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A JOURNAL OF LIBERAL AND RADICAL OPINION

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EDITORIAL

THE WHITE POLITICAL SCENE

Interesting things have been happening across the whole White South African political scene. There are signs of movement almost everywhere.

On the extreme right Dr. Albert Hertzog's Herstigte Nasionale Party, the people who left the Nationalist Party because it was getting too liberal, increased its share of the vote in two recent Transvaal byelections. It did so by taking votes from the two parties nearest to it on the political spectrum, the Nationalists and the UP (which of these is to the right of which is not always easy to decide). In the Middelburg constituency, for example, the Herstigte vote increased from 873 in 1970, to 1 674 in 1974, to 2 353 in 1975, while the Nationalist vote dropped from 6 047 to 5 238 to 4 774, and the UP's from 2 974 to 2 066 to 1 662. The loss in Nationalist votes to the Herstigtes is almost certainly due to minor apartheid relaxations, like those in sport and in theatres and hotels, and to the erosion of the industrial colour bar. These 'betrayals' of Nationalist principles at home, added to the 'betrayal' of the White Rhodesians, through Nationalist pressure to settle with the ANC, gave the Herstigtes just the kind of emotional election appeal that the Nationalists themselves have used for so long and so successfully in constituencies like Middelburg. It would have been surprising if it hadn't paid dividends. So far there have been few panic reactions amongst Nationalists to this slight swing against them amongst the faithful.

The UP losses are yet another sign of the decline of the party which once occupied the middle ground in White politics. Having discarded its reformist Harry Schwarz wing, which was trying to wake it up to the urgent need to adapt itself to the realities of South Africa in 1975, the party now seems to be firmly under the control of its conservatives, people more reactionary than many Nationalists. For many years the United Party could claim that, whatever else its faults, at least it stood For the Rule of Law and fair trial in open court. Then it agreed to serve on the Schlebusch/Le Grange Commission. For three-and-a-half years now its representatives have served as Members of a commission of politicians which sits in secret, denies effective legal representation to the people brought before it,

refuses them the right to cross-examine their accusers and, often, the right even to know who those accusers are. When the interim report of the Commission on NUSAS, which was endorsed by its UP members, was used to ban student leaders, the UP wrung its hands in apparent horror, protesting that it had no idea that its recommendations would be used in this way. How else might they have been used? And even if the UP Commission members were so naive in February 1973 what can they say in mitigation now when the Commission's report on the Christian Institute has been used to declare it an 'affected organisation' and so cut it off from the overseas church funds which were the main source of its income? Taking part in secret, non-judicial trials from which flow devastating punishments of individuals and organisations is a poor way of defending the Rule of Law.

Having abandoned over the years most of the worthwhile things it once stood for, it is not surprising that the UP, with its present largely conservative parliamentary membership, should be casting glances to the right, as it searches for a role for itself. Any inclination it had to move to the Left must have disappeared when the reformists were expelled, and the Middelburg election result shows that it isn't getting anywhere by staying where it is. Reports that the UP caucus has discussed coalition with the Nationalists have been brushed off, though not denied, by Party leaders; but they have not repudiated the now famous article written for the Nationalist paper, Die Burger, by their Schlebusch/Le Grange Commission member, Oxford graduate Bill Sutton. Since its involvement in the Commission more than one member of the UP has propounded the case for a joint Government/Opposition approach to the question of security, the argument being that the times are too serious and the question too important for it to be dealt with in any way other than through a 'national' consensus. The article in Die Burger ranged more widely than that. Mr. Sutton argued that the West had lost faith in itself and its role in the world; it had given way to permissiveness and a lack of personal discipline; it had failed to counter the Communist offensive in the Third World because it had not asserted the superiority of its own methods of social organisation and had failed to show, as it could confidently have done, that these would not only produce greater development than Communist methods but that they would preserve individual freedom at the same time. All this he saw as an abdication of responsibility and a failure of faith in the destiny of the Christian West, a weakness to which the Afrikaner people had not succumbed. He congratulated the Nationalist Party on its stand against permissiveness (a stand, he claimed, which was supported by the silent majority in the West), and went on to say that the Afrikaners could lead a revival of Western self-confidence by fearlessly putting the arguments for the Western way of ordering society to the Third World people of Africa. However, he said, the Afrikaner people could not do this alone. The weakness of the Nationalist Party was its attempt to enclose the Afrikaner people in a protective laager, its reluctance to let them come out of the laager and fight advancing Communism with those others who believed that the Christian West could still win the battle for the hearts of the people of the Third World. If Afrikaner Nationalists would have the courage to come out of their laager of exclusiveness they would find many English-speaking people waiting to join them in this battle.

This may not be direct coalition talk but it is certainly kite-flying. No doubt there are many UP members, worn out by 27 years of losing support and abandoning principles, who would like to be on the winning side for a change. The question is whether the Nationalists would want them. Not only would they dilute the Afrikaner image of the party, they might also dilute the verligte image it seems to be trying to cultivate.

One comes now to the Progressive Reform Party, launched at the end of July by the merging of the 17-year-old Progressive Party, and the Reform Party, consisting of people who left the United Party when Mr. Harry Schwarz was expelled earlier this year. The merger makes sense. White South Africa certainly couldn't afford two parties whose views were so close to one another's. Time is too short for that. As for what we know of the new party's policies, there seems to be some sense in them. The clear commitment to a Bill of Rights, the Rule of Law and an independent judiciary is admirable. The aim of free, compulsory education for everyone and the removal of all discriminatory laws must be supported by all reasonable people. On the question of political organisation and the proposed franchise requirements for voter qualification, however, Reality has reservations. It seems that the organisation of the new state is to be federal and that voting qualifications will vary from state to state within the federation, that these qualifications will be non-racial but that they will be based on educational qualifications for half the roll, while proportional representation will operate on the other half of the roll. We have no objections in principle to a federation but we do have objections to yet another complicated voting system. It may be a difficult step for a new party seeking the support of White voters to take, but for our part we would have liked to see it come our boldly for universal suffrage in each constituent state of the federation.

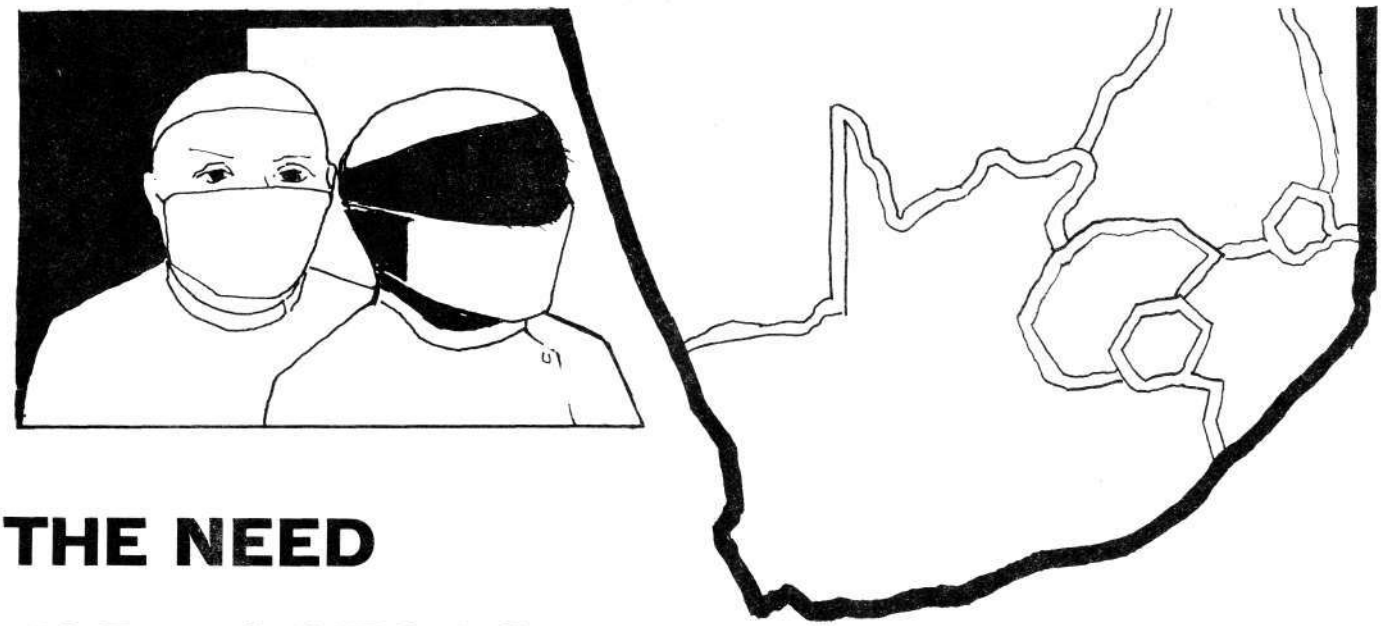
One of the most important statements made at the launching of the Progressive Reform Party was the one in which Mr. Colin Eglin, its leader, committed the party to the calling of a fully representative National Convention, as soon as it was in a position to do so. This would involve all the people of South Africa in working out the institutions for a new society. Reality has often contended that this will be the first essential step towards solving the enormous problems of creating an acceptable society here. Whatever goes before that is only preparation. The new party has an important role to play in preparing people for that occasion, however distant it may now appear to be. And in preparing them for it there will be no point in pretending to White South Africans that they will be living in anything but a society with a majority of Black voters. We hope that these new franchise proposals will not be used to disguise that fact. White voters have to be prepared for radical, not cosmetic, change, if they are to be able to accept it reasonably gracefully when it comes.

