

# LAW WITHOUT JUSTICE: A DANGEROUS PROSPECT



# THE BLACK SASH

*The Black Sash began life in 1955 as the Women's Defence of the Constitution League. It expressed the moral indignation of white women voters at the manoeuvres whereby the State tampered with the South African constitution in order to remove 'coloured' voters in the Cape Province from the common roll.*

*As the organisation became associated with the symbols of mourning it used – black sash, black rose, black crepe draped over the Book of the Constitution – it soon became known as the Black Sash. It was however an exclusively white organisation, tending to distance itself from other anti-apartheid movements whether black or non-racial.*

*Over the years there have been many changes in both activity and emphasis. Membership was no longer restricted to voters, i.e. became open to women of other races, and later associate membership became open to men. In 1977 the national conference committed the Black Sash to supporting universal franchise in a unitary society. That and other resolutions and a variety of local involvements have brought the Black Sash into much closer relationship with other organisations working for justice and liberation in South Africa.*

*The Black Sash is non-party political and undenominational, and seeks by non-violent and peaceful means to:*

- *promote justice and the principles of parliamentary democracy in South Africa;*
- *seek constitutional recognition and protection by law of Human Rights and Liberties for all;*
- *further the political education and enlightenment of South African citizens and others;*
- *undertake whatever other activities may further the objects of the organisation.*

*It publishes a quarterly journal called Sash. Headquarters are in Khotso House, 42 De Villiers Street, Johannesburg 2001.*

# **Law without justice: a dangerous prospect**

Report of the Black Sash

National Conference

Cape Town 10-13 March 1983

edited by  
**M. Nash**

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Cape Western were asked by national conference to produce this short report. Sections were edited by Mary Burton, Mary Livingstone, Candy Malherbe and Margaret Nash, with Sheena Duncan providing the Advice Office chapter. Sue Joynt saw the booklet through the press.

# Delegates

## Headquarters

National President — Sheena Duncan  
National Vice-President — Joyce Harris  
National Vice-President — Jill Wentzel  
Headquarters Secretary — Esther Levitan  
Sash Magazine (deputy) — Ethel Walt

## Albany

Margaret Barker  
Gusta Macdonald

## Border

Susie Powers

## Cape Eastern

Adelaide Allchurch  
Mollie Blackburn  
Bobby Melunsky

## Cape Western

Di Bishop  
Mary Burton  
Joan Grover  
Rosemary Meny-Gibert  
Marg Nash  
Noël Robb  
Beverley Runciman  
Valerie West

## Natal Coastal

Sarah Burns  
Ann Colvin (alt.)  
Jill Nicholson  
Solveig Piper

## Natal Midlands

Beth Franklin  
Pessa Weinberg

## Transvaal

Audrey Coleman  
Netty Davidoff  
Jill De Vlieg  
Judith Hawarden  
Lesley Hermer  
Dawn Ingle  
Marian Lacey  
Beulah Rollnick  
Sue Sher  
Annica van Gylysk

## Observers from outside Cape Western region

## Transvaal

Selma Browde  
Ulrika Johans  
Marthe Oppenheim  
Enid Robertson  
Mila Zille

## Natal

June Cope  
Mary Grice  
Joan Hemson  
Eleanor Mathews

## Local observers

Some 30-45 daily being local members, visitors from Nusas, Varsity, UCT/SRC, BSR, and other interested people.



## Conference overview

The Cape Town 1983 national conference of the Black Sash was attended by 34 delegates from headquarters and seven regions, and many observers. Its work was to review activities in the past year, receive fact papers and analyses on relevant issues, debate resolutions submitted beforehand or arising from the floor, and set the national priorities for 1983-4.

A crowded opening meeting in Claremont Civic Centre began with the reading of the names of fifty four people who have died in detention since 1963, followed by a period of silence. Thereafter national president Sheena Duncan reviewed the challenges presented by the rise of the National Security State and guest speaker Allan Boesak stressed the need for united opposition to the proposed new constitution.

Conference business began next day in the Mowbray Town Hall with the presentation of headquarters' and regional reports of activities. Then came the session on the new constitution, based on papers from Joyce Harris and Cape Western. Members were unanimous in rejecting the Botha proposals and reiterating their commitment to universal franchise in a unitary society. The contentious question was how best to express rejection of and opposition to the new constitutional proposals.

In principle the Black Sash would like to align itself with other groups opposing the constitution, but in practice has to clarify the basis of cooperation. A straw vote on the question, "If any alliance formed to oppose the new constitution should make it a condition for participation that organisations should endorse the Freedom Charter, should the Black Sash endorse the Charter?" showed 13 in favour and 16 against. However it was agreed that all regions needed to study the Charter and consider the issues raised by it, in particular those of economic structures in a post-apartheid South Africa.

A proposal that the Black Sash should urge its members and others to a total boycott of any elections which might be called under the new constitution proved contentious, but after spirited debate was passed by a large majority (22-4, with 7 abstentions)

Advice Office reports from all regions underlined Sheena Duncan's presidential remarks concerning the harshness of influx control, the iniquity of denationalisation (removal of South African citizenship from all South African blacks as 'homelands' become 'independent'), and the lawlessness of a government which ignores the judgments even of the Supreme Court. The debate on the situations reflected in the reports and on the activities of the various advice offices went far beyond local details into a serious questioning of the role of such offices and the need for a re-orientation towards education and awareness raising in the black community. These issues are more fully dealt with on page 17.

Papers presented to the conference dealt with removals in Natal, the Eastern Cape and other areas shown in the revised map and booklet "South Africa — a Land Divided". Transvaal included situation reports on particular threatened communities such as Driefontein, which has since come tragically into prominence after the April 2 shooting of Mr Saul Mkhize. It also reported on the various homelands in the Transvaal, indicating that in some areas the situation is so chaotic that often people are not sure under whose jurisdiction they fall.

In a substantial paper entitled "Feudalism in an Age of Computers" Marian Lacey exposed the ever more sophisticated zoning and control of black labour, the State's priority being "to incorporate all workers into a single computerised system of labour allocation and control". This system offered the appearance of liberalisation coupled with intensified patterns of exploitation and control.

Other papers dealt with Recession and Retrenchment; the "Coloured Labour Preference Area Policy", and the desperate shortage of housing for black and 'coloured' people. But these concerns were set in a wider and equally challenging context in the session on nuclear arms and nuclear energy. A paper on "The Threat of nuclear weapons for Europe and the Response of the Peace Movement" by West German visitor Ulrike Johans provoked a great deal of informal discussion later.

