

MCSC1
TASK GROUP 2
EXTERNAL SUBMISSIONS
JUNE 1992
VOL 1



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- 5. THE BISHOP OF GRAHAMSTOWN**

●
CONVENTION FOR A DEMOCRATIC SOUTH AFRICA

●
PO Box 307, Isando, 1600, South Africa.
Telephone (011) 397-1198/99. Fax (011) 397-2211
●

Conscientious Objector Support Group

P.O.Box 591
Kengray
2100 Jhburg

15 June 1992

The Chairman
The Management Committee
CODESA

Fax No 397-2211

Dear Mr Gordhan

re: Legislation introduced into Parliament this session.

As a group concerned with Conscientious Objection to military service, we have recently made representations on the Defence Amendment Bill (112-92) to the appropriate Parliamentary committee. This Bill was tabled in Parliament towards the end of May, and is a major piece of legislation. Not only are the changes proposed for Conscientious Objectors both too little and too late, but the introduction of the Bill shows a flagrant disregard by the government for the negotiation process. It seems that the Defence Amendment Bill is only one example of attempts to push far-reaching legislation through Parliament at the end of the session and after the "breakdown" of CODESA 2.

We wish to express to you and your committee our concern about the Government's arrogant disregard of negotiations at CODESA, as well as our concern about the apparent disregard of negotiations in other forums about the future of the Defence Force and also the control of the security forces in the near future.

We quote the relevant passages from our submission to the Parliamentary Committee on Security Services:

"2. The Bill and the Negotiations Process.

2.1 One of the tasks of CODESA is to establish a climate conducive to free political activity and the holding of free and fair elections. The Bill undermines CODESA in the following ways:

2.1.1. Co-ercing members of the Citizen Force and the Commandos into the Police Reserve is likely to lead to further militarisation of the Police. In order to gain the trust of all sections of the community, however, the Police service needs to be de-militarised;

2.1.2. The Bill makes no provision for training conscripts who are allotted to the Police Reserve, in the practice of law enforcement. In the light of the present situation in this country this can only be described as alarming.....

2.3 Negotiations are seeking to place a future defence force under effective civilian control. This Bill, on the other hand, makes no attempt to strengthen civilian control over the defence force."

You at CODESA are no doubt aware of all the contentious Bills currently in the Parliamentary pipeline. We wish to urge that this issue be placed on the CODESA agenda, with a proposal that there be a moratorium on new legislation until we have an Interim Government acceptable to CODESA.

Yours sincerely,



Nan Cross phone 011 614-7458
Conscientious Objector Support Group
Johannesburg.



African National Congress Border Region

1st Floor, Teggie Centre, 1/3 North Street, East London, 5201.
Phone: 0431 439 734/5
Fax: 0431 439 736

Fax Cover Sheet

To : Codesa

Attention : The Secretariat

Fax No : 011 397 2211

Date : 04/09/92

No. of Pages including this one : 15

Sent by : Donne Cooney

Message : Please receive copies of the "laws" passed at the Peoples Assembly held in KWT on the 6 April 1992. Please pass these on to the relevant working groups

Forward to Democratic Elections for a Constituent Assembly

LAW ON THE SPEEDING UP OF INTERIM GOVERNMENT

THIS PEOPLE'S ASSEMBLY.

NOTING the undemocratic nature of the Ciskei government, which does not represent the interests of the people in the region;

AND BELIEVING that a climate for free political activity in Ciskei cannot be obtained until the Ciskei administration is replaced by an interim government that covers the whole of South Africa;

THEREFORE rejects the South African government's attempts to delay the process of establishing an interim government.

AND RESOLVES that the process of establishing an interim government for the whole of South Africa must be undertaken immediately.

Adopted this sixth day of April 1992 at the People's Assembly in King William's Town

Signed _____

Convener

LAW ON THE REINCORPORATION OF THE BANTUSTANS

THIS PEOPLE'S ASSEMBLY.

NOTING the oppressive legacy of apartheid which has imposed the system of bantustans on the people without their consent;

AND BELIEVING that the continued existence of the bantustans stands in the way of any progress towards peace and democracy in South Africa;

AND FURTHER BELIEVING that apartheid institutions must be abolished in their entirety;

THEREFORE RESOLVES that the process of reincorporation should be implemented without any further delay, and South African citizenship restored to all those who were robbed of their citizenship.

