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Republiek van Suid-Airika - Republic of South Airica

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PRIVAATSAK

PRIVATE BAG X9080

KAAPSTAD

CAPE TOWN

8000

xuaip Mr Phumelele Stanford SIZANE

t C/O The Head of the Prison

St Albans Prison

PORT ELI ZABETH

NOTICE UNDER REGULATION 3(8) OF THE SECURITY EMERGENCY

REGULATIONS, 1988

Under paragraph (8) of regulation 3 of the Security
Emergency Regulations, 1988, as amended, I hereby order
that Phumelele Stanford SIZANE, who is being detained in
terms /o;5 re ulatg on 3 of the said Regulations, be released
on 5...?...g ... on the conditions set out in the
Schedule hereto.

SIGNED agc????PZ?YY on this/Yg5 day of3)1. 1989.

SUID AFRIKAANSE POLISLE

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MINISTER 6F LAW AND ORDER

S C H E D U L E

TO: Phumelele Stanford SIZANE

CONDITIONS OF RELEASE

Under regulation 3(8)(b)(i) of the Security Emergency Regulations, 1988, as amended, you are hereby notified that your release from detention in terms of Regulation 3(8)(a) shall be subject to the conditions -

(a) that you shall not, as from the date of your release, without the written consent of the Divisional Commander of the Security Branch of the South African Police for the Eastern Province Division -

(1) take part in any manner whatsoever in any of the activities of the following organizations, viz -

- UNITED DEMOCRATIC FRONT;
- PORT ELIZABETH BLACK CIVIC ORGANISATION;
- CRISIS IN EDUCATION COMMITTEE;

(2) be outside the boundaries of the magisterial district of Port Elizabeth at any time;

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Elizabeth between the hours of 16h00 and th00;

(4) attend or stay present at any gathering consisting of 4 or more persons (including yourself), convened or otherwise brought about for the purpose of discussing some or other matter;

(5) contribute, prepare, compile or transmit in any manner whatsoever any matter for publication in any publication or assist in any manner whatsoever in the preparation, compilation or transmission of any matter for publication in any publication;

(6) take part in any interview with any journalist, news reporter, news commentator or news correspondent;

(9)

(10)

be present on or enter upon any premises occupied by an educational institution which provides formal education as defined in section 1 of the National Policy for General Education Affairs Act, 1984 (Act 76 of 1984);

attend any gathering which has been convened, advertised or is otherwise brought about -

(1) to attack, criticise or protest against any acts or policies or proposed acts or policies of the Government of the Republic of South Africa;

(2) to attack, criticise or protest against the system of local government as applied in the Republic of South Africa, or against some or other local authority or local authorities belonging to some or other category of local authorities;

make calls on, or encourage or incite members of the public or members of a section of the public to commemorate or celebrate an incident of riot, public violence or unrest or a protest march which has taken place at some time or other in the Republic, or an event which has occurred in the course of such incident, gathering or march;

address any gathering on or in connection with -

(1) the non-compliance with a provision of, or requirement under, any law;

(2) the non-compliance with an obligation towards a local authority in respect of rent or a municipal service;

(3) the staying away from work or striking in contravention of the provisions of any law, or the supporting of any stay-away action or strike;

(4) the non-participation in an election of members of a local authority;

(5) the non-attending or the opposition to the attending of an educational institution which provides formal education as defined in section 1 of the National Policy for General Education Affairs Act, 1984 (Act 76 of 1984); '

(6) the non-purchasing of any product or article;

(b) that you shall, as from the date of your release, report daily to the officer in charge of the Charge Office at the Kwazakhele Police Station, between 08h00 and 12h00, and between 14h00 and 16h00, subject to such exemptions as the Divisional Commander of the Security Branch of the South African Police for the Eastern Province Division may at any time authorize in writing.

In this notice a word to which a meaning has been assigned in the Media Emergency Regulations, 1988, or the Security Emergency Regulations, 1988, shall have the same meaning.

