

# *Emergency of the State*

## *Detention Without Trial In Pietermaritzburg and the Natal Midlands, 1986–90<sup>1</sup>*

*by Christopher Merrett*

*No one shall be imprisoned, deported or restricted without fair trial.<sup>2</sup>*

*Detention is unquestionably a political strategy, designed to quell, contain and eradicate democratic political opposition which could threaten the white minority South African regime.<sup>3</sup>*

### **Background**

**I**N the early hours of Thursday 12 June 1986, in an uncanny replay of the events of late March 1960, a State of Emergency (SoE) was announced by police raids on houses in Pietermaritzburg. This enthusiasm was premature: the authorities had to produce a copy of the gazetted regulations to validate detentions under the Public Safety Act (PSA).<sup>4</sup> The initial night-time arrests were technically illegal, but the police simply fell back on s.50 of the Internal Security Act (ISA). Either way, they threw the anti-apartheid opposition in Pietermaritzburg into

considerable disarray – 91 people were detained in June.

Detention without trial is firmly associated with the SoE of 1986–90 but in Pietermaritzburg, as in the country at large, it was nothing new. Activists from the city were detained in Durban after night-time raids in 1946 during the Natal Indian Congress (NIC) passive resistance campaign. In the 1960 emergency, 19 prominent city residents, including A.S. Chetty, Archie Gumede, Vasu Chetty, D.C.O. Matiwane, Peter Brown, Omar Essack, Derick Marsh and Hans Meidner, were held in premature detention early in the morning of 29

March. They were to spend up to three months in prison. It was a defining moment, the point at which South Africa became everyone's police state regardless of race.<sup>5</sup> Over the next 25 years opponents of the regime were routinely detained without charge under security legislation, although some later stood trial.<sup>6</sup> In the autumn of 1971, Nina Hassim was detained for 78 days under the Terrorism Act at Hilton police station, although she had two small children.<sup>7</sup> Her husband, Kader, had already been detained on 17 February and was held in Greytown until 16 June 1971 when he was charged under the Terrorism Act for activities involving the Unity Movement.<sup>8</sup>

An apparent defector to Sweden, Alexander Lambert, who claimed to have worked for the Bureau for State Security (Boss) described a Pietermaritzburg detention centre where near drowning and electric shock treatment was administered.<sup>9</sup> Anthony Xaba, who had served 10 years on Robben Island for Umkontho we Sizwe (MK) activity, was detained in November 1975 with members of his family. On the top floor of Loop Street police station he was "systematically assaulted, tortured and interrogated for two days". This included being hung out of the window by his feet and "swung backwards and forwards . . . his head banged against the wall. His arm was broken in the process."<sup>10</sup> Four years later he was named by the Minister of Police as a Terrorism Act s.6 detainee.<sup>11</sup> Two deaths in detention occurred in Pietermaritzburg in rapid succession: Samuel Malinga (age 45) died in Edendale Hospital on 22 February 1977, officially of heart disease and pneumonia after 22 days detention. On 26 March 1977, Aaron Khoza (35) was found dead in

Pietermaritzburg Old Prison of suicide by hanging. He had been held for 306 days.<sup>12</sup> Most detentions, abuse in prison and police cells and subsequent trials prior to 1986 related to ANC activity in Natal orchestrated from Swaziland where Jacob Zuma was a senior ANC operative. Some of those detained were held as state witnesses: their refusal to testify led to prison sentences of three to five years.<sup>13</sup> An unusual incident took place on 10 June 1982 when 19 youths, including Duma Gqubule, were detained under section 22 of the General Laws Amendment Act. Two were subsequently charged "with furthering the aims of the ANC."<sup>14</sup>

During the early and mid 1980s, the Pietermaritzburg area was characterised by sporadic unrest around schools and buses, and attempts by Inkatha to establish a dominant presence through recruitment drives.<sup>15</sup> This was accompanied by the collapse of official structures in Edendale, Ashdown and Sobantu and their effective replacement by civic associations and youth organisations. In 1983 the government tried to impose a town council on Imbali and Inkatha's attempt to control it was a catalyst for unrest and violence.<sup>16</sup> A move to establish a civic association in Imbali in 1985 resulted in the firebombing of Robert Duma's house. Several weeks later on 25 August, a march on the Federal Theological Seminary demanded its closure.<sup>17</sup> A retaliatory petrol bombing of the house of Inkatha leader and Imbali councillor Patrick Pakkies followed. The names of Inkatha councillors came up with monotonous regularity in connection with acts of intimidation and violence and by 1986 Inkatha was operating a paramilitary group of unemployed men and youth in Imbali and Ashdown.<sup>18</sup>

Unsympathetic residents were forced out of the area. In the background was the Indaba, a scheme backed by big business to establish a regional power base for Mangosuthu Buthelezi, who needed significant demonstrable support amongst Zulu speakers to improve his credentials. Inkatha's objective was an enhanced profile that would earn it a seat at national negotiations.<sup>19</sup>

During 1985 the province of Natal was reckoned to be relatively quiet compared to the rest of the country with only 13% of unrest deaths.<sup>20</sup> During the first half of 1986, as had been the case since 1980, school boycotts continued in Mpophomeni, Sobantu and Edendale in protest at overcrowding, promotion between standards and food,<sup>21</sup> and coincided with a bus boycott over fare increases. In February buses were burned on the Edendale Road and there were also attacks on taxis and other vehicles.

Inkatha representatives were ejected from a Nucleus of Twenty meeting at the Lay Ecumenical Centre in Edendale to discuss the bus crisis and the area's underlying politics soon escalated into violent conflict. In March, Congress of South African Trade Union (Cosatu) and Inkatha members clashed at Ashdown over buses, followed by armed Inkatha marches at Sobantu in opposition to the popular Committee of Twelve. A grenade attack at Amakholwa High School in Edendale was followed by closure of seven Department of Education and Training schools. A ban on outdoor meetings, except for sport, from 28 March seems to have brought this situation under partial control.

On 5 February Sikhumbuzo Ngwenya Mbatha, United Democratic Front (UDF) joint secretary, was abducted in Imbali, assaulted and taken to Plessislaer police station, then admitted to

Edendale Hospital in a critical state before being released on bail two days later. On 18 May his home and a vehicle parked outside were petrol bombed. In April Fanozi Mathonsi was held by police and assaulted at Imbali; and the Sobantu home of Committee of Twelve member Thami Mthalane was torched. A month later, Nkosinathi Mchunu was murdered by Inkatha members masquerading as police. The Pietermaritzburg Agency for Christian Social Awareness (Pacsa) accused Inkatha and the Imbali Community Council of co-ordinating vigilante groups.<sup>22</sup> At the time of the declaration of a SoE, Pietermaritzburg's townships were on a short fuse.

The security laws of South Africa were already far-reaching in their scope but declaration of a SoE was useful to the authorities for three reasons. First, all members of the security forces were granted arrest and detention powers allowing for operations on a mass scale. Second, they were indemnified unless *male fides* could be shown. And third, strict media controls were provided. Powers over persons, gatherings, organisations, the media, political activity and schools were draconian.<sup>23</sup> Some analyses argue that the government would have preferred to avoid a full-scale emergency given that the 1985 partial emergency had led to flight of foreign capital. But the alternative, declaration of unrest areas, was dependent on the Public Safety Amendment Bill held up by the Houses of Delegates and Representatives of the tricameral parliament.<sup>24</sup> Under the PSA, four sets of emergency regulations were issued, relating to security, prison, media, and educational institutions; and with amendments they remained in force for four years.

### **First emergency, 1986–7**

The events of this emergency<sup>25</sup> are indicative of the region's relatively low profile at the time. Records show that at least 255 persons were involved in 268 separate detentions (nationally 10 000 people were held in the first two weeks and 25 000 in all by June 1987.) They joined two ISA detainees already held on 12 June 1986. The targets were mainly high-profile figures in organisations linked to the UDF, but also included grassroots activists.<sup>26</sup> Of those who could be categorised, students, scholars and teachers accounted for about 40% of all detainees, community group members about 15%, clergy and church workers about 10%, and trade unionists 3%. Organisations affected were the NIC, civil rights organisations aligned to varying degrees with the Freedom Charter,<sup>27</sup> and student congresses, civic associations and youth organisations from the surrounding townships. Detainees from the Azanian Students Movement (Azasm) and Forward Youth were also recorded, but none from Inkatha. Some personal details of the detainees were known: at least 12% were under the age of 18, only 8% were female and 80% were African.

The pattern of detention appeared somewhat arbitrary, explained by the fact that the security branch (SB) were instructed to clear up their own backyards and probably inserted a degree of personal animus into the exercise.<sup>28</sup> Then, in incidents typical of police states, some people simply happened to be in the wrong place at the wrong time. A group of 20 St Joseph's Scholasticate students decided to march from the university's Pietermaritzburg campus into town on 12 June to protest against emergency detentions. They did not get far and three of their lecturers trying

to communicate with them at Howick police station were also taken in.<sup>29</sup> On Soweto Day, a domestic worker exuberantly announcing to the street that she was on holiday was reportedly detained and held for six days. And a member of the Progressive Federal Party (PFP) who had advertised a challenge to President P.W. Botha to lift the SoE, allow all meetings, free all political prisoners and announce a general election was held for five days.<sup>30</sup> From time to time there were reports of mass short-term arrests, probably the result of police or army activity in townships. One such incident was reported from the New Hanover area with up to 250 people held.