Adopted this sixth day of April 1992 at the People's Assembly in King William's Town

Signed

Convener

68

LAW ON THE REMOVAL OF THE SADF FROM CISKEI

THIS PEOPLE'S ASSEMBLY,

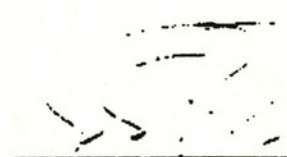
NOTING the conscious and deliberate deployment of seconded and former SADF, CCB and military intelligence officials throughout the Ciskei security forces to undermine democratic organisation and spread violence and conflict in the region;

AND BELIEVING that there cannot be stability in Ciskei until these officials have been removed;

THEREFORE RESOLVES that all seconded and former SADF, CCB and other military intelligence officials should immediately leave Ciskei.

**Adopted this sixth day of April 1992 at the People's Assembly
in King William's Town**

Signed



Convener

7a

LAW ON HARASSMENT OF TRADITIONAL LEADERS

THIS PEOPLE'S ASSEMBLY,

NOTING the current harassment of traditional leaders in Ciskei, and in particular the disgraceful treatment handed out to the Paramount Chief by the Ciskei administration;

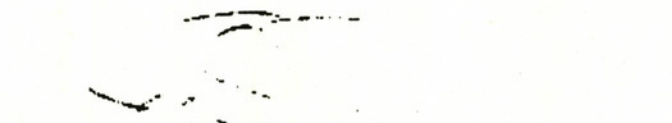
AND BELIEVING that the status of legitimate chiefs should not be undermined by the petty politics of an illegitimate bantustan administration;

THEREFORE RESOLVES to censure the Ciskei administration for its actions, and demand an immediate apology from the Ciskei administration.

AND FURTHER RESOLVES to reaffirm the status of the Paramount Chief and accord him all due respect as a traditional leader of the people.

Adopted this sixth day of April 1992 at the People's Assembly in King William's Town

Signed



Convener

LAW ON VAT

THIS PEOPLE'S ASSEMBLY.

NOTING that the unilateral imposition of VAT has contributed to inflation, and shifted the tax burden to the workers and the poor;

AND FURTHER NOTING that 16,3 million of our people live below the poverty datum line;

AND BELIEVING that all adjustments to the taxation system during the transition must be implemented through a joint economic negotiating forum:

THEREFORE RESOLVES that there should be zero rating of VAT on ~~basic~~ foods: electricity, water, medicines and medical services:

AND FURTHER RESOLVES that adequate relief programmes and a reduction in basic food prices must be implemented urgently to address the critical problems of poverty and hunger.

Adopted this sixth day of April 1992 at the People's Assembly in King William's Town

Signed _____

Convener

74

LAW ON EDUCATION CRISIS

THIS PEOPLE'S ASSEMBLY.

NOTING the current crisis in education as a result of the racist and unequal allocation of resources,

AND FURTHER NOTING the unjustified disruption of education and harassment of teachers and students by the Ciskei administration,

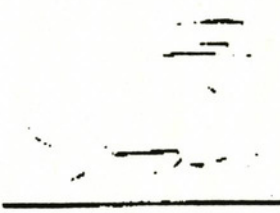
AND BELIEVING that free, equal and compulsory education for all is a basic human right,

THEREFORE RESOLVES that the Ciskei administration should immediately stop its harassment of teachers and pupils, and reinstate all dismissed teachers.

AND FURTHER RESOLVES that there should be immediate parity with regard to allocation of education resources, and that the creation of a single national education system must be implemented through negotiation at a national Education Forum.

Adopted this sixth day of April 1992 at the People's Assembly in King William's Town

Signed



Convener

**VOTE OF NO CONFIDENCE IN CISKEI
ADMINISTRATION**

THIS PEOPLE'S ASSEMBLY.

NOTING the grossly incompetent manner in which the Ciskei administration is being run,

AND FURTHER NOTING that Gqozo has misled the people of Ciskei and reneged on his undertakings to respect the will of the people.

AND FURTHER NOTING that the Ciskei administration is being used as a platform for reactionary forces to undermine the process of a peaceful transition to democracy.

AND FURTHER NOTING Gqozo's blatant misrepresentation of the interests of the people of Ciskei at Codesa.

AND BELIEVING that Gqozo is unable to continue leading the Ciskei administration during the current transition.

THEREFORE passes a vote of no confidence in the Ciskei administration and calls on the military council to bow to the will of the people.