The new ferment in White politics is good. We hope Mr. Vorster will not be deterred by the rumbling on his right from his rather fumbling attempts to come to terms with the times. There is no time for retreat now. If relatively peaceful change is to come to South Africa the dismantling of apartheid must be greatly accelerated, not slowed down. Mr. Vorster must get on with this job, even if it costs him parliamentary seats and raises before him the spectre too awful to any Nationalist of a substantial split in Afrikanerdom. The only way he can ensure for his people a reasonable life in Africa is by showing that what Mr. Pik Botha told the UN is true—race discrimination (and that means apartheid) as the basis for South African society is on the way out. Mr. Vorster enjoys sufficient

support among Afrikaners to be able to follow this line and still win elections.

As for the UP, it is high time for it to disappear, its conservative wing either joining the Nationalists or, for preference, vanishing altogether. Japie Basson, Nic Olivier, Eric Winchester and Co. should join the Progressive Reform Party. At least then most of the people in White party politics who are committed to the removal of race discrimination in South Africa would be working together and not be at one another's throats. And, as we have already said, most important of all is that the new party should not succumb to the temptation to play down the more radical parts of its policy for fear of frightening voters away. White South Africans must be made ready for fundamental change. If the Progressive Reform Party gets on with the job of preparing them for that it will be doing something worthwhile even if it never becomes either officail Opposition or Government. It will at least have made more possible the calling of the non-racial National Convention to which its statement of policy commits it.

As for Reality, we too will continue to argue the case for the kind of society we want to see—one in which every adult will enjoy the vote, every person will enjoy equal opportunity in every field, basic civil liberties will be protected, and deliberate steps will be taken to eliminate the inequitities in wealth, education and social services which have scarred our national life for so long. Unlike Mr Bill Sutton we do not think that the way to convince Africa of the merits of the ways of the West is through taking a leaf out of the Nationalist book. We think this could be done much better by removing all bars between any man and his full participation in a democratic society, of which he would then be able to feel that he was a real and respected part.□



THE NEED FOR DOCTORS IN SOUTH AFRICA

by Peter Cooper; South African Medical Scholarships Trust, Cape Town, 1974.

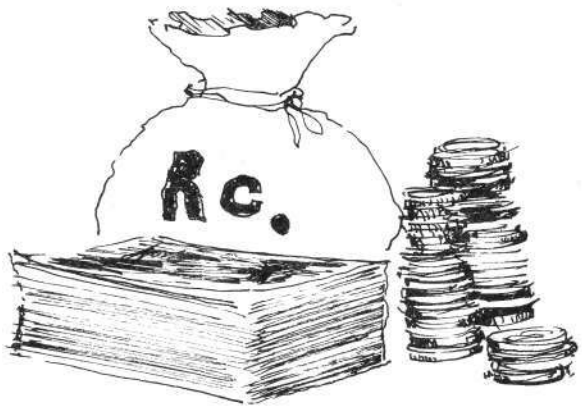
Reviewed by Marie Dyer

The South African Medical Scholarships Trust is an independent body, under the chairmanship of Dr Marius Barnard, founded in 1972 to take over the medical scholarships programme which had been initiated by NUSAS in 1965. The Trust provides scholarships in the form of interest-free loans, repayable after graduation, to medical students who need money to complete their training. (In 1974, 51 students were assisted with a total amount granted of R10 150).

The writer of this booklet was in 1974 a final-year medical student at the University of Cape Town and a member of the Board of Trustees. His study goes much beyond the immediate need for adequate financing of medical students. It demonstrates the critical shortage of doctors and other medically trained professional workers (like dentists, pharmacists and nurses) in large areas of South Africa, and suggests the need for some alterations in the whole structure of medical education in the country.

Mr Cooper's figures show that the general doctor/population ratio for South Africa, calculated at 1/1990, is a meaningless statistic, partly because it is inaccurate in practice, and partly because it ignores the fact that more than 80% of all doctors practise in the White urban areas where only 33% of the total population live. The ratio of doctors to population in these areas, he shows, is something like 1/950; in African homelands close to 1/14 000. Since the first figure quoted—1/950—includes **all** inhabitants of 'White' urban areas, including the residents of Soweto, New Brighton, Kwa Mashu, etc., whose individual doctor/population ratios are much less favourable, it follows that **White** inhabitants of White urban areas enjoy what must be almost the best doctor/population ratio in the world.

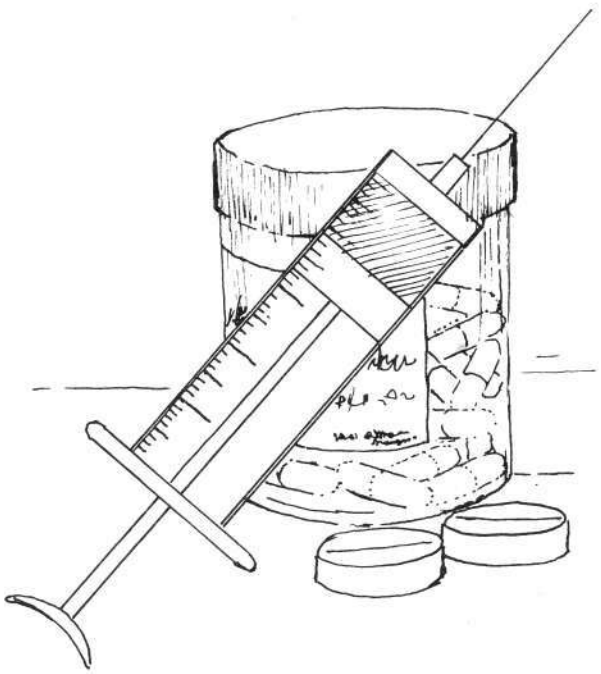
(Mr Cooper presents his facts with admirable dispassionateness; but it is impossible not to become aware of the various ideological inhumanities and illogicalities of the government which have actually discouraged Black doctors from studying and practising—for instance the closing of Wits and Cape Town medical schools to Black students in 1959; the differential racial salaries paid in State hospitals and institutions, and the official refusals of facilities to Black doctors wishing to practise in the townships).



The general doctor/population ratio for Black Africa as a whole was calculated at 1/20 000 in 1969. Thus, in spite of all the resources of manpower and sophisticated medical technology available in South Africa. the homelands, with their ratio of 1/14 000, are not much better off in this regard than the average for undeveloped Africa. The kind of situation which these ratios produce is summed up in this quotation from the 1970 report of the St. Michael's Mission in Kuruman:

> St. Michael's provides a service for some 100 000 people and half the patients admitted should never have been ill. There appears to be little or no preventive medicine, no health worker or social worker in the villages, no health education or dietary education . . . . There is little follow up of patients. Those treated for malnutrition return, sometimes in only a few weeks, as bad or worse than before.

It is obvious, as Mr Cooper makes clear, that only a massive increase in the number of Black doctors can provide for the shortage where it exists. (Somewhat fewer African doctors, in proportion to population numbers, are being trained now than in 1950). Very few White students, from privileged White environments and trained at urban medical schools, in a tradition which tends towards increasing specialisation and increasing



sophistication of equipment, can be expected to settle in the kind of practice implicitly described in the report from St. Michael's Mission.

A main obstacle to the large-scale training of Black doctors is, as Mr Cooper acknowledges, the inferiority of Bantu Education in the schools, the improvement of which would be a long-term task. However, even now, with more or different training facilities, changes could be made. In 1973, 200 eligible African students (i.e. with Matric maths) applied to the medical school in Durban, and only 35 were admitted. Mr Cooper suggests the immediate opening of all existing medical schools to Black students; and also the creation of additional medical schools, situated in rural areas, orientated towards areas of study like preventive medicine and with admission perhaps on a differently gauged basis. He suggests also the reconsideration of the idea of medical aides, not trained to be doctor-substitutes, but so that the skills of the few doctors practising where the need is greatest may be more efficiently used.

(Another proposal—that young men graduating from medical schools should spend a year in the homelands instead of in the army, though eminently humane, practical and sensible, is no doubt unlikely ever to be considered).

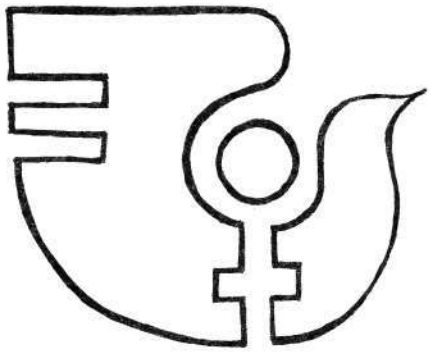
In the meantime it is both vital and possible that no student, eligible under existing conditions, should be forced to abandon his studies for lack of money. This is the raison d'etre of the Trust; and the booklet concludes with brief case-histories of some students currently being assisted: such as that of M.M., in his fourth year, one of seven children, whose father earns R720 p.a.

The address of the Trust is:

South African Medical Scholarships Trust,
P.O. Box 10123,
Cape Town,

and donations are earnestly invited.□

THE LEGAL DISABILITIES OF ZULU WOMEN



by M. L. LUPTON

1. BACKGROUND—The Natal Code of Bantu Law

Women in general in South Africa endure certain legal disabilities, black women more so than white, but undoubtedly the group who bear the heaviest cross of disability are Zulu women.

The reason they are singled out for a heavier dose of disability than their sisters is that all Zulu women are subject to the Natal Code of Bantu Law.

This Code was drafted in 1878 and enshrined in Statute by Natal Law No. 19 of 1891. This Law has been amended since then, but the amendments have been superficial rather than radical, with the result that the most important piece of legislation regulating the personal relationships of the Zulu has been ossified, frozen in the position it was in in 1878. If some latter-day Zulu Rip van Winkle had fallen asleep in 1878 and woken in 1975, nearly 100 years later, he would have discovered a vastly changed society with a totally different pattern of life, but still regulated by the same Laws.