While in previous years the conference agenda has often been too heavily loaded with fact papers, this year's conference did allow more time for debate and reflection on the implications of the information being presented. The emphasis was not so much on knowledge for its own sake as knowledge for the sake of developing strategies of action. Both in the formal debates and in the informal discussions there was an emphasis on the increasingly conflictual nature of the Southern African scene and the implications of this for an organisation that has traditionally stressed non-violence and legality in the struggle for justice and the rule of law. A closed session on strategy and action was characterised by innovative thinking, critical analysis and prolonged effort to establish consensus on priorities for 1983-4.

While regions retain a high degree of autonomy and initiative in their activities, the conference debates and decisions have a formative effect on consciousness and establish a sense of direction for the organisation as a whole. Confidence in leadership was expressed in the unanimous re-election of Sheena Duncan as national president, and choice of Joyce Harris and Ethel Walt as national vice-presidents.

Headquarters will remain in Johannesburg and in accordance with the four year cycle of venues, next year's national conference will be held in Johannesburg March 15-18, 1984.

All conference documents are available for reference in the regional offices of the Black Sash. Main speeches and certain other materials will be reproduced in full in the May issue of *Sash*.



## **Resumé of Presidential address by Sheena Duncan\***

The past year has brought us face to face with the harsh realities of the National Security State and its “total strategy of political, physical, economic and legislative exclusion, combined with growing militarisation and police power.”

If and when the new constitution comes into effect political power will lie in the hands of an executive State President. There will be no Bill of Rights to protect individuals. The majority of the population will be excluded from the political process: eight million blacks have already lost their South African citizenship and a similar fate awaits the rest as “homelands” become “independent”.

Physical exclusion is being achieved through so-called “resettlement”, that is the forced removal of people to “homeland” areas, adding to the concentration there of poverty and unemployment.

Economic exclusion is being enforced by the more rigid application of influx control. People in remote rural areas have less chance than ever of being legally employed. People who work on contract or as commuters are regarded as not belonging to the common economic system, so that the social costs of their labour (housing, education, health, etc.) are transferred to the homelands instead of being met by employers and the central State.

We are also seeing the exclusion of law from administration. The 1980 Komani and Rikhoto judgments which established certain black urban residential rights are being administratively disregarded and threatened by legislative amendments. “The lawlessness of Government leads to lawlessness in society”.

This total strategy of diminishing civil rights and increased militarisation is designed to meet a “total onslaught” said to be directed against the state. But this state is only the small group in our society that wields political and military power, not the organised political community of the whole people within our borders. All who oppose the policy and actions of the ruling elite become ‘the enemies of the State’.

The rulers have created the image of an enemy. If the enemy is communism its soldiers are not somewhere ‘out there’ battering at our borders to get in. That enemy’s forces are the extremes of wealth and poverty within our own borders and the forces which seek to maintain the great gulf fixed between the haves and the have-nots”.

But, “there is no enemy ‘out there’. There are only people who want food and shelter, land and opportunity, security and peace, and who know that their hunger will only be assuaged if they have some political power and who know that there can be no peace unless there is justice.”

\*The full text of this address and that by Dr. Boesak may be found in the May issue of *Sash*.



# Resumé of the address by Dr Allan Boesak

*Dr Boesak is a leading minister of the NG-Sendingkerk and in August 1982 was elected President of the World Alliance of Reformed Churches.*

Dr Boesak said he was proud to be associated with the Black Sash which had such a wonderful record in the history of resistance to injustice in South Africa. But despite the struggles of the oppressed and suffering people of this land we still have injustice and inequality, hunger and poverty, leading for so many to the 'slow death' of hopelessness.

This decade has brought new demands, therefore new elements in the struggle:

- the emphasis on national security, which makes it appear subversive to cherish the values of human rights and freedoms, and makes it seem wrong for the Churches and the South African Council of Churches to help the weak and the destitute and to struggle for justice for all God's children;

- the illusion of change, for example through the plans for a new constitution which appears to offer reform but actually brings only uncreative tensions and increases the potential for violent conflict;

- the creation of confusion and false dilemmas: whether to cooperate in government-created structures; whether whites have the right to oppose the government when some blacks choose to collaborate; whether it is legal structures or racist attitudes that need to be changed; whether refusal to cooperate with the government in the new constitutional plan is the same as participation in 'bloody revolution'.

Dr Boesak offered firm guidance in the midst of these confusions:

- the nature and quality of the struggle cannot be determined by the colour of one's skin but rather by the quality of one's commitment to justice, peace and human liberation;

- legal and political safeguards are essential to protect people from racial discrimination and may also help to change attitudes;

- to say 'yes' to cooperation with the government that maintains this violent system is to become co-responsible for continuing structural violence;

- the heritage of non-violent resistance is a proud one which the Black Sash in its own way has made its own. We must continue to seek true peace, to affirm that non-cooperation with evil is as much a moral obligation as is cooperation with good, to strive to build even now in the midst of struggle the foundations of genuine reconciliation between black and white in South Africa.

"Do not get weary or lose faith. We must believe with Martin Luther King that the arc of the moral universe is long but bends towards justice. With this faith we shall yet be able to give justice and peace their rightful place in our land."

# Resolutions and Statements

The following resolutions and statements were approved by the Conference:

## **1. Commission of Inquiry in Abortion Legislation**

The Black Sash urges the Government to appoint a Commission of Inquiry under the chairmanship of a judge and including experts from various fields and women of all races to investigate the working and effects of the 1975 Abortion Act.

## **2. Constitutional Proposals**

The Black Sash totally rejects the Government's constitutional proposals. The Black Sash believes in a common citizenship in a unitary society with political representation for all through universal franchise.

The Black Sash urges its members and the public to a total boycott of any election which may be called in terms of the new Constitution.

## **3. Defence Amendment Bill (treatment of conscientious objectors)**

During World War II the South African Government respected the conscience of individuals and there was no conscription. The country is even more seriously divided now than it was then.

South African is illegally occupying Namibia and this is cause for many in conscience to refuse military service. When South Africa withdraws from Namibia there should be no need for a massive military establishment unless there has been a political failure to respond to the desires of the citizens.

If a conscripted army is necessary it will be because of the political failure to respond to the desires of the citizens, and that army will be engaged in a civil war, which is good cause for many to refuse military service. In such a civil war, if the state has to rely on conscription to man its army the war is already lost.

Therefore the Black Sash demands that the South African Government abolish all conscription for military service. We maintain that there is no total onslaught against the people of South Africa and the total strategy demanded of us is not the military defence of a minority government but the total all-out effort of all South Africa's people to bring about democratic government and the relief of the poverty and deprivation suffered by the majority.

It was further agreed that all regions of the Black Sash should inform and educate their members about the militarisation of our society and the reasons for the Conference making the above statement.

## **4. Detentions**

The death in detention of Mr TEMBUISE SIMON MNDawe has exposed once again the brutality of detention. The Minister's code of conduct has been shown to

be totally ineffective. More ominously, the press has joined in labelling Mr Mndawe an “insurgent” and a “terrorist”, and implicitly justified his detention and death.

