

THE BLACK SASH

NATIONAL CONFERENCE 1981

CAPE WESTERN REGION FACT PAPER

LANGA COURTS

INTRODUCTION :

The "Pass Laws" are the most hated laws of all in S.A. They are inhuman and cause untold suffering to the millions of people whose lives they govern from the time they are born until the time they die. Nothing drives this home more than a morning spent at the Langa Commissioner's court. The Sash continually appeals to the public to visit these courts but the white population, it seems, prefers to remain unaware of the daily disruption of the lives of their fellow citizens.

GENERAL STATISTICS :

According to the Institute of Criminology at U.C.T. the daily black prison population in June 1979 was around 362 per 100 000 of the black population. It estimates that almost half of those sentenced during that period went to prison because of infringements of influx control measures. In 1979 an average of 32 people per day were tried in the Langa Courts alone (sometimes there are well over 100 cases a day). The number of men tried in the Langa Courts in 1979 was 3 614 (2 814 convictions) and the number of women was 4 365 (2 970) convictions. The Cape Peninsula Administration Board collected R351 028 from influx control and identity document offences in 1979. R105 380 of this was paid by employers for employing illegal blacks.

WOMEN WITH CHILDREN :

In March 1980 the Bantu Affairs officials started massive pass raids at the single quarters, arresting mothers with small children and babies. There was chaos in the cells as the women apparently were not given time to collect clean nappies or even food and bottles before being taken away and conditions were pitiful.

The Womens' Movement became involved and then the Chief Commissioner was asked to investigate. He said that in future inspectors would be instructed to be careful in their dealings with women.

After hearing disturbing stories about conditions at Pollsmoor prison, we wrote to the Judge President asking him to look into conditions there for babies and children. He referred our letter to Justice v. den Heever who was due to make a routine visit. In her reply to us she said that she was satisfied that the children she saw were "bonny and contented" but did not offer further details of conditions.

We have been seeing more and more mothers with babies in the court in recent weeks and suspect that the hostels are being cleared of "superfluous appendages" once more. No-one, it seems, is responsible for these babies and children while they are in the court cells. Their mothers are picked up by Administration Board officials sometimes very early in the morning and have no food until lunch-time which can be as late as 3 p.m. Lunch consists of dry bread. The cries of children in the cells can be unnerving even to magistrates who have been known at times to bring such cases forward.

PRISONER'S FRIEND :

People whose lives are disturbed in such a radical way can have very little respect for the legal system. How can they when they are thrown in jail for normal everyday pursuits? They seem to know little or nothing of basic court procedure or of what their legal rights are. They are mainly undefended and are shunted through the court sometimes at the rate of one per minute. The vast majority plead guilty and have nothing to say in mitigation of sentence. Sometimes the mitigating circumstances seem to be more of an aggravation than anything else and draw sarcastic remarks from the magistrate. There is a great need for a Prisoner's Friend - someone who would see accused persons before their appearance in court and tell them about basic rights and procedures.

- * Mr F.N. pleaded guilty to being illegally in the area but in mitigation said that he had arrived only the day before, to see a sick brother. The charge was read to him again and he again pleaded guilty. The magistrate there-upon found him guilty and sentenced him to R60 or 60 days imprisonment in spite of the fact that he was within the 72 hour limit.

AID CENTRE :

The Aid Centre, which has recently been re-established, seems to function well and acts as a halfway house for those arrested. Investigations are made before the accused appear in court and recommendations are made on the charge sheet. (How much better it would be if these people were seen before being charged.) The officials of the Aid Centre appear to be sympathetic and quite often advise a lenient sentence. The magistrate may ask for the recommendations but is not bound to accept them.

- * Miss M. came down from Kimberley to collect child maintenance from her boyfriend who usually paid R20 per month. He had not paid for December and January. The Aid Centre recommended leniency as they considered that the case had merit but the magistrate handed down the usual sentence of R60 or 60 days.

PROCEDURE :

The standard sentence at the moment is R60 or 60 days for a charge under Section 10 (4) of the Blacks Urban Areas Consolidation Act No. 25 of 1945 (ie. for being in a prescribed area for more than 72 hours without permission.) A sentence of R10 or 10 days is normal for charges under Section 15 (1) of the Abolition of Passes and Documents Act No. 67 of 1952 (ie. for not being able to produce the necessary documents.)

Children under 16 years are still being arrested. They are stood down and heard "in camera" with a relative present if one is available. Sentences for younger people are usually less than the standard R60 or 60 days. However on 14th August 1980 an 18 year old girl who said she was 8 months pregnant was sentenced to R65 or 70 days.

* 18th February in Langa Court:

Proceedings started at 10.30 a.m. and ended at 12.20 p.m. There were 49 cases of which one was defended and was cautioned and discharged.

22 people were fined R60 or 60 days plus R10 or 10 days

1 person was fined R60 or 60 days plus R15 or 15 days

8 people were fined R60 or 60 days

1 person was fined R50 or 50 days plus R10 or 10 days

1 person was fined R40 or 40 days plus R10 or 10 days

1 person was fined R50 or 50 days

1 person was fined R30 or 30 days plus R10 or 10 days

1 person was fined R30 or 30 days

2 people were fined R20 or 20 days

7 people were cautioned and discharged

2 people were found not guilty

2 people were remanded in custody for 5 days

TOTAL : R2 365

On busy mornings the prosecutor will call four or five cases on top of one another. The court sergeant takes them from the cells and they are lined up outside the court door ready to enter. Occasionally they reach the dock in the wrong order causing confusion. Furthermore, there would appear to be a shortage of interpreters as for some months one of the prosecutors (Xhosa speaking) also did the interpreting. Our lawyers complained and this practice has now stopped.

DEFENCE :

There is no doubt in my mind that individuals who are defended get off with lighter sentences than those who are not. A minute proportion of persons who appear in this court are represented. Our lawyers defended 129 people between October 1979 and September 1980 - not more than 12% of the total number. 48% of the cases were successfully defended and many others resulted in reduced fines following pleas in mitigation.

Those who attempt their own defence and plead not guilty are in most cases remanded in custody (over the weekend if the investigating officer is not available) while their stories are checked by the authorities or their fingerprints are sent to Pretoria for identification.

* W.N. had been in custody since 12th February. His fingerprints had been sent to Pretoria as the State believed that he was impersonating someone else. He appeared in court on 26th February and was again remanded in custody until 3rd March as nothing had been heard from Pretoria.

FIRST AID :

There does not appear to be any first aid equipment in the court buildings. On 7th November 1980 a woman collapsed as she was brought to the dock. The magistrate closed the court while an ambulance was called but she was left lying on the floor. One of our observers was asked to remain with her and do what she could to help while court continued in the other room. One wonders what happens to those taken ill in the cells.

OBSERVATIONS :

In these courts one sees the disastrous results of the migrant system on people's lives. Many despairing wives come to Cape Town looking for husbands who have ceased to send money home and often find them with other women. Some women bring sick children hoping for some support from their husbands and then there are the many young people who come looking for money to pay for school fees, books and uniforms as this has not been forthcoming. "I came to look for work" is not a mitigating circumstance in these courts but an aggravating one.

We await Dr Koornhof's revised Bills. The changes in the Pass Laws will need to be substantial. These laws provide damning evidence against S.A.'s claims to humane treatment of its black peoples. No laws are ever going to stop people from trying to live normal lives with their families or from providing for them by taking employment where it is available - legal or not.

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