



## Restrictions Imposed on the Media in South Africa since 21 July 1985

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## Restrictions Imposed on the Media in South Africa since 21 July 1985

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# UNITED NATIONS CENTRE AGAINST *APARTHEID*

## NOTES AND DOCUMENTS\*

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RESTRICTIONS IMPOSED ON THE MEDIA IN SOUTH AFRICA  
SINCE 21 JULY 1985

by

the International Defence and Aid Fund for Southern Africa (IDAF)

Note: This paper has been prepared by the Research, Information and Publications Department of the London-based International Defence and Aid Fund for Southern Africa (IDAF) for use at the Seminar on the Role of the Latin American and Caribbean Media in the International Campaign against Apartheid. The Seminar, organized by the Special Committee against Apartheid in co-operation with the Government of Peru, is scheduled to take place at Lima from 21 to 23 October 1987.

The views expressed in this paper are those of the authors. 7

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## I. INTRODUCTION

In September 1984 the South African régime moved its troops into black townships in an attempt to crush popular resistance to apartheid. Eight months later, having failed to do so, it declared a state of emergency on 21 July 1985. Since then, apart from three months in early 1986, the country has been under continuous rule by emergency powers. The powers themselves have been expanded and sharpened as the régime has attempted not only to suppress protest but to destroy the structures of organized resistance. Legal restrictions have been backed up by mass detentions and deployment of police and army in townships throughout the country.

Part of the process has been an extension of restrictions on the media. This has been aimed both at concealing the repressive activities of the régime's forces in the townships, police cells and prisons and at closing means of communicating information about mobilization of resistance. The restrictions have taken the form of controls on the access which journalists have to events and to official information; limitations on their freedom to publish information or statements which are not in themselves illegal; and restrictions on the scope of statements that can be legally made. In each respect the past two years have seen increasing restrictions and greater effectiveness in the enforcement of controls.

This paper outlines the legal restrictions imposed since 21 July 1985 on the media, using emergency powers under the Public Safety Act. Some of the means used to enforce the restrictions and some of the other measures against the media will be evident from much of the material included. The paper begins with a brief statement of the emergency restrictions contained in the regulations of 11 June 1987. A chronology of restrictions under the Public Safety Act of 1953 gives some idea of how those powers developed as the régime increased the force of its attack. Fuller details are contained in a series of excerpts from Focus on Political Repression, a bi-monthly bulletin which records monitoring by the International Defence and Aid Fund for Southern Africa (IDAF) of repression in South Africa and Namibia.

\* \* \* \* \*

Under the emergency regulations persons are subject to arbitrary detention without trial. Meetings and many other forms of opposition activity can be prohibited or restricted, while media reporting of such activity and its attempted suppression by the security forces is tightly controlled.

In the period since July 1985, when a state of emergency was imposed in two main regions of the country, the apartheid régime has steadily increased the level of repression across the whole country. It has enacted - and, in the face of legal challenge in the courts - redrafted and re-enacted increasingly restrictive regulations in regard to detentions, gatherings, and public statements and their reporting by the media, most notably in December 1986.

The emergency regulations which were imposed in June 1987 constitute an even more comprehensive set of restrictions on opposition activity and media reporting, and substantially extend the powers of the State and its repressive forces.

Under these regulations any member of the police and army can arrest without warrant, detain for up to 30 days, and interrogate persons who may then be held, by order of the Minister of Justice, for as long as the state of emergency lasts. Any premises can be searched without a warrant. The police have powers to restrict or prohibit funerals, processions and meetings, school and consumer boycotts, or any other form of protest action, such as the wearing of shirts printed with anti-apartheid slogans. They can also cordon off and control the movement and activity of persons in certain specified areas.

Wide-ranging restrictions have been placed on the media in a special set of regulations. 1/ No journalist can be present at the scene of any "unrest" or any action by the "security forces". No news, comment or advertisement can be published in connection with any "security action"; any funeral or meeting that has been prohibited or restricted by the police; any school or consumer boycott; any alternative administrative or legal structures, such as street committees or unofficial courts; any speech, statement or remark by a banned or restricted person; or the detention or release of detainees. No advertisement can be published in support of a banned organization. No publication can appear with a blank space in cases where news has been censored. Restrictions on the publications of court proceedings severely limit public knowledge of evidence of torture and violence against detainees.

Under these regulations no person can make or publish a "subversive statement". Such a statement is one that could encourage people to take part in any restricted gathering or any attack on a member of a "security force" or a local councillor, or a riot or public violence; to resist or oppose a government minister or civil servant or member of the "security forces"; to take part in consumer or school boycotts or in an act of civil disobedience, such as a rent boycott; to take part in a stayaway or illegal strike or in a restricted gathering; to support the activities of a banned ("unlawful") organization; or to participate in "alternative structures". A "subversive statement" is also one that discredits or undermines military conscription.

Finally, under these regulations publications and film and sound recordings can be seized and the production, import or publication of certain periodicals can be prohibited.

II. CHRONOLOGY OF RESTRICTIONS ON THE MEDIA SINCE 21 JULY 1985 AND REGULATIONS AND ORDERS UNDER THE PUBLIC SAFETY ACT OF 1953

- 21 July 1985            State of emergency declared in certain parts of the Eastern Cape and the Pretoria-Witwatersrand-Vereeniging area (extended in October to the Western Cape).
- Police are given powers to control reporting and dissemination of news on the emergency and on the conduct of "security forces" (police, army, prisons service). Official information on emergency detainees is not freely available.
- 2 November 1985        No film, photograph or sound recording of protest actions or of people or "security forces" involved may be made or distributed without police permission.
- 7 March 1986            The state of emergency is lifted.
- 12 June 1986            A state of emergency is declared throughout South Africa, except for bantustans. In addition to similar restrictions imposed under previous emergency, new regulations prohibit the publication of "subversive statements" that encourage people to take part in protest actions, promote the objectives of "unlawful" organizations or encourage foreign disinvestment and sanctions. They further empower the police to seize publications, film or sound recordings that contain "subversive statements".
- 17 June 1986            The emergency regulations are extended to non-"independent" bantustans.
- 21 June 1986            The first of a series of police orders prohibiting gatherings of a total of over 200 organizations. The publication of notices organizing or advertising such meetings is prohibited. The publication of statements by officials of over 100 named organizations in the Western Cape Province is prohibited.
- 1 August 1986            The Emergency regulations are retroactively amended to give police commissioners authority to issue orders after the Rand Supreme Court ruling that they had acted illegally.