We repeat most urgently our call for the total abolition of the security laws and the unconditional release of all detainees. Only this can end the litany of deaths in detention. We rededicate ourselves to the continued campaign against the detention system.

## **5. The Maseru Raid**

The Black Sash National Conference, meeting for the first time since the December 1982 SADF raid on Maseru, condemns that raid. We also condemn efforts made to condone that raid, especially by the Progressive Federal Party as the official opposition.

We reiterate the resolution of the 1981 National Conference which expressed grave concern at the increasing engagement of South African military forces beyond the borders of the country, in particular the 1980 raid into Maputo which was in violation of international law and could only serve to bring us closer to open warfare.

The 1981 Conference issued the reminder that our fellow South Africans have been driven to armed struggle by the institutionalised violence of apartheid. It concluded: “the only way to end violence is to establish justice and the Rule of Law.”

## **6. Pensions**

The Black Sash wishes to alert the public and those organisations or companies who operate pension schemes to the danger that these private pensions could disqualify African contributors from drawing on a State pension. We call upon them to make themselves and their potential contributors aware of the disqualifying minimum income allowed.

The possibility exists that such contributors might draw a pension which is less than the State pension from which they would be excluded. In order for a private pension to be worthwhile it must pay out monthly a considerably higher sum than that of a State pension which is at present R49,00 per month.

Action agreed upon in support of this statement included:

- a Black Sash focus on pensions during the annual Week of the Aged;
- circulation of the Human Awareness Programme Report on Pensions to all regions;
- a letter to Pension Funds and Insurance Companies pointing out the inequities in many of their schemes, particularly those for domestic workers and small employers.



## **7. Unemployment**

The Black Sash believes that the Department of Manpower is seriously neglecting the rights of contributors to the Unemployment Insurance fund. Its failure in this regard is adversely affecting the lives of thousands of people.

This Conference therefore resolves to distribute as widely as possible information regarding the Fund and the rights of contributors.

The following petition was approved, circulated and signed by members of the Conference:

His Excellency the State President.

Your Excellency,

As concerned South Africans we respectfully address you on the question of the commutation of the death sentence passed in respect of the following six persons:

Simon Mogoerane

David Moise

Jerry Mosololi

Thabo Motaung

Johannes Shabangu

Anthony Tsotsobe.

They have been found guilty of high treason after lengthy periods of detention and after long and protracted trials. The offence for which they were convicted and sentenced arose out of attacks on the Wonderboom Moroka, Booysens and Orlando police stations or out of other acts of treason as defined by the law.

From statements they made in trials it is clear that after the countrywide unrest in 1976 they became disillusioned and desperate. They saw no hope for peaceful change in South Africa; change that would take into account the aspirations of the vast majority of Black people in our country. Motivated by high ideals they then set upon a course of conduct which they believed would bring about the change they desired. It culminated in acts which in the eyes of the Government amounted to treason. In the eyes of their people however they are heroes.

We are members of the Black Sash which at its 1982 national conference resolved to oppose capital punishment because we believe that it has a destructive effect on society that far outweighs any deterrent advantage some people believe it might have. We contemplate with concern the prospect of our society attempting to solve rising tension in the future by increased use of judicial killing.

In the light of this resolution and the circumstances relating to the six persons named above we pray that you will exercise your powers of clemency and commute the death sentence imposed on these men.





*photo: The Argus*

## Greetings

Conference placed on record "its warm appreciation of Helen Suzman's unwavering and untiring defence of human rights in South Africa, both in Parliament and beyond"; and it sent messages of support to the following:

- Detainees Parents Support Committee at their vigils in Johannesburg, Cape Town, East London, Port Elizabeth and Durban;
- South African Council of Churches facing resumed hearings of the Eloff Commission of Inquiry;
- Jean Sinclair and Gita Dyzenhaus, unable to attend, and associate member Solly Scholde in Port Elizabeth, undergoing open heart surgery;
- National Union of South African Students;
- the KTC people living in the open in Cape Town.

# The Black Sash in action 1982-3

## Reports from headquarters and the regions

*For most members the life of the Black Sash is in the regions, each of which has its particular character and challenges – in the Transvaal the plethora of ‘homelands’, in Western Cape the desperate black struggles against the pressure of the “Coloured Labour Preference Area Policy”, etc.*

*But the Sash is more than a collection of geographically dispersed autonomous units meeting annually in conference. Its unity as a national movement is expressed through headquarters which not only keeps regions in touch with one another but is a vital source of information, analysis and practical guidance on issues of national importance.*

*Among such issues dealt with by headquarters and the regions the following featured prominently in the reports presented to the national conference:*

### **New proposed legislation**

National President Sheena Duncan made a prompt and thoroughgoing analysis of the euphemistically named “Orderly Movement and Settlement of Black Persons Bill” and launched a campaign to make her findings public. This was “a three-pronged affair, involving a memorandum to the Select Committee, the informing of the public in general and employers of black labour in particular, and the dissemination of basic information to black people themselves.”

The memorandum to the Parliamentary Select Committee ended with the words:

The bill fails entirely to address itself to the needs of our society and will therefore inevitably lead to an escalation of conflict. It should therefore be withdrawn.

In addition to speeches, interviews and articles for the press Sheena Duncan trained speakers, using as a resource a publication entitled **You and the New Pass Laws**. Some 50 000 copies of the “little yellow book” were printed and distributed country-wide.

Activity in the regions included a memorandum by Albany who found “the implications were most sinister,” and another by Western Cape which also held a public meeting addressed by Sheena Duncan and Nic Oliver, M.P.

Thanks to the groundswell of opposition from the black community, the churches and many other sectors of society the bill has been temporarily shelved. Unfortunately some parts of it are however being administratively applied as if they were already law.

The constitutional proposals came under similar attack from headquarters:



“Change can be made in two directions — towards democracy or away from it. The proposals do not address the real political conflict in our country. In fact, they move change in the wrong direction.”

The constitutional proposals go hand-in-hand with the government’s policy of turning blacks into citizens of “independent” homelands and therefore foreigners in the land of their birth: “no country gives a vote or political participation to foreigners living within its borders.”

Transvaal region arranged seminars to train speakers on the twin issues of citizenship and the new constitution and made known the availability of such speakers.

When the State announced its intention to hand over the Ingwavuma-Kangwane areas to Swaziland and so divest itself of some 750 000 black South Africans, Black Sash members took part actively in the widespread protests. Natal Coastal manned tables to collect signatures on a protest petition; Cape Eastern (Port Elizabeth and environs) held stands with placards reading “Remove apartheid — not SA Land and People.” Transvaal demonstrated on Jan Smuts Avenue with posters reading: “Government throws out 3/4 million South Africans”; “Government destroys people’s birthright”; “Cabinet continues to cut up our country”; “Who’s next?”

