

By R L SELVAN, member of the Johannesburg Bar, and committee member of the Johannesburg branch of Lawyers for Human Rights

DETENTION How it works against the State

TOMORROW is International Human Rights Day.

It has been commemorated all over the world since December 10, 1948, when the Universal Declaration of Human Rights was adopted by the General Assembly of the United Nations.

A case may be made for detention without trial as a method of combatting terrorism. By threatening the safety of the State, terrorism threatens also the rights and freedoms which the State promises to provide for its citizens.

One of the objects of terrorism is to achieve political ends by violence. This cannot be tolerated in a democratic State.

Some may challenge the proposition that South Africa is a democratic state. Most blacks certainly would. It is not the purpose of this article to discuss that question.

Let us assume therefore that detention without trial

QUOTE

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is morally justified. Even so, its most enthusiastic proponents must concede the need for some moderation in its implementation.

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There are also practical considerations. One of the main objects of a terrorist movement is to elicit from the State a repressive response. Then, the resentment of those oppressed is increased, resulting in yet greater dedication of its

members to violent actions and an increase in its adherents.

If the predictable reaction of the authorities to this is yet more repressive responses, in the end the most doleful prognostications of the most pessimistic among us will be fulfilled.

These ideas are not novel. A similar point of view was put forward by Advocate DP De Villiers in the course of an address to the Stellenbosch Branch of Lawyers for Human Rights on September 20, 1982, which was

later published in Bulletin 1 of Lawyers for Human Rights in February 1983.

He also mentioned the danger that in the eyes of a great part of the South African population and of the outside world the respect in which our proud system of justice is held will be undermined.

Sadly, we have to record that the authorities seem impervious to these ideas. Undoubtedly, detention under Section 6 of the Terrorism Act and its successor, Section 29 of the Internal Security Act, has resulted in subversion

being uncovered and convictions being obtained. But at what cost?

And what will the cost be to the State of the latest detentions in the wake of the unrest in the townships and the massive stayaway? Can it be doubted that many thousands of trade unionists resenting the detention of their leaders will become radicals?

And at what cost to the people most concerned and their families? In all Western democracies, liberty and security of the person is regarded as a basic human right.

Must we be resigned to that right being indefinitely suspended in our country?

As Human Rights Day approaches it behoves us all to think about these matters. For it is not only the lawyers whose holy temple is in danger of being profaned.

PETER MANN reports from LONDON

'We notice a pattern in countries which abuse human rights. South Africa fits into that pattern'

AMNESTY International, respected watchdog of human rights throughout the world, is deeply concerned about abuses in South Africa.

Press attache Dave Laulich, in an interview at Amnesty's international secretariat in London, said: "Human rights abuses are going on in a very serious fashion in South Africa. People have been killed and are being tortured for their beliefs.

"We notice a pattern in countries which abuse human rights. South Africa fits into that pattern."

Of particular concern to Amnesty in South Africa are:

- Deaths in detention;
- The continued use of detention without trial, bannings, imprisonment of those who refuse military service;
- Imprisonment of people for pass, law offences and the "substantial" use of the death penalty.

In 1983, the latest year for which Amnesty has figures, it intervened on behalf of more than 200 detainees.

Amnesty is most concerned about detention without trial, particularly under Section 29 of the Internal Security

Act.

"Our studies throughout the world have shown that torture is most common in the period between the person being detained by the authorities and their appearing in court.

"During that period they are at the mercy of the police. In South Africa they need never be charged.

"This dramatically heightens the chances of torture."

Amnesty's 1984 international report makes it obvious that South Africa has a worse human rights record than all the major Western countries and is as bad, or worse than, many of the African states she so roundly criticises.

South Africa's penchant for detention without trial was shared by most African states.

Amnesty reported fears among South African refugees in Swaziland that South African agents were responsible for killings of members of the ANC.

Zimbabwe had a human rights record as bad as South Africa's with the Government being criticised for harsh action against dissidents.