- 3 September 1986 A police order prohibits reporting of news concerning any "security action" without their written consent and bans journalists from the scene or sight of any "unrest" or "security action".
- 11 December 1986 A new set of detailed regulations is issued. They maintain and extend existing restrictions, and are partly in response to Natal Supreme Court rulings invalidating a number of security regulations. "Subversive statements" are further defined to include statements that encourage people to stay away from work, take part in attacks on the "security forces" or in "public violence", take part in or support "alternative" administrative or legal structures such as street committees and "people's courts" (but omitted the provisions on encouraging foreign disinvestment and sanctions). The restrictions on news reporting are extended to reports on protest actions, the treatment and release of detainees and statements by restricted persons. Newspapers are prohibited from publishing blank spaces as an indication of censorship and the publication of periodicals can be prohibited.
- 8 January 1987 A police order extends the definition of "subversive statement" to one encouraging support of an "unlawful organization".
- 29 January 1987 The previous police order is declared null and void by the Rand Supreme Court.
- 29 January 1987 Regulations issued in December 1986 are amended to extend the definition of "subversive statement" to include statements encouraging support for or participation in activities of an "unlawful organization".
- 29 January 1987 A police order prohibits publication of advertisements defending or praising "unlawful organizations".
- 11 June 1987 The state of emergency expires after one year.
- 11 June 1987 A state of emergency is declared.

### III. EXCERPTS FROM FOCUS ON POLITICAL REPRESSION

#### A. Focus No. 46 - May-June 1983

##### Censorship laws

##### Restrictions on the press

There are over 100 laws restricting what may be published in South Africa. Some recent laws are listed below.

(a) The Police Amendment Act of 1979 makes it an offence to publish any "untrue" information about police activities in the performance of their duties;

(b) The Second Police Amendment Act of 1980 prohibits the reporting of police counter-insurgency operations of guerrilla activity against which police action is being taken;

(c) The Inquests Amendment Act of 1979 makes it an offence to "prejudice, influence or anticipate" the proceedings of findings at an inquest;

(d) The Petroleum Products Amendment Act and the National Supplies Procurement Amendment Act, both of 1979, prohibit the disclosure of certain information on supplies of strategic products;

(e) The National Key Points Act of 1980 empowers the Minister of Defence to declare any place or area a National Key Point, thereby restricting access and information concerning that area;

(f) The Protection of Information Act of 1982 prohibits the publishing of information relating to security matters and restricts entry into certain areas "for any purpose prejudicial to the security interests of the Republic".

Besides these recent laws, the Defence Act of 1957 and the Defence Amendment Act of 1977 lay heavy restrictions on the reporting of the activities of the South African Defence Force (SADF).

#### Powers to ban publications

The Publications Act of 1974 is most commonly used to ban publications. A ban may be imposed on the importation, distribution or possession of material. All further editions of a periodical can be banned if one edition is considered undesirable. The importation of material on a specific subject or published by a specific publisher may be banned.

Any publication, object, film or public entertainment may be proscribed, if, among other things, it is deemed to harm relations between sections of the community or "is prejudicial to the safety of the State, the general welfare or to peace and good order". Appeals against a ban must be submitted to the Publications Appeal Board whose decisions are not subject to appeal in a court of law.

The Internal Security Act of 1982 prohibits the quoting of statements or publishing of work by banned and listed persons and the publishing of material produced by an organization proscribed under the Act. The State President can prohibit the printing or dissemination of any material which he believes relates to communism. 2/

B. Focus No. 60 - September-October 1985

State of emergency

Faced with sustained resistance to apartheid by African township residents, the régime has extended even further its wide-ranging powers of repression by proclaiming a state of emergency. On 20 July 1985, the State President, P. W. Botha, using powers under the Public Safety Act of 1953, announced that an emergency would take effect from midnight in 36 districts - all but one of them in the Eastern Cape or Pretoria-Witwatersrand-Vereeniging areas - and warned that the number could be extended at any time.

The Public Safety Act, passed in response to the Defiance Campaign of the 1950s, empowers the Government to issue emergency regulations which may suspend the provisions of any laws except those concerning defence, the operation of legislatures and industrial conciliation. These powers were invoked once before, for a four-month period in 1960, following the police killings at Sharpeville and the banning of the African National Congress of South Africa (ANC) and the Pan Africanist Congress of Azania (PAC). At that time over 11,000 people were detained using powers which have since become permanently established in statutes.

Information on township protests and police and army response has come largely from the police itself as the protests have spread over wider areas. The emergency regulations empower the Police Commissioner, Johan Coetzee, to ban the reporting of any information regarding the enforcement of the state of emergency. These supplement an already formidable barrier of laws restricting the dissemination of information about police, prisons and general "security matters", including the fate of political detainees.

C. Briefing paper No. 19 - November 1985

Repressive powers

The régime has had at its disposal extensive powers throughout the country made up of its armed forces on the one hand and legal powers on the other.

Legal powers

The legal powers at the disposal of the régime include specifically the emergency regulations in the affected areas, bantustan laws and regulations, the Internal Security Act and other repressive legislation in the rest of the country.

### Emergency powers

The state of emergency affecting 36 magisterial districts was declared by the State President in terms of the Public Safety Act of 1953, empowering the Government to issue emergency regulations which may suspend the provisions of any laws except those concerned with defence, the operation of legislatures, and industrial conciliation. In terms of the Public Safety Act, the State President may extend the areas affected at any time.

The emergency regulations give wide powers to all members of the police (including the railway police), the army and the prison service to arrest, with or without a warrant, and detain for interrogation for up to 14 days any person whose detention they consider "necessary for the maintenance of public order or the safety of the public or that person himself, or for the termination of the state of emergency". The detention period may be renewed with the permission of the Minister of Law and Order, for an indefinite period until the ending of the state of emergency. 3/

The Minister of Justice is empowered to make rules governing the conditions of detainees under the emergency regulations. Accordingly, a list of rules was published by the Minister, which includes stipulations that information about detainees may only be supplied by the Commissioner of Police making the media entirely dependent on the police for names of detainees; that detainees may not be visited by any person without official permission and may not be visited by a lawyer except with permission from the Minister of Law and Order or the Police Commissioner; that detainees may not write letters to people outside prison without permission; and that they may have no reading matter except a Bible. 4/

A month later, following the detention of over 2,000 people under the new regulations, the Minister's rules were amended to allow for the detention of people outside prison and to permit detainees to receive study materials. 5/

The regulations also confer powers to police, army and prison officers concerning the use of force: if an initial verbal warning is ignored they may apply whatever force they consider necessary against anyone who they consider may endanger or is endangering the safety of the public or the maintenance of public order or exposes or may expose life or property to danger. In addition, powers of search and confiscation are extended to any member of the police, army or prisons service.