Headquarters later commented, “It is heartening to note that concerted public protest can still bring results, for the government has withdrawn its decision and referred the matter to a Commission.”

Other bills analysed and commented on by Sheena Duncan included the Protection of Information Bill:

“It is immensely complicated, and hidden in its provisions to prevent what might be termed espionage in the proper meaning of that word there seem to be provisions which would have a serious impact on our work. It seems quite clear that even more severe restrictions on the release of information about detainees are intended, and it could affect the compiling of information deemed to be ‘not in the interests of the Republic of South Africa,’ whatever that might mean.”

the Demonstrations in or near Court Buildings Prohibition Bill:

“You need to get out your measuring tapes around the Commissioner’s and Magistrate’s Courts as well as the Supreme Court. I don’t suppose there is anywhere in Grahamstown where you can be 500 metres from a court.”

Albany confirmed this, commenting that they can stand only on Saturdays when the courts are closed.

## **Forced removals**

There are three main pillars supporting government policy for black South Africans, namely homelands citizenship, making them aliens in South Africa; influx control, which severely limits black participation in the core economy; and relocation, which removes blacks physically from "white" areas.

To combat removals Transvaal region updated Barbara Waite's 1977 map and produced it in the form of a booklet-cum-revised and simplified map. Two thousand copies were produced for distribution locally and overseas. Visits were made to many communities threatened with removal, including Mathopiestad, Rooigrond and Driefontein. Considerable educational work was done with the aid of black speakers and audiovisual material.

In response to an appeal from the Mgwali people near Stutterheim, Black Sash produced a pamphlet in Xhosa, "Wena Nofuduso". This sets out people's legal rights and outlines possible action to take when threatened with removal.

The Albany (Grahamstown) region continues to monitor removals and relocation in the Ciskei, the "white corridor" between Ciskei and Transkei and nearer home at Bathurst, Riebeeck East and Alicedale. Cape Eastern plays an active part in the "Save Walmer" Committee, and in June stood with placards reading "Give back Fingo Lands." Cape Western shared in the visit of the Fingo deputation which "came to Parliament to hear the sale of their good land to white farmers made legal, retrospectively."

Natal Coastal were active in the "Support Inanda" Committee and reported some success at St Wendolin's where after a long struggle the area has been declared black.

But despite these efforts the forced removals continue, with some people in the Transvaal not even knowing in which "homeland" they are supposed to be living. Hope lies in the publicity which pushes up the political cost of the removals, but even more in the stiffened resistance of the threatened communities.

## **Detentions and bannings**

These arbitrary actions drastically infringe civil rights, stunt thousands of lives and threaten to nullify the democratic right to oppose the policies of a political party in power.

Transvaal members have monitored inquests and trials and "learnt more intimately how our detention system works and at what risk detainees are in the close environment of solitary confinement." They drew public attention to the position of persons, some very young, detained as state witnesses. Joyce Harris, National Vice-President, corresponded with the Minister of Justice about torture and deaths in detention and about his failure to respond to the Detainees' Parents Support Committee.



Regions reacted strongly on this issue. Natal Midlands sent letters to the press and stood on protest against the death of Neil Aggett. Natal Coastal took part in a national conference on the security laws and their administration and held stands throughout the year. Cape Eastern held three stands with posters reading: Stop banning innocent people; Banning is repression not reform; and — outside the Law Courts — “Detention without trial is Lawless.” Cape Western took this issue to the public with — Remember the Banned and Detained; Oppose bannings, promote justice; and Release all detainees alive now.

Transvaal stood in protest at the death in detention of Moabe Dipale and on Human Rights Day protested the numbers detained in 1982 — more than 200 — and deaths in detention. They also sent a Christmas message to Cabinet Ministers and other prominent people which began, “Remember those who are miserable this Christmas . . . ” and listed people being banned, detained, uprooted and threatened with uprootal.

### **Other activities**

Black Sash members monitor the Commissioner’s Courts, particularly at Langa in the Western Cape, and operate advice offices (see separate chapter). They maintain contacts with a wide variety of other groups and organisations in both white and black sectors of the community, and are sometimes involved in the struggle for local improvements such as the provision of bus shelters (Highway branch of Natal Coastal).

Natal Midlands are busy updating a booklet entitled “This is your City” (Pietermaritzburg), describing amenities available to each race group. Highway branch received 103 entries for an essay competition for black schools and awarded cash prizes from their education fund.

All regions try to maintain a watching brief on what is happening in their areas, with a view to documentation and exposure as necessary. For example, Albany compiled and distributed a one-page fact sheet on the events leading to expulsion of 1 500 students from the University of Fort Hare.

Cape Eastern tackled beach apartheid by holding placards at Kings’s Beach which read “What right do whites have to monopolise beaches?” Cape Western mounted an all-day, one person at a time, stand in central Cape Town just before the opening of Parliament. The poster read “Democracy not dictatorship/Demokrasie in plaas van Diktatuur.”



*(photo: The Argus)*

### **Methods and activities**

- research and documentation
- publicity — letters to the press; statements, interviews, articles and full-length publications; public meetings; addresses to other groups by invitation
- memoranda and deputations to appropriate authorities
- monitoring of court and pension pay-outs, followed by analysis and recommendation for action
- stands and public demonstrations
- cooperation with and support for other organisations working for justice and liberation.

And the foundation on which all productive work is built is the vigilance, commitment, constructive thinking and capacity for initiative and imagination of 'ordinary' members.



## IN MEMORIAM

### SAUL MKHIZE: VICTIM OF FORCED REMOVAL



On Saturday, April 2, 1983, the day before Easter, Saul Mkhize was shot dead by the police.

He was the elected chairman of the Council Board of Directors of Driefontein in the south-eastern Transvaal; chosen to lead the people in their refusal to allow themselves to be uprooted, ethnically divided and removed into the KwaZulu and Kangwane bantustans.

Saul died while exhorting the people to remain calm. They had been angered by police action in attempting to break up a peaceful meeting of residents in the school yard. Tear gas had been used, Saul had been hit in the face and an attempt had been made to arrest him. He had told the people, "We have not come here to fight anyone".

He died a victim of the South African government's removal policy. May his soul rest in peace. May his death not be in vain.

# Law without justice: a dangerous prospect

*A review of Black Sash para-legal advice office activities and experiences, and evaluation of their implications for the rule of law in South Africa.*

## Introduction

South African blacks are denied their basic human rights in two ways: by law and by administration. The law deprives them of the right to vote and take part in government, own land, and even to be citizens in the land of their birth. And all too often administration deprives them of such legal rights as they may possess, for example to an old age pension, when officials abuse the inordinate authority vested in them.

