

THE CHILDREN'S EMERGENCY

(with particular reference to the Port Elizabeth area)

IN reply to a question in Parliament on 3 March 1986, the Minister of Law and Order, Mr L L le Grange, said that 763 people had been killed and 2 571 wounded by the South African Police during the execution of their duties during 1985. He said 201 of those killed and 571 of those injured were juveniles, who were all either black or coloured. The Minister said that 'unrest related and non-unrest related incidents are not always separable', and that these figures thus related to both these categories. (Eastern Province Herald, 4 March 1986)

These figures are a matter of grave concern in that:

(i) they appear to refer only to police action and do not include SADF action.

(ii) many injured people are afraid to report for medical attention for fear of arrest at doctors' surgeries or hospitals.

The South African Institute of Race Relations estimates that during the 228 days of the state of emergency, 670 people died. An SAIRR spokesman said the number of injured was 'enormous' and impossible to calculate. An SA Police spokesman said that 7 996 people were detained during the emergency. (Weekend Post, 8 March 1986)

The figures, shocking as they are, do not give a true reflection of what is happening to the youth in the townships. Stark statistics such as these are impersonal, but in the Port Elizabeth Advice Office they are constantly being translated into terms of human suffering.

The aim of the state of emergency, according to the State President, was 'to restore 'normality' to black communities and to create a climate for 'continued negotiation' '. (Sash, vol 28 No 3, November 1985) This object has not been met as the youth have been and remain under constant surveillance and provocation from various sources, while the parents are in a state of shock and bewilderment at the treatment their children receive at the hands of the security forces. Advice Office cases indicate that -- both during and since the emergency -- minors usually receive no special consideration or attention in their dealings with the police or Defence Force, whether detained under the Emergency Regulations (Proclamation R121/1985, Government Gazette vol 241 No 9877, of 21 July 1985, issued in terms of the Public Safety Act, 1953) or charged under other legislation.

Some extremely disturbing trends have emerged in the State handling of children, and although these may not be specific to minors, they are of particular concern in such cases.

1. Taking substitute siblings into custody.

On occasion when the person wanted is not available, security force members allegedly take one or more of that person's siblings and hold them in custody until the family sends the one for whom the authorities were originally searching. Innocent people are thus apparently detained.

An example: Police came to look for A. He was not at home, so

his younger brothers were allegedly taken to the police station. The family was told they would be kept until A was sent. When a family member visited the boys, he reported that they were very upset and complained of being hit. The family member could not communicate properly with the boys as there were policemen around all the time. The boys reportedly said they had confessed to the burning of a shop because 'there is no way of saying 'No' here in this place'.

2. Arbitrary detention and harassment of children.

There are many cases of children being held for apparently arbitrary reasons. A 16-year-old boy (B) went with a friend to a shop to buy bread. Witnesses said that a Hippo* had chased the boys and taken them away. B was imprisoned under the Emergency Regulations for 14 days. (*Although Hippo mine-proof vehicles are no longer used by the security forces, the term is in common use for Casspirs (SA Police), Buffels (SA Army) and other similar armour-plated vehicles.)

In another instance a 15-year-old boy (C) was standing in the road in front of his home while his father was inside. The boy suddenly called out, but when the father went outside, the boy had disappeared. He was found in the home of a policeman. He had been shot and had to be hospitalised. It was maintained that he was shot because of a broken window. The policeman allegedly also threatened to shoot the father.

The effects of detention and a prison environment on children when it seems that no special provision is made for them, and when they are often allegedly held with hardened criminals, are a cause of grave concern. The cases of two youths (D and E) and other reported instances of detention in prison followed by the dropping of charges, indicate that many innocent children have seemingly been exposed, unnecessarily, to these conditions.

3. Violent action taken against children.

The pain and suffering inflicted on minors is a matter of special significance. The families involved experience great anguish and a feeling of helplessness, as their concern expressed to the security forces often reportedly results in further violence. In an extreme case, a father (F) was allegedly shot dead as he tried to restrain security force members from hurting his daughter.

Reports of violence against children at the time of their arrest and during detention are widespread. Violence would appear to extend to innocent bystanders, as in the case of another youth (G) who was being held in the open (on or near a street) when his adult sister arrived on the scene and asked him what he had done. She was allegedly beaten severely with sticks and afterwards required hospital treatment.

Reading a mother's account of her search for her 14-year-old son (H) who was allegedly shot dead by a policeman while on school property was particularly heartbreaking. The mother was not notified of his death by the police.

The violence is not only physical. There are reports of security force members allegedly using foul and abusive language in their dealings with children and their families (I). In one case a gun was allegedly pointed at a 12-year-old child (J). (He was subsequently taken to a police station and allegedly beaten when he could not

identify people in photographs.)

4. Inability of parents to trace their children.

Parents face untold worry and anguish when their children are detained and they are unable to trace them. Advice Office workers share a small part of the anguish and frustration as:

(a) it may take days to trace a child who has been detained. Even if parents are present when their children (such as D) are taken away by the security forces, they are apparently not informed where their children are being taken or what the charges are. This makes tracing the child extremely difficult.