As well as these powers, others may be invoked at any time in any specified areas within the 36 districts by the police commissioner or any person acting with his authority, who is obliged to publish the details in the Government Gazette. These powers, contained in section 6 of the regulations, include the imposition of curfews, the cordoning off of areas, the control of traffic and people to and from cordoned areas, the closure of any public or private place or any business or industry, the removal of people out of or to any particular

area and the control of key services and installations. They also provide for the "control, regulation or prohibition of the announcement, dissemination, distribution, taking or sending of any comment on or news" in connection with the emergency regulations, the declaration of the state of emergency or "any conduct of a Force or any member of a Force regarding the maintenance of the safety of the public or the public order or the termination of the state of emergency". A final clause enables the authority issuing these rules to serve orders relating to any other matters considered necessary or expedient regarding the safety of the public and the maintenance of public order, or for the termination of the state of emergency. 6/

D. Focus No. 62 - January-February 1986

Media clamp-down

The Government imposed a virtual ban on reporting of protests and police and army actions in the 38 areas under the state of emergency. The new regulations came a week after the extension of the emergency to Cape Town and the banning of journalists from Soweto.

The new regulations, published on 2 November, made it an offence to record, reproduce, publish, broadcast, distribute or send anywhere inside or outside the country, without permission from the Commissioner of the Police, any films, sound recordings, photographs, drawings or other representations of "any public disturbances, disorder, riot, public violence, strike or boycott", or damaging of property or any assault on or killing of a person. In addition, reporting on people present at or involved in any such situation, or the actions of a Force or a member of a Force (which includes the police, railway police, SADF and prison service) "with regard to the maintenance of the safety of the public or the public order or for the termination of the state of emergency" is illegal. It is also illegal to cause such reports to be made or distributed. 7/

Newspaper "print reporters" seeking to cover these events have to prove they are accredited - by the police force, the Department of Foreign Affairs or the Government's Bureau of Information - or that they work for a publication affiliated to the Newspaper Press Union. They must then be accompanied by a police escort. 8/

Contraventions of these regulations carry a maximum penalty of 10 years' imprisonment or a fine of up to a maximum of R 20,000.

Attacks on journalists

Prior to this overall clamp-down, police acted to prevent reporting of numerous incidents of protest, as well as of police and army repression, both inside and outside the emergency areas, and a number of foreign and local journalists were arrested or assaulted.

Since the eve of a planned march in August from Cape Town to Pollsmoor Prison in support of Nelson Mandela, journalists have been repeatedly barred from entering parts of Cape Town. Altogether, 16 journalists in the area were reported to have been held for questioning during September and October 1985. 9/

In addition, nine journalists - a Cape Times (Cape Town) employee and eight correspondents for foreign media companies - arrested while covering police actions against student protesters in Cape Town, were charged with obstructing the police. Charges were withdrawn on 30 August, following a court appearance. Another eight journalists - two South Africans and six foreign television newspeople - appeared twice in court after being arrested at a student meeting at the University of the Western Cape. No charges were put to them and their case was postponed until December 1985. One of them, Bernard Bisson, a French reporter, was deported. 10/

During September and October 1985, five journalists working in Cape Town suffered serious injuries from police actions against them. 11/

In the Transvaal, the Soweto Divisional Commissioner of Police announced on 26 October 1985 an indefinite ban under emergency regulations on journalists entering Soweto. Several days later four Sowetan (Johannesburg) reporters were picked up by police in Soweto at night, beaten and driven around in armoured vehicles for several hours before being released. 12/

In the Eastern Cape, a television cameraman, Rapiitse Montsho, was convicted twice, in September and October 1985, on charges relating to the ban on non-residents in certain townships under the emergency. He was sentenced in the second trial to 50 days in jail or a R 200 fine. 13/

In September 1985, a correspondent for the United States magazine Newsweek, Ray Wilkinson, was deported from South Africa following the publication of an article on protests in South Africa in the September issue, which was subsequently banned. 14/

#### Editor charged

The editor of the Cape Times (Cape Town), Tony Heard, was charged under section 56 of the Internal Security Act in the Cape Town Magistrates' Court on 8 November 1985 after publishing a lengthy interview he had conducted with the President of ANC, Oliver Tambo. Tambo may not be quoted in South Africa, as he is restricted in terms of section 23 (1) of the Internal Security Act. Heard was served with a subpoena before his arrest, compelling him to hand over a tape recording of the interview. He faced a maximum of three years' gaol, without the option of a fine. The case was postponed until 9 December 1985. 15/

E. Focus No. 64 - May-June 1986

Press restrictions

The Government continued during the early months of 1986 to try to restrict the dissemination of information, using a variety of laws to prevent foreign and local journalists from operating fully in a number of areas.

Following the lifting of the state of emergency on 7 March, all emergency regulations concerning the media lapsed. However, an agreement remained in force between the Newspaper Press Union and the police, obliging accredited journalists to report to the senior police officer at a scene where the police are active. A police spokesman warned that reporters were obliged to leave areas of unrest if commanded to do so by the police. 16/

In March 1986, the Government ordered the expulsion from South Africa of three employees of Columbia Broadcasting System (CBS), including the CBS bureau chief, following the showing on United States television of a mass funeral in Alexandra. On the eve of the funeral, the Divisional Police Commissioner for the Witwatersrand had banned the use of audiovisual and television equipment at the scene in terms of emergency regulations. CBS nevertheless managed to obtain footage of the event.