This is entirely foreign to the nature of law, a legal system should be, and normally is, a dynamic organism which grows and develops to keep pace with the society it serves. A legal system which is out of touch with a society is of no use to such a society and only creates friction and hardship instead of alleviating these conditions.

Unless an African in Natal has been granted a letter of exemption by the State President, exempting the recipient from the Natal Code (uncodified Bantu Law in the rest of the Republic) that African is subject to the Code. Because such exemption is rarely applied for, or granted, the effect in practice is that 99% of all Africans in the Republic are subject to Bantu Law or in Natal, to the Natal Code.

The position of black women in Natal can be distinguished from that of their sisters in the other Provinces who are subject to uncodified Bantu Law. In the other Provinces an African woman becomes a major, with full legal capacity at the age of 21 years, or if she is widowed or divorced (her position in this regard is the same as that of a white woman). Natal, however, is the only Province which enforces, via the Natal Code (which is part of the body of statutory law of South Africa) the rule that an African woman remains a perpetual minor with all its accompanying legal disabilities.

The Natal Code was drafted for and originally applied to a homogeneous agrarian society; it reflected the values and regulated the needs of an elementary tribal society, but it has as little relevance to the conditions of a contemporary modern urbanised population participating in a western economy as an ox-wagon at a Grand-Prix.

An African woman who lives in an urban area in Natal has to compete in an advanced, white dominated, capitalist society in accordance with the same rules and norms, the same standards and requirements as any other citizen, but she has to face this formidable battle with one hand tied behind her back—she is hamstrung by the medieval laws of an agrarian society.

The lynch-pin, the key to the successful operation of the Natal Code's regulations regarding women originally, was the kraalhead. Kraalheadship was a position of great

public esteem and carried heavy responsibilities, but the kraalhead was generally a sound man of high integrity who protected the interests of his womenfolk. Yet today an African woman living in an urban area has often never even met her kraalhead who may be at a remote kraal. But, he retains an awesome power over her. She still has to bow to his authority without benefitting from his protection, she has the unenvious task of competing, as a perpetual minor, in a society which places severe disabilities on her freedom to contract as a result of this lack of legal capacity.

2. SOME LEGAL DISABILITIES OF AFRICAN WOMEN ARISING FROM THE NATAL CODE

(a) Residence and Custody of Unmarried Women

The Code gives the kraalhead wide powers affecting the freedom of movement of unmarried women under his guardianship. If they leave the kraal in defiance of him they are guilty of an offence in terms of sec. 163 (2) of the Code. A woman, whether a major or not may thus not change her place of residence without his permission.

Placing this sort of arbitrary power in the hands of an individual and backing it up with legal authority is nothing short of feudalism.

(b) Corporal Punishment

In terms of section 54 of the Code "Any parent or guardian may inflict reasonable, but not excessive corporal punishment upon any child or ward under his care for the purposes of correction."

In a recent action for assault a father successfully pleaded that he had struck his adult daughter (Aged 40) with a stick so as to maintain order in his kraal.

This is a clear case of legalised assault which is open to abuse by an authoritarian kraalhead. Except in extreme cases however, most women are reluctant to seek redress in Court against her guardian for fear of further retribution and because she is wholly dependant on him for maintenance.

(c) Consent to Marry

Unless an African woman in Natal over the age of 21 years is emancipated she cannot contract a valid marriage, be it civil or customary, without her guardian's consent.

The position for all other races in the other Provinces is that they only require the consent of a parent or guardian to marry if they are below the age of 21.

Bearing in mind the break-up of the family system this requirement can result in hardship and delay in order to trace a distant guardian who may then withhold his consent in order to cash in on lobolo.

Cases like this where women have lost contact with their guardians, or never had contact or where their guardian is a complete stranger is an important factor driving them into loose relationships which are contributing to the increasing rate of illegitimacy among Africans, which has risen from 36% in 1964 to 58% in 1974.

(d) Divorce

Unlike a European minor, an African woman does not assume majority status upon divorce, but remains a minor and suffers all the attendant disabilities. She has no right of action for damages against her husband's paramour, for adultery, as such an action is unknown in Bantu Law.

A wife who wishes to obtain a divorce must be assisted by her father or protector, and after the divorce she must return to the protection of her father or the person who would have been her guardian had she not married. Another consequence of divorce is that she loses the guardianship of her children which vests in her erst-while husband by virtue of his having paid lobolo.

If the divorce is occasioned by the woman's fault, her father has to forfeit some or all of the lobolo, which if he values the cattle more highly than his daughter's welfare, he is loathe to do. This fact has often given rise to cases where the guardian has refused to assist his daughter to obtain a divorce and forced her to return to a husband who is ill-treating her. The fact that her husband is legally allowed to chastise his wife (sec. 41) has also made it more difficult for her to establish grounds for divorce.

(e) Perpetual Minority

According to sec. 27 (2) of the Code all African women are deemed to be perpetual minors, subject to the authority of their guardian unless exempted from Bantu law or emancipated from guardianship.

The immediate effect of this section of the Code is twofold viz., by relegating an African woman to a position of perpetual minority she suffers all the legal disabilities of a reduced legal capacity e.g., she cannot enter into any contract or litigation, without her guardian's assistance, conversely it places a tremendous power over her well-being in the hands of her guardian.

(f) Guardianship of her Children

In terms of section 31 of the Code when a man married a woman and paid lobolo for her, he became the guardian of all children born to her during the subsistence of the marriage. The effect of this is that an adulterine child born during wedlock belongs to the mother's husband even when the mother is afterwards divorced or remarries.

Take the case of Selena Gumede who was married by customary union to Aaron Gumede. Shortly after their marriage he left for Johannesburg to seek employment. He sent her no money and she did not see him again. Selena in turn obtained

employment near Durban and formed a liaison with a certain John Masing. Two children were born of this relationship and they assumed John's name.

Aaron now reappeared and claimed the children fathered by John, of whom he was the legal guardian. Unless Seleria's daughter by John established contact with Aaron Gumede, her guardian, she would be unable to marry or litigate without his assistance.

(g) **Death of an Unmarried Woman's Guardian**

A woman's eldest brother is usually her late father's heir, but in an heirless house her new guardian could turn out to be a remote male relative who is not interested in her and refuses to assist her to overcome the disabilities of her minority.

Where a woman has no guardian or is not able to trace one, the State President in terms of section 86 of the Code, in his position as Supreme Chief of all Africans, has delegated powers to Chiefs and Headmen to appoint a suitable person. Any stranger appointed in this fashion would obtain rights to that woman's property.

(h) **Property Rights**

The law relating to proprietary capacity is also thoroughly unsatisfactory in its application to women. This is not surprising seeing that it was the law of peasant cultivators who practised a subsistence economy in which the woman's role was largely confined to the household and the fields.

In terms of sections 35 and 36 of the Code a kraal-head is entitled to and becomes owner of the earnings of his minor children and to a reasonable share of the earnings of other members of his family and kraal inmates.

In section 128 the Code refers to a medicine woman and a midwife being able to institute an action to recover fees and earnings if assisted by her husband or guardian. No reference is, however, made to a Hospital nurse, clerk, teacher, or factory operative. These classes did not exist in the old society yet, educated, qualified women have no greater legal claim to their earnings than a housewife in a peasant community.

The matrimonial property regime according to Bantu Law does not create a joint partnership or estate and property acquired by the wife belongs to her house and is not regarded as her personal property. Consequently a married woman's personal earnings and any gifts are regarded as belonging to her "house". Due to the fact that she is a minor all "house" property is directly controlled by her husband or guardian and she cannot dispose of this property without his consent. This property can also be attached for her guardian's debts.

(i) **A Widow's Right of Inheritance**

A widow's position regarding the inheritance of her husband's estate is precarious whether she marries by civil rites or by customary union. The reason is once again that the Natal Code was designed to deal with an agrarian subsistence economy, only involving rights in land and livestock and in which there were stable, unified families.

The matrimonial property regime created by an African couple who marry according to civil rites is automatically out of community unless they appear before a Bantu Affairs Commissioner one month preceding their marriage and by means of affidavit indicate that they wish to be married in community. (The position is exactly the opposite for whites).

In Natal, however, even where a woman's husband has made a will designating her as his heir in terms of Roman-Dutch Law, she still does not become

full owner of the property because unless she is emancipated in terms of section 28 she remains a minor, and her inheritance will be controlled by her new guardian.

Regardless of whether a woman is married according to a customary union or by means of civil rites, if her husband dies intestate his estate will devolve according to Bantu law i.e., by primogeniture or to the eldest surviving male descendant.

Where a widow has a son, the son will inherit the house property and she will have certain well-defined rights in it, if she continues to reside in her "house". Where she has no sons the deceased's

property will be inherited by his nearest male relative in the collateral line, who may be a brother or an uncle. The widow is naturally completely at the mercy of this heir for support.

This is illustrated by the case of Mrs Rose Ndhlovu, whose late husband was a School Principal, while she was a highly qualified nurse. They lived in Kwa-Mashu. They had no sons and her husband died without leaving a will. In terms of the Natal Code their joint property reverted to his brother who lived in a remote kraal at Kranskop and with whom they had had very little contact. The brother refused to support Mrs Ndhlovu and her two daughters unless they took up residence in his kraal.

The present system militates against the wife and is tailor-made for ne'er-do-well heirs who can dissipate the property and then disappear.