0700

THE STATE AND EMERGENCY DETAINEES:

CHALLENGES AND RESPONSES

DETAINEES CO-ORDINATING COMMITTEE

PRESENTED TO THE CBM WORKSHOP: 12 AUGUST 1989

INTRODUCTION

The past six months have witnessed an increasingly desperate South African government, holding on to power through the detention and restriction of anti-apartheid activists. These

detentions and restrictions cause peace-loving people of South Africa untold suffering.

In order to establish some aspects of the effects of restrictions, the Durban Detainees Co-

ordinating Committee has undertaken a wide variety of projects. These included a survey of some of the problems faced by former detainees who are presently restricted. This report describes the results of the survey and indicates how the government was able to release anti-apartheid activists from apartheid's jails into a situation where they, and their

families, became their jailers.

Twenty-two people who are restricted to townships within the Durban Functional Region were included in the sample. Given that the majority of these people may not be quoted or contribute to publications about them, their family members were asked to answer a few questions about the conditions in which they find themselves. This report is divided into two main sections. The first section details some of the background aspects of the study of

former detainees. The second section describes the personal characteristics of the sample of restrictees:

(1) who these restrictees are,

(2) what organizations they belong to, and

(3) the characteristics of the households from which they come.

Ways in which restrictions affect the lives of peace-loving people are then explored in the

third section through presenting the results of the attitudinal part of the survey. While not

attempting to detail the harassment suffered by these former detainees (torture, interrogation and the like), the report suggests

- (4) how long these people were detained for,
- (5) how they were restricted by the Government,
- (6) the problems faced by these detainees in meeting their restriction orders,
- an
- (7) the problems faced by families in trying to cope with these restricted persons.

BACKGROUND

black eyes made empty
by the tears of the numberless
vigils, look
into the depth of the spirit
- from the introduction to Carlo Levi's
Christ stopped at Eboli: Levi himself,
a doctor, writer and political activist,
was restricted to a remote part of Italy
in 1935-6 by Mussolini for his anti
Fascist activities.

The story of the hunger strike in Natal

The national hunger strike by detainees, which began in the Transvaal on 23 January 1989 and rapidly gained momentum nationwide, served to bring the issue of state of emergency detentions very forcefully into the public eye. On the 12 February, the hunger strike began

in Natal, when some 20 SOE detainees at Westville prison went onto a liquid diet. The following day, all 120 SOE detainees being held there joined the hunger strike. By the 18 February, detainees in Pietermaritzburg and several Durban police stations, including C.R. Swart, had joined too. At the same time, various efforts were made to express sympathy with the detainees: students, clerics and academics all joined in fasts. There was

also an international focus on the hunger strike, with the United Nations and various human rights organisations pressuring the South African government to release detainees. The state clearly did not know how to deal with this turn of events and the Minister of Law

and Order bowed to pressure when he announced on the 16 February that "substantial numbers" of detainees would be released over the following two weeks. At first, "substantial numbers" seemed to mean rather few - in Durban, for example, some 30 out of a total of about 150 detainees were released, some on hungerstrike but most not having

participated. In the light of Minister Makgob's assurance, the Westville detainees suspended their action; those held at similar centres, such as police stations, may have done so too but it is difficult to gather an accurate impression (part of the purpose of keeping detainees at a number of different localities was to make communication difficult). Not all detainees suspended their action, however, and the first Durban hunger strikers were hospitalised about the 18 February. A group of 21 detainees was released from Westville on 24 February; concurrently, some detainees held at larger prisons were split up and moved to police cells, presumably in an effort to break the strike. After the initial two week period, the state's position changed somewhat: that no detainee would be released unless they ceased their hunger strike. 13 detainees were released on 28 February, none having participated in the strike. However, this decision was not uniformly implemented and in any case did not bring an end to the detainees' action. Many detainees who had suspended their action now renewed it. At the end of February, the detainees who had been on hunger strike the longest, Sandile Thusi, was admitted to hospital. He had been in detention since June 1988. His lawyer was initially forbidden access to him, but a priest visited him daily. As his health deteriorated, and as more hunger strikers were admitted to hospital in weak states, so the pressure for the release of all hunger strikers grew. Yet fresh detentions were occurring all the while that the hunger strike was in progress.

