 452 people detained in Bophuthatswana after the attempted coup in February 1988.

The total number of detentions under all legislation for the period June 1987 to June 1988 is therefore estimated as approximately 6 000 - in contrast to the 26 000 of the previous 12 months.

Since June 1988, approximately 1500 people have been detained, with an estimated 1 200 people in detention at the beginning of October.

The purpose of emergency detentions is not to charge people: as is indicated by the fact that only a small



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The original 22 Delmas trialists: 'Apart from the UDF's senior office-bearers being engaged in this marathon trial, many of the organisation's leaders are into their third year of detention'

percentage of emergency detainees are ever charged.

Even when emergency detainees are charged, the 'preventive' aspect of their detentions is indicated. They are often charged after a year or longer - which means charging them was not a matter of urgency for the police - or they are charged with criminal offences like arson or malicious damage to property, for which they could have been held under the Criminal Procedure Act and charged within 48 hours.

Only two sections of the Internal Security Act providing for detention have been used since the renewal of the emergency in June 1987. Most of these detentions were under section 29, which allows for the questioning of someone the state believes has com-

mitted an offence endangering state security, or is a threat to state security, or has information relating to this.

In the last six months there was an upswing in the number of youths being detained under section 29. Many seem to have been picked up returning to the country, having allegedly received external training.

At the end of June, the Centre for Applied Legal Studies knew of 104 people being held under section 29.

Section 31 of the Act allows for the detention of a person who is required as a state witness in a political trial. The minister of justice told parliament that on February 29 1988, 49 people were being held under this section of the Act.

During 1988, section 185 of the Criminal Procedure Act was used in

some cases to detain state witnesses in politically-related cases - for example, the murder trial of 18 members of the South African Railway and Harbour Workers Union (Sarhwu).

In a significant development in the Transkei, Major-General Bantu Holomisa spoke out against detention. Detentions in the Transkei have dropped dramatically since his military government took power.

However, the treatment of detainees and prisoners remains a sensitive issue for Holomisa's regime. This was indicated by the September 1988 banning of the recently-formed Prisoners Welfare Programmes (PRI-WELPRO), an organisation established to monitor repression and campaign for the rights of ex-detainees and former prisoners.