

THE PRISON OPTION

A draft.

September 1987

TABLE OF CONTENTS

1. INTRODUCTION A5

2. THE EFFECTS OF OBJECTION 88

2.1. If I refuse to serve, what offence will I be committing? 88

2.1.1. General comments 88

2.1.2. Failing to report 88

(i) The offence 88

(ii) The sentence 109

2.1.3. Refusing to serve 109

(i) The offence 109

(ii) The sentence 110

(iii) Changing your mind 1312

2.1.4. Desertion 14-13

2.2. Your rights as a convicted prisoner in a civilian prison 1514

2.2.1. What rights would I have in prison? 1514

(i) The basic rights of convicts in South African prisons 1514

(ii) Appealing against infringements of established rights 1815

(iii) The possible expansion of rights 1815

2.2.2. What privileges would I be allowed to enjoy? 1817

(i) The privileges of prisoners in South African prisons 1817

(ii) How are privileges granted or withdrawn? 1819

(iii) Privilege grades in South African prisons 2017

(iv) Security rating 2120

2.2.3. Will I have to serve the full period of imprisonment? 2221

(i) Remission of sentence 2221

(ii) Parole 2322

(iii) General amnesties 2423

2.2.4. How will classification as a "political prisoner" affect my imprisonment? 2423

2.2.5. Would I, if necessary, be able to protect myself from my fellow-prisoners? 2824

2.2.6. Which rules and regulations will apply to me? 2825

(i) Prison Rules and Regulations 2825

(ii) Punishment imposed for infringements 2926

(iii) Disciplinary procedure in South African prisons 2827

2.3. Your rights as a convicted prisoner in detention

barracks 29-28

2.4. What will happen to my debts while I am in prison? 3027

3. PREPARING FOR THE CONSEQUENCES OF MY DECISION 34

3.1. The immediate consequences when I report / fail to report? 34

3.2. What are my rights after arrest? 32

3.2.1. Until I am brought to court 32

3.2.2. My rights vis-a-vis the police 32

3.2.3. Bail 33

3.2.4. What are my rights when held awaiting trial? 34

(i) When held in civilian prison or police cells 36

(ii) When held in Detention Barracks 35

3.3. In which court will I be charged? 35

3.4. Preparing for trial 36

3.5. Stating your case 38

3.6. Preparing for prison 38

3.6.1. Practical preparation 38

3.6.2. Psychological Preparation 40

3.6.3. Once you are in prison 42

BIBLIOGRAPHY 42a

ANNEXURE A - PERSONAL ACCOUNTS OF PRISON LIFE 44

Pretoria Central - Neil Mitchell 44

Pete Hathorn 52

Burial and Victory - Victor Serge 55

ANNEXURE B - COURT AND APPEAL PROCEDURE 59

1. WHAT IS THE PROCEDURE IN COURT? 59

1.1. Legal representation 59

1.2. Preparatory examination 60

1.3. Remand 60

1.4. Bail 61

1.5. The charge 62

1.6. The plea 63

1.7. The state's case 63

1.8. Asking for a discharge 64

1.9. The case for the defence 64

1.10. The argument 65

1.11. The judgment 65

1.12. Mitigation 65

1.13. Sentence 65

2. APPEAL/REVIEW 65

2.1. Appeal 65

2.2. Automatic review 67

2.3. Review by the Supreme Court on application 67

15.61.15

1. INTRODUCTION (Draft)

In recent years in South Africa the escalation of political violence, the illegal occupation of Namibia by the SADF and the use of conscripts to enforce government policy in black townships, has created a growing body of conscripts who believe, for reasons of conscience, that they should not serve in the SADF. These are people who are not pacifists, and who believe that war may in some cases be justified, but who refuse to serve in the SADF because they perceive it to be an instrument of political oppression.

Such people have a variety of options open to them: They can go into exile, they can try evading call-up by "going underground", they can attempt to be classified as religious objectors, or they can choose to serve a prison sentence. It has already become a truism to say that these are difficult choices. But it is not enough merely to point out the unenviable nature of the objector's position. A great deal still remains to be said about the exact nature of the different options.

This booklet focuses on the prison option, generally regarded as the harshest of the alternatives open to objectors.

Objectors who choose this option today would find themselves in a completely different position from their fellow CO's who took the prison option before the new Defence Act amendments came into force in 1984.

Before 1984 only a small category of people were exempted from combatant status. Only those who "bona fide belonged and adhered to a recognised religious domination by the tenets whereof its members may not participate in war" could be exempted from serving in any combatant capacity. In other words, only universal pacifists who based their objections on their membership of one of the historic peace churches were exempted, -- and even then they were not exempted from service in the SADF, but, if called upon to do so, had to render service "in the defence of the Republic" in a non-combatant capacity.

Objectors who did not fit into this category, or who refused to serve in the SADF in any capacity, were therefore guilty of an offense if they refused to serve. Fines of up to R2000 and jail sentences of up to two years could be imposed -- and unless the objector belonged to one of the recognised peace churches, he could theoretically be called up again after completion of his sentence! We are not aware, though, of anybody who was in fact called up again in this way.

In the late 70's and early 80's, with political conflict in South Africa escalating, the numbers of objectors who did not fit into the recognised categories, or who refused to serve in the SADF in whatever capacity, started increasing. More and more people were imprisoned for refusing to serve in the SADF. The imprisonment of objectors like Charles Yeats, Billy Paddock and Peter Hathorn received much publicity, and public outcry against the Defence Act grew.

In 1980 the SADF appointed the Naude commission. Its task was to review the existing legislation on conscientious objection, and its recommendations, submitted in 1982, led to the Defence Amendment Act (34 of 1983), which came into force in July 1984.

[To be written: further political analysis of Amendment: This piece of legislation changed the position of objectors -- in positive as well as negative ways...] On the one hand it did open up more avenues for religious objection. Today it is no longer the objector's church affiliation that matters. Universal conscientious objectors of whatever church affiliation can now apply at the Board for Religious Objection for status as religious objectors. They would simply have to prove that their objection is based on their individual religious views. What is more, alternative service is no longer restricted to mere non-combatant status: it can now be performed outside the SADF as well. (More details of this option for those considering applying to the Board is contained in the SACC's Resource Manual, listed in the bibliography at the end of this booklet.)

But there were substantial losses as well. Objectors who have objections to appearing before the Board, who are not universal pacifists or whose objections do not have a religious basis, cannot qualify for this alternative service. They may end up going to prison for one and a half times the period of the service they still owe. This means that objectors who have not yet done their two years' military service could conceivably find themselves facing jail sentences of up to six years.

This is a very harsh punishment for a crime of conscience. As prisoners, objectors will find themselves in a brutal and alienating environment. They will have few rights and they will have to fight for their privileges. And as conscientious objectors, they might even find themselves worse off than many of their fellow-prisoners: It looks, for example, as if their chances of receiving remission or parole -- not to mention amnesty -- are quite slim. The chances are that, like "public violence" prisoners, they will constitute a category of prisoners so politically sensitive that they will not necessarily be able to count on being accorded the treatment given to "normal" prisoners.

CO's today have, however, an advantage above those who served jail sentences before the new legislation came into force. While, before 1983, conscientious objectors who were imprisoned faced being called up again once they left jail, serving the full term of imprisonment under the present legislation absolves one of any further obligations to the SADF. There are thus objectors who see this as an option preferable to exile. Objectors who leave the country may never be able to return -- and this can be a deeply demoralising prospect for those who are committed to contributing something positive to South African society. It should be stressed that this publication is not intended in any way to encourage or assist people to refuse to render

military service or to fail to report for service. Behind the decision to compile it lies the belief that factual information is vital in enabling conscripts to make informed rather than confused decisions between the alternatives.

In Chapter 2 we explain the legal position of objectors, the nature of the various offences they could be found guilty of, and the different sentences that could be imposed for these offences. We then discuss the difficult area of the rights and privileges of a convicted prisoner, and of a person in detention barracks.

In Chapter 3 we look at the practical effects of a decision to go to jail. We discuss the objector's rights after arrest and when awaiting trial. We also discuss preparation for trial, with reference to civilian courts as well as courts martial. We conclude with some notes on preparing for life in prison.

This is followed by two annexures. In the first, a glimpse into individual prison experiences is offered. The second annexure contains further technical information regarding court procedure, appeal and review.