Ten percent of the detentions fell under sections 29 and 31 of the ISA; and the remainder under section 3 of the emergency regulations. These were sufficiently vague to leave room for legal challenge and in the case of Peter Kerchhoff on 25 July in the Natal Supreme Court (NSC) it was argued that he had not been properly arrested. This followed the Durban Supreme Court (DSC) ruling of 12 July in which part of section 3 of the emergency regulations had been set aside allowing for the release of Lechesa Tsenoli. The Kerchhoff case was, however, dismissed on 14 August, thwarting an application on behalf of six more detainees made a day before.<sup>31</sup> It did, however, provide some relief. Evidence of the psychological damage (depression and disorientation) caused to Kerchhoff by isolation was sufficient to persuade a full bench of the NSC that he should not be held on his own: after 32 days he was joined by two other detainees. On 10 September appeals against both the Tsenoli and Kerchhoff judgments were heard in Bloemfontein, although Kerchhoff was released on 16 September two weeks

before the outcome was announced. The Appeal Court overturned the DSC ruling thus revalidating sections 3(1) and 3(3) of the emergency regulations. This marked an end to legal challenges and showed that the courts held little potential for the efforts of human rights lawyers, although the Metal and Allied Workers Union case in the DSC (15 July 1986) established the right of detainees to access to lawyers.

By concentrating detainees in New Prison, Pietermaritzburg the SB ironically replicated the very non-racial society they were determined to prevent outside. Most detainees were interrogated, some in prolonged and persistent fashion.<sup>32</sup> The main purpose was collection of information about the ANC, but military police were also involved and they were primarily interested in the End Conscription Campaign (ECC). At both the New and Women's prisons food, general conditions and exercise facilities were as prescribed by regulation. Detainees were visited by the inspecting judge, although by early 1987 there is evidence that the panel of judges had stopped their visits and prisons service medical staff were also absent.<sup>33</sup>

But later detainees were dispersed to various police stations where procedures could be lax. A female detainee reportedly arrested in July remained without shoes and a change of clothing for eight weeks in the middle of winter. Most of the initial batch of high-profile detainees had been released by mid July, leaving in prison numbers of grassroots activists. By September accounts of physical assault had begun to filter out of New Prison, and more seriously from police stations. A UDF activist from Mphomeni held at Alexandra Road police station from 16 September 1986

was severely assaulted and suffered impaired hearing in the left ear, a damaged jaw and salivary glands, and headaches. An interim restraining order was issued by the NSC on 19 September.

It is unclear whether the situation at police stations was a matter of omission or commission. Conditions were sometimes primitive and amounted to solitary confinement. This and a spare diet were listed as punishment for behaviour in detention<sup>34</sup> yet together with a lack of exercise were experienced by detainees at some police stations. One detainee was held at Camperdown in isolation from 26 June until 7 August when a lawyer gained access. The SB argued that a mistake had been made and moved two detainees from Thornville. The practice of placing detainees in scattered police stations and moving them about was thought to be an attempt to obstruct monitoring by family, friends, lawyers and Descom; and a way of disorientating detainees and exerting psychological pressure. Some detainees reported being held at four locations over 12 weeks.<sup>35</sup>

Conditions at New Prison, according to a detainee held in June 1986 and again in mid 1987, gradually declined. The food deteriorated and opportunities to voice complaints dwindled as visits by nurses, the district surgeon and judges fell away. Detainees were not allowed access to the ordinary prison regulations and although they had use of the library, newspapers were not permitted. Questions were also raised about management of detainees' accounts and letter rights. Petty officialdom exceeded the regulations, for example cancelling food orders for a week after an altercation.<sup>36</sup> On the other hand, exercise was provided together with board games. However, lights were turned out unrea-

sonably early especially at weekends when supper appeared at 2.30 pm. Ironically, there was no racial segregation amongst political prisoners and by the end of the first emergency interrogation had become infrequent. The purpose, it seemed, was largely that of neutralising individuals and organisations.

Early in the SoE, deputy minister of information Louis Nel claimed that all next-of-kin were informed of detentions. Local evidence showed this to be economical with the truth. People simply disappeared without trace, especially if they were African. For instance, Descom informed a mother about the detention of her son 10 days after the event. The situation was clouded by the fact that many activists went into hiding, and complicated in September 1986 when visitors were subjected to unexplained delays in gaining access to detainees at New Prison. Some had travelled fruitlessly from as far away as Empangeni.

There was also orchestrated harassment, directed at family and friends of detainees. This was particularly marked on Soweto Day 1986 when the families of two detainees (Joe Vawda and Peter Kerchhoff) received hoax phone calls claiming they had been admitted to hospital with heart attacks. On the night of 15 June a bogus pamphlet on a fake letterhead purportedly from the UDF and Cosatu called for a stayaway and gave the details of five payout points, with the addresses of five anti-apartheid activists, two of whom were in detention. These pamphlets were distributed in Sobantu, the centre of Pietermaritzburg and at Ezakheni near Ladysmith. Some of those named received threatening phone calls and visits from the SB. In November the mother of a detainee received a hoax call to say that her de-

tained son had hanged himself. These cases bear all the signs of the dirty tricks department of the SB.

Other detainees were harassed on release by the military police if they had links with the ECC. By 20 July 1986 four had been detained at army camps, usually for just a day, where they were questioned. On at least one occasion the detaining officer refused to identify himself, so the incident amounted to abduction. Foreign passport holders active in anti-apartheid activity were targeted and relatives of detainees from the black community were known to have been picked up and held for a day as part of a general pattern of intimidation.

About half of the detainees of 12 June 1986 were released within a fortnight compared with the national average of 10%. But the last of their number was freed only on 22 May 1987 after 341 days and there were two other cases involving more than 300 days. Four detainees were deported, among them Theo Kneifel of St Joseph's Scholasticate at Cedara and a German visitor, Walter Hattig.<sup>37</sup> One detainee, C.D. Moodley of the NIC, released after 55 days (some of them spent in isolation at Mountain Rise police station sleeping on a cold stone floor) was effectively banned and required to acknowledge his retirement from active politics. Two ex-detainees were subsequently murdered, and four others assaulted, by vigilantes. In a notorious incident in Sobantu on 11 June 1987 Frans Ngcamu was killed and Sifiso Bhengu injured after an attack by Azasm members.<sup>38</sup> Six people were subsequently convicted of murder. With the passage of time the level of informal violence increased and one father commented that he felt his son was safer in prison than at the mercy of vigilantes. As far as is known

only 48 detentions (about one in six) resulted in charges: mainly unlawful assembly, public violence and possession of banned literature. The number of convictions is unknown. All detainees bar the Hammarsdale nine detained on 15 May 1987 and seventeen ISA prisoners were released on 11 June 1987.

The general level of unrest during this period was low. In October 1986 there was a grenade attack on the home of Imbali community councillor Austin Kweyana in which his daughter was killed. United Workers Union of South Africa (UWUSA) members were attacked at Dambuza and Sobantu in October. These incidents can be interpreted as anti-Inkatha violence, but the motive for a grenade attack on the house of Elliott Madondo in Sobantu is hard to categorise.<sup>39</sup>

### **Second emergency, 1987–8**

During this period, in particular from November 1987 onwards, the character of the SoE in the Natal Midlands changed radically. In all, 1 292 detentions were recorded; but 56% of them occurred from November 1987 to January 1988 during a period of anarchy in the townships surrounding Pietermaritzburg. Indeed, from January 1987 to March 1988 the Centre for Adult Education monitoring group recorded 586 events and 446 deaths linked to political violence in which the largest group of victims belonged to Charterist-inclined organisations.<sup>40</sup> By the same token, the partiality of the state is evident in the use of detention without trial at particular times. Clearly the police used the SoE regulations as a massive dragnet and as a means of avoiding bail procedures. These were particularly handy tactics in a campaign designed to impose Inkatha's

control over the Edendale valley. Recently appointed head of the local SB, Brigadier Jac B uchner,<sup>41</sup> greeted riot squad reinforcements in October 1987 with the opinion that they were reaction units. They were used to contain fighting within townships, intervening when Inkatha was at a disadvantage.<sup>42</sup> Later revelations were to show that "the security police had an intimate relationship with Inkatha and Uwusa" and encouraged "a destructive ethnicism"<sup>43</sup> in opposition to universal democratic values. In a memorandum to B uchner in mid-January 1988, Dacom put the view that detention without trial was fuelling the unrest by targeting township youth from informal anti-Inkatha groupings that styled themselves self-defence units (SDUs).<sup>44</sup> One of their antagonists from March 1987 were 300 rapidly and poorly trained police auxiliaries popularly known as *kitskonstabels* (instant police). Many had Inkatha or vigilante backgrounds. Their role was pacification rather than policing and one of their specialities was the mass round up of young men taken in for questioning at Plessislaer and Mountain Rise police stations where personal information was recorded and photographs taken. In Parliament on 19 April, Minister of Law and Order Adriaan Vlok announced that 259 had been taken from Ashdown and 218 from Sobantu of whom four and eight had been detained respectively.<sup>45</sup>