Adopted this sixth day of April 1992 at the People's Assembly in King William's Town

Signed _____

Convener

**LAW ON THE ABOLITION OF THE DEATH SENTENCE
AND RELEASE OF ALL POLITICAL PRISONERS**

THIS PEOPLE'S ASSEMBLY,

NOTING that despite all undertakings by the South African government many political prisoners are still languishing in jails in South Africa and its bantustans.

AND FURTHER NOTING the large number of people waiting on death row for execution of sentence.

AND BELIEVING that the death penalty is a fundamental violation of human rights.

THEREFORE RESOLVES that all political prisoners should be immediately released.

AND FURTHER RESOLVES that there should be an immediate moratorium on all executions and the death sentence should be abolished.

**Adopted this sixth day of April 1992 at the People's Assembly
in King William's Town**

Signed _____

Convener

77

LAW ON REINSTATEMENT OF DISMISSED CISKEI CIVIL SERVANTS

THIS PEOPLE'S ASSEMBLY,

NOTING the unfair dismissal of thousands of Ciskei civil servants despite attempts to negotiate a settlement to the dispute,

~~AND FURTHER NOTING the continued harassment and~~ dismissal of Ciskei officials who do not support the ~~anti-~~ democratic and reactionary agenda of Gqozo and his military advisers,

AND BELIEVING that such actions are a ~~contravention of the~~ basic rights of employees, and a ~~subversion of the principles~~ of democratic government.

THEREFORE RESOLVES that the harassment of government employees by Gqozo and his advisers should immediately cease, and all dismissed civil servants should be immediately reinstated.

Adopted this sixth day of April 1992 at the People's Assembly in King William's Town

Signed _____

Convener

LAW ON THE HEADMEN ISSUE

THIS PEOPLE'S ASSEMBLY,

NOTING the undemocratic reimposition of the headmen system in Ciskei against the will of the people.


AND BELIEVING that the use of the headmen system as an instrument of oppression and political patronage is a violation of the principles of the Peace Accord and the declaration of intent adopted at Codesa.

AND FURTHER BELIEVING that the headmen system is being used to undermine the position of traditional leaders.

THEREFORE suspends the headmen system in Ciskei until a proper democratic system of local government has been agreed upon in negotiations.

Adopted this sixth day of April 1992 at the People's Assembly in King William's Town

Signed



Convener

LAW REPEALING SECTION 43

THIS PEOPLE'S ASSEMBLY.

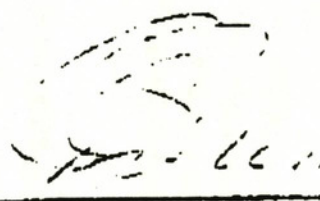
NOTING the absence of free political activity in Ciskei, and in particular the imposition of section 43 of the National Security Act of 1982 which is both designed and used to deny free political expression in Ciskei;

AND BELIEVING that section 43 of the National Security Act of 1982 violates the Peace Accord and the declaration of intent adopted at Codesa:

THEREFORE repeals section 43 of the National Security Act of 1982, and replaces it with Section 2.5 of the National Peace Accord.

Adopted this sixth day of April 1992 at the People's Assembly in King William's Town

Signed



Convener

LAW ON VIOLENCE

THIS PEOPLE'S ASSEMBLY,

NOTING the current wave of violence which is being used to destabilise the transition towards a democratic government,

AND BELIEVING that the South African government has so far deliberately not taken sufficient action to root out the reactionary forces behind the violence,

AND FURTHER BELIEVING that the impartiality and full cooperation of the security forces in addressing the violence cannot be guaranteed until the existing armies have been integrated into a united non-racial security force.

THEREFORE RESOLVES that the government must take immediate steps in consultation with mass-based democratic organisations to resolve the violence, and as a matter of urgency must initiate the process of negotiation around integration of Umkhonto we Sizwe and other armies into the security forces.

Adopted this sixth day of April 1992 at the People's Assembly
in King William's Town

Signed _____

Convener

69

~~LAW ON CONSTITUENT ASSEMBLY~~

THIS PEOPLE'S ASSEMBLY,

NOTING the opposition of the Ciskei administration to an elected constitution making body,

AND BELIEVING that no government can justly claim authority unless it is based on the will of the people,

THEREFORE RESOLVES that a Constituent Assembly elected on the basis of universal adult franchise be established forthwith to draw up the constitution for a non-racial, non-sexist democratic South Africa.