These facts make the work done in para-legal advice offices in this country very different to that done in democratic societies.

During 1982 over 21 600 interviews were conducted in the eight advice offices run by the Black Sash, sometimes in conjunction with the SA Institute of Race Relations or other organisations.

Pass laws, poverty, lack of housing, homelands policy and the arrogance of officialdom are the immediate causes of most of the problems presented. But underlying them all is

the state of constitutional powerlessness and de facto servitude to which black people are reduced by apartheid law and the national security state.

This report deals with the following main issues: the struggle for urban rights and housing; citizenship and exclusion; government by administration; legislative threats; pensions, unemployment insurance and workers' complaints; and finally, implications for the rule of law.

### Interviews during 1982

Johannesburg	12 432
Cape Town	4 185
Durban	1 774
Grahamstown	1 432
Pietermaritzburg	1 088
Pretoria	469
East London	230
Port Elizabeth	not available

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This review was compiled by Sheena Duncan from the reports of the advice offices and subsequently edited by M. Nash. Fuller details are obtainable from the respective regional Black Sash advice offices.



## 1. The struggle for urban rights

In 1970 there were some 4,5 million blacks officially resident in the cities and towns of 'white' South Africa (Riekert: 17). Of these an estimated 1 million registered male workers, 600 000 registered female workers and possibly one million people under the age of twenty were qualified permanent residents in terms of section 10 of the Blacks (Urban Areas) Consolidation Act 25 of 1945. That is, about 2,6 million of the 4,5 million. The rest were there by permit, as contract workers, commuters, etc., and were deemed temporary.

Section 10 of the Blacks (Urban Areas) Consolidation Act No. 25 of 1945 states that no black shall remain for more than 72 hours in a prescribed (i.e. urban) area unless:

- a. he/she has since birth resided continuously in such area and can prove it; or
- b. he/she has worked continuously in one area for one employer for not less than ten years or has lawfully and continuously resided in one area for not less than fifteen years; or
- c. he/she is the wife, unmarried daughter or son still under 18 years of age of a person who qualified as (a) or (b) above.

If a qualified person is removed to a homeland or the township in which he lives becomes part of a homeland, he/she ceases to have urban rights and is no longer an 'urban black'.

All black people who are not 'qualified' need a permit to remain in any prescribed area (i.e. any town outside the homelands) for more than 72 hours.

State policy explicitly aims to reduce the numbers of blacks in white urban areas but economic forces operate differently. Black labour is or has been needed, so by 1980 the number of blacks in prescribed areas had risen to over 8 million. However, when Prime Minister Botha or Dr Koornhof discuss 'urban blacks' they are not referring to all eight million. Far from it. They mean only those who are still qualified under section 10 regulations — and that excludes all who are deemed to be foreigners because citizens of an 'independent homeland'.

In fact, despite the vast increase in numbers, the past decade has been marked by strenuous and systematic state action to reduce the ratio and absolute total of 'section tenners' (permanent urban residents), and to control as stringently as possible all other blacks working in cities and towns, whether as migrants or as commuters from adjacent homelands. But overcrowded, impoverished homelands and resettlement areas cannot support the explosive growth in population and estimates of the percentage of blacks illegally in town range from 40 percent

upwards. The cases seen in the advice offices represent the tip of the iceberg of black desperation to maintain a toehold in the urban industrial economy.

**Durban** advice office writes that appointment of a Cabinet committee "to investigate all outstanding problems affecting urban blacks" can only be regarded as a sick and sadistic State joke for 95 percent of Durban's one million black residents are already disqualified.

513 300 are in townships and hostels now incorporated into KwaZulu

70 000 live on freehold land — also KwaZulu

40 000 occupy domestic quarters in white suburbs

82 000 are in temporary accommodation in white areas, e.g. construction sites.

Only 41 302 black people and some domestic workers qualify as urban residents eligible for such privileges as 99-year leasehold and the right to work in other prescribed areas.

The contract labour system is being forced on all the rest. Registered occupiers of Umlazi and KwaMashu houses, and their families, may register for work at the Guidance and Placement Centres or seek work for themselves in Durban, but in either case are registered as contract workers. Other township residents (lodgers) must wait at the labour bureau to be 'requisitioned'. Even if they have a job offer and approved accommodation they may not accept it, but must wait for a vacancy via the Port Natal Administration Board. **Choice is non-existent, the wait interminable and the repercussions disastrous.**

### *Housing*

In **East London**, qualified residents in Duncan Village live under a double threat: physical removal to Mdantsane in Ciskei and simultaneous loss of urban rights in South Africa.

**Pretoria** office reports a catch-22 situation in the Bophutatswana town, Soshanguwe, established as an 'overflow' from townships like Attridgeville and Mamelodi in the prescribed area. Houses are allotted there only to people with urban rights in Pretoria but as soon as a man accepts a house in Soshanguwe he is regarded as resident in a homeland and loses his urban rights. He therefore has no legal right to have his wife and children living with him:

Mr S.N. has lived in Soshanguwe for several years. Two years ago he and his wife were divorced, whereupon the Superintendent advised him that if he wished to keep the house he should remarry as soon as possible. He married a woman with section 10(1)(c) rights in Pretoria but was then told that she does not have the right to live in Soshanguwe. She would have to leave and he would then lose the occupation certificate for the house as there would be no family living in it.

We told the township manager that his policy was destabilising families. He replied that he must keep Soshanguwe “for those who have rights there”.

The necessity to have approved accommodation is one of the State’s most important weapons in forcing black people out of town. In **Bloemfontein**, for example, qualified people wanting housing must apply to Vaalkraal, 65 kms away alongside the vast resettlement area of Onverwacht. But to live at Vaalkraal is to lose urban rights in Bloemfontein.

A similar situation is likely to obtain at the vast new black town of Ekangala, north of Bronkhorstspuit, which will probably form part of KwaNdebele and serve as an overflow for East Rand towns and Soweto with housing shortages of 22 000 and 39 000 units respectively.

### *1.2 ‘Coloured’ Labour Preference*

In the **Western Cape** housing and other problems of blacks are aggravated by the so-called Coloured Labour Preference Area Policy. **Cape Town** advice office reports 3 000 families in the Peninsula on the waiting list with little or no prospect of housing (though Dr Koornhof has now announced plans for a new black township at Driftsands, east of Mitchells Plain — Ed.). Single quarters are being converted into family housing but then still being used for ‘single’ men as there is a shortage of hostel beds as well as of family accommodation. Because of the drastic shortage, eviction for non-payment of rent or disqualification after a divorce are major disasters:

Mr K.F. has lived in his house with his family since 1962. During that time he had three periods of rent default but always paid the arrears. In 1982 he lost his job and three times fell into rent arrears. On September 17 he paid arrears of R74,68, three days after receiving a final eviction notice for non-payment of rent. The Board however evicted him, preferring a tenant who could pay rent regularly. But 16 people were being rendered homeless with no hope of alternative accommodation. With the support of the community, Mr F. contested the eviction and a subsequent trespass charge and succeeded in being reinstated as tenant.

