

THE BLACK SASH.

NATIONAL CONFERENCE 1986.

Interdict brought by Dr. Wendy Orr and 43 others restraining the police from assaulting detainees in Port Elizabeth prisons.

This paper is intended to place in chronological order with some comment proceedings up to February, 1986 in the Wendy Orr case.

On Wednesday, 25th September¹⁹⁸⁵, Dr. Wendy Orr, a Port Elizabeth district surgeon, with 43 others, made an urgent application in the Port Elizabeth Supreme Court for an interim order restraining the police from assaulting detainees in Port Elizabeth prisons. The interdict was granted by Mr. Justice Eksteen, Deputy Judge of the East Cape Division of the Supreme Court.

The interdict served to protect those detained under the Emergency Regulations at St. Albans and North End prisons, also any person detained in future in terms of these Emergency Regulations in the magisterial districts of Port Elizabeth and Uitenhage. It declared that no member of the S.A. Police enjoyed any immunity in terms of the Emergency Regulations against civil or criminal proceedings for any wilful assault perpetrated upon or threat of assault made to a detainee held under the Emergency Regulations.

The interdict prevented police from removing detainees from prison for interrogation except by direct order from the Minister of Law and Order or a person authorized by him and also directed that officers in command at North End and St. Albans prisons read out the contents of the interdict to all detainees being held under the Emergency Regulations.

The applicants included:

The Right Rev. Bruce Evans, Anglican Bishop of Port Elizabeth.
Rev. George Irvine, Head of the Methodist Church in the E. Cape.
Mr. Freddie Sauls, both as a father of two detained daughters and as Secretary of National Automobile and Allied Workers Unions on behalf of detained trade union members.
Mothers, fathers, wives and employees of detainees.

The respondents included:

The Minister of Law and Order.
The Divisional Commissioner of Police, Eastern Cape.
The District Commandants of Port Elizabeth and Uitenhage.
The Station Commanders of the Algoa Park and Louis Le Grange Police Stations.
Ordinary members of the uniformed and security police.

In her affidavit Dr. Orr described an extensive daily pattern of police abuse of scores of detainees.

She said she had examined about 20-40 newly-admitted detainees daily since the beginning of August, 1985 and on August 16th had seen about 170 detainees, "An extremely large proportion of them complained that they had been assaulted by the police," she said. On 4th September, she had to examine no less than 360 newly admitted detainees. Approximately half complained, and showed injuries, of police assault.

On 12th September, she examined 40 detainees arrested in Uitenhage. Many alleged assaults and "their injuries were consistent with this."

On 16th September she examined 3 female detainees at the North End prison. They too showed injuries consistent with the police assault they alleged.

Dr. Orr states in her affidavit that the number of complaints she received from detainees who told her of police assaults while in detention under the Emergency Regulations was astronomical compared with ordinary prisoners. She states that she extracted and copied 286 yellow cards (and this was far from complete) during the period 22nd July to 16th September, 1985, whereas when she examined 200 ordinary prisoners, also in September, she was told of only one case of assault.

The types of injuries described by Dr. Orr are reflected by the following statistics:

- a. In 60 cases the detainees had facial injuries consistent with being struck in the face.
- b. In 8 cases, the detainees had perforated eardrums, as a result of trauma to the ear consistent with a heavy blow to the side of the face.
- c. In 26 cases, the detainees had weals and blisters consistent with quirt blows on unusual parts of their bodies, for instance on the palms of the hands.
- d. In 7 cases the detainees similarly had other injuries of an unusual nature or on unusual parts of their bodies, of a nature or on a part of their body consistent with an assault of a restrained victim, but inconsistent with a violent attempt to arrest a man or to disperse a mob.
- e. In 48 cases the detainees had such a multiplicity of injuries that it could also not have been inflicted in the manner described above.
- f. In 4 cases the detainees were not injured upon their admission to prison but were subsequently found to suffer from injuries consistent with an assault.
- g. In 1 case the detainee had bruising of the genitals.

Dr. Orr states in her affidavit that what disturbed her most was the fact that detainees were being taken out of her care for the purpose of interrogation and, during the course of this interrogation, brutally assaulted.

She states, furthermore, that the medical services at the prisons were unable to cope with the vast numbers of detainees who, in her view, were not getting proper medical care.

Dr. Orr said what had ultimately moved her to seek recourse to the Court was the fact that it had become clear to her that the police appeared to believe that under the Emergency Regulations they could not be held responsible for the abuses and that the Depts. of Prisons and Health were apparently unconcerned and had turned a blind eye.

Approached for comment on the allegations, a liason officer of the Dept of Prisons, Lt.-Col. Danie Immelman, said the Department could not comment as the matter was "sub judice".