Adopted this sixth day of April 1992 at the People's Assembly in King William's Town

Signed



Convener

67

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~~JOHANNESBURG~~

FAKS-TRANSMISSIE

FAX TRANSMISSION

AAN: MAATSKAPPY/KANTOOR
TO: COMPANY/OFFICE

.....The Secretariat.....ANC.....
.....Codesa Working Group.....

VIR AANDAG AAN :
FOR ATTENTION OF :

.....Janet Love = Working Group I.....

FAKSN. :
FAX NO. :

.....397-2211.....

VAN AFDELING :
FROM DIVISION:

.....Law Portfolio = SATRU.....

AFSENDER :
SENDER :

.....Michelle J. Emmerich.....

DATUM VAN TRANSMISSIE :
DATE OF TRANSMISSION :

AANTAL BLADSYE (INSLUITEDE HIERDIE EEN):
NUMBER OF PAGES (INCLUDING THIS ONE) :

.....5.....

BOODSKAP:
MESSAGE :

.....FURTHER TO OUR RECENT TELEPHONIC.....
.....CONVERSATION, HEREWITH A SUBMISSION FOR.....
.....THE URGENT ATTENTION OF WORKING.....
.....GROUP I.....

REGARDS

M.J. Emmerich

NAVRAE/ENQUIRIES: — TEL. 011 - 832-3341 X (10)
Home 642-0374

~~GOETEMOEDER:~~
~~APPROVED :~~

DATUM:
DATE :

SATRU SECRETARY
CAROL JOUBERT H: 642-0653
W: 493-7251

HEAD CO-ORDINATORS: -
BARBERA PARICER H. 828-7893
GAVIN ROBINSON W 836-5942



SATRU

(SOUTH AFRICAN TRANSEXUAL RESEARCH UNIT)
PO Box 40, WITS, Johannesburg 2050, RSA.
Tel: (011) 642-0653. Fax: (011) 893-4118

1992 -04- 29

The Gender Advisory Committee,
The Management Committee,
Cadosa Working Group,
PO Box 307, ISANDO 1600.

COMRADES!

Working Group 1.

TERMS OF REFERENCE 1.1.4 (5)

Request to REPEAL BILL re REGISTRATION OF BIRTHS AND DEATHS, which underwent 2nd READING in Parliament 19th March 1992. (THIS PREVENTS POST-OP TRANSEXUALS FROM CHANGING THEIR ID STATUS FROM MALE TO FEMALE).

The Minister Gene Louw motivates the Bill on a court case which allegedly determines that the change of sex operation cannot actually bring about any change in sex BUT ONLY BRINGS ABOUT "PSYCHOLOGICAL RELIEF". THE EFFECT THAT THIS LEGISLATION WILL HAVE IS TO REDUCE THE STATUS OF POST-OP TRANSEXUALS TO THE SAME AS THEIR SISTERS IN THE UNITED KINGDOM, WHICH AS YOU KNOW IS A RIDICULOUS SITUATION.

THIS ACTION IS SEEN AS AN ARROGANT AND INCONSIDERATE MOVE BY THE NP AUTOCRACY, AS WE, THE TRANSEXUAL COMMUNITY IN RSA HAVE NOT BEEN CONSULTED, NEITHER ANY SPECIALISTS OR ACADEMICS INVOLVED WITH THE PHENOMENON. IT IS ALSO SEEN AS A VISIBLE DENIAL OF TRANSEXUAL HUMAN RIGHTS.

There is no difference between a post-operative male to female transsexual and an androgen-insensitive person who has had a full hysterectomy. BOTH ARE CHROMOSOMALLY MALE, HAVE A MALE SKELETAL STRUCTURE, AND HAVE/OR HAVE HAD TESTES. ERICA SCHNEGGER THE RENOWNED SWISS SKI ATHLETE OF OLYMPIC FAME WAS SUCH AN TRANSEXUAL AND AFTER HER CHANGE FROM "FEMALE" TO MALE COULD PRODUCE A CHILD! THERE MUST BE MANY FEMALES WHO ARE ACTUALLY GENETIC MALES, IN THE CURRENT BIRTHS & DEATHS REGISTER, REGISTERED AS "FEMALES", YES!

IT IS THEREFORE APPARENT THAT THE HON. MINISTER GENE LOUW IS NOT ONLY IMMENSELY IGNORANT OF THE TRANSEXUAL FACTS OF LIFE BUT VERY PREJUDICED AS WELL, PUTTING HIMSELF IN THE SAME LEAGUE OF IDIOTS AS THE EUROPEAN HUMAN RIGHTS COURT OF APPEAL WHO SAID TO CAROLINE COSSEY "OF COURSE YOU HAVE THE RIGHT TO MARRY, YOU MAY MARRY A WOMAN!"