The three CBS employees received orders to leave the country within a week. However, following talks between the Minister of Home Affairs and a CBS delegation from the United States, the expulsion order was cancelled. CBS News issued a statement in which it undertook to ensure as far as possible that material it obtained and used was not "tainted with illegality". 17/

On a previous occasion, in December 1985, three CBS employees and three employees of the British agency, World Television News (WTN), were barred for two months from entering the areas of Guguletu, Nyanga, Crossroads and KTC near Cape Town after they had attempted to film there. The orders were brought by the police using powers vested in them under section 9 of the Black (Urban Areas) Consolidation Act of 1945. A week later, when CBS attempted to appeal, the ban was lifted by the Minister of Law and Order after CBS agreed to withdraw its appeal. 18/

Guguletu killings

Following the killing by police of seven alleged guerrillas in Guguletu, near Cape Town, on 3 March 1986, a Cape Times reporter, Chris Bateman, was subpoenaed under section 205 of the Criminal Procedure Act to give the names and addresses of three witnesses whose accounts of the event had been published.

The seven were shot dead by policemen while fleeing after they had been confronted by police on alighting from a van. The Commissioner of Police, General Johan Coetzee, said that ANC had planned an attack on a police vehicle in Cape Town and that "certain precautionary measures" had been taken. One of the seven had thrown a grenade and another had opened fire with an automatic weapon. However, according to the three eyewitnesses, one man was shot in the head and legs while his hands were raised above his head and another shot in the head while lying wounded on the ground.

All three witnesses had asked not to be named, but later agreed to come forward, so that Bateman was able to comply with the order. 19/

#### Journalists charged

Two television cameramen working for WTN, Richard and Patrick Lucey, were arrested under the Criminal Procedure Act on 17 December 1985 during protests by residents in the Moutse district against incorporation into the KwaNdebele bantustan. They were charged with inciting public violence and released on bail. The trial was postponed until 4 February 1986. 20/

Ebrahim Moosa (aged 28) of the Cape Times was arrested in January 1986 outside a school in Cape Town and charged with contravening an order under the emergency regulations banning all persons except teachers and pupils of a particular school from entering school premises without police consent. Moosa's case was due to resume on 28 February 1986. 21/

Two photographers arrested outside Alexandra on 18 February 1986 were charged with taking pictures in an emergency area. Wendy Schwegmann of Reuters and Bill Campbell of Time magazine were among 20 foreign journalists arrested while covering a visit to the township by a delegation of churchmen. 22/

#### Passport refusals

Khangala Makhado, the Northern Transvaal chairperson of the Media Workers' Association of South Africa (MWASA) was twice refused a passport, on the first occasion in May 1986 when he was due to attend a seminar in Switzerland and the second time in June when he was invited to attend a seminar organized by the International Labour Organisation (ILO) in Zimbabwe.

Joseph Thloloe, a leading official of MWASA, was similarly prevented from attending a meeting of the International Federation of Journalists in Brussels.

### P. Focus No. 66 - September-October 1986

#### Organizations attacked

An effective clampdown on information about the actions of the police and the army failed to conceal that the declaration of a state of emergency in South Africa on 12 June 1986 was part of a systematic country-wide attack on anti-apartheid organizations.

The little information that emerged also showed that in carrying out this attack, and in using the emergency powers to suppress protests, the police and army made full use of the armed force at their disposal.

Information about detentions disseminated in defiance of the emergency regulations showed that in every area of the country activists and officers of hundreds of organizations were detained. Monitoring groups put at thousands the number of those who avoided detention by going underground. Emergency regulations were used in many areas to prevent the same organizations from holding any meetings and in the Western Cape even from issuing statements. The offices of many organizations were searched by the police and documents were removed. Some buildings used by anti-apartheid organizations were attacked with petrol bombs and their equipment was destroyed. 23/

Censorship made it difficult to gauge the nature and extent of resistance to the imposition of the emergency. Industrial action by workers protesting the detention of trade unionists was the earliest visible sign of protest. By the end of July 1986 attempts to use emergency powers to coerce pupils into abandoning action over education had led to widespread defiance. Mass arrests of whole church congregations at services to commemorate those who had died during the Soweto uprising of 1976 highlighted another expression of resistance. There were also organized legal challenges to the validity of the emergency regulations.

These developments suggested that the régime's actions had not destroyed the structures of resistance whose adaptation to conditions of extreme repression had been signalled during 1985 by the formation of such bodies as street committees. 24/

#### Control of information

The emergency powers included most of the powers activated during the emergency in force from July 1985 to March 1986. In certain respects the new emergency went much further, particularly in its restrictions on the dissemination of information and on the making of statements described in the regulation as "subversive". 25/

Journalists attempting to report events in the townships were faced with a barrier of laws restricting information about police and military activities. They have had to depend increasingly on police reports, particularly since the imposition of the state of emergency in July 1985, when the military presence in these areas was substantially expanded.

The new emergency regulations ban the filming, recording or representation of any public disturbance, violence, strike or boycott or any assault on or killing of a person, any person involved in such actions or any actions of the "security forces" with regard to the public safety and order or the termination of the state of emergency.

On 16 June 1986, the South African Police Commissioner used his powers under section 7(1)(c) of the regulations, which deals specifically with control of the media, to impose a further ban on all reporting, without permission, of news about the conduct of the "security forces" regarding the public safety and order or the state of emergency. He also banned journalists from reporting in any African residential area or any other area in which unrest was occurring without prior permission. However, this second order was withdrawn a week later.

All these regulations apply to the dissemination of news both within and outside South Africa. Journalists are expected to make do with the increasingly sparse daily news briefings given by the Government's Bureau of Information. The maximum penalty for an offence remains the same as under the last state of emergency - 10 years' imprisonment or a fine of R 20,000. 26/

In addition, the new regulations contain provisions broader and more severe than those which came into effect during the course of the last emergency. Under section 10 it is an offence to write, record, disseminate, possess or display to the public any "subversive statement". A "subversive statement" is defined as one which is calculated or likely to have the effect of promoting the aims of an unlawful organization, inciting people to take part in unlawful strikes, boycotts, demonstrations or acts of civil disobedience or in discrediting or undermining the system of compulsory military service; inciting people to resist or oppose the Government or "security forces" in relation to the emergency regulations or public safety; engendering or aggravating hostility between persons or groups of persons; weakening or undermining the public's confidence in the termination of the state of emergency; or promoting or encouraging disinvestment or the application of sanctions or foreign action against the country.