(j) **Emancipation of African Women**

In terms of section 28 (1) of the Code an African woman may apply to the Bantu Affairs Commissioner's Court for emancipation from the strictures of perpetual minority imposed by section 27 (2). Emancipation is, however, limited to unmarried females, widows or divorced women. A married woman cannot be emancipated during the subsistence of her marriage.

The effect of emancipation is to free a woman from the power of her guardian, it may further grant her ownership in respect of property she may have acquired, full power to contract and to sue or be sued in her own name. It also gives her control over the property of her minor children.

The grounds for emancipation are rather vague and general, the usual requirements being a job, thrifty and sober habits and a certain level of education. The onus of establishing these requirements to the satisfaction of the Court rests upon the applicant.

The success or failure of an application often depends on the attitude and discretion of the Bantu Affairs Commissioner rather than any established precedents. Research done on applications for emancipation at the Bantu Affairs Commissioner's Court in Durban reveals that during 1971, 1972 and 1973 the Commissioners were fairly liberal in their approach and readily granted applications. Applications by widows who had been married by civil rites resulted in almost automatic emancipation.

However, late in 1973 a certain Mrs Zondi applied for emancipation and the Court inexplicably changed its formerly liberal approach and suddenly became very legalistic, stressing that a change in status is an important legal issue and that the letter of the law in this regard must be upheld. The result has been a consequent tightening up by the Court in granting applications for emancipation.

The essential problem in cases of emancipation is a difference in outlook between the Court and the social realities of the applicant. The Court examines the application from a legal point of view, viz., the woman must prove factually that she has a job, is educated and is thrifty. The social requirements of the woman who needs to be free to operate successfully in a competitive money economy are ignored.

The Courts should be encouraged to view the case in its wider social context, e.g., that a letter of emancipation is a prerequisite for a woman being entitled to acquire accommodation in her name in a Municipal township. Widows and divorcees find that on the death of their husbands or the dissolution of their marriage they face the grim prospect of being evicted from their homes, as the houses are registered in the name of the man. Yet vital as the need for accommodation is, it is not a ground for emancipation in terms of the Natal Code.

Another vital prerequisite for success is the guardian's consent to the proposed emancipation. If he refuses this consent her application will fail. This is illustrated in the case of Albertina Duma, who was 40 years of age, a spinster, living in Kwa Mashu with her two children. A certain Douglas Toto was cited in her pass book as her guardian. He refused to support her application unless she handed her children over to him. She refused, her application failed.

(k) **Unlicensed Love**

Of all the disabilities which are the lot of the unfortunate African woman in Natal, the piece de reistance is undoubtedly contained in section 163 of the Code, according to which an African woman can be subjected to what amounts to house arrest for leading an immoral life. If ever there was a hypocritical or holier-than-thou approach it is reflected in this section of the Code. Imagine the hue and cry if white women were subjected to such a penalty. To cap it, in terms of section 162 (1) (d), adultery is still an offence in regard to Africans in Natal. The South African Courts proscribed it in 1918.

Apart from outraging privacy why Natal should persist in its attempts to legislate Africans into higher morality by means of sanctions that are offensive to contemporary morality is astounding.

CONCLUSION

Although the outline of the legal position of African women I have sketched is a grim one, the criticism of the Code and the intolerable burden of the African women in Natal has not, fortunately, gone unheeded by the Authorities.

The Code is part of the statutory law of South Africa, and should have been radically amended by our legislators years ago, but this task has now been entrusted to the Legislative Assembly of KwaZulu. They appointed a Select Committee to investigate the position in May, 1974. This Committee presented its report earlier this year.

The amendments to the Code suggested by this Select Committee are radical and enlightened and deal with all the disabilities I have covered. If all these amendments are implemented the long-suffering Zulu women will finally be free of their crushing disabilities and be, legally, at long last, on a par with their white sisters. □

FOUR DITTIES FOR WHITE REGIMES

Composed on June 25th, 1975
by Vortex

1.

White man, look what you have done,
Observe your destiny:
That badge of privilege has beome
a badge of infamy.

2

For centuries you were 'one of us',
The blacks you would condemn.
But now your grim pale face proclaims
That you are 'one of them'.

3

You knew you were superior,
With law and gun and cop,
You knew you were the boss, until
Frelimo blew the top.

4

You knew you were superior,
The blacks would make you laugh
With their incompetence, until
Frelimo blew the gaff. □

HAVE WE GOT USED TO IT?

by W.H.B. Dean

Our daily average prison population in South Africa during 1972 was 91 253 persons. The Department of Prisons has estimated the cost of each prisoner as being R1,82 per day making the total daily cost of maintaining our prisons R178 000. At much the same time an average of 71 persons were hanged annually in South Africa while in 1972 4 536 strokes were inflicted upon male adults convicted of a variety of offences. No figures are available for corporal punishment imposed on male juvenile offenders but according to one authority: "No less than . . . . 57% of those convicted (in the juvenile courts in Cape Town in 1968) were whipped". These figures by and large represent the response of the Rupublic's system of administration of justice to the growing crime problem. The following figures for the Cape Peninsula give some idea of the magnitude of this problem. In 1974 there were 1 284 criminal homicides in this area as compared with 860 in 1973. In four of the Coloured townships (with a total population of about 327 000) around Cape Town the following crimes were committed in an eight-month period during 1973/74: 91 murders; 201 rapes; 2 585 assaults; 941 burglaries; 565 robberies; 1 198 cases of malicious damage to property; 2 131 thefts; 294 dagga offences and 4 269 drunkenness offences.

It was with statistics such as these in mind that members of NICRO* and the Law Faculty at U.C.T. decided to hold a conference in Cape Town in April this year on the subject: "Crime, Law and the Community". Measured in terms of numbers the conference was a tremendous success. It attracted participants from the United States, the United Kingdom, West Germany, Israel, Lesotho, Rhodesia and Swaziland. It was attended by over 320 delegates from all over the Republic and attracted considerable publicity throughout the country.

It was primarily a lawyers' conference and was, therefore, concerned mainly with the impact of the legal process upon crime. It took this process right from the question of the proper rôle which the law should play in relation to antisocial conduct through investigation, prosecution, trial, sentencing and the treatment of those found guilty of contraventions of the criminal law. This is of course a vast subject and what follows can only be a highly selective and subjective collection of impressions gained from the conference.

First and foremost, and what may seem to many to be self evident, the Conference brought home the fact that dealing with crime is a vast and complex problem which admits of no easy or quick solutions. As Professor S.A. Strauss (University of South Africa) put it right towards the end of the conference: "There ain't no miracles to cure the crime problem".

The proceedings at the conference brought out at least three important reasons for this. In the first place crime touches on some of the most fundamental issues in our society if only because crime cannot be divorced from the society in which it flourishes. The roots or causes of crime, as speaker after speaker observed, lie in large part in the social, economic and political structure of societies. Moreover, any solution proposed for dealing with the criminal have to be seen in the broader context of the society in which he lives. There is, as one speaker pointed out, no point in releasing a prisoner on parole if this simply means he is returned to the environment which in part caused him to turn to crime in the first place. Although crime touches broad social issues, it is a problem which is not susceptible to broad ranging solutions which treat all criminals in a uniform manner. The criminal is an individual, not merely the faceless member of a criminal class and his problems demand individual consideration and treatment.

Arising out of this is the second contributing factor, namely, that the effort to deal with crime must be a co-ordinated interdisciplinary effort. No one discipline can provide a complete answer. The latter requires a co-operation between disciplines as diverse as law and architecture, economics and psychology, sociology and politics. Such co-operation has proved extraordinarily difficult to achieve. Problems of communication, methodology and so forth have proved substantial obstacles to co-ordinated research.

Finally, dealing with crime raises fundamental questions about the relationship between the individual and the state for the criminal law authorises the most serious and far-reaching inroads upon the rights of the citizens in respect of his life and liberty. To quote Professor Strauss again, the study of the criminal law is:
". . . . to a large extent a study in conflict—of conflicting interests and desires . . . . There is a desire for law and order on the one hand, and social protection on the other and the desire to preserve fundamental democratic principles . . . . There is the desire for retribution which is still very much alive in the community. . . . (and) there is the desire for rehabilitation of the offender. . . ."
Dealing with the criminal, therefore, involves the very delicate and complicated process of balancing these interests or desires to produce a harmonious and effective system of law enforcement and administrative procedures.