A new support structure, the Detainees' Co-ordinating Committee, was launched in Durban on 6 March. Drawing on a wide variety of bodies, student, community and professional, it added to the pressure for the release of detainees, publishing its update reports, organising press conferences and solidarity fasts, and participating in church services. On the 7 March, all hunger striking detainees in Pietermaritzburg were released. However, police make it clear that Thusi will not be released until his strike is ended. In an apparent attempt to pressure him to do this, his family was temporarily denied visiting rights to him.

This had no effect on his action; eventually, on the 35th day of his fast, the Re. Frank Chikane met with Thusi, finding him extremely weak, bedridden and using an oxygen mask. After negotiating telephonically with Minister Vlok, Chikane got Thusi to agree to suspend his fast pending further discussions about his release. (Two other Durban detainees, Ian Mkhize and Khumbulani Msomi, had already suspended their action on the same grounds; however, neither has as yet been released. Msomi was removed back to police cells - and consequently resumed the strike - and Mkhize was released much later). Three days after Thusi suspended his fast, on 28 March, the police announced that all hunger strikers would be moved to Bloemfontein. Two Durban detainees, Khumbulani Msomi and Zolani Goniwe, were soon afterwards transferred. However, they were kept but a matter of days in Bloemfontein, before being returned to Durban into the limbo of restriction orders. The response from the state to the continuing crises generated by the hunger strike, notably from mid-March, was to release and 'restrict' detainees against whom it had no evidence of illegal activities. While in many ways the hunger striking detainees could claim victory against the state - by early April, there were but a handful of detainees left in South African jails - many of those released could hardly be called 'free'.

Restrictions as a response to the challenge by the detainees

While it must be remembered that certain individual leaders in the anti-apartheid movement have been restricted under the State of Emergency - for example Archie Gumede and Yunus Mohammed -

the kinds of restriction orders imposed upon ex-detainees are much, much harsher than these. Restrictions seem to be in form of punishment - another abuse of human rights - directed against those who, powerless as they were successfully turned an instrument of State repression into a tool of defiance through their hunger strike action.

Among the specific problems facing restricted ex-detainees are the following:

1. Vulnerability to vigilante attacks - this was tragically revealed in the murder of Chris

Ntuli on 14 April, as he was returning from his compulsory daily visit to the Inanda police

station. Ntuli (25) was detained under Emergency regulations on the 28 September 1988.

He was admitted to hospital suffering stomach complications and underwent an ulcer operation. He first went on hunger strike on 18 February but suspended this action pending negotiations about the release of Durban detainees. His second hunger strike began on 13 March, he was again hospitalised on the 20 March, but continued his hunger strike until his release (and restriction) on the 4 April. Many of the ex-detainees were not

living at home before their detention precisely because they felt that it was too dangerous

for them to do so. For example, the house to which Sandile Thusi is now confined was attacked by vigilantes three years ago and his brother was killed. There are many other similar examples. Now that restricted ex-detainees are confined to known localities, the risk to their lives - and those of their families - is enormous. Further, because of the nature

of the restriction orders, there seems little that restricted ex-detainees can do to protect

themselves, on top of which the penalties for breaking the orders are severe in the extreme

- a fine of up to R20 000 or 20 years in prison without the option of a fine. In a sense, this

can be treated as penalty to be imposed on ex-detainees for failure to act efficiently enough

as their own jailers. There are many far worse offenses committed against society in this country that carry far lighter penalties.