The Judge-President of the Eastern Cape, Mr. Justice Cloete, told the press on the 27th September, 1985, that judges of his division had seen hundreds of detainees under the Emergency Regulations and he personally had received only one complaint of an assault.

On the 28th September, the Deputy Director of Medical Services in Pretoria, Dr. Reynders, said he felt Dr. Orrs' action was "extraordinary", that standard procedure would have been to ask her immediate senior to report the matter to the Regional Director of Health in Port Elizabeth. Her immediate senior was Dr. Ivor Lang.

On the 3rd October, 1985, Dr. Orr was instructed to stop seeing detainees by Dr. Lang.

The E.P. Herald gave a report on the 8th October of a statement by Dr. Frances Ames of the University of Cape Town Medical School deploring the fact that neither the S.A.M.D.C. nor the Medical Ass. of South Africa had come out either against detention without trial nor in support of Dr. Orr.

On 25th October, Doctors at Livingstone Hospital, Port Elizabeth, expressed solidarity with Dr. Wendy Orr and called for a new approach to ensure proper treatment of victims of police action during riots and detainees allegedly assaulted by the Security Police.

On the 27th November, Dr. Orrs' action was postponed in the Port Elizabeth Supreme Court until February 4th, and respondents were ordered to file their replying affidavits by January 27th, 1986. Mr. Justice Smalberger was told by Mr. J. Neppen, SC, who appeared for the Minister, that it was anticipated that there would be considerable dispute of fact on papers. It appeared that the matter might be referred for oral evidence.

On the 18th December, 93 more affidavits were filed in the P.E. Supreme Court in support of Dr. Orrs' application. These affidavits make horrifying reading. Many of them talk of being subjected to the "helicopter" treatment, an experience that left them in a state of acute pain and disorientation for hours afterwards. They tell of being forced to eat hair and splinters, of being beaten with sjamboks and lengths of hosepipe, of having plastic bags tied over their heads.

One teenager in the Sash Advice Office spoke of the enormous relief he felt in the midst of being tortured when his best friend was brought in for the same treatment, "I could only hope that perhaps they would start on him and leave me alone."

Women were not exempt from the assaults, 5 are mentioned and Ivy Gcina, aged 49 and a highly respected member of the community was badly beaten.

The affidavits run to several hundred pages.

The case was then postponed to the 4th February, 1986.

On the 3rd January, 1986, the Evening Post reported that Dr. Wendy Orr had resigned from the government service. She had been receiving death threats and harassing phone calls for many weeks but denied that this was her reason for resigning. She had been removed from the Prison Service and was monitoring the health of people in homes for the aged and sheltered employment factories. She said she wanted to get back into the mainstream of clinical medicine and was to take up a post in Alexandria.

On the 4th February, 1986, the police replied to the application by Dr. Orr, filing 71 affidavits in response. They disputed allegations of brutal assault on detainees.

Brigadier E. Schnetler, Divisional Commander of Police in the Eastern Cape said in his affidavit (67pages) that it had been repeated time and time again to policemen that they should not abuse the powers given to them through the State of Emergency. It had been pointed out to them repeatedly that violence should only be used in essential cases. He said some people subsequently detained by the police had received injuries inflicted as punishment in the "peoples courts." He stated that only 4 cases of alleged assault were investigated by the police and none of these people were prepared to lay charges. The Sash Advice Office was told by detainees that they never laid charges, had they done so, they said, "We knew what to expect."

Other points raised in the police affidavits were:

1. Dr. Orrs' statements were largely based on hearsay.
2. Handwriting experts had proved that additional entries, such as "assaulted by police" had been made to detainees record cards.
3. Dr. Orr did not complain to the prison authorities about the inadequate medical services in the prisons.
4. Although there were allegations that assaults were very serious, only 2 detainees were referred to hospital.

Lieut. Winnifred Nel, acting Officer Commanding the North End prison said that up to September 26th last year, about 72 women were held in terms of the Emergency. Only about 4 or 5 had complained of injuries. None had laid charges.

Brigadier Schnetler also said "there was no reason for unfounded generalised allegations to be made against the police, even though transgressions could well occur."

Major Daniel Blignaut, commanding officer of the unrest unit stationed at the Algoa Park Police Stn. made the point, "When crowds are dispersed, the leaders are often injured. They fall over each other, run through fences and doors, fall over stones, run into poles, cars and houses, they fall into holes and climb up fences made of tin." So it goes on.

When the case was called, Mr. W. Trengove, appearing for the applicants, said it had been agreed that the case should be referred for oral evidence.

On the 19th February, 1986, this was confirmed by the registrar, Mr. L.O. Fourie, who said that the case would be put on the roll for five months and that the hearing would start on the 4th August, 1986.

It will be heard by two judges still to be appointed.

Judy Chalmers.
East Cape Region.