The sheer complexity these issues raise would appear to be sufficient to daunt even the boldest and most optimistic. Yet one of the most remarkable features of the conference was that notwithstanding the complexity of the problem, notwithstanding that many solutions tried to date have done little or nothing to reduce the crime rate, there are many who are prepared to continue to seek new solutions rather than return to the older methods of more severe and cruel punishments inflicted to revenge society against those who have by their antisocial conduct injured it or its members. This fact came out most clearly in the paper delivered by Dean Robert B. McKay, of the New York School of Law. After detailing the enormous

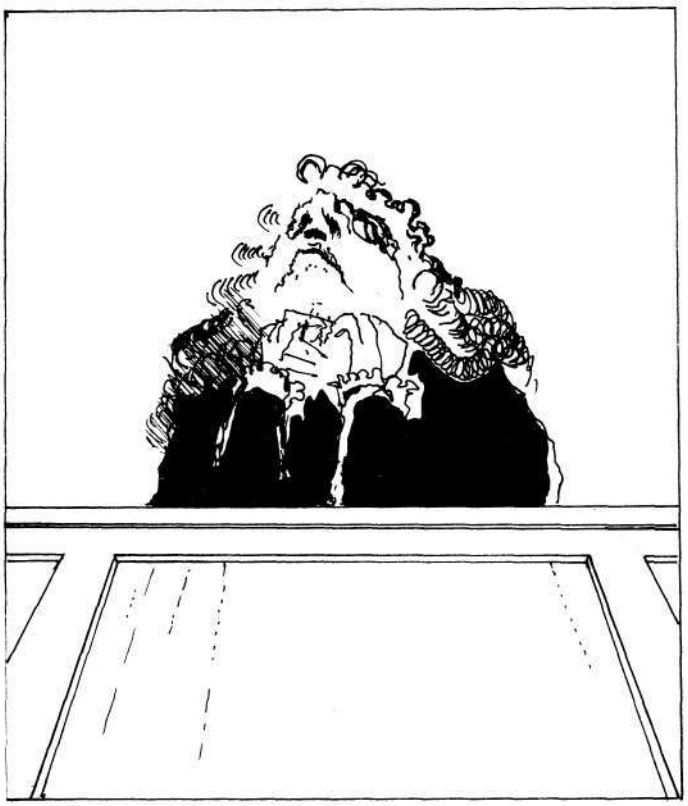
*National Institute for crime prevention and rehabilitation of offenders.

increase in crime in the United States, particularly crimes of violence and juvenile crime, the enormous expenditure incurred on seeking solutions and the movement towards raising the minimum standards for treating criminals in the United States, Dean McKay refused to be pessimistic. "The difficulties", he said, "may not be quite as insurmountable as the admittedly dismal statistics suggest". The main reason for the apparent failure, as he saw it, was the refusal of government to accept and implement the advice which had been given by the experts. He felt that while there was a broad consensus among those qualified in this field as to what should be done, there was resistance to doing it. The reason for this resistance was brought out by another American speaker, Professor Norval Morris, Director of the Centre for Studies in Criminal Justice at the University of Chicago, in a passage which deserves quoting in full. Talking of crimes such as gambling, drunkenness, the use and transmission of drugs, he said:
". . . . these crimes tempt the politician to substitute facile demogoguery . . . . for serious efforts at the frustrating task of preventing and treating crime. Better protection of person and property will require large investments of funds, and intelligence . . . . The criminal converts . . . . (in) America are not likely subjects for swift or cheap reform. The same is true of our antedeluvian correctional systems. Reform in those areas of police, courts and corrections earn few votes . . . . If the politician balks at such an uninviting prospect, he can nevertheless give an appearance of responding to the crime problem by declaring war on addicts, prostitutes, porno-peddlars—whatever people are excited about at the moment. These wars will not touch crime in the streets or houses; they will do no harm; they may even gain a few votes. The temptation to substitute this mindlessness for the serious problems of creating an efficient and humane criminal justice system is a serious problem."

What is equally important is that the optimism appears to be tempered with realism. We have moved beyond the initial, almost evangelical, period of reform of the criminal justice system when facile solutions were propounded as panaceas for a multitude of evils. This realism, however, has left the basic values which underpinned the "evangelical" period untouched. There is still the rejection of inflicting cruel punishment out of revenge. There is still the recognition that the criminal is a human being like all other human beings and needs to be treated as such. In response to a suggestion that part of the explanation for America's crime wave was that the system was being "soft" on criminals, Dean McKay replied:
"I trust that nothing I said was to be understood as believing that criminals are entitled to our sympathy. What I believe is true is that within the criminal justice system it is important to be fair . . . . in order to protect society . . . . the . . . . citizen (and) the integrity of the democratic process".

Possibly because it was a lawyers' conference, the proceedings only dealt with the causes of crime incidentally but two papers did deal with crime and the function of the law in a broader context. In an analysis of crime and punishment in an historical perspective, Professor Beinart (now of the University of Birmingham, England) concluded that we are moving towards a period of more humane treatment of the criminal (history having clearly demonstrated the futility of vengeful punishments). He felt that the problem of punishment was basically a moral problem because "even the criminologists are beginning to find that it is difficult to prove what works and what doesn't".

The main thrust of Professor Morris's paper was twofold. In the first place we expect too much of the criminal law, in the sense that we deal with too many problems as problems of crime when they could be more effectively dealt with in other ways; and secondly, as a consequence of this, by far the greater part of the energies and resources of the law enforcement agencies were tied up in basically unproductive activity. One of the keys to the reform of the criminal justice system was decriminalisation of many activities which are today regarded as crimes. By way of example he pointed out that "In the District of Columbia, in Washington, six habitual drunks in their sad careers had been . . . . arrested for public drunkenness a total of 1 409 times. They had collectively served 125 years in the city's prisons. Their arrests, prosecution and incarceration had cost more than $600 000". More arrests for public drunkenness are made in the United States than for all serious crimes of violence and damage to property; the estimates of annual expenditure in dealing with public drunkenness "are comfortably in excess of $100 000 000." The strain on the system, police courts and jails is enormous.



The solution suggested by Professor Morris was not simple decriminalisation or legalisations. In this his views represented an interesting development on the famous debate between John Stuart Mill and James Fitzjames Stephen and their twentieth century counterparts, Professor Hart and Lord Devlin. Professor Morris felt that the system should take more account of the views of John Donne who emphasised the brotherhood and unity of mankind and the legitimate interest of all, in the well-being of each other and mankind as a whole. Decriminalisation should therefore be coupled with administrative procedures aimed at preventing abuse (for example, a system of licensing of the sale of liquor and other drugs) and at providing the in-

dividual with the opportunity to overcome his problems himself. Prohibition which was common today made it impossible to regulate and therefore deal with the activities prohibited. The only effect was to drive the activity underground and to breed a whole series of undesirable by-products, discriminatory enforcement of the law, corruption in the police force and other governmental agencies, the development of organised crime and other crimes of a more serious nature.

Attempts are now being made in the United States to take public drunkenness out of the scope of the criminal law and to treat it as a social welfare problem. Institutions are being established to provide residential centres for alcoholics which in turn provide inmates with spartan accomodation, plain food, clothing, medical attention and counselling for those who want it. To quote Professor Morris again,
"Is that subsidising alcoholism? Nonsense. It is cheaper than the jail, less offensive than the doorways, more humane than the gutters and hardly imaginable as an inducement to alcoholism."

Although none of the papers delivered at the conference touched directly on the causes of crime, the last, and probably the most interesting session, was held in one of the depressed coloured townships which have been established on the outskirts of Cape Town and have increased rapidly in size over the last decade with the serious implementation of the Group Areas Act. The areas visited were Bonteheuwel and Manenberg. They are communities which have only recently been established, where the quality of housing and life in general is very low, where there are few amenities for recreation and where crimes of all kinds are commonplace. Notwithstanding all this the picture gained from a visit to these areas and listening to the views of members of its community was not entirely depressing. True enough there was an appalling lack of trust in the authorities (a belief that local authorities profited out of rents, whether justified or not, was common; so too was experience of police brutality and corruption). There was also a feeling of overwhelming restriction on any initiative (through prohibition on improvement of houses etc.) and an almost resigned acceptance of things as they were. At the same time, however, there were signs that the community was beginning to help itself. The Vigilante movement is but one example of this. The movement started off as a mutual assistance group operating in one of the blocks of three-storied flats in Manenberg. A siren was installed in the block and each member of the group agreed to help when the alarm was sounded. The idea spread rapidly. The groups moved onto the streets, the object being, as Mr. Davids (leader of the movement) put it, not to declare
" . . . . war against the gangsters because for that matter most of them were our own family, our own brothers, our own sisters. Our approach was merely to prevent them; in other words, we were there, we were going to stay on the streets with them so that they could see that there were also other people around, people that were concerned about their own well-being . . . We didn't go hunting down these mobsters, we didn't go looking for them; it was only when they caused trouble that we acted".

The experiment has proved very successful. Crime in Manenberg has been substantially reduced.
"People now tend to go out more at night and there seems to be quite a lot of interaction between families whereas in the past the attitude was, I in my small corner and you in yours"

Perhaps the most important gap in the proceedings of the conference was the failure to deal with the possible impact of South Africa's racial policies on crime. As one of the participants from the floor said rather plaintively:
"Until some of the laymen started talking just now, I found it difficult to believe that we were attending a conference on the law and community in Africa because the attention was so closely riveted on the technical rules concerning court proceedings most of which are direct transplants from the United Kingdom."

Mention was made of the fact that discriminatory enforcement of the law "breeds cynical contempt for the police, courts and the law itself." In his summing up Professor Morris mentioned the problem again, pointing out that although much of the discrimination which is apparent in the system of criminal justice in America can be traced to discriminatory practices in society outside the system itself, the system is an exaggeration of such social inequalities concluding that research in Philadelphia had shown that
" . . . . we have dealt more severely at every level, police, prosecution, court paroling with blacks than whites. Is that wickedness? No, it's fear. It's our difficulty of being able to adjust to change. But it's true . . . . and if you doubt it then you have to be serious about it and look at the data because they are strong . . . . It is obviously a central issue".

When the conference turned to investigation, prosecution and trial, it found itself embroiled in the usual dilemma of striking a balance between maintaining decent and democratic standards and making the system effective. A considerable amount of time was spent on the thorny problem of developing effective supervision over the police in the execution of their very extensive powers of arrest, detention and search. The American solution has been to exclude evidence which has in any way been obtained by the police by improper methods(such as search without a warrant, third degree interrogation or refusal to allow a detainee access to his legal representatives). This can of course result in the acquittal of an individual even where there is incontrovertable evidence of his guilt. The English participants seemed to doubt the value of this device on the ground that the police had little interest in the ultimate fate of those whom they had arrested. This was rejected by the Americans who pointed to considerable improvement in police practices in the States as a result of setting minimum standards and excluding evidence obtained in contravention of those standards. Alternative safeguards, which were suggested, were the recording of all interrogations by the police and ensuring the presence of a third party (usually a lawyer) throughout the interrogation. At the stage of the trial, it was emphasised that our adversary system only works if the accused is adequately represented and thus the importance of legal aid was emphasised. It is noteworthy that no-one in England can be sentenced to imprisonment unless he has been offered the services of a qualified lawyer. Similarly, the central place of the presumption of innocence in our scheme of fair trial was emphasised by a number of speakers.