IT IS ALSO APPARENT THAT THE LOSER IN THE RELEVANT COURT CASE DID NOT HAVE A DEFENCE THAT WAS SUPPORTED BY THE FACTS. IT APPEARS TO HAVE BEEN AN ORCHESTRATED AND BIASED CASE AT THE VERY LEAST.

AT PRESENT TWO ASSOCIATIONS EXIST IN SOUTH AFRICA, THE PHOENIX SOCIETY AND SATRU, THE FORMER BEING A SUPPORT GROUP. THE BLACK TRANSEXUALS HAVE NOT YET CONSOLIDATED THEMSELVES INTO AN ASSOCIATION. THE AUTHOR IS IN THE PROCESS OF MAKING CONTACT WITH TRANSEXUALS IN THE AFRICAN COMMUNITY WITH A VIEW TO THE FORMATION OF A COHESIVE AND ACTIVE SUPPORT AND RESEARCH GROUP TO PROMOTE THE WELFARE OF ALL TRANSEXUALS AND IT IS ESTIMATED THAT WITHIN A RELATIVELY SHORT PERIOD THE NUMBERS WILL FAR EXCEED THE PRESENT MEMBERSHIP OF SATRU AND PHOENIX COMBINED.

IT MUST NOT BE FORGOTTEN AT THIS DELICATE STAGE THAT THE AFRICAN COMMUNITY HAS NEVER HAD THE BENEFIT OF SEX REASSIGNMENT SURGERY AT BALAGWANATH HOSPITAL (OR AM I WRONG?)

IT IS ALL THE MORE IMPERATIVE THEREFORE TAKING ALL THESE FACTORS INTO CONSIDERATION THAT THE INTENDED LEGISLATION BE CONTESTED AT THE HIGHEST LEVELS TO REPEAL SAME AND RETAIN THE PRESENT STATUS QUO OF THE T/S COMMUNITY IN SOUTH AFRICA.

YOUR URGENT AND COMMITTED ATTENTION TO THIS VERY SERIOUS AND DELICATE MATTER WILL BE HIGHLY APPRECIATED.

YOURS FAITHFULLY,

Michelle J. Emmert H

Law Portfolio : SATRU

(ENCL: PROPOSED Gender ARTICLE 15 FOR BILL OF RIGHTS.)

**PROPOSED GENDER RIGHTS ARTICLE IN A
BILL OF RIGHTS FOR A NEW SOUTH AFRICA**

- 1) (i) Men and women shall enjoy equal rights in all areas of public and private life, including employment, education and within the family, furthermore discrimination on the grounds of sex, single parenthood, sexual or gender orientation shall be unlawful.

(ii) Harassment, abuse or violence against the family, spouse and children of persons who are gay, transgendered or transsexual shall be unlawful.
- 2) Positive action shall be undertaken to overcome the difficulties and/or disadvantages suffered on account of past sexual or gender discrimination.
- 3) The law shall consider harassment, abuse and violence on the grounds of sex, gender or sexual stereotyping as a criminal offence. Such persons discriminated against shall be entitled to file criminal suits and sue for damages. In this context paragraphs 1, 4, 6 and ~~10~~ refer.
- 4) No employer, medical aid society, insurance company or other institution shall discriminate, refuse consideration of or terminate employment, benefits, or membership on the grounds of sex, sexual or gender orientation or sexual stereotyping and any such actions shall be unlawful.
- 5) Educational institutions, the media, advertising and similar institutions shall be under a duty to discourage any sexual or gender stereotyping.
- 6) (i) No transvestite, transgenderist, dual-sex person or transsexual shall be coerced in any way to undergo any form of reversal therapy (psychological sex change) or be prevented from undergoing psychotherapy and/or the morphological sex reassignment operation.
- 7) The state shall provide facilities for those transgendered, dual-sex or transsexual persons who for financial reasons cannot afford the morphological sex-reassignment operation privately, furthermore that age and marital status should not be classified as impediments provided that such candidates have discharged their legal responsibilities in submitting a divorce certificate and otherwise maintaining their dependants.
- 8) (i) Post-operative transsexuals shall be entitled to marry as though biological females and be entitled to alimony in the event of a divorce.

(ii) Post-operative transsexuals as single persons or jointly with their husbands shall be responsible for the maintenance of their children of a previous marriage with due consideration of personal financial circumstances.