From September 1987 there was a spectacular increase in the number of incidents reported. This began to subside only in February 1988. Some commentators locate the source in the two-day national stayaway in May 1987 against whites-only elections: opposed by Mangosuthu Buthelezi's Inkatha, it was supported by 90% absenteeism in the Pietermaritzburg area. The tipping

point was the KwaShange massacre of 13 Inkatha youths in an attack led by a policeman. He claimed he was under threat from arsonists released on bail, but was convicted and jailed for 12 years. A key feature was violence orchestrated by Inkatha warlords that involved a threatening recruitment drive and later a counterattack against dissenters. To this the authorities at best turned a blind eye while detaining large numbers of anti-Inkatha people. The only restraint was provided by interdicts brought by lawyers acting on behalf of Cosatu. On 31 January 1988 there was an effective invasion of Ashdown from Mpumzuza by Inkatha supporters escorted by South African and KwaZulu police. At the preceding rally the UDF and Cosatu were denigrated as Indian dominated organisations and threats were made to kill, expel and burn the houses of those who opposed Inkatha.<sup>46</sup> Eleven people died in this exercise in political cleansing. Two further attacks, led by Mamfana Majola, took place with police assaulting defenders. A witness later described the scene: "I saw two police vans drop off ammunition at the mobile police station and drive to Mpumzuza to back the IFP in their attack. The police were in front ... shooting at people."<sup>47</sup> This was the start of Operation Doom: attacks on Cosatu-aligned bus drivers and an incursion into Pietermaritzburg itself were to follow (43 Inkatha members were charged with public violence in Retief Street.) Kentrige argues that this displacement of violence into the urban area happened because township territory was now so tightly demarcated; and because anti-Inkatha refugees could be easily spotted around the bus station. As a surrogate battleground it proved fertile territory for abductions that usually ended in murder.<sup>48</sup>

Police numbers had been reinforced at the turn of the year and the Truth Commission records the involvement of Inkatha paramilitaries known as Caprivi trainees under Daluxolo Luthuli.<sup>49</sup> It named Warrant Officer Rolf Warber of the SB as having incited *kitskonstabels* to attack and kill members of the UDF. Amongst Warber's allies was Imbali councillor, Abdul Awetha.<sup>50</sup> The number of people dying in unrest-related violence during this period, mainly young people, was indicative of civil war, "the most vicious and sustained regional conflict in South Africa's recent history."<sup>51</sup> The scale of the violence can be gauged from contemporary reports that more people were dying in Edendale than Beirut and trade unionists called it the valley of widows. Parallels were drawn with low-intensity conflict in El Salvador and the Philippines where apparently spontaneous violence was used to promote a conservative agenda in opposition to popular causes.<sup>52</sup> Geographically the violence started in Imbali and Ashdown and migrated up the valley through Edendale to Vulindlela, which until this point had been politically peaceful. A flood of Imbali refugees migrated to Sobantu and this triggered conflict between UDF and Black Consciousness supporters.<sup>53</sup> The violence of this period effectively divided the Edendale valley into two zones: the upper area from Taylor's Halt to Elandskop was Inkatha; the lower from Gezibuso towards Pietermaritzburg was UDF.<sup>54</sup> The effect on bus transport from the upper valley to Pietermaritzburg was one of the catalysts for the Seven Day War of early 1990.

Chamber of Commerce backed local peace talks were severely affected when 13 UDF activists including joint secretaries Martin Wittenberg and Sikhum-

buzo Ngwenya Mbatha, meeting to discuss negotiations, were detained on 13 November 1987.<sup>55</sup> Five days later Kam Chetty of the Pietermaritzburg Combined Ratepayers Association was detained. This suggested that there was a deliberate attempt to take out the leadership of anti-Inkatha organisations. Local businessmen and foreign embassies successfully put pressure on the authorities for the release of Wittenberg and Ngwenya, but restrictions were imposed.<sup>56</sup> Others detained were held until the following July. The peace talks were effectively ended by the February 1988 restrictions placed on the UDF and other Charterist organisations whose office bearers were detained again in March. Amongst those affected were the Natal Students Congress (Nasco), National Education Union of South Africa (Neusa) and youth organisations from Edendale, Sweetwaters, Dindi, Mvelweni and Taylor's Halt. The other target involved affiliates of Cosatu such as the Transport and General Workers Union (TGWU), the National Union of Metalworkers (Numsa) and the Post and Telecommunications Workers Association (Potwa).

The detainee population consequently grew rapidly to a peak of over 700 in January 1988 declining to about 100 by mid year, although it had been rumoured just before Christmas 1987 that it was well over 1 000, with 800 at New Prison alone.<sup>57</sup> For a brief period Pietermaritzburg was at the epicentre of detention without trial. Most of these detainees were members of informal anti-Inkatha groupings. Police spin doctor Brigadier Leon Mellet made the absurd claim in January 1988 that all those detained had committed crimes, ignoring the question why most were never charged after long periods of

incarceration. To add to this he stated that political affiliation had nothing to do with these detentions.<sup>58</sup> Of those whose personal details were known, at least 114 were under the age of 18 (one as young as 13) and all except three were African. At least 49 were female, of whom two were detained with babies and a third was pregnant. There are several instances on record of several members of the same family in detention and at least 10 detainees had been inside during the previous SoE. It is possible that in the intense general unrest members of Inkatha were detained. In February 1988 well-informed sources revealed that one such detainee was at New Prison; and in June 1988 there were unsubstantiated claims of 20 held briefly. No names have ever been recorded and indeed when the identities of Inkatha members were revealed in court interdicts, the attorney-general's office claimed they had gone into hiding.<sup>59</sup> Except for four detentions under section 29 of the ISA, all took place under section 3 of the emergency regulations.

Inevitably, the scale of detention led to overcrowding and a deterioration of conditions at New Prison: poor food, sloppy administration of detainees' accounts, lack of outdoor exercise and indoor games, rudimentary medical treatment, denial of the right to study, and too few church services (detainees were not allowed to organise their own) were listed in a memorandum compiled by lawyer Rishi Thakurdin. Warders were often aggressive and abusive and summary punishment was handed out without explanation contrary to the principle of *audi alteram partem*. Lawyers again used the argument that this amounted to a punishment regime in contravention of the emergency regulations and the Prisons Act.<sup>60</sup> The

Thakurdin memorandum also recorded an incident on 27 December 1987 in C section of New Prison where a detainee was assaulted. Returning from lunch, other detainees smelt teargas, refused to enter their cells and were sjambokked. A prison official reportedly told the detainees that the only language they understood was violence. Detainees then set up committees to make representations, but these were not recognised. The situation was alleviated in early 1988 by transferring 150 detainees to Westville Prison. Conditions were reported to be better, but family visits were made more difficult. Pressure from lawyers led to the award of study rights, more of a problem than in other parts of the country, for detainees at the beginning of April 1988. On 2 May 1988 some form of protest, probably singing, took place at New Prison in connection with the sentencing of Gordon Webster. It led to the loss of visiting rights for a short while and further protest by 25 families.<sup>61</sup>

Pressure on cell space led to extensive use of police stations such as Thornville, Plessislaer, Boston, Wartburg, Dalton, Richmond, Cramond, Hilton, Impendle and Howick. Towards the end of this SoE improved conditions were noted at some stations where relations with detainees were cordial: open air exercise was provided and the food and access to reading material were superior. Several long-term detainees successfully appealed not to be transferred from police stations back to New Prison, suggesting an honourable role for some officers of the South African Police. However, at New Prison the inconsistent policy of the authorities regarding visits angered and confused detainees and their families and punished them financially and psychologically. Permission was

given for one fortnightly visit at a time and it had to be conducted in English, Afrikaans or through an interpreter. No physical contact was permitted.

At the end of this SoE, 104 detainees were redetained, 100 under the PSA and four under the ISA. In the meantime hundreds had been released back into the community, three by their own efforts as escapees. Some of them were charged with offences ranging from public violence, arson, possession of firearms and intimidation to murder. Twenty charges, including 18 of the 60 of murder, were dropped and there were four acquittals, but there is no comprehensive record of the court experience of detainees.

Other detainees were released under restrictions. Those placed on the joint secretaries of the UDF have already been mentioned. At the end of this SoE a further group of 10 detainees was prohibited from taking part in activity on behalf of the UDF or its affiliates, attendance at gatherings critical of national and local government or the municipal elections, and advocacy of election boycotts.