An equally desperate situation obtains in other **Western Cape** townships. In Mbekweni, near Paarl, there are so many shacks in backyards that the Community Council, which in 1980 applied for a loan for 100 houses, supported an overflow of shacks onto the commonage. After attempts to prosecute and eject these shack-dwellers, the Administration Board has given them permission to stay “until WCAB negotiations for housing are complete”.

For **Old Crossroads** it has been an unhappy year. Phase one of New Crossroads has been completed with many houses allocated not to Old Crossroads applicants but to residents of KTC transit camp so that that site could be cleared



for phase two. But in October it was announced that there were no funds for further building, so there is distress, anger, tension and frustration. In addition, some 5 000 unregistered residents of Old Crossroads whose permits expired on September 20, 1982 are still in limbo. The situation was further aggravated in October when the Administration Board demolished ALL the stalls at the Crossroads market "to protect genuine Crossroads residents from unfair competition by 'illegal' traders".

As registered tenants of Old Crossroads moved to New Crossroads their numbered shacks were demolished. Many lodgers left homeless then erected new shacks. In December these were demolished and many people are surviving in flimsy shelters of plastic and blankets.

**Nyanga site** is equally unhappy. After the struggles and deportations of winter 1981 there were continuing raids and arrests. Women with babies were charged under section 10, but women without children and men were charged under section 22 of the Admission of Persons to the Republic Act 59 of 1972 which carries a penalty of three months gaol without option of a fine.

On March 9, 54 Nyanga site people entered St George's Cathedral, determined to fast and pray for a change of heart in those in authority. A survey showed that all the men and single women were employed, that 72 percent had first entered



*"You're a legal resident, so go and find yourself a legal residence." (Cape Times)*



Cape Town more than ten years previously, and that between them they had been arrested 252 times.

Mrs F.N. is 37 years old and the sole support of 3 children living with an aunt in Cofimvaba (Transkei). She came to Cape Town in 1973 and has worked for various members of the same family since 1975. She has been arrested five times, paid fines twice and been deported twice, on one of these occasions suffering a broken wrist when the army truck overturned. She also received one suspended sentence. Her employers have twice been refused a permit to employ her.

The fast attracted nationwide and international publicity and ended on April 1 after Dr Koornhof had agreed to consider over 900 cases submitted by the Committee. These cases are still being considered. Meantime at least 60 other people who had been arrested, fined and deported but whose names did not get on the list, have appealed for help. The two groups are living in tents and plastic domes, with inadequate water and sanitation on the sandy site between Nyanga and Old Crossroads.

## 2. Citizenship and exclusion

### 2.1 *Deportation*

The reference to deportation in the report on Nyanga site shows the effects of homelands independence on black South Africans. **Durban** office reports that the number of people ordered out of the area doubled from 1 825 (including 130 Transkeians) in 1981 to 5 716 (including 530 Transkeians) in 1982. Very many reside in KwaZulu townships on the outskirts of Durban yet are prohibited from entering Durban for periods of from two months to two years. As they cannot legally work in any other town they are in effect condemned to unemployment for that period.

Mr Sotsaka is a Transkeian who has worked in Durban or at sea since 1966. He has always been accommodated in a hostel and been able to seek work in the Durban area because he was here before the 1968 Labour Regulations. Despite having accommodation and a firm wishing to employ him he has been told to go back to the Transkei.

Mrs Kraai is a Xhosa speaking lady who has worked for over 15 years in Durban and has always been legally resident in the prescribed area. When she asked for the section 10(1)(b) endorsement to which she is entitled she was refused on the ground that she is a Transkeian.

When a homeland takes independence, EVERY black South African who speaks the language of that homeland ceases to be a South African citizen on the day of independence. In the five years October 1976 to December 1981, over 8 million South Africans lost their citizenship. There are now no Xhosa, Tswana or Venda-speaking South Africans: they are all aliens and subject to deportation.

**Johannesburg** office reports that whereas in 1981 black Zimbabweans were being deported unless employed in one job since January 1958 or more than one job since January 1953 — compare the treatment of white Zimbabweans — this year the burden has fallen most heavily on Lesotho citizens. Even those born in South Africa and living here legally have to travel to Maseru to obtain identity documents. If they did not enter the SA labour market before 1963, for example because they were too young, they can now only work on limited contracts of employment, therefore are liable to “repatriation” — deportation.

Mrs M.G.M. is a Lesotho citizen whose passport was endorsed with permission for her to live in Germiston with her section 10 (1)(a) South African husband until February 1986. Unfortunately she applied for permission to work. Her residence permit was cancelled and she was told to go back to Lesotho to apply again through her own government for permission to live in South Africa with her husband.

## *2.2 Exclusion*

Exclusion affects not only foreigners but residents of non-independent homelands who are feeling the effects of Urban Black Labour Preference. Between 1980 and 1981 recruitment of workers from Qwa Qwa dropped by 4 425, from Transkei by 5 735 and Bophutatswana by 5 167. A pecking order of preference is becoming evident: first access to jobs goes to people with section 10 rights; next on the list are the commuters; others outside the commuter belt are more and more disadvantages. Recruitment for the West Rand Administration Board dropped by 14 343 between 1980 and 1981.

Employers are cooperating with this process. People complain to us repeatedly that if they do not have section 10(1)(a), (b) or (c) rights they do not even get interviewed for vacant jobs. In jobs not involving heavy labour, Johannesburg City Council is replacing migrant workers with ‘qualified’ women.

Mr M.W.N. is typical of hundreds of excluded people seen this year. He comes from Giyani in Gazankulu and lost his job after 9½ years with the same employer. He found two new jobs in quick succession but in each case was refused registration so was discharged. He returned to Giyani and waited four months at the Labour Bureau for recruitment but no job was offered. He has a wife and two children to support but has no land to plough and no cattle. He must have a job in order to survive and feed his family. The law does not allow him to work in the jobs he found for himself.

We can do nothing whatsoever to help him or to help thousands of others like him, other than to explain the legal situation so that they can make their own decisions in the light of the facts.



### *2.3 Clamp-down on black urbanisation in 'white' areas*

**Cape Town** reports that since the August 1981 Rikhoto decision in the Rand Supreme Court, granting section 10 (1)(b) rights to a contract worker who had worked for one employer in the prescribed area for over ten years, there has been a steady stream of inquiries from local contract workers. The Chief Commissioner did approve some applications of workers who had commenced their contracts prior to 1968 but when the East Rand Administration Board lodged an appeal against the Rikhoto case findings, refused to consider any more.