- (iii) Married transvestites, pre-operative and post-operative transsexuals, shall in the event of a divorce be entitled to joint custody of their biological and/or adopted children unless proven criminal incompetence is an impediment.
- 9) The state shall nominate and subsidize approved and suitable bodies to monitor:
- (i) gay persons,
 - (ii) transvestites, dual-sex persons, transgenderists and transsexuals,
- to protect their rights and afford them and their families the counselling and psychotherapy that may be necessary as well as to liaise with the regional hospitals in respect of the morphological sex-reassignment operation where applicable.
- 6 (i) Reversal therapy (psychological sex-change) may be applied to minors for a two year period subject to the conditions that they avail themselves thereto of their own volition and that when the therapy is finalised, they are not older than eleven years of age.
- (ii) Reversal therapy may be applied to gay persons provided that they themselves voluntarily request such therapy.
- 10 (i) Male to female transsexuals in transition and male transgendered persons on hormone therapy, who are awaiting trial or serving sentence, shall after examination by a District Surgeon and upon his recommendation be incarcerated in cells reserved for the female sex, provided that female hormone therapy is maintained.
- (ii) Female to male transsexuals may only be incarcerated in cells reserved for the male sex provided that their sex-reassignment operations have been completed.
- (iii) The criteria in all aforementioned cases including post-operative transsexuals awaiting their identity documents, rests on the requirement that persons with any female sex organs or at least developed breasts, may not be incarcerated in prison cells reserved for the male sex, and that female hormone therapy, where necessary, be maintained to suppress any maleness.

CORE

CO-OPERATIVE FOR
RESEARCH AND EDUCATION

P O Box 42440 Forasburg South Africa 2033
62 Marshall St. Johannesburg South Africa 2001
Tel: (011) 836 9942/3 Fax: (011) 836-9944

Date Rec'd : ...27/4/92...

Date Ackn : ...27/4/92...

Docs Sent : ...n/a.....

Handed for Processing to :
.....W.S. 172 (15).....

Murphy Morobe
CODESA
P. O. Box 307
ISANDO
1600

30 March 1992

Dear Murphy,

On behalf of the Network Against Child Labour I enclose a copy of the memorandum prepared by the Network which was forwarded to the Department of National Health and Population Development. The Department has indicated that it has no intention of setting up machinery to enforce Section 52A of the Child Care Act nor to protect any children who may be forced into occupation.

Whilst we acknowledge that this matter does not fall into the CODESA agenda perhaps you could circulate the document for the attention of all the parties.

Thanking you

Yours sincerely,



Phiroshaw Camay
PC/ft
Encl.

THIRD DRAFT

SECTION 52 A OF THE CHILD CARE ACT: RECOMMENDATIONS AND ISSUES FOR CONSIDERATION IN THE DRAFTING OF REGULATIONS

INTRODUCTION

This submission arises from a workshop on "Child Labour and Legislation" which took place on 16 October at the offices of the Johannesburg Child Welfare Society, and from subsequent discussions between those who took part. There were 25 participants including representatives of the following 14 organizations:

Johannesburg Child Welfare Society, SA National Council for Child and Family Welfare, Co-operative for Research and Education (CORE), Operation Hunger, Transvaal Provincial Administration (Johannesburg office), Lawyers for Human Rights, The Children's Foundation, National Committee on the Rights of Children, SA Black Social Workers' Association, SA Council of Churches, SA Farmworkers' Education Project, COSATU (Food and Allied Workers' Union), World Vision SA, and Save the Children Fund (Sweden).

CONCLUSIONS AND RECOMMENDATIONS

1. The Network associates itself with the opposition of the international community to the economic exploitation of children and to their involvement in work harmful to their development, as expressed in Article 32 of the UN Convention on the Rights of the Child.

It is noted that the right of children to protection from such practices is recognized in the recent report of the SA Law Commission regarding a Bill of Rights for South Africa, as well as in the earlier Draft Bill of Rights developed by the ANC.