The Minister of Law and Order, or anyone authorized by him, may authorize the seizure of copies of any publication which he considers contains a "subversive statement" or any other information that may be detrimental to public safety, the maintenance of law and order or the termination of the state of emergency. The Minister may also make it an offence to publish subsequent issues of any periodical publication he considers "subversive" for any period he specifies.

Within days of the declaration of the emergency police seized copies of the Sowetan (Johannesburg) and the Weekly Mail (Johannesburg) from newsagents. The Sowetan was informed that charges against it were being investigated. Police also demanded to see copies of newspapers at the offices of the City Press (Johannesburg) and the Sunday Tribune (Durban). The offices of the New Nation (Johannesburg) were raided and the only staff member present, Tladi Khuele, was detained under the emergency regulations. Several days later the editor of the New Nation, Zwelakhe Sisulu, was detained and held for three weeks. 27/

After some newspapers displayed blank spaces to indicate the censorship imposed on them, one newspaper, the Sowetan (Johannesburg) was informed that the police interpreted these, too, as "subversive". 28/

However, in July 1986 much of the far-reaching definition of what qualified as "subversive" under the emergency regulations was declared null and void by the Natal Supreme Court. In response to an application by the Metal and Allied Workers Union (MAWU), it found five of the six definitions too vague to be lawful - leaving only the definition referring to incitement to participate in strikes, boycotts, demonstrations, civil disobedience and to oppose conscription. 29/

Within a month of the declaration of the state of emergency, 22 journalists had been detained and four correspondents for foreign news agencies deported.

On 16 June 1986, telephone communications were temporarily cut off in major townships, including Soweto. The Bureau of Information said that this was due to an accidental breakdown. 30/

The following day, the Bureau of Information issued a directive to the South African Broadcasting Corporation (SABC) prohibiting all live satellite transmissions out of South Africa by foreign television networks for the duration of the emergency. 31/

Information restrictions were extended on 17 June to all the bantustans not declared "independent" when the State President issued a proclamation providing for the application of the emergency regulations to these areas and giving bantustan authorities corresponding powers. 32/

#### G. Focus No. 67 - November-December 1986

##### State of emergency

The régime has continued to use its emergency powers to impose severe restrictions on every aspect of resistance and opposition. Detentions have increased and organized activity has been impeded. Information on the repression is hard to obtain.

During August and September 1986 increasingly severe restrictions on all forms of media reporting of popular resistance and police and army repression were imposed, despite the partial success of a legal application brought by the major newspaper companies. For this reason it is impossible to document fully the operations of SADF, the various police forces and related structures.

##### Media consorship

Far-reaching media curbs contained in the emergency regulations were reported in the previous issue of Focus on Political Repression. In August 1986, the Argus Printing and Publishing Company, South African Associated Newspapers and the Natal Witness newspaper made an application in the Natal Supreme Court against the Government, the State President, the Minister of Law

and Order and the South African Police Commissioner. They asked for an order declaring six of the emergency regulations void and without force and effect in law.

In court, on 20 August 1986, two orders issued by the Commissioner of Police in terms of section 7(1) of the regulations were conceded by counsel for the Government to be technically invalid, as they had not been promulgated in the Government Gazette. All reporting, without permission, of information on the conduct of the "security forces" in relation to the state of emergency and public safety and order had been banned, while a second order, at first banning journalists from all African residential areas, but later amended, had prohibited them from reporting in any area where unrest was occurring. 33/

In the following fortnight, newspapers were able to publish more detailed accounts of events in the African townships, although still heavily restricted by the remaining emergency regulations and by a network of other laws governing information on "security" matters. However, on 3 September 1986, a fresh police order in terms of section 7(1)(c) of the emergency regulations was promulgated in the Government Gazette. This imposed far harsher restrictions on all forms of media reporting.

In the terms of the order, no journalists may be near or "within sight" of any unrest, restricted gathering or "security force" action. Furthermore, "announcing, disseminating, distributing, taking or sending any comment on or news in connection with any security action" was prohibited. The order defined a "security action" in broader terms than before, to include "any actions to terminate unrest ... to protect life or property in consequence of any unrest" and "any follow-up action after any unrest has been terminated or has ended, including ... any action taken against a person who participated or who is suspected of participating in that unrest". This included the arrest of any person under the emergency regulations or the Internal Security Act, or for any offence committed during unrest. "Unrest" was broadly defined to encompass "any unlawful gathering, concourse or procession of any number of persons, any attack on a force or member of a force" and "any conduct which constitutes a public disturbance or riot". 34/

On 21 August 1986, the Natal Supreme Court concluded its examination of the emergency regulations, declaring certain clauses void. These included section 11, which allowed the Minister of Law and Order or a commissioned officer to seize copies of any publication containing material considered by the Minister to be "subversive" or detrimental to the "public safety and order" or the termination of the state of emergency; section 12, providing for the banning of all future copies of a publication considered "subversive" by the Minister; section 10(b), prohibiting the possession of a "subversive" statement; and section 7(1)(d), under which the Commissioner of the South African Police might issue orders which he deemed necessary for the "public safety and order", or to terminate the state of emergency. 35/

The court considered that some of these regulations were "worded too widely", and could simply be reformulated. It upheld the validity of sections

banning the utterance or dissemination of "subversive" statements and the filming, recording and photographing of public disturbances, strikes, boycotts and the conduct of the "security forces". 36/

In another development, the Bureau for Information announced that no pictures of damage due to unrest could be taken during or after an incident, without prior permission. 37/

Although the Minister of Law and Order stated in August 1986 that his department had not investigated any newspaper or journalist for possible offences under the emergency regulations, news reports had nevertheless been interfered with. Police confiscated for a second time copies of the Sowetan (Johannesburg) in August, while the Weekly Mail (Johannesburg) announced plans to sue the Minister for having improperly delegated the power to confiscate copies of the newspaper in June.

During August 1986, United States and British news agencies were reported to be consulting government officials after some of the newsreels they had sent out of South Africa had failed to reach their destination. 38/

#### H. Focus No. 67 - November-December 1986

##### Activists banned

By September 1986, 28 people, mostly trade union officials, were reported to have been served restriction orders on their release from detention under the emergency regulations.

The orders were similar to banning orders under the Internal Security Act and were provided for under section 3 of the emergency regulations, which empowered the Minister of Law and Order to impose conditions on the release of anyone detained under the regulations.