Hope revived in May 1982 when Alfred Booie won a similar case in the Cape Supreme Court, creating a Cape precedent. Within two months the office conducted 485 interviews with local contract workers, bringing to 624 the number of applicants who seem to qualify for local residence.

But alas, all new applications are still being refused consideration on the basis of the ERAB appeal. The repeated delays and disappointments have caused great distress and anger as local registration means greater job mobility, access to unemployment insurance and above all, the possibility of having your family live with you legally in the urban area.

Mr W.M. was born in Middelburg Cape in 1954. He has worked for All Gold in Paarl since 13 July 1972. He married a woman qualified as 10(1)(a) in Paarl and they have two children. He applied on 14 July 1982 for his 10(1)(b) and was told to wait.

**Johannesburg** writes that Mr Rikhoto and thousands like him are still waiting for the Appeal Court to decide whether or not contract workers are entitled to urban rights after ten years legal and continuous employment in one town in the same job. However we have little hope that an Appeal Court ruling in his favour will enable people in his position to become permanent urban residents for when Dr Koornhof announced that the Orderly Movement Bill would be postponed to 1984, it was also stated that during 1983 the existing legislation would be amended to return us to the "status quo ante the Komani and Rikhoto cases".

This means that the government intends to remove the hardwon rights of wives and children to live in an urban area with a section 10 qualified husband or parent, and to ensure that no one who came to town after March 1968 when the one-year contract system was imposed can ever acquire urban rights. We await with trepidation the next Black Laws Amendment Bill or other legislation produced by Dr Koornhof's department. We believe that amendments to the Trespass Act, vastly increasing the penalties, indicate how provisions of the contentious Orderly Movement Bill will be slipped in through the back door.

The State will be legislating to make legal what its officials are already doing, for 2½ years after the Komani judgment, wives and children are still being denied



their 10(1)(c) rights by officials of the West Rand Administration Board and all claims for 10(1)(b) rights by contract workers are being refused.

*How can citizens be expected to obey the law  
when Government itself ignores the law?*

### **3. Government by administrative decision**

Government by administrative decision is now the rule rather than the exception. The pass laws give enormous powers to officials to make decisions that affect the very fibre of people's lives. Over the past twenty years the Black Sash has protested about this frequently.

But now officials make their own laws and impose impossible requirements on people. They often act unlawfully and increasingly black people believe that they have to pay somebody for something if they are to achieve recognition of their rights or obtain redress of wrongs done to them.

S.M. is a young man who has a birth certificate showing that he was born in Johannesburg, with a stamp stating that he qualifies as 10(1)(a) in Johannesburg. He is likewise listed on his family's house permit. Yet when he went to the WRAB office at New Canada to apply for a reference book which the law compels him to carry he was refused the application form and instructed to make an affidavit explaining why he started school "so late".

Miss L.S.M. qualifies to be in Johannesburg as 10(1)(a), (b) and (c) and her whole life is recorded in official documents. Yet WRAB officials at New Canada refused to give her an application form for a reference book and told her to make a life history affidavit.

Every day **Johannesburg** office receives complaints such as these, particularly about the officials at New Canada office of WRAB. They are all resolved after legal intervention but nothing is done by the Administration Board to rectify this abuse by Board officials. We can only assume that such actions have the Board's tacit approval.

It is not only WRAB officials however, who act in this way but also the Chief Commissioner's staff.

Miss N.C.M., a healthy young woman, was refused a reference book by the Commissioner of the Department of Co-operation and Development because officially she "is dead".

Mr S.S.R. had a birth certificate and reference book endorsed as 10(1)(a) in Johannesburg. An official in the Commissioner's office confiscated his birth certificate and told him it is "cancelled".

Mr H.D. was born in Johannesburg and is listed on his father's house permit as 10(1)(a). An official at the Department of Co-operation and



*Bill proposes R2 000 fine for trespass*

*(Cape Times)*

TRESPASS is the crime of entering onto land and property without the permission of the lawful occupier and carries a penalty of up to R50 fine or three months imprisonment.

A registered live-in black domestic worker is not a lawful occupier in terms of the Trespass Act of 1959, therefore her visitors are often charged under trespass laws rather than pass laws — in 1982, 98 507 people were arrested for trespass.

The 1983 Criminal Law Amendment Bill raises the penalty to a maximum fine of R2 000 or imprisonment for two years or both. It is clearly designed as a weapon against thousands of black people in 'squatter' settlements on publicly or privately owned land and against those who live secretly in domestic quarters.

Development has scored across his birth certificate with a red pen, telling him that he was not born in Johannesburg to his father's lawful wedded wife, but to another woman outside Johannesburg.

Experiences like these raise very painful questions like:

*– What do you do when you are told by an official that you are not the person you know yourself to be? Do you bribe someone . . . ? Decide on active civil disobedience . . . ? Leave to join the liberation army . . . ?*

#### 4. 'Orderly' Movement and Settlement of Black Persons

The 1982 Orderly Movement and Settlement of Black Persons Bill, temporarily withdrawn, seeks to:

- reduce the number of qualified black permanent urban residents;
- diminish their legal rights and 'privileges' by tying them to the approved accommodation so rigidly controlled by the State;
- cut back on all legal urbanisation in the future;
- exclude from participation in the common society the vast majority who do not have urban rights;
- make influx control really efficient for the first time by imposing swinging penalties on those who employ illegal people: R5 000 or 12 months imprisonment; or accommodate illegal people: R500 or 6 months imprisonment; with an extra R20 per day during which the offence continues.

#### Arrests for pass law and influx control offences

1980	108 499	
1981	162 024	+27%
1982	206 022	+90%

In other words, the State plans to coerce employers and householders, black as well as white, into becoming agents of influx control enforcement, thereby forcing 'illegals' out of jobs and shelter and back to the impoverished rural areas or into prison labour.

#### 5. Pensions

1982 was the Year of the Aged and we rightly heard a great deal about the plight of white old age pensioners suffering the effects of double digit inflation and sectional title. What about the plight of the black Aged?

A pension, payable bi-monthly, is the legal right of any black woman over 60 or black man over 65 years old, living in South Africa. Homelands have their own scales and rules. But not only is the pension pathetically small — from October 1983, R57 per month with one annual bonus of R22 — but the means test is vindictive, and the payout procedure callous. Through administrative incompetence, deliberate obstruction and delay, corruption of officials and theft at payout points, thousands of people are deprived of even the little benefit to which the law entitles them.

Difficulties are compounded by the proliferation of administrations, and complaints come from all areas. **Durban** office reports that in the past two years it has helped pensioners to secure over R60 000 in arrears due to them, with only one case even contested. In effect the office was doing the work of the KwaZulu government and Pretoria pensions departments. The clumsy review system requires urgent overhaul: meantime people must be informed of their rights to claim backpay and pension clerks be required to process these claims.



