

Misuse of power by security forces criticised

Retired judge hits out at emergency laws

Pretoria Correspondent

The emergency regulations "drastically curtailed" the fundamental rights to which every South African was entitled, a retired Appeal Court judge, Mr Justice J Trengove, said last night.

"I refer specifically to the right of a detained person to be informed as to the reasons of his detention and to be granted access to his legal adviser.

"Certain authorities show a surprising lack of understanding and appreciation for the important functions which both the courts and legal practitioners are called to fulfil in these troubled days," he said.

He was delivering tribute to Professor Daniel Pont, who retired in 1960 after a 33-year term in the law faculty at the University of Pretoria.

"Even when an individual's rights are drastically curtailed by emergency legislation, it remains the duty of the court, within the limits of its jurisdiction and in spite of the state of emergency, to protect the individual against unjustified action on the part of the authorities.

"I am firmly opposed to the use of terror, sabotage, arson or any other form of violence committed to the realisation of political aims.

"On the other hand, I am equally opposed to all forms of violence, torture or intimidation, which may be used by members of the security forces against detainees, under the cloak of emergency regulations."

Misuse of power

Regarding kwaNdebele, he pointed out that legal practitioners and the court "have had to intervene frequently" to protect individuals against the misuse of power by the security forces.

Mr Justice Trengove cited two cases in which the police in kwaNdebele had "flagrantly misused their powers" to intimidate and frustrate legal practitioners in the course of their duties.

In one instance, a lawyer was arrested three times under various pretexts and finally informed by the Commissioner that he would not be permitted to visit detainees because he was "disloyal to the government and police

force of kwaNdebele".

In the second case, the Supreme Court had to intervene to secure the right of two lawyers to visit a detainee after they had allegedly been refused permission (by the Commissioner) to enter kwaNdebele.

The detainee was subsequently found to have 55 scars and contusions on his body.

Mr Justice Trengove emphasised, however, that he was not criticising police or SADF units.

"I have the greatest appreciation for members of the forces who tend to our safety, often at great danger. My criticism is aimed at those who misuse their powers.

"They do their colleagues a disservice, undermine the trust of the public in the security forces and even place the legal process under suspicion. They are an embarrassment to South Africa.

"However unpleasant it may be, we may not close our eyes to instances of force (geweld) on the part of members of the security forces as failure to act strongly and visibly can be interpreted as condonation."