The conditions apply for as long as the emergency remains in force and need not be published in a Government Gazette, as is required with bans under the Internal Security Act. The penalty for contravention is a fine of up to R 20,000 or imprisonment for up to 10 years - possibly without the option of a fine. Sixty-eight people were restricted in this way under the last state of emergency. 39/

Details of individual orders were not always reported. However, the most frequent restrictions included a ban on attendance at any meeting where government policy was discussed or criticized, confinement to a magisterial district; and a prohibition on entering educational premises. Many were banned from speaking to the press, contributing to any publications or participating in the activities of particular organizations.

Those affected included: Dr. Wolfram Kistner (aged 63), Head of the Justice and Reconciliation Commission and Assistant General Secretary of the South African Council of Churches (SACC); The Reverend Mfaniseni Ndwandwe, Bishop Suffragan of Johannesburg; The Reverend Petrus Kolisang; The Reverend Simon Masopha; Elijah Barayi, President of the Confederation of South African Trade Unions (COSATU); Rae Lazarus, organizer of the General Workers Union; Joyce Sedibe, organizer of the Council of Unions of South Africa; Daniel Samela, national organizer of the Chemical Workers Union; Alex Mahlatjie, President of the Transport and Allied Workers Union; Donsie Khumalo, COSATU Northern Transvaal secretary; Lolo Ditshego and Justin Rabothata, organizers of the General Workers Union; Jerry Thibedi and Petros Tom, Metal and Allied Workers Union; Elizabeth Erasmus, Clothing Workers Union; Liz Abrahams, Food and Allied Workers Union; trade unionist Sandile Nongxa; Dr. Rashid Saloojee, United Democratic Front (UDF) and Transvaal Indian Congress; The Reverend Abe Visagie, organizing secretary of the Midlands Council of Churches; two students at the University of the Witwatersrand, Claire Wright (aged 23), President of the Students' Representative Council and Dali Mpofu (aged 24), Chairman of the Black Students' Society; Busisiwe Mabuza, a student at the University of the North; Llewellyn McMaster of the University of the Western Cape; Mike Loewe, End Conscription Campaign (EEC); Sandy Stewart, Black Sash; John Smith and Dudley van Heerden, Eastern Cape lawyers; and Joe Monchosi, Ikageng Civic Association. 40/

#### Organizations curbed

A legal victory undermining emergency powers to curb resistance was swiftly reversed by President Botha on 1 August 1986.

While the emergency regulations promulgated on 12 June created the extensive general powers of arrest, detention and censorship outlined in the last issue of Focus on Political Repression, the day-to-day deployment of the régime's forces under the state of emergency was largely dependent on specific orders issued by divisional commissioners of police in command of the 19 police divisions and commanding officers in the non-"independent" bantustans. By the end of July over 100 such orders had been published in 17 issues of the Government Gazette. 41/

Covering virtually every part of the country, and focusing with the greatest intensity on black townships, the orders controlled or prohibited almost every facet of resistance and organization. They reflected the nature of the challenge to the régime and its own objectives in declaring a state of emergency. They sought to inhibit every form of mobilization by restricting movement and preventing popular organizations from functioning. Some are specifically related to the régime's attempt to regain control of black schools.

Typically, the divisional orders included some or all of the following:

(a) In black townships in the affected divisions there were restrictions on funerals of victims of the régime actions; control over the movement of people not resident in the townships; curfews on residents of townships; and control of school boycotts; 42/

(b) In magisterial districts as a whole, listed organizations were prohibited from holding meetings. In the first weeks of the state of emergency, for example, orders issued by the commissioners of six police divisions in the Cape, Orange Free State and Transvaal contained lists of organizations totalling almost 300 which were prohibited from organizing or holding meetings. Some of the organizations were national ones, but the majority were regional or local community-based organizations. In some areas residents of townships were prohibited from possessing any emblems or objects, including T-shirts, which expressed support for listed organizations. In the Western Cape the officers of 123 organizations were prohibited from even making statements.

In the context of the more general emergency powers, these divisional orders were powerful weapons in the régime's attempt to halt and then reverse the advances being made in the extension and consolidation of the forces of liberation. For this reason Supreme Court rulings invalidating the orders issued in three divisions appeared to make significant inroads into the régime's powers.

On 28, 29 and 30 July the Rand, Grahamstown and Cape Supreme Courts responded to applications by UDF in the first two cases and COSATU in the third, by declaring invalid a clause in the emergency regulations of 12 June. Regulation 7 contains a clause delegating legislative powers to the Commissioner of the South African Police and "anyone authorized by him". This last phrase was ruled invalid on the grounds that the law did not allow delegated legislative powers to be delegated to a third party.

The immediate consequence of these rulings was that the orders issued in three divisions had to be lifted, but by implication the orders in all divisions and in the non-"independent" bantustans had been rendered invalid. However, within days a new regulation was issued by the State President, with retrospective effect to 12 June, explicitly conferring the power to make orders to divisional commissioners of police and to officers in command of police forces in the non-"independent" bantustans. 43/

#### I. Focus No. 69 - March-April 1987

##### Emergency tightened

##### Clamp-down on organizations and the media

Six months after the declaration of the state of emergency and with a major nation-wide anti-apartheid campaign under way, the régime extended its emergency powers with the stated objective of denying "the revolutionary forces the publicity they require to further their aims". 44/

On 11 December 1986 regulations amending and repealing major sections of the existing emergency powers were published. Severe restrictions on anti-apartheid activities were reinforced as were controls regarding the dissemination of information about their campaigns and police and army action in suppressing resistance.

The wording of the new regulations was apparently aimed at closing loopholes which had emerged when courts dealing with legal challenges found sections of the original regulations too vague to be valid. New restrictions specifically directed at grassroots structures were added and even tighter controls were imposed on the dissemination of information about those detained under the emergency. 45/

#### \*Subversive statements\*

Since the emergency was declared it has been an offence to make or report a "subversive statement" - this includes statements intended or likely to incite or encourage "unrest" gatherings, boycotts, illegal strikes, acts of civil disobedience or the undermining or discrediting of military conscription.

The new regulations extended the definition of redefining "civil disobedience" to include the refusal to pay rent or service charges to local authorities, and stipulated as "boycott actions" boycotts of specific firms or types of firms, products or educational institutions. And in an attack on local street and area committees set up by communities in opposition to apartheid local authorities, a new clause was added: statements inciting people to set up "structures purporting to be structures of local government", to exert power through such structures or to support or subject themselves to them are also "subversive". The same applies to "unlawful structures, procedures or methods purporting to be judicial structures" - referring to courts set up by township residents as an alternative to those of the régime.