2. Inability to carry on working - a very serious restriction if they were the breadwinners - or

studying, and youths' educational prospects are all but wiped out. In many instances, detainees have been restricted in such a way as to prevent them from carrying on their work or their studies, either by restricting entry into certain kinds of institutions. Two

students for example, have been restricted to magisterial districts hundreds of kilometers

from the institution in which they were studying. In cases where the restricted person is the

breadwinner, inability to work contributed to the same feelings of dependence that are characteristic of a detention situation, and anxiety about money becomes a serious family problem. (Apart from other considerations, how detainees are supposed to pay for the transport to get them to and from police stations where they have to report - in most cases

twice daily - is a mystery).

t Prevention from meeting in any more than small groups, thus barring them from family activities and church. Often, this is the most vaguely worded section of the order: one order reads, for example, that the ex-detainee is prevented from participating in a group of ten or more people "convened or othen/vise brought about for the purpose of discussing some or other matter".

it Spending most "free" time reporting to police stations - bearing in mind that many are still weak and in need of medical care as a result of the general effects of detention and specific effects of the hunger strike;

t Inability to participate in legitimate community activities and to contribute their skills to the improvement of community life. Apart from the personal consequences of restriction are the effects on popular organisations. It has been calculated, on the basis of restriction orders imposed on those in the Durban region, that some 40 different organisations are affected by the inability of previously active members to participate in them now. Thus the state, by preventing leadership and supporters from involvement in community, has found yet another method of stifling these organisations, without actually banning them - which would cause a much greater outcry. Restriction is an insidious form of action against both individuals and legitimate organisations against whom the state has no evidence of illegal activity.

t Facing an indefinite period of incarceration in their homes, since the restriction orders are of limitless duration.

In sum, restrictions constitute yet another form of human rights violation. Although small numbers of restricted people have had their orders relaxed, for the vast majority live under incredible hardship with no hope of any amelioration of their position.

PERSONAL CHARACTERISTICS OF RESTRICTEES

WHO ARE THE PEOPLE WHO HAVE BEEN RESTRICTED

A number of questions were asked to ascertain who the respondents were. In general terms, those who have been served with restriction orders were generally young, reasonably well-educated, male, church-going Africans, who were members of organizations affiliated to the United Democratic Front.

For example,

CATEGORY

the tables provided below indicate:

1. Only about 14% of the people who are restricted are over the age of 30 years. The vast majority of restricted persons are between the ages of 21 and 30 years.
2. All of the restricted persons included in the sample were men or boys.
3. Approximately half of the people who are restricted are unemployed. Some families indicated this was a direct consequence of their having been detained and restricted.
4. About one-third of the sample were students or scholars, a factor not addressed by the restriction orders. This is because many restriction orders specifically exclude the person from entering an educational institution.
5. One notices that the high unemployment rates are not simply the result of inadequate skills. In fact, if this sample of restricted persons is anything to go by, their overall standards of educational are much higher than the norm. More than one-third had a post-matric qualification and by far the majority had more than a standard eight education.

AGE GROUPS OF RESTRICTEES

NUMBER %

LESS THAN 20 YEARS 4 18

21-30 YEARS

15 68

OVER 30 YEARS 3 14

OCCUPATIONAL GROUPINGS OF RESTRICTEES

CATEGORY NUMBER %

UNEMPLOYED 10 45

SCHOLAR OR STUDENT 8 36

A'ITORNEY 1 5

RESEARCHER 1 5

BUILDING CONTRACTOR 1 5

TEACHER 1 5

CATEGORY NUMBER %

LESS THAN STANDARD 8 3 14

STANDARDS 9 AND 10 11 50

POST MATRIC 8 36

ORGANIZATIONAL AFFILIATIONS OF RESTRICTEES

The general (past and present) organizational affiliations of restricted persons were determined. A number of important points may be made here:

1. Importantly, almost all restricted persons were members of some church. Almost half of the sample were Roman Catholics and the rest of the church goers were fairly evenly split between the Lutherans, Full Gospel, Baptists, Zionists and Methodists. Interestingly, few of these restricted people are able to attend church because their restriction orders prevent them from being in groups of more than four people.