Mrs Biyela is a very old lady whose disability grant was stopped in September 1981. Despite review she received nothing, so in July 1982 she applied for an old age pension. By February 1983 she had still not been paid.

Mr Dhlamini last received his disability grant in January 1981. There were reviews in March and July 1981 and in March 1982 he was told to get another Doctor's certificate, which he did. By December 1982 he still had not been paid and through us he has referred his case to a lawyer.

**Pietermaritzburg** office continues to monitor pension payouts and conduct interviews, despite the hostility of KwaZulu clerks. People need advice on how to apply and "how to get the clerks to accept applications", what to do about missing payments and transfers of pensions from one district to another. With the help of an attorney 23 claims for arrears were dealt with and R3 190 reclaimed for 10 people.

**Albany (Grahamstown)** reports that the appalling conditions in the pension queue for old age pensioners became their focus of attention during the winter months. They found that some old people stood in the cold and wet, often overnight, sometimes for two days. After negotiation with the Administration Board there were some improvements but the question remains: why can black old age pensioners not collect their money through the Post Office, as do other old age pensioners?

At the Glenmore resettlement camp there are many old people who have not been receiving their pensions since removal from 'white' South Africa in 1978. In December 1981 a list of 51 such cases was sent to the Chief Commissioner in Port Elizabeth. Subsequent correspondence and consultation with the Legal Resources Centre has so far yielded little result but efforts continue.

An apparent freeze on disability grants even for persons totally disabled was taken up with the Chief Commissioner with positive results: so far there have not been further such refusals.

**Natal Coastal (Highway)** and **Transvaal** also monitor payouts. The latter report that "on average it takes about eleven months for an ordinary uncomplicated pension application to be granted".

**Pretoria** members have been trying to help non-Tswanas living in the Winterveld, but the Pretoria government holds Bophutatswana responsible for paying these pensions, and so far there has been no progress. They also report that "persons under threat of removal may find their pensions withheld pending their acceptance of 'resettlement'".

## **6. Unemployment Insurance**

**East London** writes that Unemployment Insurance Fund problems figure next only to pay disputes. There is particular hardship for citizens of homelands who after three years from the date of independence are no longer eligible for South

African UIF benefits, and have to depend on the setting up and effective operation of homelands unemployment insurance funds. So far there is no information on such a fund in Ciskei.

**Durban** reports that when they tell clients that at the end of 1981 there was over R235 million in the Unemployment Insurance Fund they react with disbelief and anger, and want to know why they cannot get what is due to them. People are waiting as long as 12 months, reporting fortnightly to their local office. Thus the traumatic effects of retrenchment are being exacerbated by crippling delays in the payment of benefits — to which people have contributed while working.

Mr Mpanza lives in Bulwer district and when he came to see us had been signing for benefits every two weeks for the past eleven months without being paid. On the telephone the Divisional Inspector said that two of his sign-on forms were missing, therefore no payment could be made. But Bulwer office had not been told this. Mr Mpanza had to get an affidavit from the Bulwer magistrate to the effect that he had signed on the two missing periods. Meantime he had spent some R50 in bus fares for his fruitless visits to the UIF office.

## **7. Workers' Complaints**

All offices receive large numbers of complaints from workers about their pay, notice pay, severance pay, and conditions of work in general. **East London** writes that as a result of the massive unemployment in their area the vast majority of their cases relate to pay queries and disputes and dismissals.

**Durban** reports that the majority of their cases involve workers who have been unfairly dismissed. Previously workers who did not have the backing of a union were unable to contest such a dismissal at any level. Recent amendments to the Labour Relations Act have opened up the possibility of temporary and later permanent re-instatement following an application to the Industrial Court and negotiation in the Industrial Council or Conciliation Board. It is important that advice offices handling labour cases should learn to assist workers to make the best possible use of this remedy which is now available, and test its real value.

**Pretoria** office records an "enormous increase" in the number of domestic workers coming with pay problems.

Mrs M. worked for an elderly couple for two months and was then dismissed without either pay or notice. Her employers told us they could "not afford to pay her".

## **8. Obedience to the Law**

It is now impossible for most black people in South Africa to be law-abiding. Skill in disobedience, in evading the forces of law and order, and in manipulating the system by illegal means is the only way to survive.

Mr J.P. lives as if he is a free man. Only once in his life, for a period of one year, has he had a permit to be where he was. For the rest of the time he has lived and worked illegally, and has prospered because he has never sought to comply with the laws whites have made for blacks.

Schooled in Sophiatown and trained at the Wilberforce Institution as a brick-layer, he has worked all over South Africa and in Lesotho with several construction companies for many years. He is now self-employed in Johannesburg, managing his small business with skill and competence. He is a productive and creative citizen — a shining example of the possibilities of free enterprise. But he has only been able to achieve this by employing a multitude of ‘immoral’ and illegal tactics.

He came to the advice office for the information he needs for organising the last years of his working life and planning for his retirement. At present he lives in a self-built house in a backyard in Orlando East, and most of his work consists in erecting other people’s illegal dwellings in Soweto. Now he sees the shelters being demolished all round him and wonders what his next move should be.

He says he has never been arrested for any pass law offence: he always has R10 or more ready in his pocket for any policemen or official demanding his pass. He extends this strategy to all his activities. He is not a Tswana but contemplates buying a farm in Bophutatswana for his retirement — he has ‘friends’ there who would assist him for a consideration. Or he might go to Lesotho . . . or he might just stay in Johannesburg, which city he rather enjoys.

If he tried to comply with the law he would be either a migrant worker living in a hostel and denied all freedom of choice in seeking alternative employment or he would be rotting in the place called Qwa Qwa, waiting in vain for recruitment to employment of some kind or another.

Unlike J.P. most of the people who come to the **Johannesburg** advice office ARE trying to comply with the law. And for most of them this is becoming impossible as the screws tighten to exclude the rural majority altogether and to reduce the urban ‘privileged’ group to a very small, relatively prosperous and understandably docile middle class.



## Conclusion

The law itself encourages civil disobedience, passive resistance, bribery and corruption, and an attitude to lawlessness, and will inevitably lead to insurrection. People cannot be expected to value the due process of law, or to understand the law as an essential framework of orderliness in society when the law is used to deny them the very basic necessities of human survival.

- When officialdom makes up its own confusing rules and regulations to harass people and prevent them from obtaining redress . . .
- when the administration refuses to pay attention to Court rulings . . .
- when Government proceeds with utmost ruthlessness to reach its desired end . . .

then justice no longer has anything to do with law.

And that is a most dangerous prospect for our common future.

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**Sheena Duncan**