#### Media restrictions

It has been illegal since June 1986 to report in any manner on a variety of actions by members of the "security forces" in connection with the emergency. Journalists have had to rely increasingly on government sources. The new regulations extended the definition of a "security force" to include police under the control of local authorities.

The ban on journalists being within sight of any "unrest", restricted gathering or "security force" action, issued in terms of a police order in September 1986, was formalized in the new regulations. In addition, it became illegal to report the effects of boycotts as defined in the section on "subversive statements". Nor may the media report on the manner in which people are "incited, intimidated or encouraged" to take part in or support boycotts, street committees and alternative courts or subject themselves to their authority.

Two further media restrictions were imposed. The reporting of any details of a planned gathering restricted under the Internal Security Act or the emergency regulations and on the statements of any speaker at such a gathering was prohibited. A ban was also placed on the publication of statements by anyone restricted by the Minister of Law and Order on their release from detention under the emergency regulations, insofar as it "threatens or is intended to threaten public safety or order or delays the termination of the emergency".

Sections of the original emergency regulations relating to the seizure of "subversive" material, which were declared invalid in a Supreme Court ruling in August 1986, were reinstated in a modified form. The Minister of Home Affairs or a police commissioner may order the seizure of any such material and the Minister may ban all issues of a periodical for up to three months. A further ban was placed on blank spaces and the deletion or obliteration of portions of text or photographs as a reference to censorship under these regulations.

A new body, the Inter-Departmental Press Liaison Centre (IPLC) was set up by the Government to make decisions on the legality of articles submitted by the press.

On 6 January 1987, UDF and the Release Mandela Campaign brought an urgent application against the new regulations in the Supreme Court in Pietermaritzburg. They applied for the regulations to be declared null and void or alternatively for key sections to be declared unlawful. The case was due to resume in April. 46/

#### Orders against newspapers

Within a week of the publication of the new regulations, the Witwatersrand Divisional Police Commissioner served restriction orders on three Johannesburg newspapers, the Sowetan, the Weekly Mail and the City Press, prohibiting them from publishing, within the greater Johannesburg area, statements from a number of organizations which "advocate, further or support" the Christmas against the Emergency campaign. As well as the campaign organizers - UDF, COSATU, SACC and the National Education Crisis Committee (NECC) - the organizations affected included the Detainees' Parents Support Committee (DPSC) and ECC, the Federation of Transvaal Women, the Johannesburg Democratic Action Committee, the National Education Union and the Transvaal Indian Congress. The orders followed the publication of advertisements for the campaign in all three newspapers.

While the orders were being contested in court, more severe restrictions were served on the three papers by the Commissioner of the South African Police, and the previous ones withdrawn. The new orders applied throughout the country, prohibiting the three papers from reporting on the campaign at all, and specifically banning them from publishing statements about the campaign by any person or organization. An identical order was served on the New Nation (Johannesburg) in January 1987. 47/

The Commissioner of the South African Police applied further restrictions when 22 newspapers published advertisements issued by UDF, NECC, SACC and 15 other organizations, calling for the unbanning of ANC on its seventy-fifth anniversary on 8 January 1987. A notice published in the Government Gazette prohibited the publication by any newspaper, magazine or periodical of material calculated "to improve, or to promote the public image" of any organization banned under the Internal Security Act, or "to amend, to defend, to explain or to justify an action, policy or strategy of such an organization, of resistance against or subversion of the authority of the State". 48/

Police opened an investigation into the advertisements and into others placed by the Release Mandela Campaign calling for the lifting of the state of emergency and the release of all political prisoners.

J. Focus No. 69 - March-April 1987

Detentions censored

The promulgation of new emergency regulations on 11 December 1986 was swiftly followed by a large number of detentions. Tighter censorship helped conceal details from the public and also closed one of the openings, namely court cases, through which some information had emerged about the treatment of emergency detainees.

Under the heading "publication control", the regulations of 11 December extended restrictions on the publication of information about emergency detainees.

There was a prohibition on the publication in any media of information or comments concerning the circumstances of, treatment in, or release from detention of anyone who "is or was" detained under the emergency regulations. The only exceptions to this rule concerned what was released by government officials, what was said in Parliament or the President's Council or what emerged in the course of judicial proceedings or once the proceedings were finished. Since many civil actions arising out of police assault of detainees are settled out of court, legal experts expressed the view that except where such settlements were made an order of the court, this would prevent the publication of evidence on the maltreatment of detainees.

K. Focus No. 70 - May-June 1987

Police close legal loopholes

A ban in April on encouraging protests calling for the release of detainees was one of several police actions aimed at closing legal loopholes in the emergency regulations. They were responses to organized campaigns which had survived earlier attempts to suppress information or prevent mobilization.

The new orders issued on 10 April made it an offence - punishable by 10 years' imprisonment or a R 20,000 fine - to encourage people to participate "in any campaign, project or action" aimed at securing the release of emergency detainees by the wearing of T-shirts or displaying of car stickers with messages calling for the release of detainees, the organizing of meetings, the signing of petitions or coupons or the sending of telegrams or letters to the Government. 49/

The police had failed a month earlier to prevent newspapers publishing advertisements by DPSC calling for the country-wide observance of a National Detainees Day on 12 March. When the first advertisement appeared on 8 March, the police informed editors that the publication of similar advertisements would contravene the emergency regulations and that they would seize any newspapers containing them. However, several newspapers published the advertisement with a call to "release all detainees" deleted. The Rand Supreme Court granted an injunction restraining the police from preventing publication - the court ruled that the amended advertisement did not contravene the regulations. 50/

The National Detainees Day was widely observed. In Cape Town 4,000 people attended meetings at the universities of Cape Town and the Western Cape. About 1,500 people attended a meeting in Johannesburg organized by DPSC. 51/

#### Information controls

In January 1987, the Government gave the Commissioner of the South African Police the most wide-ranging powers of control of information yet introduced under the present state of emergency. New emergency regulations were issued on 29 January in response to a partially successful legal challenge by two major newspaper groups after editors received police orders severely limiting reporting on banned organizations. The orders had been issued shortly after the publication in a number of newspapers of an advertisement calling for the unbanning of ANC. 52/

South African Associated Newspapers and the Argus Group argued in their application to the Rand Supreme Court that the Commissioner had exceeded his powers under the emergency regulations and that the restrictions he had imposed were unjust, unreasonable and vague.