At the same time Professor Sir Rupert Cross (Vinerian Professor of English Law at Oxford) came out strongly in favour of the abolition of the right to remain silent, regarding it as common sense to expect an individual who has been charged with an offence to answer it. Once again there was American opposition to this proposal, the view being that it derogated from the obligation of the state to prove the accused guilty and

it was, therefore, in conflict with the presumption of innocence.

That section of the conference which dealt with sentencing and the treatment of offenders brought out the difficulties of inter-disciplinary co-operation. The view that rehabilitation (whether by medical, psychological or other means) justified the granting of wide powers over the individual was vigourously attacked by Professor Morris.
"The jailer with a white coat remains a jailer. The jailer with a Ph.D remains a jailer. The thing we are talking about is the exercise of authority over the citizen."

The same kind of conflict was apparent in a paper delivered by Dr. J.O. Midgley (of the London School of Economics and Political Science). He showed that while sociological thinking emphasised the need for more informal treatment over juvenile offenders and the granting of wider powers to deal with them and the rights of their parents, lawyers had tended to see the problem as interference with the rights of the citizen without the procedural safeguards ordinarily written into procedures in a court of law.

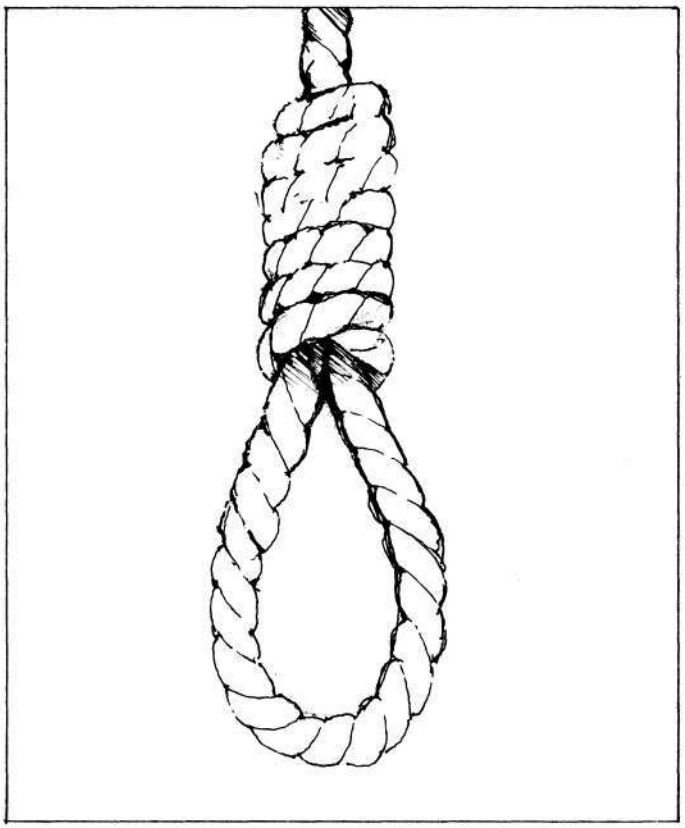
Dr. Midgley attempted to reconcile these two approaches by suggesting that by and large the activities of young children should be decriminalised. They should be treated as problems of social welfare and not be subject to the usual judicial process. At the same time if action to be taken in connection with the child required serious infringements of his rights, or those of his parents, the appropriate procedural safeguards should be written into the system.

The papers delivered to the conference on the treatment of offenders clearly brought out the strong tendency outside South Africa to diversify the way in which persons convicted of criminal offences are treated. They also demonstrated a strong desire to keep the offender out of prison. The point was most fully developed by Sir George Waller, an English High Court Judge, who has been very active in the field of penal reform. Sir George indicated the following alternatives available in England:

(a) Probation and release on parole. This system enables the offender to serve the whole or part of his sentence in the community under the supervision of a suitably trained welfare officer. A probation order can only be issued with the consent of the accused (who can therefore opt for a term in jail) and the only condition imposed is usually that of good behaviour, although other conditions, such as the undergoing of medical treatment, may be added. The system of parole is administered by a Parole Board whose members give their services part-time, and is made up of judges, probation officers, psychiatrists and criminologists. Every prisoner automatically comes up for consideration for parole after having served one third of the sentence, or twelve months, whichever is the longer. The Board itself is assisted by local review committees. The presence of judges on the Board has made the institution much more acceptable to the legal profession.

(b) The power to defer sentence with a view to seeing whether the criminal will compensate the victim of his crime. This is mainly used in connection with offences involving fraud.

(c) Criminal bankruptcy, which is used to trace money obtained through crime and which has been passed on by criminals to their relatives or associates. At the moment this applies only where the amount involved is more than £15 000.



(d) Community service orders. Such an order requires the offender to serve not less than 40, nor more than 240 hours of unpaid work. It can only be imposed with the consent of the offender. Such orders have proved reasonably successful and in some cases the individual involved has continued the work even when the sentence has been completed.

(e) Committal to training centres. The idea here being to provide the offender with training in an activity by which he can earn his living.

To reduce committals to prison, a prohibition has been placed on imprisoning those under 21 except where a very serious offence is involved. Similarly, where a person has never been imprisoned previously, the court should not sentence him to imprisonment unless it is satisfied that no other method is appropriate and it has received a full report about the character and background of the offender. Shorter periods of imprisonment (6 months or less) are normally automatically suspended.

The introduction of a greater variety of ways in which the criminal could be treated will obviously complicate the task of the person imposing the sentence. A considerable part of the conference was devoted to the question as to who was to have the power to sentence and what training he should receive. Interestingly enough Mr Graser, National Director of NICRO, felt the task should remain with the judiciary because training in the law inculcated a feeling for fairness and the ability to balance conflicting interests and needs. There was a strong call

for the use of assessors at the sentencing stage, particularly black assessors, and one had the feeling that this was a harking back to the jury system. Even though the retention of the judiciary as sentencers was favoured, it was generally acknowledged that their training was by and large inadequate for this purpose. It seemed that the best way to meet this problem was to provide training directly to members of the judiciary rather than at an earlier stage in their careers. A very successful sentencing seminar was held for judicial officers during the conference and is likely to be repeated.

So much for detail. What of overall impressions?

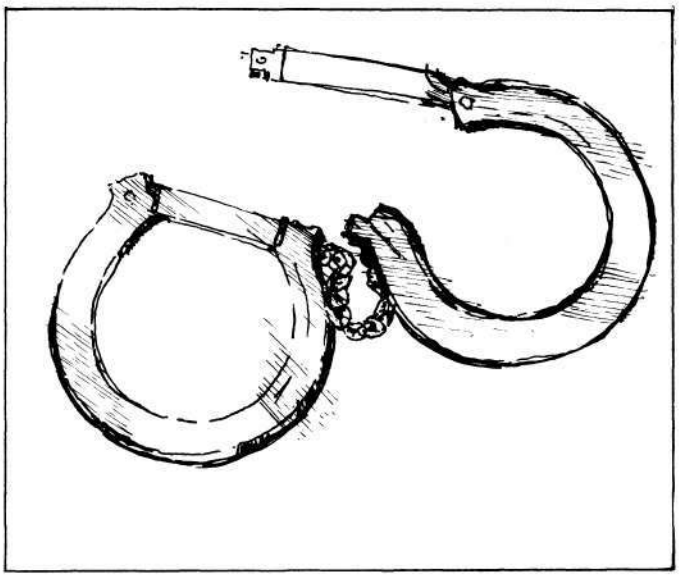
The overseas contributions and particularly those of the Americans were impressive in their willingness to acknowlege criticism of the situation in their own country, in their willingness to discuss issues openly and in their utter and uncompromising commitment to the basic values of a free and open society. The benefits of a constitution which clearly requires implementation of these values in everyday life was amply demonstrated. This is not to ignore the contributions of local participants. The paper delivered by Professor J.D. van der Vyver (of Potchefstroom University) for example was equally impressive. After stressing that "modern exponents of Calvinism have rejected without reserve Calvin's supposition that the Ten Commandments contain natural law principles that ought to be incorporated into positive law, he launched an attack on Sunday observance law, inequality of the law on the grounds of race in South Africa and the far-reaching interference by "South African law upon the private enclave of an individual's day to day life . . . . prescribing amongst other things whom one is entitled to marry and to have sexual intercourse with, what one may read, where one is permitted to live . . . . and so forth."

And finally, being a South African one had to ask oneself: "And what of us? " There is little doubt that criminal law does overreach itself. Technical offences abound particularly for the black man. It must be difficult for any black man to live in this country without however innocently breaking the law on numerous occasions. Unequal treatment by the law is self-evident. In many cases conduct is or is not criminal depending solely on the colour of the accused's skin The cynical contempt which all this must breed for the law and the law enforcement agencies is horrifying to contemplate. It is little wonder that we have a crime problem of enormous proportions. To meet this problem we have resorted to that unholy trio of death, chastisement and incarceration.

We too suffer from the politicians tendency to pick on the superficial and that which is likely to catch votes. We spend enormous sums of money on elaborate systems of censorship (an ever popular cause in this country) and upon the complicated machinery which struggles in vain to stem the urbanisation of black people in this country. As a result little in the way of time and resources is employed to meet the real problems of rapid urbanisation, social upheaval, poverty, inadequate housing, inadequate educational and other facilities, and real crime.