The numbers of detainees being released were so large that from March 1988 a further problem emerged: families had no knowledge of persons the authorities claimed to have released. They became lost people and enquirers were sent from police station to police station. Some detainees discovered that they had lost their jobs and this was particularly marked in the construction industry. The problem of vigilantes remained a constant fear for released detainees, two of whom were killed in December 1988. This was indeed an SoE marked by anarchy compared with the comparatively decorous procedures affecting detainees during the previous

year. Those monitoring the situation believed that the uncertainty surrounding detentions and the refusal of the police to share accurate lists of releases exacerbated the township crisis.

### **Third emergency, 1988–9**

Consideration of this Emergency reverts from sheer numbers to conditions. In addition to the 104 persons redetained on 11 June 1988, a further 299 detentions (including four multiple detentions) were recorded, a situation not dissimilar to the 1986–7 SoE. This does not include a continuing pattern of short-term mass detention, for example at Dambuza and Machibisa, for the standard routine of interview and photograph. Other short-term detentions of less than 24 hours took place at Ashdown in early February 1989 and the press reported a round up of 230 people at KwaHasa near Mpophomeni over the weekend of 18–19 March 1989.

Towards the end of 1988 many of the detainees held in Pietermaritzburg were from Richmond and New Hanover and areas outside the Midlands such as Hammarsdale, Shongweni and Inchanga (125 in all). Durban detainees were also held, but from December 1988 the focus shifted back to the Pietermaritzburg area, particularly Imbali. In January 1989 the detainee population was 191 but by mid-April the figure had dropped to only seven, the lowest for three years. This was due to the hunger strike described below.

Of those redetained, four were transferred from SoE regulations to s.31 of the ISA (state witnesses). The same happened to two s.29 detainees (long-term preventive detention) indicating that the State was gearing up for trials. Subsequently, all new detentions in 1988–9 took place under the SoE. The

regulations were used as a means of avoiding bail applications. On 7 July, 35 Gezubuso residents were arrested on public violence charges but transferred to SoE detention and released without charge between 19 and 22 August. Similarly on 28 April 1989, six people were detained under the SoE as they left court having been granted bail.

One in six of those detained during this period had trade union connections, in particular with the National Education, Health and Allied Workers Union (Nehawu) and Amalgamated Clothing and Textile Workers Union (Actwusa). Nearly half of all detainees were scholars and community group members from the Edendale Valley (Imbali, Ashdown and Wilgefontein) and the Hammarsdale area (including Shongweni and Inchanga). Only three detainees were female; 37 were minors, although at least 10 were over 40 years old and one was as old as 57; and all were Africans except six from the Indian community.

Even with relatively low numbers of detainees the authorities continued to spread them around, for example to police cells at Thornville, Hilton, Howick, Bishopstowe and Impendle. In July 1988 Dacom and Pacsa complained through the Attorney-General about the thin sleeping mats provided in winter and the situation improved after investigation by the visiting judge. Diet was a major problem. It consisted of white porridge, samp without salt and mealie rice sometimes with boiled beans, carrots and pork fat. Supper at 4 pm (earlier at weekends) meant many hours without food and detainees were not permitted to keep utensils in their cells. Medical care was rudimentary with Panado dispensed for all ills, treatment was often delayed and doctors were sometimes

hostile. The regulation hour of exercise was often cut to 15 minutes that did not include exposure to the sun. Punishment was regarded as arbitrary, failed to follow the prescribed guidelines and was often imposed for minor offences. Leg irons, solitary confinement, reduced diet; and deprivation of visits, study rights, exercise and access to the library, radio and tuckshop were all used by the authorities. Even more sinister were the saturation of blankets in water, removal of mattresses, use of teargas in cells and interference with the lights.

Increasing numbers of complaints were received about assault during interrogation. Other abuses concerned confinement to cells and deprivation of food and exercise (July 1988) and teargassing (September 1988). Subsequently it was believed that detainees had been shackled. There is evidence of serious abuse of some detainees: beatings on the head with boots and guns, electric shock treatment, hanging from a window, immersion in ice-cold water and confinement to the boot of a car. The standard obstruction of visitors continued. Pressure was applied on detainees to become informers and threats made to hand them over to local warlords on release.

In mid December a detainee placed in solitary for refusing to stand up for a warder and possessing a list of detainees went on hunger strike for six days.<sup>62</sup> From 2 to 5 January 1989 all detainees at New Prison used the same method to protest about abusive warders and late delivery of food orders. More generally the strike was interpreted as reaction to general stress and the DDD syndrome – debility, dependence and dread.<sup>63</sup> One anonymous detainee commented on “the banging of doors, the clattering of keys rais[ing] your hopes about release

and going home”: the situation appeared never-ending.<sup>64</sup> This protest was called off after negotiations. In mid January, five representatives approached the SB and were led to believe that release was imminent, but depression heightened when nothing happened. Having heard about the national hunger strike that had started on 23 January at Diepkloof, on 18 February as many as 100 Pietermaritzburg detainees joined in. It was accepted that not all could last for very long and a week later they had been reduced to 40, reportedly suffering from dizziness, headaches, problems with their joints and difficulty with urinating as a result of a water-only diet.<sup>65</sup> By this time strikers had lost three to four kilogrammes of body mass and had difficulty sleeping because the lights were left on. Families were denied visits and detainees were deprived of the radio. But the strike was attracting international attention, including a *démarche* from the German government. Lawyers for Pietermaritzburg strikers faxed Minister of Law and Order Adriaan Vlok about the situation, but received no response.

Some of these strikers had been held for well over a year since late 1987 or early 1988, a situation not dissimilar to that of prisoners of war or what monitors described as the Gulag syndrome of indefinite detention as had been experienced in Ian Smith’s Rhodesia.<sup>66</sup> As the Irish Committee for Justice and Peace in Dublin put it, “A hunger strike may be one of the few possibilities of making a personally significant statement in a situation of powerlessness, especially for prisoners in certain situations.”<sup>67</sup> On day eight of the strike it was reported that those involved were being spread around police stations at Boston, Dalton, Howick, Mid Illovo, Richmond and Mountain Rise and even as far away

as Muden and Mooi River.<sup>68</sup> This was presumably designed to break strikers' joint resolve. Lawyers initially thought they had been released, raising old fears about disappearance. Subsequently questioned about this tactic elsewhere, the police responded darkly that "we can transfer people anywhere we want to".<sup>69</sup> Loss of about 10% of body mass after a week on hunger strike requires hospitalisation, although under South African socio-economic conditions, and on a poor prison diet, deterioration can be more rapid. Indeed, by 27 February, seven detainees were in hospital at Edendale or Northdale (one) and the total reached 13 the next day.<sup>70</sup> One of the seven was Sikhumbuzo Ngwenya Mbatha. His mother described him: "He is very thin. His eyes are inside his head. He looked very weak and at first he did not recognise me".<sup>71</sup> The number in hospital was 35 on 7 March with two having abandoned the strike and another three released.<sup>72</sup>

The Pietermaritzburg strike thus started just as the national initiative was suspended. On its 15th day the local branch of the Medical Association of South Africa (Masa) expressed concern. In general the doctors who came into contact with strikers were co-operative and readily supplied lawyers with information. Some strikers took medical advice and consented to drips of glucose, dextrose, electrolytes and vitamins. The SB promised release in return for an end to the strike, but would not give dates in writing. The strikers saw their efforts as part of the wider struggle of the Mass Democratic Movement (MDM).<sup>73</sup>

In Pietermaritzburg hunger strikers were visited in hospital by lawyers, family and friends although this was not the case elsewhere. After a visit by

two lawyers to Minister of Law and Order Vlok in Cape Town on 7 March, 19 days into the hunger strike, it was suspended on the understanding that all those involved would be charged or released. This was honoured by the minister, although he could not resist accusing certain organisations of orchestrating the strike. The detainees started eating again from 8 March. Most were released over a three-day period from 13 to 15 March after a spell of medical observation, although one emerged from prison only in April, apparently a victim of bureaucratic error. Twelve of the strikers were charged, but as far as is known all of these cases were withdrawn. Ironically, the national strike was about to resume because promises about release had not been kept and new detentions had occurred.

With the start of Pietermaritzburg's February hunger strike an Ad Hoc Hunger Strike Support Committee was formed to collect information and organise support. Its activities included two placard stands, an inter-faith service and the placing of two large advertisements in the *Natal Witness*. Dacom inserted a small daily block in the paper recording the number of days detainees had gone without food. It also arranged two meetings for friends and relatives of strikers to share information and offer counselling, and provided material support for hospitalised hunger strikers. The main burden fell on lawyers who were caught between pressure from strikers, families and the SB. This intensified when their clients were dispersed and their protest to Vlok went unanswered. On 15 February 1989, a 48-hour public fast took place and culminated in an inter-denominational service.<sup>74</sup> Some student leaders extended this fast to eight days ending with a vigil and prayer service

on 23 February. By the climax of the detainees' action, Mayor Mark Cornell had met the SB, the Chamber of Commerce had expressed concern, prominent citizens were signing up to a roster of 24-hour fasts and many people wore yellow ribbons. Another solidarity fast was organised from 10 to 12 March ending with a service at the Metropolitan Methodist Church on National Detainees Day.