It should be remembered that the pages that follow explore territory that is in many ways new and unknown. Much of the information contained in it is uncertain. There are various reasons for this: There have been numerous amendments to the law over the last ten years and much of the wording in the relevant legislation is vague. Supreme Court decisions in this area have often conflicted. Besides this there is the fact that so few people have been imprisoned for refusing to serve in recent years.

This creates a difficult situation: the first people to be charged for refusing to serve will have to accept that their cases will be "test cases" and that they will be venturing into uncharted waters.

We hope that the information contained herein will serve as some sort of a guide to such people. We hope that, even though it is incomplete, this publication will contribute in some way towards demystifying the prison option and that it can give objectors an idea of their position once they have refused to serve. Further work on the prison option -- and the other options open to objectors -- is essential. This booklet should be regarded as an attempt to start addressing these problems.

Finally, it needs to be said that the language used in this booklet may at times appear to be sexist and racist. This impression derives is due to the fact that -- at the moment, at least -- only white males are expected to do compulsory military service.

September 1987

2. THE EFFECTS OF OBJECTION

2.1. IF I REFUSE TO SERVE, WHAT OFFENCE WILL I BE COMMITTING?

2.1.1. General comments

Paradoxically, a person who refuses to serve will not necessarily be charged with refusing to serve. In fact, you could be found guilty of one or more of a list of offences unless you have been classified as a religious objector (as discussed in the Introduction) and do not refuse to do alternative service.

The most obvious offences which may be committed by a person refusing to serve are those referred to in Section 126A of the Defence Act, i.e.

- * failing to report when called up; and
- * refusing to serve when liable to render such service.

However, the Military Disciplinary Code also applies to someone who refuses to serve, and an objector would also be contravening certain of its sections, such as

- * disobeying a lawful command;
- * failing to appear at a place of duty;
- * being absent without leave.

It would appear that these sections have been used where heavy punishments are not sought by the prosecuting authority and where they wish to avoid publicity. However, the sections do provide for heavy sentences. A person charged should contact a lawyer immediately and find out about these. A charge or charges under Section 126A seems more likely.

2.1.2. Failing to report

(i) The offence

A charge of failing to report for duty in terms of the Defence Act is the lesser of the charges related to objection. Technically, even if the person did not report because he was refusing to serve, the offence of failing to report would in most cases still be committed.

Because unclarities existed in the law until the latter half of 1987, various objectors have been charged with failing to report, rather than refusing to serve before it was changed. Meanwhile the Government has been awaiting the final acceptance of the 1987 amendments to the Defence Act which set the prison sentence for

refusing to serve clearly at one-and-a-half times the total period which the accused may still be called up for in terms of the Act.

(ii) The sentence

The possible sentences are as follows, irrespective of which section of the SADF you are called up for:

- * up to 18 months imprisonment; or
- * up to 18 months in detention barracks; or
- * a fine, the maximum depending on your rank in the army (R600,00 for privates!)

Part or all of the sentence may be suspended. Suspended prison sentences have been imposed in a number of cases -- sometimes with and sometimes without a fine. Failure to report for a subsequent call-up may lead to the court putting the suspended sentence into effect.

2.1.3. Refusing to serve

(i) The offence

A person who fails to report for a call-up may be charged with refusing to serve, a separate offence provided for in Section 126A of the Defence Act. This offence carries heavy penalties. If the accused is charged with refusing to serve, all that is needed for the Court to presume that the accused refused to serve is that it is proved that the accused failed to report for duty.

If the accused wants to refute this presumption, it is then up to him to prove that he did not refuse to serve but only failed to report. In other words, the accused then has to prove his innocence as far as the charge of refusing to serve is concerned.

A person who reports for his call-up at the time and place required, but refuses to render any service, clearly commits this offence rather than the offence of failing to report. This, in fact, would seem the preferable approach for an objector who has decided that his only option is to go to jail. The reason is that an objector who serves the full term of imprisonment imposed for refusing to serve is not liable for further military service. However, this is not the case for an objector sentenced for failing to report - he may be called up as soon as he leaves the prison!

If a person reports but refuses to serve, it would be very difficult for the State to argue that he should be convicted of

failure to report. If he hands himself over to the ordinary police, however, there is a greater chance for being prosecuted for failing to report.

Any person contemplating this particular course of action is advised to do the following beforehand:

- * contact the law officer at his unit and advise him of his intentions;
- * ask what action will be taken against him;
- * take family and supporters with him as it is psychologically reassuring and they may be able to pick up information immediately on what will happen to him, which they can disseminate;
- * get his lawyer to accompany him;
- * be prepared to be arrested and kept in a cell at the unit.

(ii) The sentence

Naturally it is crucial for anyone contemplating refusing to serve in the SADF to know what sentence he is likely to get. Unfortunately this question is very difficult to answer, particularly in cases where people have already done their national service. This uncertainty is a result of the following factors:

- * the numerous amendments to the law over the last ten years;
- * conflicting Supreme Court decisions;
- * vague wording in the relevant legislation; and
- * the fact that so few people have refused service in recent years.

The result, as said above, is that the first people to be charged for refusing to serve will be "test cases".

The sentences for refusing are based on a person's outstanding service liability. Multiply the outstanding service liability by one-and-a-half and you have the sentence. This is subject to the minimum sentence for this offence, namely 18 months. The opinion of some lawyers is that the sentence of one-and-a-half times the outstanding liability is the maximum sentence. It is possible that the Courts would have the same interpretation. There is yet, however, no consensus on this question.

The problem, however, is that no-one (including the Supreme Court, the SADF itself and lawyers working in this area of the law) is certain as to how to calculate outstanding service liability. The author has researched the matter extensively and has arrived at the periods indicated below. The reader will have

to bear in mind the possibility that the courts may eventually disagree with this opinion.

In the opinion of the author, the legal position can be explained as follows:

If an objector	His maximum sentence will be:
(a) is liable for national service and has done no service in the citizen force;	(a) 6 years;
(b) completed his national service six years ago or less and is still part of the citizen force;	(b) * during the first two year period after the two years national service, 1080 days (i.e. approximately 3 years); * during the second two year period after the two years national service, 900 days (i.e. approximately 2 years); * during the third two year period after the two years national service, 720 days (i.e. approximately 2 years);
(c) completed his national service more than six years ago and is still part of the citizen force;	(c) 18 months;
(d) is no longer part of the citizen force, but is part of the commandos (which incorporates "Dads' Army" call-ups); or	(d) 18 months or more, depending on how he came to be part of the commandos (some persons may be liable for as much as 1500 days! Persons affected should consult a lawyer for advice);
(e) is in the Reserve or some other part of the SADF.	(e) 18 months.

It should be noted that:

- * an officer sentenced to imprisonment or detention for failing to report or refusing to serve, loses his rank;
- * sentences for both failing to report and refusing to serve may in theory be served either in detention barracks or in a civilian prison. It seems that the latter is far more likely (see par. 3.3). It should be borne in mind that, although a court martial has the power to sentence objectors to either detention barracks or a civilian jail, it may well be more inclined to sentence someone to detention barracks.

There is unclarity as to whether the sentences for refusing to serve are compulsory or merely maximum sentences. In other words: Can a lesser sentence be imposed? In all cases of prosecution under the pre-1983 legislation, people convicted were sentenced to less than the maximum period of imprisonment (which was 2 years).

The present legislation could be interpreted as meaning that the sentence set out in the table above is compulsory and that a lesser sentence cannot be imposed. However, it is arguable that the wording of the Act - "liable on conviction" - should not be interpreted as a compulsory sentence. This argument would be supported by the fact that, where compulsory sentences were intended, this was expressly stated (eg the old Terrorism Act of 1967). However, it would perhaps be wise for potential objectors to prepare on the basis that the stipulated penalty is compulsory.

In theory it seems that all or part of a sentence for refusing to serve may be suspended. In practice, however, it is highly unlikely to happen (See paragraph 1.13 of Annexure B).

(iii) Changing your mind

A person convicted of either failing to report or refusing to serve, can change his mind about serving in the SADF before the expiry of his term of imprisonment. The Defence Act states that he can send a notice to this effect, signed by him, to the Adjutant-General [Sec. 126A(7)]. He will then be released immediately. The period of imprisonment which he has already served will not necessarily be subtracted from his period of military service which is due. The Minister of Defence may, however, determine that any part of the prison sentence which he has served be regarded as military service.