We hear constant complaints of police brutality but little of attempts to eliminate it for the benefit not only of the criminal but also the police.

We are proud, and in many respects rightly proud of our system of courts but we tend to forget that the adversary system requires equal representation to be fair and in the vast majority of criminal cases the accused is unrepresented. We tend to forget that the presumption of innocence, the cornerstone of a fair trial, very often does not apply in our statute law.



What is more, as time goes by, we seem to be growing increasingly indifferent to it. It is part and parcel of our life and although it might originally have been shocking or alarming, one adjusts to it. Dean McKay quoted the following passage from G.K. Chesterton:
"The horrible thing about legal officials, even the best of all judges, magistrates, barristers, detectives and policemen is not that they are wicked (some of them are good), not that they are stupid (some of them are quite intelligent) it is simply that they have got used to it".

It is a sentiment which can be applied to white South Africans in general. Conferences of the type held earlier this year in Cape Town at least remind us of what we have got used to.□

A short article of this type cannot reflect all the contributions made at the Conference. A full version of the proceedings is to be published, probably by the end of the year. Anyone interested should contact Prof. Dean at the Faculty of Law University of Cape Town.

THE NATIONAL CULTURAL LIBERATION MOVEMENT

by S. M. Bengu, Secretary-general

The National Cultural Liberation Movement, known in Zulu as "Inkatha Yenkululeko Yesizwe" (abbreviated as INKATHA) traces its origin from King Solomon, Dinuzulu's son, who founded it in 1928. In its original form INKATHA was conceived as a movement that would organise the Africans of Zulu origin into a cultural unit, regaining whatever had been lost of the traditional values.

It was through the foresight of the Hon. Prince M.G. Buthelezi, Chief Executive Councillor for KwaZulu and President of the Movement, that INKATHA was revived early this year. At a meeting attended by representatives of various sections and interests in African society at KwaNzimela—Melmoth, on the 21st—22nd March, the Movement was officially launched and Chief Buthelezi was unanimously elected its first President to lead an interim Central Committee of 25 members.

Article 1 of the Movement's preamble declares INKATHA a Cultural Movement. It is, therefore, necessary for us to take a closer look at the concept of culture. Generally speaking the term "culture" especially in this country conveys an idea of artistic and intellectual creations in a given society. In this sense it is possible to speak of some people as being "cultured" and others "uncultured". Anthropologists however, have long given the term "culture" a wider meaning to include religion, family, customs, general knowledge and aptitudes, utensils, habitats, dress etc. Culture is therefore understood by INKATHA as a generic term for the values people uphold at the present time since it is now an accepted fact that there is evolution in culture as in biological development. INKATHA does not attempt to re-live the past or find a way of switching the clock back, it merely declares that since culture embraces the totality of values, institutions and forms of behaviour transmitted within a society, as well as material goods produced by man, national unity and models for development should be based on values extrapolated from the peoples culture and adapted to present day needs and situation.

It is, therefore, easy to understand why Blacks in Southern Africa seek to liberate themselves through their culture. Not only do Afrikans wish to liberate themselves from poverty, ignorance, hunger, disease, neo-colonialism and cultural domination by their white masters but they are also desirous of liberating themselves from what I choose to call "mental whiteness:" or "a colonial mentality," that is, a sense of rejection of things African. INKATHA can be seen as part of the cultural identity movement that is sweeping Africa today. The Africans' basic concern is not what others expect them to do but what they are called upon by reason and by nature to do. Instead of Africans endeavouring to be carbon copies of others they want to be distinctively themselves.

Since INKATHA deprecates all attempts to imitate closely the Whites it should not be looked upon as an anti-White movement. Through INKATHA we do not want to cut ourselves off from other groups and the rest of the world in pursuit of an African identity. Certainly we live in a world in which there is increasing interdependence and exchange of ideas.

INKATHA accepts the fact that we have many things as Africans to copy from the Western economic, political and educational patterns of development. Certain Western patterns have, however, to be put to a test to see if they work in an African situation. The experience independent African states have had with the Western partisan political system makes us in our liberation struggle accept the challenge we face to find, in a democratic way, a system that will suit our temperament. At this stage we cannot help but reject the cultural domination and arrogance responsible for the belief that only the Western partisan political system is perfect. There is evidence that many African leaders reject foreign ideologies and are beginning to think out their own ideology and political systems. Their disillusionment with party politics and other experiments with the Western democratic institutions has given rise to the current search for African values even in politics. In the South African situation meaningful democracy will be the kind that will allow Africans to work out their own system based on their cultural values. In South Africa and probably elsewhere Africans have lost confidence in the Western, so-called democratic, systems which in their application have become the preserve of the Whites and have left the Africans out in the cold. INKATHA is, therefore, not a political party for we do not believe in partisanship at all. As politics is merely one of the many fronts we are using in our liberation efforts INKATHA is a national movement which is open to all. Our doubts about the suitability of the partisan system means that we reject multipartyism as well as single-partyism. We believe in the representation of different sectors of society in the national movement. No cut and dried system of government is ready for presentation to the world at this stage. All we maintain is that we are capable of devising our own arrangement and pattern which will meet our political requirements.

Working on various fronts such as the educational, economic, political and spiritual ones, our Movement purports to abolish all forms of colonialism, racism, intimidation, discrimination

and segregation based on tribe, clan, sex, colour or creed and to ensure the acceptance of the principles of equal opportunity and treatment of all people in all walks of life.

With us in this part of the continent political liberation will only be meaningful if it comes with the total liberation of our people. Please note that this is not a tribal movement. To us culture means more than mere tribal ties. There is no reason why African cultural assertiveness should not manifest itself on a macro-cultural level—that is, the continental level or the sub-continental or regional levels.

One of the main objectives of INKATHA is to fight for the liberation and unification of Southern Africa. KwaZulu, as our President has taken pains to point out, is merely a launching pad. The Movement aims at fostering the spirit of unity among the people of KwaZulu throughout Southern Africa, and between them and all their brothers in Southern Africa, and to co-operate locally and internationally with all progressive African and other nationalist movements that strive for the attainment of African Unity.

After a thorough study of the complex South African situation, we, through our National Cultural Liberation Movement, propose to adopt and follow new non-violent strategies for the ultimate and complete liberation of the Africans. We hope we shall be understood as saying that we want to explore all non-military fronts in our struggle. In this sense non-violence does not mean non-action but rather various self-help activities which stem from the people. After mobilizing the people the INKATHA leaders will work out a clear-cut and well-graduated programme of positive action.□

Further information on INKATHA will be included in the November Reality.

THE CHRISTIAN CHURCH SINCE 1960

Margaret Nash, "The Ecumenical Movement in the 1960s",
Ravan Press, Johannesburg, R6,90.

by Edgar Brookes

The Ravan Press has broken new ground in presenting this erudite and informative book, "Ecumenism in our Day". The ecumenical movement in modern times stems from the Edinburgh Conference of 1910. In those early days the great names are those of John R. Mott and J.H. Oldham, both of whom this reviewer knew personally.

Dr Nash has felt that the period from 1960 onwards exhibited a new dimension of ecumenical activity and it is on this aspect that she has written her book. As she herself puts it, the years before 1960 were inter-church ecumenism and the years after 1960 were years in which attention was centred on the role of the church in the modern world. This may be, as Dr. Visser-t'Hooft suggests in an interesting preface, an over-simplification. Nevertheless Dr. Nash's analysis is in many respects correct.

There were three things which altered the situation in the 1960s. The first was the papacy of John XXIII (1958–63) and the Vatican Council summoned by him in 1962. Rightly has the text been applied to this great Pope, "There was a man sent from God whose name was John." His brief papacy revolutionised the position of the Roman Catholic Church. When Pope John called Protestants "separated brethren" instead of "heretics" an enormous step forward in the field of inter-church communion was taken. The visits of two Archbishops of Canterbury—the first since the Reformation—were highly significant. There is now a joint committee on which the World Council of Churches and the Roman Catholic Church are represented. This unambiguous adhesion of the Roman Catholic Church to the Ecumenical Movement has added a wealth of learning and experience and historical tradition to the movement, and has guaranteed that in these days of tremendous change in theology and politics the essential truths of Christianity will be maintained by the Church of Rome so deeply rooted in history.

The second great event since 1960 has been the inclusion of the Orthodox Churches of the East in the World Council of Churches. This is important not only because the Churches were Orthodox but because most of them are situated in Communist countries. Since the New Delhi Conference Christianity

has had to take account of the opinions of Christians in Communist countries. The World Council of Churches has not become Communist but it has achieved an added width of view and realistic acceptance of the world situation, which has done it a great deal of good.

The third feature of importance during the 1960s was the emergence of independent Africa which gave a very real meaning to the expression "the Third World". Inevitably Christianity in the independent African countries began to take on new colours. Africans found it impossible to separate religion from politics. The old missionary outlook, most valuable though it was in its day, could no longer be maintained in a world in which Africa loomed so large politically.

One does not have to be a devoted Christian to see how important these changes must be for world politics. Christianity has gained much through the ferment of the 1960s.

Most South Africans know of the World Council of Churches only as a body which subsidised certain aspects of liberation movements. Many South Africans have become quite hysterical about this action of the W C C. It does not follow that the decision to offer this help was altogether right, for even with its wider outlook the Church is not infallible. But the issue has been magnified out of all proportion by many South Africans. It was almost a necessary consequence of the sudden widening of Christian outlook during the 1960s in the three ways already considered. It is much more important that South Africans should be penitent for that in their country which has produced this action of the World Council of Churches, than that they should be aggressive towards the World Council of Churches. Apartheid is to the wider Christianity of the 1960s and 1970s what slavery was 150 years earlier. Both as Christians and as world citizens we must be glad that the Churches are aware of the inhumanity and injustice of apartheid, even if it turns out to be a little awkward for South Africa and its government.