The hunger strike amounted to the largest protest by detainees themselves and the total number involved nationally reached 700.<sup>75</sup> Its outcome was regarded as a major victory by those apparently hopeless and powerless at the hands of the state.<sup>76</sup> The strike showed they were not without hope or power, although they had to go to extreme lengths to prove this. It echoed the outcome of the Robben Island hunger strike of the 1960s: "somehow the atmosphere on the Island was never exactly the same as it had been before", recalled Indries Naidoo.<sup>77</sup> Clearly political conditions in 1989 were such that the state could not afford the death of a detained hunger striker. Indeed, it is possible to argue that the hunger strike was one factor in the growing confidence that made the MDM's Defiance Campaign possible. Vlok made speeches from time to time suggesting that he would close down or further restrict human rights monitoring groups, but his failure to do so was an indication of rapidly changing times.

Another hunger strike started amongst six Pietermaritzburg detainees on 1 April. On 4 April three of them were taken to Pelonomi Hospital in Bloemfontein where they abandoned their protest on 7 April. They were returned to Pietermaritzburg and released by the end of the month. The other three resumed their strike in mid-April, were

similarly treated and released in early May.

A large number of releases involved restriction orders, in a sense a new form of detention. This typically involved prohibitions on UDF activity, addressing gatherings of more than 10 people, writing for publication and leaving the magisterial district (usually Pietermaritzburg). House arrest was sometimes specified. Particular emphasis was laid on boycotts, especially of the October 1988 municipal elections. Restriction orders issued to ex-hunger strikers were similar, but included daily reporting to a police station; and prohibitions on media interviews and involvement at educational institutions.<sup>78</sup> Those restricted pointed out that they had been turned into their own jailers, removed from a small jail to a larger, in some ways more dangerous, one.<sup>79</sup> Restriction orders imposed continuing, cumulative stress upon released detainees and their families.<sup>80</sup>

The daily trip to the police station, sometimes distant, could be hazardous.<sup>81</sup> A regular routine plus confinement to a specific night-time location provided readily identifiable targets. One restriction imposed in April 1989 initially required two daily reports to a police station 10 kilometres away. After his Imbali house was attacked, one restricted person was permitted to move. An Edendale restrictee was allowed the same concession, but this was rescinded by the Minister of Law and Order. Another had his house arrest hours shortened so that he could attend university. However, once the Defiance Campaign was under way in the second half of 1989 restriction orders were largely ignored.

Alfred Muntu Ndlovu, held under s.29 of the ISA was charged with terror-

ism, furthering the aims of the ANC and two counts of attempted murder. When the trial began in November 1988, three s.31 detainees acted as state witnesses and a fourth refused. Ndlovu was convicted on 22 February 1989 on the terrorism and attempted murder charges and sentenced to five years. Of the SoE detainees, 26 were charged with murder, four with attempted murder, nine with public violence, two with malicious injury, 18 with possession of firearms, nine with attending an illegal gathering, two with possession of banned literature and another 12 with unknown offences. There were two acquittals and one charge was withdrawn, but the other outcomes are unknown.

Four ex-detainees were killed by vigilantes: at Sweetwaters in August 1988, at Imbali and Taylor's Halt in February 1989 and in Edendale in March 1989. Two others from the previous Emergency were killed by vigilantes in December 1988. The threat of vigilante action caused many ex-detainees to become refugees. Considerable publicity surrounded a red Husky minibus, a "torture mobile" employed by the police to terrorise people, particularly ex-detainees, in the surrounding townships.<sup>82</sup>

#### **Fourth and fifth emergencies, 1989–90 and 1990; and unrest areas**

The hunger strike spelled the beginning of the end for detention without trial in the region. Fourteen persons were redetained at the start of fourth SoE, four of them juveniles. A total of 21 new detentions took place following arrests in July and August 1989 and May 1990. None of these detentions was long term and most of the detainees were youth congress members or suspected of links with the ANC. Three of them went on a hunger strike in July 1989

and were transferred to Grootvlei prison in Bloemfontein. A number of minor charges were laid against detainees, but lawyers argued that this was done to cover up partisan action by police.

The national emergency ended on 8 June 1990 and was reimposed only in Natal.<sup>83</sup> The new regulations made provision for an initial 30-day detention period followed by a maximum of five months. Detainees could be moved from place to place and interrogated; and doctors and lawyers had conditional rights of access. The Natal emergency was lifted on 18 October.

There were no redetentions in terms of the Emergency on 8 June although two ISA s.29 detainees were still held. Ten new detentions were recorded, five under the SoE. Three had been detained before. One detainee was held at Bishopstowe police station for two weeks and threatened to go on hunger strike. He was told he would be moved to Grootvlei, but was released instead.

On 24 August 1990 the hitherto unused device of unrest areas (local or regional states of emergency) was imposed under the PSA on 27 Reef and Vaal Triangle townships. Other areas in the Transvaal and Western Cape were later named unrest areas.<sup>84</sup> Richmond was declared an unrest area on 4 December 1991 and this status was renewed until 2 June 1992.<sup>85</sup> Two ANC leaders were detained, one of them Sifiso Nkabinde.<sup>86</sup> Nelson Mandela claimed that the Richmond unrest was stoked by the Third Force (and indeed that the greater Pietermaritzburg area was the centre of such activity), but this seems far-fetched. Pietermaritzburg was declared an unrest area in early May 1992 with a curfew (21h00 to 04h00) and restrictions on public meetings. Powers of detention were granted, but

they were not used.<sup>87</sup> During the second half of 1992 unrest areas were declared for the first time in the Eastern Cape and Orange Free State. Richmond, together with Umbumbulu, was again declared an unrest area in November 1992.<sup>88</sup> The main advantage of unrest areas to the authorities was the power to declare curfews.

### **Political impact**

Over and above the rhetoric of law and order, the precise agenda of the government can be gauged from a number of variables: the characteristics of the detainees; the size of the detainee population; and the experiences of detainees on release. This analysis is best served by a periodisation that cuts across the emergencies: period I, June 1986 to September 1987; II, October 1987 to June 1988; and III, June 1988 to October 1990.

During period I most detainees, except a few bystanders caught up in events, were UDF or ANC supporters. A significant number were high-profile UDF leaders or figures from Black Consciousness aligned organisations. During period II this changed radically and the majority of detainees were young members (*amaqabane*) of anti-Inkatha self-defence units (SDUs). Detentions of UDF leaders carried on, most notably those held on 13 November 1987 at a meeting about peace talks. No more than 20 Inkatha members were detained and Black Consciousness adherents were no longer a factor. During period III the pattern changed once more. Trade unionists began to feature and UDF members reappeared, many of them scholars and mostly from the Hammarsdale area. Overall the average emergency detainee was male, aged from 18 to 25, anti-Inkatha and held for

two to three months. While this description fits probably 50% of all detainees, it is most typical of period II.

Initially detention had a disabling psychological and practical effect on anti-apartheid organisations. A small core of period I detainees were long-term, some of them held under the ISA. During period II there was a quantum leap in the number of detentions: press reports suggested a high of 1 000 in the detainee population. This peaking coincided with the escalation of violence around Pietermaritzburg. During period III the situation was confused but there were significant numbers of long-term detainees, the presence of detainees from other areas reflected migration of the violence, and the hunger strike signalled the effective end of detention. It is generally accepted that nationwide 50 000 people were detained during the SoE of which the Natal Midlands figure was about 2 000. But the pattern in the region was distinctive. Nationally 26 000 people were detained in the first emergency declining to 6 000 in the second. The Natal Midlands trend was the opposite, starting with relatively small numbers and taking on the characteristics of mass arrests in period II.<sup>89</sup>

Most detainees were released without charge, although there is no complete record, indicating the preventative purpose of detention. The best estimate suggests that no more than 20% of detainees were charged with an offence and that the conviction rate was very low. Most of those against whom charges were successfully pursued were ISA detainees. During period I, one released detainee signed an undertaking to withdraw from politics, but its legality was highly questionable. Confinement to a magisterial district was part of the bail conditions of a charged

ex-detainee in September 1987, but restriction orders were almost entirely a feature of period III with 70 recorded cases. In essence the demands of these orders circumscribed political lives and marked out targets. It was in effect a different version of detention, one that was less damaging to the government's image. Allied to this was the constant threat of violence from allies of the government. At least eight ex-detainees were killed by vigilantes and there were allegations that on release detainees were threatened with the attentions of violent opponents. There were also many examples of non-fatal assault that converted ex-detainees into refugees.