If a person who was released in the circumstances described above, refuses to do any service which he is liable to do at any

time thereafter, he will have to serve the remaining portion of his term of imprisonment.

2.1.4. Desertion

A person who, while busy doing military service, decides that his conscience prevents him from doing further service and deserts, would be liable for conviction of this serious offence. The maximum sentence which may be handed down by a court martial is imprisonment for up to 10 years! It is thus advisable for objectors to make up their minds beforehand.

If a decision is taken during military service, it would be better to refuse to serve, but remain at the place where service was being rendered.

2.2 YOUR RIGHTS AND PRIVILEGES AS A CONVICTED PRISONER

2.2.1. What rights would I have in prison?

(i) The basic rights of convicts in South African prisons

A distinction is made between the rights and privileges of prisoners. While rights can be enforced if infringed upon, privileges are seen as being totally at the discretion of the Commissioner of Prisons.

In South Africa, prisoners are recognised as having the following rights:

- (a) Basic necessities such as access to food, clothing, accommodation and medical care. (Examples of these were given during judgement in the case *Goldberg v Minister of Prisons* 1979 1 SA 14 (A).)
- (b) The Prison Regulations (reg 113) clearly specify that prisoners have a right to exercise: All prisoners must undertake suitable physical exercise according to physical condition and age. This right may not be removed as a means of punishment. A prisoner who does not perform outdoor work must, weather conditions permitting, take daily exercise for one hour in the open air. In special cases the Commissioner may approve that such exercise be taken for only half an hour daily.
- (c) The Prisons Act (8 of 1959) specifies clearly that prisoners have a right to see both the provisions of the Prisons Act and the regulations promulgated under it, which relate to the treatment and conduct of prisoners
- (d) Less definitely, a right to religious observance appears to exist. The courts regard it as a basic common law right.
- (e) Access to one's legal representative: Even though access to one's legal representative is also a basic, common-law right, this has gradually been curbed, becoming to some extent subject to the discretion of the Commissioner. It is provided that any prisoner who is a party to civil proceedings or intends to institute such proceedings, or is accused in a criminal action, may consult his legal representative in connection with such proceedings or action. Such consultation is, however, subject to the permission of the Commissioner and any condition which he may determine (Prison Regulations reg 123 (1)). Reg 123(2) specifies that Commissioner may determine that:

- The legal representative shall at the request of whoever is in charge of the prison lodge proof of

- his or her identity and status;
- Visits to or interviews with a prisoner may only take place during normal office hours, except in exceptionally meritorious cases;
- The interview be restricted to the civil proceedings or criminal action to which the prisoner is a party;
- If an interpreter or a shorthand writer is used, the person involved must be approved by the Commissioner;
- The interview takes place within sight of a member of the Prisons Service or a temporary warder;
- No prisoner may, during a visit, hand any writing, document or any other article to his legal representative, interpreter or shorthand writer without the approval of the Commissioner.;
- No sound-recording apparatus will be allowed;
- The interview be subject to such conditions as may be considered necessary by the Commissioner for the general control and management of a prison and the maintenance of good order and discipline therein.

One leading case has stressed that prisoners have a right of access to lawyers and the courts. Having recognised this broad right, the Court then found that the prisoner was not entitled to hand over to his counsel a document that he had drawn up! According to the court, this did not fall within the scope of the right. It therefore looks as if this right of access to lawyers was just a broad statement of policy, and as if the actual practice is much narrower (*Mandela v Minister of Prisons* 1983 1 SA 938 (A)).

(ii) Appealing against infringements of established rights

Once a right has been established, the chances of enforcing it are quite good. The problem is that one is only able to enforce a new right (i.e. a right not mentioned above) if it is granted through legislation or if it is confirmed by the court (see below). In cases where the courts have already decided that it is only a privilege, the chances of arguing that it is a right are very slim.

Rights could be enforced in the following ways:

- By way of a letter of demand on the prisoner's behalf;
- If this is unsuccessful, by way of an application for a court order to force the Prison authorities to allow the enjoyment of the right.

(iii) The possible expansion of rights

In the case *Goldberg v Minister of Prisons* (mentioned above), the majority of the court did not find it necessary to distinguish between rights and privileges, except for the most basic necessities. But, importantly, Corbett JA argued (although only in a minority judgement) that --

fundamentally a convicted and sentenced prisoner retains all the basic rights and liberties ... of an ordinary citizen except those taken away from him by law, expressly or by implication, or those necessarily inconsistent with the circumstances in which he, as a prisoner, is placed.

Since then the position has grown more complex -- and potentially more favourable for prisoners. In the *Mandela* case mentioned above, a stronger statement of the general principle was made by Jansen JA, who gave the unanimous judgement of the court. He considered the concept of "a basic or common law right":

On principle a basic right must survive incarceration except in so far as it is attenuated by legislation, either expressly or by necessary implication, and the necessary consequences of incarceration.

While this indicates a concession in principle, its practical content depends upon future court decisions. Prisoners' conditions could be changed if the courts agree that the loss of a specific right or group of rights does not necessarily result from imprisonment. But there is no consensus on what the chances of success of such an approach would be.

There is, for example, a very general provision in the Prison Regulations (reg 110 (1)), according to which special attention must be given to "the preservation of the good relationship between the prisoner and members of his family," but there has been no example, in our law, where somebody has managed to deduce a right from this provision. So, although the *Mandela* case has opened up avenues its concrete implications are by no means clear. There is therefore a grey area where precedents have not yet been set. Here representations could play a very important role.

In this regard it must be remembered that, regardless of whether or not these issues are taken further in the courts, the approach and policies of the Prisons Service is crucial in the conditions of imprisonment. On this level there have been visible changes in the past five years. Experts have noted a growing professionalism in some areas of the Service, especially with regard to "security prisoners". This has to some extent increased the room for negotiation on behalf of prisoners. It seems, also, to account for the relative increase of the privileges which can be earned in terms of the privilege grading system. (This grading system is described in paragraph 2.2.2 (iii) below.)

2.2.2. What privileges would I be allowed to enjoy?

(i) The privileges of prisoners in South African prisons

In South African prisons the following are seen as privileges, not rights:

- (a) Access to music, recreational facilities and entertainment.
- (b) Access to publications and current literature.
- (c) Reduction of sentence (discussed in par 2.2.3).
- (d) Writing and receiving letters and visits:

As stated above, the question of letters and visits may be placed in the "grey area" of potential rights, as it could be argued that a right to contact with family can be deduced from the provision that the Prisons Services should encourage the preservation of good family relationships. But as yet no such rights have been recognised, and at the moment these are allowed only as privileges. The number of letters which may be written and received, and visits allowed, depends on the grade of the prisoner.

The Commissioner has in the past limited this privilege even further, placing restrictions not only on the volume but also on the content and destination of correspondence. He has, for example, ruled that letters containing discussions of politics, films, books, poems, radio and TV reports or quotes therefrom, information on the administration of prisons services, or particulars of the location or measurements of any prison buildings would not be forwarded or handed over. He could also forbid a prisoner to correspond with a specific person, institution or organisation.

Visits also fall under the discretion of the Commissioner. Someone who has been granted a permit to visit has a right to go to court if the permit is withdrawn without good reason -- but this right is the right of the visitor, not the prisoner. Cases exist where visits have been refused to whole groups of people as punishment for misbehaviour. There have, however, been some reforms. The rules concerned with security clearance for visitors were recently changed, and it is no longer necessary to be screened before being allowed onto a prisoner's list of visitors.

- (e) **Studying:** The Prison Regulations (reg 109(6)) clearly define studying as a privilege and not a right:

Permission to study or the utilisation of any library in terms of this regulation is subject to the discretion of the Commissioner and the provisions of the said regulation may in no way be so construed as implying such permission and/or utilisation of any library allows any prisoner a right which he can legally claim.

This regulation may in some cases be challenged as being *ultra vires*. Judge Corbett argued in his minority judgement in the Goldberg case that prisoners had a right to "mental and psychological well-being" and that an educated prisoner should therefore -- theoretically at least theoretically not be denied access to reading material. From such a position, permission to study might be construed as a right. It should be remembered, though, that Corbett's was a minority judgement and would not necessarily be followed by the Courts.