On 29 January the court set aside one of the orders, which prohibited advertisements supporting organizations banned under the Internal Security Act, ruling that the Commissioner's powers did not extend to the whole country. However, it upheld a second order which declared "subversive" any statement likely to promote support for a banned organization.

Hours later, the régime amended the emergency regulations, empowering the Commissioner to issue an order prohibiting the publication or recording in any way of "any news, comment or advertisement on or in connection with any matter" he defined as "subversive". His control had previously been confined to any statement threatening public safety or delaying the ending of the emergency.

The amended regulations also included an expanded definition of a "subversive statement" to include any statement encouraging people to participate in, join or support an unlawful organization or take part in its campaigns of violence or resistance against the State. Further amendments were made to the previous regulations issued in December so that all clauses relating to news material also applied to advertisements.

The Commissioner then withdrew the earlier orders and issued a new one restricting publication of advertisements in connection with unlawful organizations, which defended or tried to justify their campaigns, actions or policies of violence or resistance to the State. 53/

In February, the Government gave notice of its intention to appeal against the court ruling. 54/ UDF and the Release Mandela Campaign, whose legal application against the emergency regulations as amended on 11 December 1986 was postponed until April 1987, announced that they would also challenge the new amendments. 55/

#### Notes

1/ Government Gazette (Pretoria), No. 10772, 11 June 1987.

2/ Star (Johannesburg), 9 October 1982.

3/ Government Gazette (Pretoria), 21 July 1985.

4/ Ibid.

5/ Ibid., 19 August 1985.

6/ Ibid., 21 July 1985.

7/ Sunday Tribune (Durban), 3 November 1985.

8/ Cape Times (Cape Town), 13 November 1985.

9/ British Broadcasting Corporation (BBC), 15 November 1985.

10/ Citizen (Pretoria) and BBC 30 August 1985; Daily Dispatch (East London), 31 August and 4 October 1985; and Cape Times (Cape Town), 5 and 18 October 1985.

11/ Cape Times (Cape Town), 6 and 23 September 1985; and Star (Johannesburg), 18 October 1985.

12/ Citizen (Pretoria), 28 October 1985; and Sowetan (Johannesburg), 30 October 1985.

13/ Cape Times (Cape Town), 12 October 1985.

14/ Daily News (Durban), 13 September 1985.

- 15/ Cape Times (Cape Town), 4 November 1985; and Guardian (London), 19 November 1985.
- 16/ Star (Johannesburg), 10 March 1986.
- 17/ Daily Dispatch (East London), 5, 8 and 12 March 1986.
- 18/ Cape Times (Cape Town), 17 December 1985; and Daily Dispatch (East London), 24 December 1985.
- 19/ Cape Times (Cape Town), 4 and 10 March 1986; and Daily Dispatch (East London), 7 March 1986.
- 20/ Cape Times (Cape Town), 20 December 1985; and Focus on Political Repression, No. 63, IDAF, London, p. 3.
- 21/ Cape Times (Cape Town), 16 and 17 January 1986.
- 22/ Star (Johannesburg), 19 February 1986.
- 23/ South African Crisis Information Group, London, July 1986.
- 24/ Briefing Paper, No. 2, "Repression and resistance during 1985".
- 25/ Ibid., No. 19, "State of emergency".
- 26/ Government Gazette (Pretoria), 12 June 1986; Daily Dispatch (East London), 17 June 1986; and Star (Johannesburg), 30 June 1986.
- 27/ Star (Johannesburg) 14 June 1986; BBC 16 June 1986; Sowetan (Johannesburg), 17 June 1986; and Weekly Mail (Johannesburg), 20 June 1986.
- 28/ Sowetan (Johannesburg), 20 June 1986.
- 29/ Guardian (London), 17 July 1986.
- 30/ Financial Times (London), 18 June 1986.
- 31/ BBC, 18 June 1986.
- 32/ Daily Dispatch (East London), 19 June 1986.
- 33/ Sowetan (Johannesburg), 21 August 1986.
- 34/ Daily News (Durban), 4 September 1986.
- 35/ Government Gazette (Pretoria), 12 June 1986; and Daily Dispatch (East London), 5 September 1986.

36/ The Daily Telegraph (London), 5 September 1986.

37/ Weekly Mail (Johannesburg), 1 August 1986; and Sowetan (Johannesburg), 11 August 1986.

39/ Focus, op. cit., No. 62, p. 11; ibid., No. 63, p. 8; ibid., No. 64, p. 8; and Government Gazette (Pretoria), 12 June 1986.

40/ Weekly Mail (Johannesburg), 11 July 1986; Cape Times (Cape Town), 22 July and 9 September 1986; Star (Johannesburg), 2 and 19 August and 4 and 12 September 1986; City Press (Johannesburg), 10 August 1986; and Sowetan (Johannesburg), 21 August 1986;

41/ Star (Johannesburg), 1 August 1986.

42/ Focus, op. cit., No. 66, p. 3.

43/ Star (Johannesburg), 2 August 1986.

44/ BBC, 16 December 1986.

45/ Government Gazette (Pretoria), 11 December 1986.

46/ Sowetan (Johannesburg), 7 January 1987; and Weekly Mail (Johannesburg), 13 February 1987.

47/ Daily Dispatch (East London) and Sowetan (Johannesburg), 17 December 1986; City Press (Johannesburg), 21 December 1986; Cape Times (Cape Town), 22 December 1986; and BBC, 8 January 1987.

48/ Star (Johannesburg), 9 January 1987.

49/ Guardian (London), 13 April 1987.

50/ BBC, 10 March 1987; and Star (Johannesburg), 12 March 1987.

51/ Daily Dispatch (East London), Cape Times (Cape Town), Weekly Mail (Johannesburg) and Sowetan (Johannesburg), 13 March 1987.

52/ Focus, op. cit., No. 69, p. 2.

53/ Government Gazette (Pretoria) 29 January 1987; and Star (Johannesburg), and Cape Times (Cape Town), 30 January 1987.

54/ Financial Mail (Johannesburg), 6 February 1987.

55/ Star (Johannesburg), 11 February 1987.