Commenting on security legislation several years before the emergency, a future chief justice in a democratic South Africa wrote: "one of the ways in which the State has increased its powers is by curtailing the powers of the courts to protect fundamental freedoms".<sup>90</sup> As "agents of the executive" the police were granted indemnified power that was aided by the judgments of conservatives on the bench.<sup>91</sup> Detention without trial, restrictions on release, informal violent repression and a general climate of fear were a notable symptoms of this strategy. It was specifically targeted at Charterist-inclined organisations and informal anti-Inkatha groupings. Inkatha warlords operated with impunity although emergency, security and criminal law could justifiably have been employed against them. Indeed, it was impossible for warlord activity to have taken place without police complicity.<sup>92</sup> State strategy was blatantly partisan, designed to disrupt affiliates of the UDF and Cosatu while reinforcing Inkatha's ambitions. The government's own statements support the evidence. In the words of Minister of

Law and Order Vlok, "radicals . . . will not be tolerated. We will fight them. We have put our foot in that direction and we will eventually win the Pietermaritzburg area".<sup>93</sup> The Liberal Democratic Alliance asked the crucial question: what business does a police force have in fighting anyone?<sup>94</sup> An editorial in the local paper took this further describing Vlok's statement as outrageous: "the mere holdings of opinions is not illegal, nor is it the job of the police to engage in any kind of thought control."<sup>95</sup>

Detention without trial sent a clear message to political activists: the price of involvement could be very high. Indeed, detention was arbitrary, unannounced and unexpected and could involve months at the mercy and whim of hostile and sometimes brutal people. Detention effectively had no defined time limit. Vlok issued the outright lie in March 1990 that only those advocating violence had been detained.<sup>96</sup> This was an inopportune moment for such propaganda during a short period of intense civil war around Pietermaritzburg when hundreds of detentions might have been expected. Instead there were virtually none, indicating that the authorities used detention not as part of impartial policing but rather as a political weapon in particular circumstances. Yet the police propaganda machine blandly maintained throughout the SoE that it was playing an impartial role.<sup>97</sup> Vlok denied that there was a breakdown of law and order in Natal, a statement described as "ludicrous" by Lawyers for Human Rights and "mind-boggling" by a *Natal Witness* editorial. The latter went on to point out that such supposed ignorance was made possible by the government's monopoly of information under the SoE.<sup>98</sup>

An assessment by the Human Rights Commission<sup>99</sup> concluded that detention without trial was apartheid's "big gun" to neutralise the opposition (in contrast to Latin American-style disappearances). It had an air of legality but could be used against individuals, groups or whole communities, to extract information and confessions, to break opponents physically and psychologically, to recruit informers, and to justify ongoing restrictions after release.<sup>100</sup>

It was a powerful weapon used in tactically different ways, depending on circumstances, by the SB and their shock troops in the Riot Police, to influence the balance of political power in the Pietermaritzburg area. The conclusion of the 1986 Indaba conference opened up the momentary possibility of a federal political solution in Natal, seen as a major opportunity for Inkatha and the political aspirations of Mangosuthu Buthelezi. The only feasible measure of its popularity was membership numbers and this added urgency to the recruitment drive that had started in the early 1980s. Inkatha was notoriously weak in the Pietermaritzburg area, even in the rural, upper reaches of the Edendale Valley. Stayaways in support of the Sarmcol strikers in Howick in July 1985 and against the whites-only general election in May 1987 were strongly opposed by Buthelezi, yet were met by an impressive worker endorsement.<sup>101</sup> It is relevant to note that although large parts of the upper Edendale valley known as Vulindlela (formerly Swartkop location) fell under the administration of the KwaZulu bantustan, they were still policed by South Africa, not their homeland counterparts although KwaZulu police members were active as bodyguards.<sup>102</sup>

These were signs that Inkatha's support was waning. The police maintained the fiction that they were a neutral force supporting the legitimate structures of civil authority who happened to be Inkatha office bearers in the semi-rural areas. This aligned the police solidly with local enforcers such as Sichizo Zuma of the Inkatha Youth Brigade, Imbali town councillors like Patrick Pakkies, Abdul Awetha and Jerome Mncwabe, and rural chiefs and indunas such as David Ntombela. All exhibited characteristics of violent authoritarianism that earned the description of warlord and which were either ignored or abetted by the police. Many detainees described how their original arrests were the result of joint Inkatha and police operations in which they were tracked down, assaulted and interrogated by vigilantes before being detained.<sup>103</sup>

One of the results was that organisations with democratic inclinations and aspirations were forced to work in undemocratic and secretive ways that detracted from their potential. It took out of circulation politically astute leaders, damaged institutional cohesiveness and exposed organisations to opportunists and infiltrators. It removed leaders from the peace process and arguably prolonged conflict, making a mockery of the government's commitment to stability. The experience of Sikhumbuzo Ngwenya Mbatha, Pietermaritzburg secretary of the UDF, is emblematic of this. Detained on 26 June 1986 he was released after 350 days at the end of the first emergency. Involved in peace negotiations with youth leaders he was redetained on 13 November 1987 for five days. In 1988 he was detained yet again and spent altogether 25 months in jail without trial during the SoE.<sup>104</sup>

After his assassination on 8 February 1992 many tributes were paid to his political effectiveness, but Colin Gardner summed it up: “S’khumbuzo suffered a good deal for the cause. One had a suspicion that what the police particularly disliked in him, besides his efficiency and effectiveness within the liberation movement, was his reasonableness, his essential gentleness . . . he was so obviously a man of peace.”<sup>105</sup>

The human rights implications of detention without trial were of course national. In the case of the Natal Midlands they took on added meaning within the context of widespread violence from late 1987 onwards. Abuse of human rights indicated that the authorities feared a severe threat to their legitimacy. Detention without trial was a tactic of last resort that sent a simple message: engage in political activity outside the limits prescribed by government and you, your family and comrades will be deprived indefinitely of basic civil rights notwithstanding the fact that for most detainees these were already very limited.

This was highly dangerous. Detention devalued an already questionable legal system in many people’s eyes. Government abandoned the rule of law and resorted to oppression that included handing over the townships to an indemnified, politicised police force and its vigilante allies. The overt abandonment of human rights led to a scenario in which there was a rapid deterioration in mutual regard for the rights of others, most obviously manifest in extreme violence. History abounds with examples of the victims of violence quickly resorting to the same tactics. And the long-term effect on the police themselves was considerable: 20 years later Anthony Altbeker wrote

that “securing the structures of inclusion and exclusion was a dirty, brutal and brutalising business.”<sup>106</sup>

Both at the time, and subsequently, the effect of detention on individuals was largely neglected, caught up in the drama of broad political developments. John Dugard had “referred to the Terrorism Act as being so horrific that few people have been able to grasp its severity”.<sup>107</sup> By 1986 this Act had become the equally draconian ISA, to which on 12 June 1986 the emergency regulations were added. The state security regime in force in South Africa in the years 1986–90 was just one step short of the methods of full totalitarianism: only the concentration camps were missing. It is reasonable to argue that all those detained for more than a short period were subjected to psychological abuse by the very nature of their detention and that this was a deliberate part of state strategy. The solitary confinement suffered by some emergency detainees was deemed as damaging as physical assault or electric shocks.

Detention touched the lives of thousands: family, friends, political comrades and colleagues: “the damage caused to society as a whole is felt far beyond the detainees themselves”.<sup>108</sup> For many this was entirely counter-productive, radicalising rather than subduing. Many people emerged from detention stronger and more committed, which acted to create greater solidarity. It forced the MDM to focus more clearly on human rights and the constitution of the Republic of South Africa finalised in 1996 is a model in that regard. It also reinforced the position of an already strong civil society sector in the region consisting mainly of certain elements in the local university alongside individuals within the legal

profession and in religious organisations. Similarly detention challenged the libertarian instincts of the business community. Detention without trial, apparently a strong weapon in the hands of the state, had a fatal weakness: its sheer injustice extracted a reaction even from some unpoliticised citizens and was guaranteed to elicit an adverse reaction from the international community. Coupled with hunger strikes it ultimately proved a political liability for the government, although the long-term damage to the socio-political fabric of the Natal Midlands, as elsewhere, was considerable.