The Prison Regulations also specify that the Commissioner can use his discretion to determine what the prisoner may study. In practice, however, prisoners are allowed some leeway at the moment. Until very recently prisoners were only allowed to study undergraduate courses, but now they are allowed to do honours degrees, as well as M A degrees consisting of coursework. Apparently, the main objection of the Prisons Department against the doing of thesis work is that theses might be published. If one was doing an M A thesis one might be able to negotiate with the university in question, so as to prevent publication prior to release.

On the whole the current approach is relatively lenient, although one may have problems in specific instances. There have been instances of refusal of permission to study African languages. A while ago the prison authorities also refused to allow anybody to study law. This was taken on review to the Supreme Court. The court questioned the wisdom of this stand but, since it was in the discretion of the Commissioner to decide, declined to intervene.

- (ii) How are privileges granted or withdrawn?

According to section 22 (2) of the Prisons Act,

The Commissioner may in his discretion

- (a) *grant such privileges and indulgences as he may think fit to any prisoner*
- (b) *notwithstanding anything to the contrary contained in any law, withdraw any privilege or indulgence*

granted in terms of paragraph (a) to any prisoner without furnishing any reason and without hearing such prisoner or any other person.

In addition, Section 77 of the same Act states that

Every prisoner sentenced to imprisonment and detained in a prison shall ... be employed, trained and treated ... as the Commissioner may determine...

In theory, the Commissioner has to make his decisions in terms of the broad policy of the Prisons Service. Although concrete information on this policy is lacking, it seems that the Commissioner may use his discretion only in order to achieve one of the legitimate functions of the service, namely to maintain good order and discipline, and to apply such treatment to prisoners as may lead to their reformation and rehabilitation.

In practical terms, however, the Commissioner has a very wide discretion. This is because in order to challenge it one would have to prove that he had acted in bad faith. Nevertheless, if it can be shown that a decision cannot be construed as intended to achieve a legitimate function of the service, that decision can be challenged in court as evidence of bad faith.

There is, therefore, some limited scope for appeal to higher authority. This would have to be done by applying to the Supreme Court for review of the Commissioner's decision. The court may then only look at the following aspects of the decision:

- whether the correct procedure has been followed by the Commissioner;
- whether it has been taken in good faith and for a legitimate reason.

The court will not take into account the merits of the decision itself -- as is illustrated by the Court's decision, discussed above, not to overturn the Commissioner's refusal to let prisoners study law.

(iii) Privilege grades in South African prisons

In general, the Commissioner grants privileges according to a system of grades (grade = "kerf" in Afrikaans). According to this system of classification, there are four different grades, numbered from grade 1 (previously grade D), up to grade 4 (previously grade A). These grades determine which privileges the prisoner gets.

The contents of these different privilege gradings is subject to a process of change, as specified in the Prisons Service standing orders, which are promulgated by the Commissioner by virtue of the power given him by the Prison Regulations. Because these Orders are not publicly available, it is impossible to draw up a complete, definitive list. Nevertheless the following fairly recent

information may be taken as a general and tentative guideline:

GRADE 4 PRISONERS: (Previously, Grade A).

Access to television and videos as often as prisoner wants. May possess own wristwatch, radio, electric shaver and even pets. Permitted 30 contact visits per annum of 40 minutes each with two people at a time. Permitted to write and receive 40 letters per year of 500 words each. May purchase extra food and toiletries at R50-00 per month.

GRADE 3 PRISONERS: (Previously, Grade B).

Permitted 25 non contact visits of 30 minutes each per year, with two people at a time. Permitted to write and receive 32 letters of 500 words each per year. Permitted to attend two film sessions per month, but may not have newspapers, magazines, radio, watch, electric shaver or television.

GRADE 2 PRISONERS: (Previously, Grade C).

Permitted 20 non-contact visits per year of 30 minutes each, one person at a time. Permitted to write and receive 20 letters per year of 500 words each. One film per month. No other privileges are allowed.

GRADE 1 PRISONERS: (Previously, Grade D.)

This grade designates an observation period. The privileges associated with this level are not known. **Information to be added...**

The exact status of these Standing Orders is a matter of legal debate today, and it is not clear whether they can be enforced in the courts at all. All that can be said at the moment is that movement along the scale of privilege grades depends very much on the individual case and that there is no uniform automatic or enforceable system by which progress is made.

(iv) Security rating

Besides the different privilege grades, prisoners are upon admission, classified according to standardised security classification norms into either maximum or medium security categories, and are assigned to a suitable prison or section accordingly.

The Prison Regulations (reg 116) specify that in this classification, factors such as the prisoner's "previous record, aptitude, qualification, previous training, ability and other personal factors" should be taken into account.

[Recently, also, the Minister of Justice has indicated that this classification will depend on the crime for which the prisoner is convicted, the length of his sentence, the number of his previous convictions, previous convictions for

crimes of violence, escapes on record and the use of dangerous weapons during the commission of his most recent crime. (House of Assembly Debates, 23 April 1986, col 4044)]

The security rating and the privilege grade are largely independent of each other -- to be rated a maximum security prisoner, in other words, does not exclude one from the highest privilege grade. Security rating may, however, affect the grade at which one begins to serve one's sentence, and may affect one's rate of progress on the scale of privilege grades. A high security prisoner, in other words, could begin his sentence on a lower notch of the scale than the ordinary prisoner.

[To be added: What will CO's security classification most likely be?]

2.2.3. Will I have to serve the full term of imprisonment?

There are three ways in which the convicted objector could, in theory, get part of his sentence off. These are remission, parole and general amnesties. All of these are, however, privileges and cannot be guaranteed.

(i) Remission of sentence

Most categories of prisoner are granted remission of sentence very soon after starting their prison sentence. This means that, at the outset, the sentence is effectively shortened. Remission is as a rule granted subject to conditions, with the conditions usually relating to the behaviour of the prisoner while he is inside. If a prisoner does not "behave", the Commissioner may order that the remission be forfeited. Ideally remission serves a rehabilitative function. It is also a mechanism of control over prisoners' behaviour. The message to the prisoner is: "If you behave yourself and stick to the rules during the first part of your sentence, you will get a specified period off".

In terms of the Prison Regulations (reg 119, 131) and the Prisons Act, (S 63(1)) a prisoner may be granted remission not exceeding one-third of his sentence of imprisonment. Formally, if the prisoner is serving a sentence of more than two years, such remission may only be granted by the Commissioner on receipt of a report from a release board containing a recommendation for remission of sentence. It may be granted at any time during the prisoner's prison term.

Some categories of prisoner, according to the Prison Regulations, have no chance at all of getting remission of sentence. It is not granted, for example, in respect of a sentence imposed for a contravention of the Regulations, or an offence under the Prisons Act. Furthermore, reg 119(4)(iv) determines that

[Remission shall not be granted in respect of a sentence of imprisonment imposed for a conviction on... any ... offence or contravention specifically determined by the Minister.]

This implies that the Minister could decide that conscientious objectors should not be granted remission. It would therefore be a mistake for objectors to bargain on the possibility of receiving remission.

(ii) Parole

Through the system of parole, the prison authorities release prisoners before their full prison term has been served, subject to certain conditions. This system is supposed to aid the prisoner in the process of rehabilitation and reintegration into society. Through these conditions the prison authorities maintain a hold on a person outside prison until the end of the sentence. If he should be caught infringing a condition of his parole, he would be re-imprisoned for the rest of his sentence. All sorts of parole conditions can be set. For example, one could be paroled on condition that you do not speak on a public platform.

A prisoner would have to serve a major part of his sentence before parole would be considered. In most cases, the granting of parole after serving about half of the sentence left after the period of remission has been subtracted, is routine, unless the prisoner has been in some kind of trouble with the authorities while in prison.

Until recently the Minister specified certain categories of prisoner who would under no circumstances be granted parole. Political prisoners were included in this group. Since the mid-eighties, however, a more flexible attitude has been adopted. An Advisory Release Board has been created, which exists to make recommendations on parole policy. After this, the position was that political prisoners were released on parole if they agreed to renounce violence.

There are, however, indications that this might change. According to recent reports the Advisory Release Board has recommended that the criteria applying to ordinary prisoners be applied to security prisoners as well.

It should also be remembered that there are still groups which the Minister has determined would not be eligible for parole at all (e.g. public violence cases). COs could well be included in these groups.