2. However, attention to child labour matters is in its early stages in this country relative to much of the rest of the world and that there is a need for much more information and for deliberations to develop policies and strategies in this regard.
3. Child labour occurs on a large scale in South Africa. The agricultural sector is of particular concern here - children are working under hazardous conditions including continual exposure to dangerous chemicals, to the detriment of their education and normal development, and for extremely low wages. In some cases there are no wages at all - e.g. when an entire family is expected to work in lieu of rent for a small piece of land to farm, or Mocambiquan refugee children who are recruited by

local farmers, work for a time and are then reported to the police for deportation as illegal immigrants when they are due to be paid. Another example is children who are paid per assignment - if they are unable to complete a specific unit of work (e.g. filling a container with produce) they have to start afresh the following day with no payment for the partly completed unit. Child labour is also evident in many other sectors, which were not touched on at the workshop due to time constraints - however, they also warrant urgent attention. Copies of documents produced by participating organizations are attached for your information. It is noted that child labour traps children into a cycle of poverty and illiteracy and increases adult unemployment.

4. It is recognized that the law on its own cannot fully address the child labour problem - poverty, illiteracy, adult unemployment, the fact that South Africa still does not provide universal compulsory education and the lack of sufficient vocational training opportunities are some of the causative factors that must simultaneously be addressed. Nevertheless, the law is a vital component of the overall strategy required.
5. Participants are in agreement that children have responsibilities and it is considered legitimate that they perform "child work" - e.g. age-appropriate tasks which in no way interfere with their education or healthy physical, emotional, social and moral development. Certain tasks carried out for tips, such as the pushing of trolleys at supermarkets in safe and controlled conditions, could fall into this category.
6. However the only situation involving actual employment which is agreed upon as constituting a legitimate area for exemption in terms of the Child Care Act, is that of child entertainers. Their employment, subject to careful controls, could amount to an appropriate development of their talents. It is however apparent from the reports of persons with experience in this field that such children are frequently exploited. For example, it happens that children are required to pay a substantial enrolment fee associated with promises which fail to materialize in definite assignments after months or even years. It is also noted that many child actors experience serious problems in adulthood due to excessive stress at an early age. Very ambitious parents cannot always be relied upon to protect their children from developmentally inappropriate demands. It is therefore strongly recommended that exemptions not be granted for child entertainers or in fact for any form of "work or employment" generally, or to "persons generally"

as provided for in Section 52(A)(2) and (3) but only to "particular persons" whose applications are carefully considered according to the merits of each situation. Any exemption should be subject to strict conditions. (The relevant ILO Conventions incorporate certain useful provisions where child entertainers are concerned). It is suggested that the provision in the Act for blanket exclusions is open to abuse and should be revised at the earliest opportunity.

7. Various rationalizations for using child labour on farms are considered to be without foundation. Work for so-called "pocket money" would not be necessary for children if their parents were being paid properly. In a context of rampant adult unemployment this is a particularly unacceptable notion. Safeguards such as controlled conditions and parental consent are unenforceable on farms, especially given that farmers are in a position to evict families who refuse to offer their children's labour, rendering them destitute. Owing to the particular susceptibility of farm children to exploitation it is specifically emphasized that there should be no exemptions for the agricultural sector in terms of section 52 A of the Child Care Act.
8. Participants emphasized the need for effective machinery to be provided for by the regulations to the Act, and for the employment of the necessary personnel for the implementation of Section 52 A, noting that such machinery and personnel are almost entirely absent. It is necessary to ensure that the protection offered by Section 52 A exists in practice and not only on paper. It is also believed that a maximum fine of R4 000 as presently provided for in the Child Care Act is not a sufficient deterrent for employers who stand to substantially increase their profits by using child labour - e.g. farmers.
9. It is suggested that the office of Ombudsperson responsible for child labour issues be created to ensure that children's rights in this critical area are upheld.
10. The organizations concerned will continue to network for the immediate future and will submit further representations in the course of time.

NOVEMBER 1991



John 13:15

Bishopsbourne • 17 Durban Street • P.O. Box 162 • Grahamstown • 6140 • Tel. (0461) 22500 • Office 23460 • Fax. 25231

The Bishop of Grahamstown

The Rt. Revd. David Russell

The Co-Chairpersons,
CODESA.

10.4.92.

Date Rec'd : 7/5/92
Date Ackn : 7/5/92
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..... W.S.L.

Dear Sirs,

Ending of Apartheid and the Lack of Basic Human Rights
For Farmworkers

I am writing from St. George's Cathedral in Cape Town where I have undertaken a fast for seven days in connection with this urgent issue.

I enclose a copy of my letter to the State President dated 24th March, and also a copy of my Statement dated 6th April, in which I enlarge on the matter and suggest what needs to be done.

I am appealing to you, Sirs, to see that this remaining legacy of Apartheid, which affects millions of our citizens, is brought onto the agenda of Codesa.