#### ENDNOTES

- 1 The basic data used in this article was collected by the Detainees Support Committee (Descom), which was renamed the Detainees Aid Committee or Dacom in February 1988 when Descoms around the country, along with 16 other organisations, were restricted under the emergency regulations from performing any activities. Descom/Dacom was assisted by Pacsa (Peter Kerchhoff and colleagues), the Centre for Adult Education (CAE) at the University of Natal, Pietermaritzburg (John Aitchison and Vaughn John) and the Progressive Federal Party (Radley Keys). Its purpose was to provide material and moral help to political detainees and their families and monitor and publicise the effect of detention without trial on society in Pietermaritzburg and the Natal Midlands (Mooi River to Camperdown and Greytown to Richmond). It was in daily telex contact with Amnesty International in London. Descom/Dacom was careful to verify its information and tended to err on the side of caution, but it was closely aligned with affiliates of the United Democratic Front (UDF). Although it was clearly not a politically-neutral body, its methods and the passage of time have done nothing to devalue the information it collected or the main trends it was able to identify. Twenty and more years later, no new information has come to light to invalidate its work. This was recorded in *Detention Under Three Emergencies* (Pietermaritzburg: Dacom, 1989). The author acknowledges the contribution made to Descom/Dacom
- 2 Freedom Charter, 1955 (Raymond Suttner and Jeremy Cronin, *30 Years of the Freedom Charter* (Johannesburg, Ravan, 1986: 264)). This mirrors article 9 of the Universal Declaration of Human Rights: “no one shall be subjected to arbitrary arrest, detention or exile”.
- 3 Don Foster, Dennis Davis and Diane Sandler, *Detention and Torture in South Africa: Psychological, Legal and Historical Studies* (Cape Town: Philip, 1987): 154.
- 4 The Public Safety Act (3 of 1953) provided for indefinite preventive detention without warrant by any member of the security forces in order to maintain public order. It was conceived during the Defiance Campaign against the unjust laws of 1952. When the Act was invoked on 12 June 1986 it provided the security forces with options additional to those already in force under the Internal Security Act (74 of 1982): detention of state witnesses (s.31); short-term preventive detention (s.50/50A); indefinite interrogative detention (the notorious s.29); and indefinite detention without interrogation (s.28). Sections 28 and 50/50A were effectively made redundant by the PSA, although emergency legislation regulations had to be renewed annually. The ISA had streamlined and superseded a range of legislation providing for detention without trial: General Laws Amendment Act (37 of 1963, 90-day detention); Criminal Procedure Amendment Act (96 of 1965, 180-day detention); General Laws Amendment Act (62 of 1966, 14-day renewable preventive detention); Terrorism Act (83 of 1967, s.6 indefinite detention for interrogation in solitary confinement); and Internal Security Amendment Act (79 of 1976, 12-month renewable preventive detention and 6-month detention of potential state witnesses in solitary).
- 5 Christopher Merrett, “The beginning of the end”. *The Witness*, 30 Mar. 2010. The arrests

- were premature because a copy of the relevant *Government Gazette* was not yet available in Pietermaritzburg. The three whites were released when a court order was obtained by lawyers Leslie Weinberg and Simon Roberts, but detained a day later after the *Gazette* had been flown up from Cape Town by military aircraft. For an account of Brown's detention see Michael Cardo, *Opening Men's Eyes: Peter Brown and the Liberal Struggle for South Africa* (Johannesburg: Jonathan Ball, 2010): 143–53.
- 6 The nationwide figure for detentions under security legislation from 1963 to 1986 was nearly 21 000.
  - 7 Almost 30 years later she paid tribute to the compassion and professionalism of the station commander, Dick Rust, and his wife who effectively protected her against the SB (Nina Hassim, "A tribute to my jailer". *The Witness* 7 Aug. 1998).
  - 8 Kader Hassim received concurrent sentences that amounted to eight years on Robben Island where he famously brought a case in 1973 against the commanding officer. He won the point in the Supreme Court that solitary confinement could not be imposed without due process (see Neville Alexander, *Robben Island dossier, 1964–1974* (Cape Town: UCT Press, 1994): 112, n.31).
  - 9 James Sanders, *Apartheid's Friends: the Rise and Fall of South Africa's Secret Service* (London: Murray, 2006): 130, 424; "Portrait of a defector". *New African* 148(1979): 40–1.
  - 10 Truth and Reconciliation Commission, *Report* 3: 169.
  - 11 *Survey of Race Relations in South Africa* 1979: 146.
  - 12 Max Coleman, (ed.), *A Crime Against Humanity: Analysing the Repression of the Apartheid State* (Cape Town: David Philip, 1998): 59.
  - 13 *Survey of Race Relations in South Africa* 1982: 237–8, 246.
  - 14 *Survey of Race Relations in South Africa* 1982: 246.
  - 15 This overview is based on Paul Forsyth, *Pietermaritzburg Conflict Chronology: Political Developments in Pietermaritzburg, 1980–1986* (Pietermaritzburg: Department of Historical Studies, University of Natal, 1991), a digest of press reports; and John Aitchison, *Numbering the Dead: Patterns in the Midlands Violence* (Pietermaritzburg: Centre for Adult Education, University of Natal, [1988]): 7. Forced recruitment by Inkatha was seen as a significant catalyst of the violence that flared up in the Edendale Valley in the second half of 1987 (David Niddrie, "Into the valley of death". *Work in Progress* 52(1988): 11–12).
  - 16 Truth and Reconciliation Commission, *Report* 3: 240.
  - 17 Philippe Denis, "Men of the cloth": the Federal Theological Seminary of Southern Africa, Inkatha and the struggle against apartheid". *Journal of Southern African Studies* 34(2) 2008: 305–6.
  - 18 Vigilante groups like those abetted by Inkatha were known as contra-type organisations after the right wing insurgents in Nicaragua.
  - 19 David Niddrie, "Into the valley of death": 15.
  - 20 *Natal Witness* 15 Jan. 1986.
  - 21 One of the organisations that sprang out of the schools crisis in Sobantu was Forward Youth (*Echo* 16 January 1986).
  - 22 *Natal Witness* 2 May 1986.
  - 23 *Human Rights and Repression in South Africa: The Apartheid Machine Grinds On* (Johannesburg: Human Rights Commission, South African Council of Churches and the Southern African Catholic Bishops Conference, 1989): 19–21.
  - 24 Max Coleman (ed.), *A Crime Against Humanity*: 39. The Public Safety Amendment Act (67 of 1986) was promulgated on 26 June 1986 and first implemented on 24 August 1990.
  - 25 It is termed the first emergency in this article, followed by the second, third, fourth and fifth (1987–8, 1988–9, 1989–90 and 1990). But previous emergencies had affected Pietermaritzburg and 121 other magisterial districts (of a total of 265) from 30 Mar. to 31 Aug. 1960; and 44 magisterial districts (none in Natal) from 21 July 1985 (the day of the funeral of the murdered Cradock Four) until 7 Mar. 1986. There were 11 727 detentions in 1960 and about 8 000 in 1985–6. Surprisingly, no national emergency was declared at the time of the Soweto Uprising in 1976.
  - 26 Some of Pietermaritzburg's detainees were already well-known, or would become so: Thami Mseleku (director-general in the national departments of education and health, and high commissioner to Malaysia); Sikhumbuzo Ngwenya Mbatha (UDF secretary); Yunus Carrim (deputy minister of local government); Yusuf Bhamjee (mayor of Umgungundlovu Municipality); Adam Habib (deputy vice-chancellor of Johannesburg University); A.S. Chetty (UDF chairperson); Chota Motala (ambassador to Morocco); John Jeffery (senior ANC member of parliament); and Peter Kerchhoff (Pacsá organiser).

- 27 For example, the National Education Union of South Africa (Neusa), National Union of South African Students (Nusas), Pacsas, Descom, Natal Organisation of Women (Now), End Conscriptio Campaign (ECC), South African Committee for Higher Education (Sached), Association for Rural Advancement (Afra), the Progressive Federal Party (PFP) and the Pietermaritzburg Council of Churches (PMBCC).
- 28 David Webster, "Repression and the State of Emergency". *South African Review* 4 (1987): 149.
- 29 At first it was not clear how many seminarians had been detained, but the number soon became evident: Howick police sent a message to St Joseph's for 20 knives, forks and spoons.
- 30 *Natal Witness* 14 June 1986: 10. The name attached to the advert was Ronald Devy.
- 31 In a familiar move, police switched one of the detainees to the more stringent s.29 of the ISA.
- 32 Peter Kerchhoff was thought by the SB to belong to 46 organisations (which may well have been true), so detainees like him were regarded as useful potential sources of information.
- 33 The matter of visiting judges was also a problem on Robben Island: see Neville Alexander, *Robben Island dossier*: 89.
- 34 *Government Gazette* 10281 (12 June 1986).
- 35 Police stations used were Bishopstowe, Camperdown, Dalton, Howick, New Hanover, Richmond and Thornville; and Alexandra Road, Mountain Rise and Plessislaer in Pietermaritzburg.
- 36 This could only be done legally by a senior officer as punishment for a gazetted offence (*Government Gazette* 10281, 12 June 1986 s.21).
- 37 Kneifel was involved in liberation theology circles and active on the Pietermaritzburg campus of the University of Natal. He had also been part of the setting up of trade unions in Namibia.
- 38 *Natal Witness* 12 June 1987: 1.
- 39 *Echo* 20 Aug. 1986; *Natal Witness* 9 and 23 Oct. 1986.
- 40 John Aitchison, *Numbering the Dead*.
- 41 Büchner was regarded as an expert on anti-ANC operations. Before arriving in Pietermaritzburg he had an active, hands-on career. According to Dirk Coetzee testifying before the Harms Commission in 1991, Büchner was one of the founders in 1981 with Coetzee and Jan Viktor of the Vlakplaas hit squad. By 1984 he was assisting the State Security Council's Mozambique working group (which included Craig Williamson) in its liaison work with Renamo. He was specifically involved in planning raids on ANC houses in Maputo and the murder of their occupants (see Terry Bell, *Unfinished Business: South Africa, Apartheid and Truth* (Observatory: RedWorks, 2001: 254)). In May 1989 he left the SB in Pietermaritzburg and was appointed commissioner of the KwaZulu Police.
- 42 David Niddrie, "Into the valley of death": 9, 11.
- 43 John Aitchison, "Can the Inkatha gate be closed?" *Work in Progress* 77 (1991): 6, 8.
- 44 Descom, "Memorandum addressed to the commanding officer of the Security Police in Pietermaritzburg" 14 Jan. 1988.
- 45 *Debates of the House of Assembly* 19 Apr. 1988. These incidents were reported on the BBC World Service programme "Focus on Africa", 24 Mar. 1998 at 18h30 GMT.
- 46 Matthew Kentridge, *An Unofficial War*: 200.
- 47 Lou Levine (ed.), *Faith in Turmoil: the Seven Days War* (Pietermaritzburg: Pacsas, 1999): 59. The witness was a Mr Ndelela.
- 48 Matthew Kentridge, *An Unofficial War*: 90–3.
- 49 Luthuli was previously an ANC operative involved in the Wankie Campaign and an accused in the 1969 ANC trial (SADET, *The Road to Democracy in South Africa* vol.1, 1960–70 (Cape Town: Zebra, 2004): 532).
- 50 Truth and Reconciliation Commission, *Report* v.3, ss. 210, 214. Warber also armed members of Inkatha implicated in violence. He died violently at Winterskloof at the end of 2009. Officially he committed suicide, but questions remain about the circumstances.
- 51 David Niddrie, "Into the valley of death": 6.
- 52 Max Coleman (ed.), *A Crime Against Humanity*: 112–13, 114.
- 53 John Aitchison, *Numbering the Dead*: 8, 22, 28.
- 54 Tim Smith, "The Seven Days War 1990" in Lou Levine (ed.), *Faith in Turmoil*: 104.
- 55 Amongst the others were Stembiso Hlongwane (Edendale), Mzwandile Mbongwe (a university student from Imbali), Msizi Mfeka, Pamela Mnandi, Madomane Mnguni (Mpophomeni), Nthuthuko Mokubung (Edendale), Sibusiso Ndelela, Jameson Ngomane, Snothi Nkabinde (Magwagwa) and Zakhele Ntshangase, all from UDF aligned organisations.
- 56 Matthew Kentridge, *An Unofficial War*: 157. The restrictions involved a ban on participation in twelve organisations (including the UDF and a fictitious body) except for peace