(iii) General amnesties

The President has the power in terms of the Constitution to grant general amnesties. On the 31st of May 1986, for example, about 2000 prisoners were released in the Cape. The Minister said in parliament that everybody's sentence, except those of public violence cases and robbers sentenced for longer than five years, would be reduced by three months. This kind of move is usually motivated by considerations such as the overpopulation of prisons. Again certain categories of prisoner may be excluded, and once again COs could fall in such a category.

2.2.4. How will classification as a "political prisoner" affect my imprisonment?

The prison authorities distinguish, in practice, between "maximum security prisoners" and "security prisoners". The latter are in effect political prisoners. There is a chance that the convicted CO will be treated as a "security prisoner", especially if his sentence is a long one. It is therefore important to understand the implications of this classification.

It should be remembered that the category of "political prisoner" is not one that is officially or formally recognised. There is no legal or explicit recognition of political prisoners as such in either the Prisons Act or the Prison Regulations. All that the Act says is that the Commissioner may determine how any prisoner or group of prisoners is to be treated.

In the past the Prisons Service has denied that a category of political prisoners existed. It was held that prisoners, as far as the Service was concerned, were people who had been convicted by criminal courts and that they would therefore be treated according to uniform criteria. This was to some extent substantiated by the older accounts of prison life (see bibliography) where it is clear that political prisoners mixed a great deal with other prisoners.

Recently, however, this has changed. People convicted on charges such as treason, sedition, furthering the aims of a banned organisation, or refusing to testify in political trials are definitely given different treatment. For example, all "white" convicts of this kind are held as "security prisoners" in Pretoria. They are a tiny, isolated group, made even smaller by the system of security classification discussed above, and are kept in an isolated area of the prison. The same applies to left wing "non-white" as well as right-wing "politicals" who are also held as separate groups.

Thus "white" political prisoners are treated differently from other prisoners. For example, whereas all sentenced prisoners have in theory a duty to work if required, in

practice members from this group are not made to work, and spend much of their time relatively undisturbed, reading or studying.

There are other, less positive sides to this difference in treatment. There is for example the fact of the isolation of "white" politicals and the lack of facilities such as sports equipment. Although not officially maximum security prisoners, political prisoners must also start on the lowest privilege grade when commencing their sentence and it is likely that their progress up the scale will be slower than that of ordinary, medium security prisoners. In addition there could be the problems mentioned above with the obtaining of remission and parole, etc.

It is important to remember that political status is not a formal category. Political prisoners are a *de facto* grouping, and it is more accurate to think of the situation described above as one that has evolved over time, and may change in the future, subject to the discretionary power of the Commissioner.

In addition it should be realised that it is by no means clear that convicted COs would find their way into this grouping.

2.2.5. Would I, if necessary, be able to protect myself from my fellow-prisoners?

Segregation and isolation are not only imposed for disciplinary reasons. It could occur for health purposes, for the prevention of gang or other violence and intimidation, etc. It could also be imposed upon the request of the prisoner. The Prisons Act specifies that

the Commissioner may order the complete segregation of a convicted prisoner at work as well as at rest for any period upon the written request of such prisoner.
(S 78(2)(b))

Thus one has the right to request to be moved to another (not necessarily single) cell, or perhaps even another prison, in the event of feeling threatened. The decision remains, however, at the discretion of the authorities, and it would therefore help to have good reasons for such a request.

2.2.6. Which rules and regulations would apply to me?

(i) Prison Rules and regulations

The Prison Regulations define in great detail what forms of behaviour are to count as "Disciplinary Contraventions". According to reg 99(1), any prisoner who --

- willfully gives false replies to questions put to him by a member of the prisons service or any other person employed in a prison;
- is "insolent or disrespectful" towards any person employed by a prison or towards an official or any other visitor to a prison;
- is "careless, idle or negligent" in his work or refuses to work;
- swears or makes use of "slandorous, insulting, obscene, threatening, or other improper language";
- conducts himself "indecently" by "word, act or gesture";
- converses or communicates with another prisoner or any other person at a time or place when he is not permitted to do so;
- sings, whistles, or causes "unnecessary noise" or "unnecessary trouble", or is "a nuisance";
- without permission leaves his cell or place of work or any other place to which one has been assigned;
- has in his cell or possession any "unauthorised article", or attempts to obtain one;
- without permission receives from or gives to any person any article or obtains possession of it in any other manner;
- causes "discontent, agitation or insubordination" among one's fellow-prisoners, or participates in any "conspiracy";
- lodges "false, frivolous or malicious complaints";
- in any manner shirks work;
- wilfully loses, destroys, alters, defaces or barters an identification card, document or other article issued to him;
- commits an act with the intention of endangering his own life, injuring his health or hampering his work or otherwise conducting himself to the prejudice of good order and discipline;

is guilty of a disciplinary contravention.

The Prisons Act itself also contains a number of rules. It is an offense, for example:

- to escape or to aid any other prisoner in escaping;
- to receive, without lawful authority, directly or indirectly, any letter, document, intoxicating liquor, tobacco, opiate, money, clothing, provisions or any other article;
- to enter into any business transaction with any employee of the prisons service or to attempt to do so.
- to give or send or promise to give or send any money or other article as reward for any service rendered.

(LAWSA, pp.158-163.)

(ii) Punishment imposed for infringements

Fairly severe punishments can be imposed, depending on the offence.

- (a) **Prolongation of prison sentence:** The prisoner's sentence can be prolonged for an offence, but only if tried in the courts. (See also the section on remission above.)
- (b) **a Reprimand**
- (c) **Dietary punishment:** The deprivation of one or more meals on any one day.
- (d) **Corporal punishment:** Whippings not exceeding six strokes for male prisoners applicable to prisoners apparently under up to the age of forty.
- (e) **Solitary Confinement** in an isolation cell for a period not exceeding thirty days.

Combinations are also possible. For example the latter form of punishment can be combined with dietary punishments. A prisoner could be sent to solitary with full diet, or with specified combinations of spare and reduced diet. There are fine scales determining, for example, how much rice and how many grammes of mealie meal is to be given.

There are, however, some limits. When a total period of more than thirty days has been imposed on more than one count, there must be a period of fourteen days without solitary confinement and with full diet between each period of thirty days. This could go on indefinitely -- thirty-day periods of solitary with 14-day gaps in between. Another limit is that prisoners in solitary confinement do not forfeit their right to prescribed exercise in the open air. Prisoners are generally very scared of this extreme form of punishment.

(iii) Disciplinary procedure in South African Prisons

The Prisons Act contains a sort of mini-system of criminal procedures of its own. Before one can be convicted for a contravention of the Act, or one of the regulations made in terms of the Act, there has to be a proper trial before a magistrate or, in some cases, a commissioned prison officer. Prisoners are allowed counsel at such trials. (See Laws pp.167-170).

The Act further requires that sentences of corporal punishment or imprisonment of more than three months imposed in terms of the Act be automatically reviewed by a provincial division of the Supreme Court.

In practice, this means that a judge of the Supreme Court reads through the record to decide whether he or she is satisfied that the proceedings were "in accordance with justice". If the judge is satisfied he or she certifies accordingly and that is the end of the matter. If not, he or she may take further steps to get the Division of the Supreme Court which has jurisdiction to set aside the verdict or sentence or to substitute for the original verdict that which the Court thinks should have been imposed. All sentences of corporal punishment are suspended until this review process has been followed.

A prisoner, however, cannot appeal against a conviction or a sentence imposed by a commissioned officer. If such a verdict has not been sent to the Supreme Court for review, it may be reviewed by the Commissioner of Prisons.

A conviction or sentence imposed by a magistrate for a contravention of the Prisons Act may be appealed against, like any other criminal conviction.

As far as treatment in general is concerned, there are provisions for making complaints. Bear in mind that it is an offence to lodge "false, frivolous or malicious complaints". According to the regulations every prisoner has to be "seen daily" by the head of the prison, to whom the prisoner may direct complaints and requests, and who must investigate every complaint and request so submitted, and, as far as possible, dispose thereof (reg 103(1)). The prisoner may also submit a written request for an interview with the Commissioner.

2.3. YOUR RIGHTS AS A CONVICTED PRISONER IN DETENTION BARRACKS

The rules governing DB are contained in the Detention Barracks Regulations promulgated as Government Notice R 1190 on 8 December 1961 and amended in 1964, 1976, and 1984. Section 2 of Chapter 2 stipulates that "every detention barracks shall, in so far as the available facilities and staff permit, be organised, controlled and managed so that a person serving a sentence shall be treated and trained in such a manner that on his release, he may be better equipped to adjust himself in employment and the community." In this section, your rights, duties and privileges as a convicted prisoner in DB is summarised.