2. All of the restrictees were members of organizations affiliated to the United Democratic Front. As one might expect given their relative youthfulness, most were members of Youth organizations. Included here would be Clermont Youth League, KwaMashu Youth League, KwaNdenges Youth League, Dassenhoek Youth League, St. Wendolin's Youth League, Umlazi Youth League, Klaarwater Youth League. Others were members of politicalaffiliates (Natal Indian Congress, United Committee of Concern), civic organizations (Greater Marianhill Co-Ordinating Committee), student organizations (SANSCO, LECC, RECC, etc.) and the like.

RELIGIOUS AFFILIATION OF RESTRICTEES

CATEGORY NUMBER %

--ROMAN CATHOLIC 9 41

--LUTHERAN 2 9

--FULL GOSPEL CHURCH 1 5

--NAZARETH BAPTIST CHURCH 1 5

--ZION CHURCH 1 5

--METHODIST CHURCH 1 5

POLITICAL AFFILIATION OF RESTRICTEES

CATEGORY NUMBER %

YOUTH ORGANIZATIONS 17 77

STUDENT ORGANIZATIONS 1 5

CIVIC ORGANIZATIONS 5 23

EDUCATIONAL ORGANIZATIONS 2 9

OTHER 1 5

HOUSEHOLD COMPOSITION OF RESTRICTED PERSONS

Most of the young activists were restricted to the environment immediately surrounding their homes.

1. The average size of households of restricted persons was between six and eight persons (7.5 persons). This result is important as it helps us to understand some of the difficulties faced by activists who are caught in something of a Catch-22 situation whereby activists end up breaking their restrictions in order to obey the restrictions! This situation comes about as follows: on the one hand, many activists are not allowed to be with more than

four persons, yet they are forced to live in houses with more than 5 people. One restricted person lived in a house with 16 persons. This means that the chances of breaking the restrictions are fairly high.

2. Household incomes upon which the restrictees rely are not great at all. While one of the restricted persons was a professional, most were from fairly poor circumstances. Fully one-third of the restrictees were living in households where there was no household income. If one thinks of the value of the restricted people to their household economy (given their education), one realises how much their loss as income earners must be to their dependents.

HOUSEHOLD SIZES OF RESTRICTEES

CATEGORY NUMBER %

2-4 persons 5 23

5-6 persons 2 9

7-8 persons 8 36

9-10 persons 3 14

13-16 persons 4 18

HOUSEHOLD SIZE BY INCOME

CATEGORY R0 R1-200 R201-500 R501-1000 a 1000

1-5 PERSONS 1 2 1 2

6-8 PERSONS 2 1 4 2

9-16 PERSONS 4 1 2

DETENTION AND RESTRICTION: EFFECTS

THE DETENTION OF THESE PERSONS WITHOUT TRIAL, NOT CHARGED

Information on the past detentions of the restrictees was obtained. As expected all of the

restrictees had been previously detained without charge.

1. The periods of detention varied substantially. While more than half the restrictees had been detained for less than six months many others had spent more than a year in jail without ever having been brought to trial or any charges proffered. One average detainee spent approximately eight months in jail, and were never charged on their release.

2. This situation was highlighted when the periods of detention were cross-tabulated with age of restrictee. Here, one finds some of those under 20 years of age being detained for over one year.