- negotiations under the auspices of the Chamber of Commerce; confinement to the magisterial district of Pietermaritzburg; and a ban on attendance at anti-government gatherings.
- 57 Numbers were so large it was impossible to keep track of releases, so the numbers in detention at any one time are unknown. Indeed, monitoring in any depth became extremely difficult. The townships were increasingly hazardous places, access to prison even for lawyers became more strict and parents stopped enquiring about their children: ironically they felt they were safer in prison. One source believed that a third of all South African detainees were held in Pietermaritzburg in early 1988 ("Detentions: developments during 1988/9". *Critical Health* 26 (May 1989): 5, 7) although this was probably exaggerated.
- 58 Matthew Kentridge, *An Unofficial War*: 72.
- 59 David Niddrie, "Into the valley of death": 10.
- 60 Memo submitted by Rishi Thakurdin to the head of New Prison, 11 Jan. 1988.
- 61 *Natal Witness* 6 May 1988.
- 62 The hunger strikes are covered in *Sidla Ekhaya: We Shall Eat at Home: The Detainees' Hunger Strike in Pietermaritzburg, 1989* (Pietermaritzburg: Detainees Aid Committee, 1990). Questionnaires were completed by a few detainees and their details augmented from information held by Dacom.
- 63 Betty Livingstone, Dee Pinto and Louise Frankel, "The psychological effects of detention and hunger strikes on mental health". *Critical Health* 26 (May 1989): 24–5.
- 64 *Sidla Ekhaya*: 4.
- 65 *Natal Witness* 24 Feb. 1989.
- 66 *Human Rights and Repression in South Africa: The Apartheid Machine Grinds On* (Johannesburg: Human Rights Commission, South African Council of Churches and the Southern African Catholic Bishops Conference, 1989): 21; David Webster and Maggie Friedman, "Repression and the State of Emergency: June 1987–March 1989". *South African Review* 5 (1989): 18–19.
- 67 Irish Committee for Justice and Peace, fax dated 15 Feb. 1989 to Southern African Catholic Bishops Conference.
- 68 *Natal Witness* 25 Feb. 1989.
- 69 *Weekly Mail* 8 Sep. 1989.
- 70 John Falk, "Medical and ethical aspects of detention and hunger strikes". *Critical Health* 26 (May 1989): 14; *Natal Witness* 1 Mar. 1989.
- 71 *Natal Witness* 28 Feb. 1989.
- 72 The hospitals involved were Edendale (6 hunger strikers), Greytown (4) and Estcourt (4); and Northdale (10), Grey's (6) and Midlands Medi Clinic in Pietermaritzburg (5).
- 73 The MDM was the broad front for anti-government protest that emerged in 1989. It was largely driven by the UDF and Cosatu, but embraced any anti-apartheid organisation.
- 74 *Natal Witness* 18 Feb. 1989. An advert placed on 16 Feb. was sponsored by two dozen local organisations.
- 75 *Human Rights Update* May 1989: 49.
- 76 Heather Hughes and Christopher Merrett, "Detentions". *South African Human Rights and Labour Law Yearbook* 1990: 90–1.
- 77 Indries Naidoo with Albie Sachs, *Island in Chains: Ten Years on Robben Island by Prisoner 885/63* (Harmondsworth: Penguin, 1982): 175.
- 78 *Dacom Fact Sheet 2* (Dec. 1989).
- 79 Heather Hughes and Christopher Merrett, "Detentions": 88, 91.
- 80 Max Coleman (ed.), *A Crime Against Humanity*: 74–5.
- 81 Durban ex-detainee Chris Ntuli was killed shortly after leaving a police station.
- 82 *Weekly Mail* 3 Nov. 1989. The details emerged from a court case.
- 83 Proclamation 96, *Government Gazette* 12523 (8 June 1990).
- 84 Human Rights Commission, *Review of 1990* (Braamfontein: HRC, 1991): 1.
- 85 *Government Gazette* 13671 (4 Dec. 1991), 13807 (3 Mar. 1992) and 14012 (2 June 1992).
- 86 *Natal Witness* 12 Dec. 1991. The HRC, however, made no record of this.
- 87 *Government Gazette* 13897 (8 May 1992) and 14044 (8 June 1992); *Natal Witness* 9 May 1992; Anne Truluck, *No Blood on Our Hands: Political Violence in the Natal Midlands 1987–mid-1992 and the Role of the State, White Political Parties and Business* (Pietermaritzburg: Black Sash, 1992): 82.
- 88 *Government Gazette* 14402 (6 Nov. 1992). For a personal account of unrest in the area in the 1990s see Andrew Ragavaloo, *Richmond: Living in the Shadow of Death* (Johannesburg: STE, 2008).
- 89 "Detentions". *Work In Progress* 56–57 (1988): 34.
- 90 Arthur Chaskalson, "Opening address" in A.N. Bell and R.D.A. Mackie (eds), *Detention and Security Legislation in South Africa: Proceedings of a Conference Held at the University of Natal, September 1982* (Durban: Centre for Adult Education, University of Natal, 1982): 2.

- 91 Don Foster, Dennis Davis and Diane Sandler, *Detention and Torture in South Africa*: 154–5.
- 92 Matthew Kentridge, *An Unofficial War*: 197–8.
- 93 *Natal Witness* 27 Feb. 1988.
- 94 *Echo* 3 Mar. 1988.
- 95 *Natal Witness* 9 Apr. 1988.
- 96 *Natal Witness* 22 Mar. 1990.
- 97 Anne Truluck, *No Blood on Our Hands*: 22–3.
- 98 *Natal Witness* 18 and 19 May 1989.
- 99 This was the independent, apartheid-era HRC; not to be confused with the Chapter 9 body set up under the 1996 Constitution.
- 100 Max Coleman (ed.), *A Crime Against Humanity*: 43.
- 101 Matthew Kentridge, *An Unofficial War*: 221–3.
- 102 John Aitchison, “The Seven Days War (25 to 31 March 1990): background, course and questions” in Lou Levine (ed.), *Faith in Turmoil*: 111.
- 103 Matthew Kentridge, *An Unofficial War*: 183, 199, 200–1.
- 104 Karen Allsopp, *Comrade Lost: A Life to Inspire Us* (Pietermaritzburg: Pacsa, 1992): 5–6.
- 105 Colin Gardner in Karen Allsopp, *Comrade Lost*: 36.
- 106 Anthony Altbeker, *The Dirty Work of Democracy: a Year on the Streets with the SAPS* (Johannesburg: Jonathan Ball, 2005): 242.
- 107 *Torture is Part of the System: State Violence in South Africa and Namibia* (London: ANC, 1984): 7.
- 108 John Falk, “Medical and ethical aspects of detention and hunger strikes”: 11.