- (a) **Know your regulations** The superintendent must ensure that inmates are given every facility to acquaint themselves with DB regulations.
- (b) **Health and hygiene** Every inmate must be examined by a medical officer as soon as possible after his admission; The Surgeon General or his representative must be satisfied that the cell complies with health regulations.
- (c) **Access to legal representative** Inmates have to be afforded every reasonable opportunity and facility of consulting with their legal representative. If the consultation is part of preparations for legal proceedings, the DB staff may see but not hear the consultation. In the case of other legal matters DB staff may both see and hear the consultation.
- (d) **Private Property** Any money or any other private or government property shall be handed to a staff member for safe keeping.
- (e) **Segregation** Every inmate shall be locked up separately in so far as it is possible.
- (f) **Privileges** include sending one letter per week; smoking; studying; visits, subject to the discretion of the superintendent.
- (g) **Use of force** No force shall be applied by a staff member against an inmate except in self-defence or if the inmate behaves in a rebellious or violent manner, or passively resists discipline, or escapes or attempts to escape, and then only so much force may be used as may be necessary under the circumstances to restrain the inmate.
- (h) **Solitary Confinement** No inmate may be sentenced to solitary confinement unless a medical officer has certified that the inmate is fit to undergo such sentence.
- (i) **Duties** include that a person serving a sentence may be

required to perform or undergo physical or other labour, duty or training of at least six and not more than nine hours every day, excluding mealtimes.

- (j) Remission of sentences Conscientious objectors are discriminated against in respect of remission of sentence. A convicted person or person serving a sentence other than a person convicted or serving a sentence for a contravention of section 126A, must be awarded a remission of one quarter of his sentence, immediately on his admission to DB. However, there is no provision which precludes the granting of remission to a section 126A offender. <<Unclear - need some work on>>

2.4. WHAT WILL HAPPEN TO MY DEBTS WHILE I AM IN PRISON?

Prisoners have no protection against claims of debts, while they are serving their sentences. The Moratorium Act freezes all debts of military servicemen and of religious objectors during their first two years of service, but does not protect people convicted in terms of the Defence Act.

It is possible, though, through institutions such as NICRO, to negotiate with a prisoner's creditors for much reduced payments to be made regularly.

3. PREPARING FOR THE CONSEQUENCES OF MY DECISION.

3.1. THE IMMEDIATE CONSEQUENCES WHEN I REPORT / FAIL TO REPORT?

The possible offences with which objectors can be charged are discussed under paragraph 2.1 above.

Someone who has decided that he refuse to serve in the SADF in any capacity and does not want to go into exile, has a choice as to his course of action when he receives call-up papers :

- (a) he could report at the time and place specified and refuse to serve; or
- (b) he could fail to report and wait for steps to be taken against him. He has a further choice between notifying the SADF in advance of his intention to refuse or just leaving it to them to find out; or
- (c) he could apply to the Board for Religious Objection for classification as a religious objector.

For further information regarding the offence of refusing to serve, see paragraph 2.1.3.

In theory, a person committing any of the offences related to failing or refusing may be arrested by either the military police or the South African Police. In practice it seems that the military police usually deal with offences relating to military service. Even if a person were to be arrested by the SAP, chances are that he would be handed over to the military police. An objector's rights after arrest are discussed under paragraph 3.2. For a person warned to appear, the next stage in the procedure of prosecution is described in Annexure B, paragraph 1.5.

3.1.1. Reporting, but refusing to serve

To report but to refuse to serve may ensure a quicker trial. In the past it has sometimes meant being locked up in the unit's cells or in DB until trial. It may also mean that you are more likely to be tried at a Court Martial, because you are regarded as part of the SADF.

A person who reports for his call-up but refuses to serve is likely to be arrested by an officer of the unit where he reports or by the military police. In theory, however, such a person could, in lieu of arrest, be warned that a charge is being investigated against him or be warned to appear in court or at a court martial at a particular place and time (see paragraph 3.2). This is, however, very unlikely.

3.1.2. Not reporting

Whether or not an objector has notified the SADF of his intention not to report, he may now have to wait a long time before anything happens. So he should keep his job or try to get one. He could either be arrested, or be summoned to appear in a civil court (or possibly in a Court Martial).

Some persons charged with failing to report have simply been warned to appear in court, while others have been arrested by the military police. Predictions are impossible. A person who fails to report should prepare himself psychologically for arrest, which may happen only many weeks after the call-up date. He should even be prepared for arrest at his place of work. People who have had to wait for an arrest like this have found the uncertainty of waiting a major disadvantage and a psychological test.

To avoid the long wait, it might be worthwhile for an objector to write to the Commanding Officer of his unit and the Registering Officer of the SADF beforehand, advising them of his intention not to report and his reasons therefor. This is more likely to lead to a charge of refusing to serve. Some objectors may also prefer to follow the course of action described in paragraph 3.1.1 to get the consequences over and done with.

3.2. WHAT ARE MY RIGHTS AFTER ARREST?

3.2.1. Until I am brought to court

<u>When arrested by the</u>	
<u>MILITARY POLICE</u>	<u>ORDINARY POLICE</u>

Powers of military police

The military police have the same powers of arrest as the ordinary police. An officer, though, can only be arrested by another officer.

Powers of ordinary police

The ordinary police have the power to hand an awaiting trial prisoner to the military police. If so, the procedure on the left follows. If not, the procedure is described below:

What happens then?

The arrested person can be handed to the ordinary police for prosecution immediately. If this happens, the procedure listed under ordinary police has to be followed.

If the person is not handed to the ordinary police, he must be brought before the commanding officer of the unit to which he was called up as soon as possible.

In practice the adjutant of the unit will attend to the administrative processing of the arrested person. He will remain in custody in the unit until he has appeared before the commanding officer. It is, however, possible that the person be held in the custody of the unit (i.e. allowed freedom of movement in the camp). This is in the discretion of the commanding officer.

It is further possible that, once the investigation of the case against him is complete, the person is handed over to the ordinary police, after having been held at his unit.

The procedure which will be applicable if he is handed over to the ordinary police is described on the right.

What happens then?

(a) Any arrested person must be taken to a police station as soon as possible, unless the warrant of arrest says that the person must be taken to another place.

(b) He must be brought to court within 48 hours of being arrested, unless a warrant for his further detention is obtained by the police.

* If the 48 hours ends after 4 p.m. on a week day on which the Court is working, then the person must be brought to Court by the following day before 4 p.m.

* If the 48 hours ends on a weekend or on a public holiday, then the person must be brought to Court on the following Court day before 4 p.m.

* If he is detained for a longer period without being brought to Court, the detention becomes illegal. He can sue the policeman and the Minister of Law and Order for damages.

The reason why these time limits for detention pending appearance in Court are set, is to make it possible for the Court to decide whether the accused's further detention is warranted. If the Court does not apply its mind to this question, the proceedings may be irregular (see Annexure B, par. 2 on the issue of review of irregular proceedings).

3.2.2. My rights vis-a-vis the police

<u>MILITARY POLICE</u>	<u>ORDINARY POLICE</u>
------------------------	------------------------

The military police do not take part in the investigation of an alleged offence to the same extent as do the ordinary police. The unit law officer (or if none is available, the adjutant) is responsible for the investigation of the alleged offence. The law officer may obtain the assistance of the military police during the course of the investigations.

An arrested person has the right to refuse to answer any questions put to him by the police. He need not make any statement or sign any document. He is obliged only to give his full name and address. It is better not to make any statements at all before seeing a lawyer. It is also better not to even plead "guilty" or "not guilty" before seeing a lawyer.

It would be preferable for his defence, if the arrested person were to refuse to answer questions on the merit of the alleged offence. If he can arrange for legal defence, he should request the presence of his lawyer. Alternatively, a legal officer would be provided for assistance with his defence (see Annexure B, par. 1.1).

From the moment of arrest, an arrested person is entitled to the assistance of a lawyer. The police cannot deny him this right.

3.2.3. Bail

<u>MILITARY POLICE</u>	<u>ORDINARY POLICE</u>
------------------------	------------------------

No provision for bail is made in the Defence Act.

The arrested person will remain in custody in his unit or the nearest detention barracks pending the convening of a court martial.