There are of course many members of the Christian Church, particularly of its more evangelical sections, who fear that the interest now taken by the World Council of Churches in political matters may lessen the stress on the simple gospel of redemption. But evangelicals themselves are coming to realise that the personal and social aspects of the Gospel must never be separated. Such was the view taken at the great Congress of Missions and Evangelists held in Durban two years ago; such, more emphatically, was the doctrine of the great Evangelical Conference held this year in Lausanne.

There is great ferment in the Christian Church today and it is almost wholly to the good. How it will look when the period of violent change is over it is difficult to say. But it will always be a Christian Church and always concentrated on the Person of Our Lord Jesus Christ. We hope that it will also be an inspiration to young and old alike in the fields of citizenship and world development.□

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INTOLERABLE

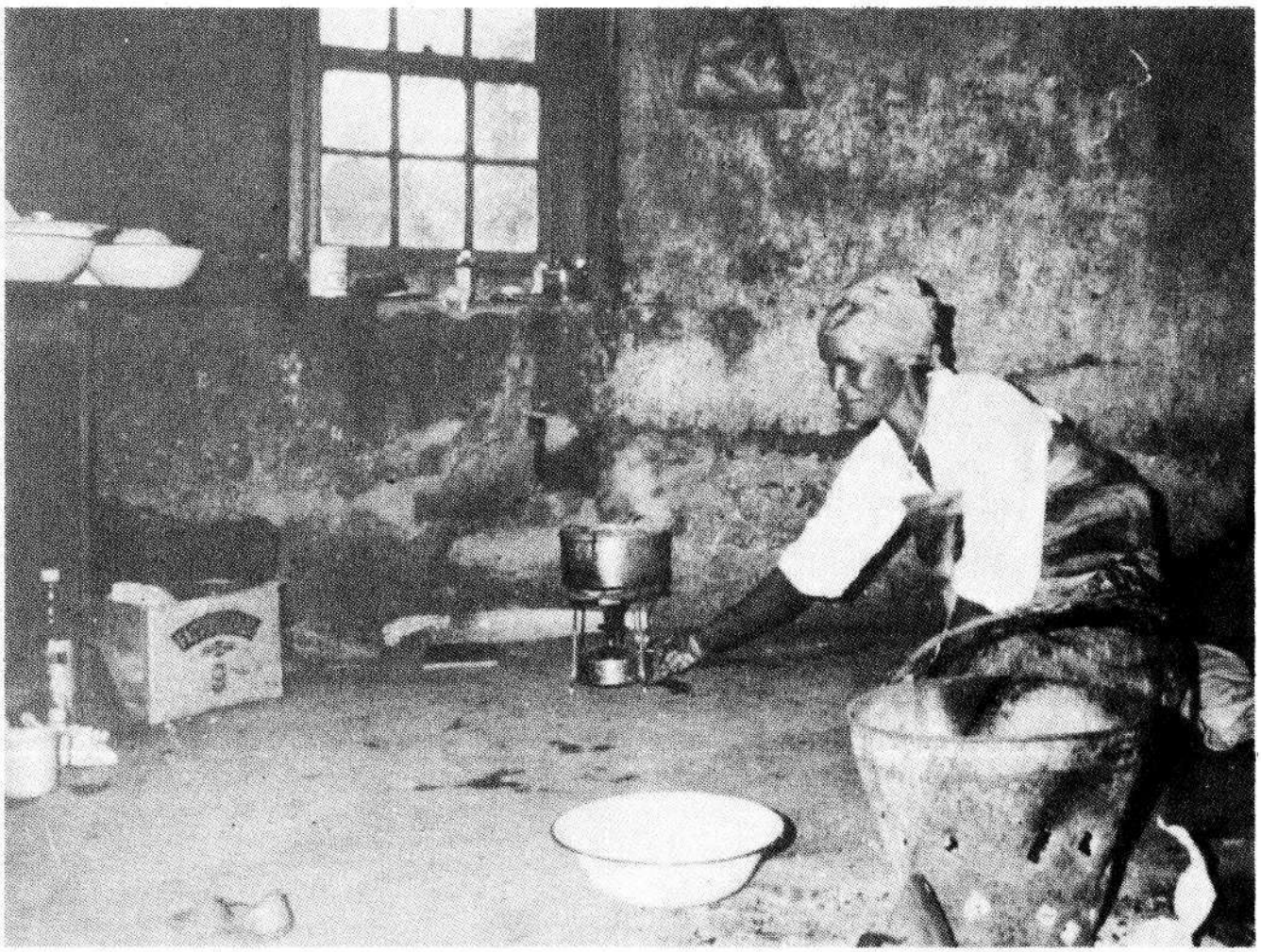
A review of **Women without Men:** A Study of 150 Families in the Nqutu District of Kwazulu, by Liz Clarke and Jane Ngobese, with photos by Dorothy McLean and Anthony Barker; published by the Institute for Black Research, Durban.

by Colin Gardner

Life in the 'homelands' is on the whole quite intolerable– in several respects. Human beings cannot really tolerate an inhuman existence, and existence is inhuman for most of the people who live in the 'homelands'. 'South Africa' cannot tolerate what goes on in the 'homelands'—it should be unwilling to tolerate it on moral grounds; in the long run, or perhaps in the not-so-long run, it will be incapable of tolerating it, of allowing and containing it, in any sense. And certainly, for any moderately sensitive person, this well-written and well-produced little book makes intolerable reading.

But then of course not many people will read it. Most blacks hardly need to read it. And as for the whites—the people who hold the reins of power in this country—little books on life in the 'homelands', even when they are illustrated with fine photographs, are not exactly top of the pops. And yet at this moment in time more and more whites are allowing themselves to feel, in a suitably vague way, that the 'homelands' are going to prove, somehow, the solution to all the political problems of South Africa . . . . If the 'homelands' do indeed put an end to the political anxieties of white South Africans, it is hardly likely to be in the manner which many white South Africans fondly imagine.

Women without Men is a small and simple companion-piece to Francis Wilson's excellent and authoritative **Migrant Labour in South Africa.** Dr. Wilson tells the whole story of the men who move. Liz Clarke and Jane Ngobese, and their photographers, give us a picture of some of the women who are left behind



and of the circumstances in which they, their children and their parents drag out their mainly dreary lives.

Of course the very notion of migrant labour and of families that are almost prepetually split apart is appalling. But equally appalling are the spiritual and physical conditions that the inhabitants of the 'homelands' have to put up with.

The book is factual, so let me give a summary of the crucial facts. The minimum monthly cost of living for a family of seven in the Nqutu area is as follows (a third of the book is devoted to an analysis and explanation of these figures):

Food	R 57,83
Clothing	17,96
Fuel and light	8,84
Cleansing and toilet	2,39
Transport	2,30
Education	7,60
Tax	,83
Housing maintenance	,83
Replacement of household effects—bedding, utensils, etc.	,83
Ritual	4,58
Total	R103,99

The actual average monthly income of the 150 sample families (consisting of 973 people, i.e. about 6½ persons to a family) turned out to be as follows:

Commitments from migrant workers	R 9,90
Earnings from home industries and income in kind from livestock and agriculture	2,37
Income from pensions and disability grants	2,60
Total	R14,87

So there it is, in a nutshell: about R15 to do the work of R100. Comparatively affluent people sometimes talk of the difficulty, at a time of inflation, of 'making ends meet', but they use the metaphor without realising its full significance: for some people ends have never met, never can meet; the 'cost of living' is so far beyond anything they can ever hope to pay that they have had to recognise grimly that living, in the normal sense of that word, is something that they cannot aspire to.

Many of the effects of that missing monthly R85 are fairly well-known: unspeakable malnutrition, ragged clothes, crumbling homes, hopelessly in adequate education and the delinquency that always goes with it. But other effects have been less publicised: mental illness; guilt and anxiety because there has not been enough money to propitiate the ancestors properly; a general physical and spiritual distress. 'Little wonder then that a study of malnutrition in the Nqutu district of KwaZulu sounds the warning that poverty and malnutrition are so rife that the traditional Zulu physique is changing: the amaZulu in the area are becoming a puny, stunted and mentally enfeebled people.' (Page 95)

And yet Government policy—the policy that many whites like to think of as the 'final solution' to our political problems—continues to force Africans into the 'homelands'. The Tomlinson Report of 1954 estimated that the Nqutu area, if fully developed agriculturally, could support 13 000 people. There were then about 35 000 people there. Since 1954 there has been no significant agricultural development in the area, but the population has risen to about 85 000. It is estimated that by 1980 it will be 120 000. Is it surprising that the 'homelands' have been called the 'dumping grounds'?

I have outlined some of the central facts; but the book contains information on many important matters—the productivity of the 'reserves' over the years; the Bantu Investment Corporation; details of the lives of 'homeland' families; agriculture, home industries, pensions, tax, housing, rituals, education, health. These facts are not given as mere statistics, though there are plenty of statistics: they are often clothed in human form by the recounting of specific cases and of significant anecdotes. The humanity of the presentation, however, has the effect of making most of what is presented even more depressing.

What can one **do** about all this? How can a townsman respond in a human and useful way to the scandal of the 'homelands'? That is another story. But as one reads **Women without Men** in the second half of 1975, one can't help recognising—if it isn't illegal to make the point, to think the thought—that for many of the people caught up in the evil circle of migrant labour and hopeless 'homelands' there must be something very attractive about the programme of justice for all, and of starting again from scratch, offered to the peasants of Mozambique by Frelimo. □