There will be no justice nor lasting peace and stability in the agricultural sector until farm workers and their families are given the basic human rights which they presently, cruelly, lack.

Thank you for your help in this matter.

Yours sincerely in Christ,

+ David Grahamstown.

The Rt. Revd David Russell.



John 13:15

The Bishop of Grahamstown
The Rt. Revd. David Russell

Bishopsbourne • 17 Durban Street • P.O. Box 162 • Grahamstown • 6140 • Tel. (0461) 22500 • Office 23460 • Fax. 25231

24 March 1992

The State President
The Hon Mr F.W. de Klerk
House of Assembly
P O Box 15
8000 Cape Town

Dear Mr de Klerk

ENDING OF APARTHEID AND THE LACK OF BASIC HUMAN RIGHTS FOR FARM WORKERS

The response to my letter to you of 25 October last year has come to me through the Minister of Local Government and National Housing and of Public Works, Mr L. Wessels, I regret to say that I found his letter most disappointing. I do not think that he seriously addressed the issues I raised in my letter to you. On the contrary, he dashed my hopes. He said that the Prevention of Illegal Squatting and Trespass Acts are not even under revision. How can you, Sir, say to this country and to the world that the book on apartheid has been closed, while this legislation remains unamended on the statute book, and when there is no intention even to revise it. With respect Sir, this is nothing less than scandalous.

Added to this there have been reports in the press quoting the Director General of Manpower, Mr Joel Fourie, which raise grave doubts as to whether the Labour Legislation to protect farm workers, will be brought onto the statute book after all.

I have come to the conclusion that simply to write letters of appeal to you will get nowhere. I wish to share with you that I believe God is calling me to undertake a fast for seven days in the Cathedral in Cape Town. I will be making a public appeal to you to address this national scandal. I call upon you Sir to take definite and specific steps to restore and uphold the basic human rights of the hidden and isolated people living on the farms of this country. They continue to experience the realities of apartheid with cruelly little change. You cannot say that the book of apartheid has been closed until you take up this matter with courage and integrity.

With warm wishes,

Yours in Christ

+ David Grahamstown

The Right Revd David Russell



John 13:15

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6/4/92

WEEK OF PRAYER AND FASTING
FOR
BASIC HUMAN RIGHTS
FOR
FARM WORKERS AND THEIR FAMILIES

For generations farm workers and their families have been living virtually without any legal rights. A worker can be dismissed, and almost overnight he and his family can be turned out of their only house and home. If he stays where he is, he can be arrested and imprisoned for trespass. If he stays on the roadside with all his belongings, he can be arrested for illegal squatting. He and his family have no legal right to live anywhere.

Laws which allow people to be treated like this are cruel, inhuman and unchristian. These laws hover like a sword of Damocles over the lives of too many of the poorest, most hidden and isolated people in South Africa.

It is high time that this injustice was addressed and rectified. We cannot talk of a New South Africa while people are so cruelly vulnerable, are denied basic human rights.

President de Klerk has promised first class citizenship to all South Africans. If this promise is to be fulfilled, then he must make a public commitment to ensure that simple human justice is done to the farmworkers and their families.

Our Christian conscience impels us to speak out on this issue. To keep silent would be sinful neglect.

God sees what is happening, and his compassionate spirit calls for our response.

Our discipleship of Christ draws us into this action of prayer and fasting.

We need to hear the voice of his people; his Holy Spirit cries in them.

What then are we calling for:

1. Farm Workers should be included in all the Labour Legislation which presently covers industrial workers. Some obvious adjustments may be necessary to take into account the special circumstances of the Agricultural sector.
2. Administrative procedures should be set up which ensure that those retrenched and turned off farms are given a place to live, and which enable a dignified human existence.
South African citizens must have the right to live somewhere!
3. The rule of law must be restored.
The Prevention of Illegal Squatting and Trespass Acts must be drastically amended.
The poorest of our land must have effective access to the Courts.
People must be protected from the abuse of power
People should not be turned into criminals for being poor and homeless.

Only in these ways will justice be done, and will apartheid become something truly of the past for people living on the farms.

There can be no peace without justice.
There can be no peace until all South Africans can feel secure.
Reconciliation cannot be built on unjust laws.
Good Relationships need Good Laws.

I appeal to President de Klerk to act.
I appeal to all concerned South Africans to do what they can to see that these wrongs are put right.

+ David Grahamstown

The Rt. Revd. David Russell