Bail is not a right of the arrested person. The decision lies with the Court (see paragraph 1.2 in the Annexure B at the end of this booklet). The police may not grant so-called "police bail".

This will only happen once the preliminary investigation by the unit legal officer is completed. Depending on the circumstances of each case, a considerable period of time may pass before the investigation will be completed.

The legal officers at the regional command have to keep a record of all persons awaiting trial, and must report to the Senior Officer Personnel on the progress made with preliminary investigations. The court martial may also require the unit legal officer to give reasons if the preliminary investigations took unreasonably long.

The legal representative of the arrested person may approach the Senior Officer Personnel for reasons for unreasonably long delays.

Courts martial may take place on a weekly or monthly basis, depending on the locality and size of the unit to which the arrested person has been allocated.

3.2.4. What are my rights when held awaiting trial?

Your rights as a convicted prisoner are dealt with in 2.2 and 2.3 above. What is my status when held in prison while awaiting trial? The position differs slightly depending on whether you are held in prison or in detention barracks (DB), and will be discussed separately. In both cases it should be noted that :

a) You may not be admitted to prison or DB unless a warrant to that effect is issued.

b) When it is necessary to detain you in a police cell or lock-up (and not prison or DB), such detention cannot endure for a period longer than one month without the authority of the Commissioner.

(i) When held in civilian prison or police cells

While held in a civilian prison or police cell awaiting trial a prisoner has the following rights which correspond in general with those dealt with in paragraph 2.2 (above).

Copy of the Act Every prisoner is immediately on his admission into prison entitled to a Copy of the Act relating to the treatment and conduct of prisoners.

Health and Hygiene Facilities relating to hygiene shall at all times be available to the prisoner. The cell must comply with certain health standards. <<Expand?>>

The following rights differ for prisoners awaiting trial:

Prison dress Unconvicted prisoners awaiting trial may not be compelled to wear prison dress, except where it is necessary to serve the interests of sanitation or administration of justice.

Private Property Money, valuables, and other articles, including "privileged" <<namely?>> documents, may not be taken away from the prisoner while awaiting trial. (Except for dangerous weapons or articles which may effect an escape.) Articles are usually voluntarily given for safekeeping as protection against other prisoners.

Association and Segregation Prisoners are in general associated at work and segregated at rest. Prisoners awaiting trial must, as far as possible, be segregated from other prisoners.

Privileges include visits from friends and family, who may also bring you some food; and the privilege to make use of your own money. <<This is actually where the substantial difference between awaiting trial prisoners and convicts lies. Need to be expanded.>>

(ii) When held in Detention Barracks

Please refer to paragraph 2.3 (above) as your rights while awaiting trial correspond to your rights as a convicted prisoner, with the exception of the duties referred to in paragraph 2.3(1).

3.3. IN WHICH COURT WILL I BE CHARGED?

The Defence Act makes provision for either a Magistrate's Court or a court martial to try persons for offences under Section 126A, and they are both specifically given the power to impose

the sentences provided for.

Persons charged with failing to report have been tried in both and predictions are, as a result, impossible.

A person charged with refusing to serve could be tried in either court, depending, in all likelihood, on the decision of senior military authorities. Under the previous law relating to objection, all objectors were tried in courts martial. According to certain sources, some of the amendments effected in 1983 were specifically to facilitate a change in policy so as to enable objectors to be tried in civilian courts. Whether such a policy change has taken place remains to be seen, although the few people whose cases are known and who have been charged with refusing to serve since the 1983 amendments (mostly Jehovah's Witnesses) have been charged in Magistrates' Courts.

The nature of the proceedings in both military and civilian courts is explained below in Annexure B.

A further question may be: Where in South Africa will I be tried? The general rule is that, if all or part of an offence is committed within the area of jurisdiction of a particular court, that court can hear the matter. Thus, if a conscript is instructed to report at the Cape Town Castle with a view to travelling to Upington where he will start with his military service, and he fails to report or refuses to serve, he could be tried in either Cape Town or Upington.

He may be able to argue that, on grounds of convenience (for example presence of witnesses at his trial) he should be tried in Cape Town. However, should the SADF wish to proceed with prosecution in Upington, it would be difficult to argue against it. Should he be called up directly to Upington, the trial will in all likelihood take place there.

Objectors may also like to know: "Will I be prosecuted on my own or with others?" The offence of refusing to serve can, by definition, only be committed by an individual. It is therefore highly unlikely that more than one accused would be charged at a time.

It might be arguable that two or more accused with identical defences should be charged together, but the prosecuting authority would ultimately have the power to decide.

3.4. PREPARING FOR TRIAL

(a) Whether you are at home or in custody, there will probably be a period of at least three weeks before your trial, during which the prosecutor or law officer will collect

relevant evidence to prove the state's case, i.e.

- (i) a statement from your unit to the effect that you are liable for military service, that call-up papers were sent to you and that you received it;
 - (ii) a statement from your unit to the effect that you in fact did not report for service on the required date or that you refused to serve;
 - (iii) a certificate from the Adjutant-General stating how many days the SADF is still allowed to call you up for. It is important to challenge this if it is incorrect.
- (b) If at home for this period, use this time wisely: to rest, to prepare for your trial and to prepare for prison.
- (c) You may find it helpful to decide for yourself first, before you meet with your lawyer, the salient points you wish to be made in your defence. Making up your own mind on these various points may also assist you later if you testify in your own defence. When you discuss this with your lawyer, make sure that s/he clearly understands your position and the various emphases within your position, so that it is not misrepresented in court.
- (e) You can either plead "not guilty" and present as defence the fact that you cannot morally comply with the law's requirements, or you can plead "guilty" and present the same problem in mitigation of your sentence. Decide beforehand whether you are going to plead guilty or not guilty (refer to paragraph 1.6 below).
- (f) Work with your lawyer in formulating questions which s/he can put to you which will most clearly, concisely and logically put your case before the court. Rehearse the questions and answers with your lawyer and even role play the court scenes.
- (g) Try to anticipate the questions of the prosecution; prepare answers in these areas too. Bear in mind that it may take at least two full days of working together with your lawyer to prepare your defence.
- (h) Have witnesses, who will witness to the sincerity or content of your view, arranged well ahead of time (see Annexure B, par. 1.12 in this regard). These witnesses, your lawyer and yourself must spend time together preparing your questions and answers. Also anticipate the questions to be put to your witnesses by the prosecution.
- (i) Study the section on court procedure (Annexure B) and get

clarity from your lawyer if you have any more questions.

- (j) If you intend to give information to the press, have a contact person who can, if necessary, liaise with them as to the date of your trial and to supply any subsequent news which may be of interest to them.

In these and similar contacts, make it clear that you are presenting your own case, not insisting that others do the same as you.

- (k) You may consider writing a letter of information on your position to the Minister of Defence, in order to challenge him to change the law to recognise conscientious objection.

3.5. STATING YOUR CASE

You can state the reasons for your refusal either during argument or when leading evidence in mitigation, (See Annexure B, par. 1.10 and 1.12).

These are the accused's main opportunities to show why he refuses to serve in the Defence Force. He can lead evidence on all factors which influenced him in his decision to object to service in the SADF or to disobey an order. In Phillip Wilkinson's case, he led evidence showing:

* what the SADF has done in townships, by calling a national serviceman who has served in township to relate his experiences;

* what the SADF has done in Angola and how they treated refugees from Namibia, by calling someone who has been held for four years in Mariental and assaulted by the soldiers.

3.6. PREPARING FOR PRISON

3.6.1. Practical preparation

Get a thorough physical check-up from your doctor. This will be an objective record of your physical condition which could be valuable if you come to any harm while in prison. If you suffer from any ailments and require medication, get your doctor to give you a letter about this. Try to keep this letter with you, because no pharmaceutical products are allowed into prison. If you have to surrender it to the Prison Hospital, make sure it is in your hospital file if you are transferred to another prison.

Obtain a copy of the Prisons Act No. 8 of 1959, or read it in a

public library noting anything important. Prison Regulations form an additional State publication printed in Government Gazette No. 1326 and dated 31st December 1965. This has been updated several times and you should ask a lawyer to help you get the current text. Read this through thoroughly. Mark the passages you feel will be particularly useful to know. Try to memorise their references. Take the act and the regulations with you to prison. You are entitled in terms of the Prisons Act to have access to a copy of the act and the regulations.