(b) it seems an anomaly that when security force members have apparently come to a specific home to arrest a specific person whose name is known to them, the whereabouts of that person cannot subsequently be ascertained easily through official police channels. The official comment is often that the child may have given a false name, but this could hardly apply where the name is known in advance.

(c) there is often a substantial time lapse between the arrest of the child and the appearance of his name on official records.

(d) when children are detained away from their homes, the family is not always notified by the security forces. Sometimes it is through eyewitness reports that the family finds out.

(e) except for people detained under the Emergency Regulations, there appears to be no central record of children detained. This necessitates the contacting of every police station or prison in turn until the child involved is found. It is a sobering thought that the whereabouts of children can be unknown for a long enough time to cause the parents extreme anxiety. There are reports (in particular of E and K) of police stations stating that children are not being held there, when it is subsequently established that they were in fact there at the time.

(f) confusion also results when different security forces operate in the townships (for instance, Railway Police are confused with soldiers).

5. Children appearing in court without the knowledge of their parents.

In many instances (particularly A and K) children have appeared in court without their parents' knowledge or presence. Legal opinion indicates that parents should be informed of details of a pending court hearing for minor children, and also that if it could be proved that parents had not been informed of the court hearing, the legality of this practice could possibly be challenged in a court of law.

6. Children appearing in court without legal representation.

As parents are often unaware that their children are to appear in court, they are thus unable to arrange legal representation. In some cases children have appeared in court without the knowledge of their parents and without legal representatives appointed by the family.

For example, a 15-year-old youth, K, appeared in court while his parents were still anxiously searching for him at various police stations.

It is a matter of grave concern that a minor may be subjected to

the rigours of a hearing without family and adequate legal support and could possibly incur a criminal record.

7. Other intimidatory and questionable methods allegedly used by the security forces.

(a) Lights are switched off when arrests are made in homes. Torches are shone in occupants' faces, keeping the officials' faces in darkness. (Example: E)

(b) Removing children in the very early hours of the morning (L and M). Many instances are given of the family being awakened from deep sleep at 2 or 3am.

(c) Use of plain-clothes policemen and unmarked cars. These could be confused with members of independent vigilante groups. Where different forces are present in the townships, anxiety and confusion are increased for the family -- and tracing is more difficult.

(d) Recording children's ages as higher than they actually are (N).

Dr F van Zyl Slabbert (then Leader of the Opposition), in his interview on 2 December 1985 with Dr Neil Barnard, chief of the National Intelligence Service, said that black people were saying (referring to youths of 18 and younger): 'Well, if you want to treat them as criminals by arresting them for public violence, then put them in separate cells' because '. . . our children are there with convicts and the convicts are busy raping them'. Dr Slabbert warned Dr Barnard: '. . . this is one of the things which unleashed the strongest emotions among the people in the black townships. They, in fact, believe that this is a general pattern, that it is a deliberate action on the part of the security forces to break the courage of the children.' (EP Herald, 8 March 1986)

There is a high level of hostility, tension and frustration among the youth in the townships, stemming from the iniquities of the apartheid system. '. . . the state of emergency has done nothing to remove the grievances underlying the township violence. Indeed it may have exacerbated them, for we have reason to believe that the sweeping powers given the police and army have been harshly used against people.' (EP Herald editorial, 5 March 1986)

The treatment meted out to the youth in the townships (under both the Emergency Regulations and other legislation) is, we believe, totally contrary to the letter and spirit of the Children's Act (No 33 of 1960) and the Prisons Act (No 8 of 1959), as well as the still to be implemented Child Care Act (No 74 of 1983). It is a matter of great concern that the Emergency Regulations do not differentiate between adults and children and that they seemingly (in terms of Schedule II, paragraph 9 (a) and (b), of the Emergency Regulations) override other legislation such as the Prisons Act. It appears from this, however, that only the Prisons Act may be abrogated under these regulations (para 9 (a) and (b)), and that contraventions of the Children's Act are still subject to the normal force of the law.

Since so many children are now being detained, we question why the provisions and protections of the Children's Act are not always being adhered to, especially when so many of the detentions are, we

believe, arbitrary. We quote the following opinions from the Reader's Digest Family Guide to the Law (Cape Town, 1982):

"If he (a child) is charged with a serious offence and bail is refused, then the child should be detained in a place not used for detaining adult prisoners." (p321) Also: "The overriding consideration is that a child should not be punished as a criminal and that he should be kept away from other criminals." (p323)

With the lifting of the state of emergency comes the prospect of legislation which will extend the already awesome powers of the police; the pain and frustration in the townships continues; the effects of the violence will have a lasting impression on the youth.

The official state of emergency has been lifted: the children's emergency continues.

RECOMMENDATIONS:

1. Sash should immediately try to ensure that emergency-style statutory provisions about to be introduced by the Government will not conflict with the provisions of the Children's Act (or Child Care Act).

2. Sash should liaise closely with Child and Family Welfare societies, keeping them informed and thus ensuring their fullest support for measures to protect the rights of every child.

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