3. In addition, one should note that more than 20% of the restricted persons had been detained more than once.

PERIODS OF DETENTION OF RESTRICTEES

1-6 7-12 12-18 18-25

a 20 YEARS 2 2

21-25 YEARS 7 2 1

26-30 YEARS 2 2 1

31-40 YEARS 1 1

a 40 YEARS 1

UNDER WHAT CIRCUMSTANCES WERE THEY RELEASED

A wide variety of restrictions have been applied to inhibit the activities of these young people. Given that the previous section of this report has highlighted some of these restrictions, it is important to add that most of those who have been served with restrictions

are confined to their homes at night, are not allowed to travel outside their home

magisterial district, are not allowed to meet with more than four people, are not allowed to join certain (usually legal) organizations, are not allowed to criticise the government, and cannot enter the premises of an educational institution. In short, most restrictees are not allowed to work, attend church, improve their education or meet with friends.

EFFECTS OF RESTRICTIONS

Information was also obtained on the problems being faced by detainees now that s/he was restricted. It should be indicated that for most restrictees a wide range of problem apply.

Some of the major problems indicated include:

1. The inability to find a job and the discontinuance of education.
2. Difficulties experienced in fulfilling the requirements of the restrictions (such as reporting to police stations twice a day, etc.)
3. The fear of apartheid-related violence being inflicted upon them. Many felt that they were 'sitting-ducks' (and could be attacked) now that they were confined to home and they had to report to the police.

GENERAL PROBLEMS FACED BY RESTRICTEES

CATEGORY NUMBER %

INABILITY TO FIND A JOB 50

LACK OF MOBILITY 18

FEAR OF HARASSMENT 32

DISCONTINUED EDUCATION 45

DEPRESSION 41

INABILITY TO GET MEDICAL TREATMENT 27

NO FREEDOM 23

PROBLEMS IN FULFILLING THE REQUIREMENT OF REPORTING TO THE POLICE

More specific information was then obtained on some of the specific problems faced by restrictees in fulfilling the requirement that they must report to the police stations once and twice a day:

PROBLEMS FACED BY FAMILIES OF RESTRICTEES

CATEGORY NUMBER %

FEARS FOR THE LIFE OF THE PERSON 3 14

FINANCIAL PROBLEMS 11 50

FEAR OF POLICE/HARASSMENT 9 41

EDUCATIONAL PROBLEMS 2 9

CANT SOCIALISE 2 9

CANNOT UNDERSTAND RESTRICTIONS 2 9

DEPRESSION DIFFICULT TO HANDLE 2 9

MEDICAL COSTS 2 9

CARE OF CHILD 1 5

CONCLUDING COMMENTS

The survey indicates that the restrictees are suffering equally desperate circumstances now

that they have been released from the apartheid-jails. Not only are they their own warders,

but they are more vulnerable to attack from 'third forces': assassination squads, vigilantes

and the like. At the same time, they have to bear the costs of not being able to seek work,

attend church, socialise with friends, and the like, all of which further isolate them from

life. The costs for restrictees are high and not only are they financial costs, but restrictees

have to bear psychological costs and a wide variety of other, apartheid-induced, costs.

There are many ways in which the private sector may take up the question of dealing with the lack of peoples rights and human rights in South Africa. For example:

1. The private sector can take up the cases of detainees fired from their jobs (Elias Ntuli

was fired from Docex, for example);

2. The private sector can take up the case% of restrictees who cannot do their jobs (either

at all or properly);

3. The private sector can make jobs available for political activists;

4. The private sector can make representations to the authorities about the plight of detainees and restrictees;

5. The private sector can publicise as widely as possible the inhumanity of detention without trial and the lack of peoples and human rights in South Africa;

6. The private sector can make people understand that as long as there is an apartheid government, the struggle for democracy will not be over.

As our Freedom Charter says:

All shall be equal before the law!

No one shall be imprisoned, deported or restricted without a fair trial;

No one shall be condemned by the order of any government official;

The courts shall be representative of all the people;

Imprisonment shall be only for serious crimes against the people, and shall aim at re-education, not vengeance;

The police force and army shall be open to all on an equal basis and shall be the helpers and protectors of the people;

All laws which discriminate on grounds of race, colour or belief shall be repealed.