You do not need to be 100% fit when you go to prison, but it would be quite useful to practice a series of exercises that can be done within a small space. Yoga exercises are ideal for this purpose.

If you anticipate imprisonment, register to study in advance. Registering while in DB can be made difficult if the Commanding Officer happens to disapprove. Apparently study of "foreign" languages, including all African languages, are not allowed.

What to take with you:

- (a) Take at least R30.00. Certain categories of prisoners are allowed to spend R20.00 per month on toiletries and cigarettes or tobacco. <<Check this with NICRO >>
- (b) In some prisons you will not be allowed to place an order for the first month, so take the following items with you:
 - (i) Pen, pencil, writing paper, envelopes and stamps.
 - (ii) Toilet kit in a bag, including face cloth, shaving cream and razors (you are compelled to shave), several bars of soap and a soap dish, body talc or non-alcoholic based spray deodorant or after-shave, a small mirror, comb or brush, lip ice, vaseline intensive care, shampoo.
 - (iii) Shoe polish and brush.
 - (iv) Two small packets of washing powder.
 - (v) Two cartons of cigarettes (if you smoke, or are prepared to barter!)
- (c) Other items that you may not be allowed to keep in your cell at first but which can later be fetched from your possessions in the store are:
 - (i) 2 packs of cards (If you can't play bridge it is worth learning beforehand).
 - (ii) Sports kit, namely a pair of shorts, T-shirt, pair of tackies, pair of rugby boots, a Bullworker and/or springs.
 - (iii) A guitar might be allowed you on Sundays and Public Holidays, but do not bring in anything expensive because musical instruments or sports equipment can apparently be

held by the prison authorities after your release.
 (iv) If you are studying, bring all materials and text books with you. Once your study programme has been approved by the prison authorities you will be able to get them immediately instead of waiting a month or more for them to be ordered.

3.6.2. Psychological Preparation

- (a) Read literature on prison experiences so that you can prepare yourself psychologically for your ordeal. The social psychologist P. Zimbardo has done much research on this topic. Also look at Gandhi's book "Stone Walls do not a prison make". We include some accounts of experiences in civilian prison in Annexure A at the end of this booklet.
- (b) Be aware that the prison environment is brutal and violent and harsh. Experiment with being alone for long periods with nothing to do.
- (c) Develop positive attitude and response patterns to negative stimuli, e.g. imagine how you will respond to a person screaming at you two feet from your face. Practice in your mind responding at a higher level than the stimulus.

"Everything can be taken from a person but one thing: the last of the human freedoms - to choose one's attitude in any given set of circumstances, to choose one's own way". (Viktor Frankel in Man's search for meaning. The author spent many years in Nazi concentration camps.)
- (d) Develop the "knowing" that your going to prison is a meaningful event; that you will be able to help your fellow inmates to grow, that it is a meaningful witness to the prison and military authorities, that as you see it, your action is part of the struggle against evil and injustice in the wider societal context; that you are not alone but represent many individuals and groups who in turn are supporting you.
- (e) You may wish to arrange a particular day of the week, or a time in the day, when you will consciously "vibe" with people on the outside.
- (d) Envisage ways in which you will be able to use your time in prison constructively eg. by studying, or by getting alongside your fellows and helping them know and exercise their rights. Religious objectors could use this opportunity for counselling others, for being a willing ear and for praying with them. People who had a modicum of

theological or pastoral training can minister to these people much more authentically than any prison or army chaplain.

3.6.3. Once you are in prison

The following are some general concerns about prison life of which it would be good to be aware:

- (a) You are thrown together with a group of people whom you did not choose for company and you must learn to get on with them. Go out of your way not to antagonise warders or other prisoners.
- (b) In general, the fact that one is in with "criminals" is not to be feared. Most of them are ordinary people like yourself - but be careful not to be conned into any illegal activity. Peter Moll, for example, was put in solitary confinement for two weeks for giving a cigarette to a friend in solitary!
- (c) You may have to cope with:-
 - (i) a tendency to live in the past (especially if your sentence is long);
 - (ii) the loss of responsibility and free will;
 - (iii) a tendency to vegetate unless you have specific goals and tasks;
 - (iv) feeling frustrated and bored;
 - (v) imagining unpleasant things happening to loved ones (e.g. if letters don't arrive on time);
 - (vi) the general negative atmosphere of prison.
- (d) With regard to visits by family and friends :
 - (i) establish a support group of family and friends to co-ordinate visits and letters while you are inside;
 - (ii) it is very important that they inform you by letter or during their previous visit when the next visit will be and who will be coming. Being called for a surprise visit may cause anxiety - What has happened? - and you may have trouble to relax and enjoy the visitor afterwards;
 - (iii) be realistic and honest in what you say to visitors. Don't try to protect them by hiding the difficulties you face. They have lots of others to support them, but you haven't;
 - (iv) talk about the future and recover your motivation for living and planning.
- (e) Realise that you may face new adjustments and difficulties

when you leave prison, especially if you are there for a few years:

- (i) it will be hard to get back to making decisions, and facing a day's work;
- (ii) you may have to regain confidence in meeting people or in doing once familiar things like driving a car;
- (iii) you may be anxious, unable to relax, not sure of what to expect from the public;
- (iv) you may have difficulty eating rich food again.

However, different people respond in different ways and some objectors have not experienced any adjustment problems after leaving prison.

Remember that this is all an adjustment that will take time, but that you will manage it, and then your prison experience will be a source of deep understanding of other people and their trials.

BIBLIOGRAPHY

The following is a selection from the reading that is available on conscientious objection, prisons and prison life. The texts on conscientious objection should be available from any Conscription advice bureau. Texts that are marked with an asterisk (*) are banned for distribution; and can be consulted at a university library.

Conscientious Objection

- Church of the Province of South Africa: Commission on "the just war" : Report of the Commission on "the just war".
Claremont 1985.
- Catholic Institute for international Relations: War and Conscience in South Africa: the Churches on Conscientious objection.
London: CIIR, Pax Christi, 1982
- South African Council of Churches: Conscientious objection: a counsellor's guide.
Johannesburg: SACC 198-
- Paddock, B.: Why I say "No!" to collaboration with the SADF
1982

Prisons and Prison Life

- Abbot, J.H.: In the Belly of the Beast.
- Bonhoeffer, D.: Letters and Papers from Prison.
1967 SCM Press.
- Bosman, H. C.: Cold Stone Jug.
Human & Rousseau.
- Breytenbach, B.: Confessions of an Albino Terrorist.
1984 Taurus.
- Carlos, G.: Letters from a Prisoner of Conscience.
1979

- Dostoevsky, F.: House of the Dead.
- Frankel, V.: Man's search for Meaning.
1962: Hodder and Stoughton
- Baylin, W.: In the Service of their Country: War resisters in Prison.
New York: Viking press 1970.
- Ghandi, M.: Stone walls do not a prison make.
- Haysom, N.: Towards an understanding of Prison Gangs.
Cape Town: UCT Institute of Criminology 1981.
- *Lewin, H.: Bandiet: Seven years in a South African Prison.
1974: Barrie & Jenkins
- Serge, V.: Men in Prison.
- Timerman, J.: Prisoner without a name, Cell without a number.

ANNEXURE A
PERSONAL ACCOUNTS OF PRISON LIFE

We include three accounts of prison life - two written by South African conscientious objectors, the other by a European political activist.

PRETORIA CENTRAL - Neil Mitchell

Neil Mitchell was sentenced to one year in Detention Barracks for refusing to serve in the SADF in July 1982. He was subsequently sentenced to six months in civilian prison with a dishonourable discharge from the SADF for refusing to wear a military uniform in DB.

I was sentenced to six months civilian imprisonment by a court martial after refusing (for the fourth time) to wear military uniform in Detention Barracks. All sentences by a court martial go before a review board before they take effect, and it was only two and a half months later that my sentence was confirmed.

One day (it happened to be the 31st of December), out of the blue, a DB staff sergeant with whom I had managed to establish as amiable a relationship as possible under the circumstances, told me to gather my things as I was to be transferred to Pretoria Central Prison immediately.

After all the stories I had been told by dubious DB inmates about "civvie boep", the moment had at last arrived to discover what was fact and what was fantasy. I had been past Pretoria Central Prison on busy Potgieter Street sufficient times to form an impression of it as a building of modern, functional appearance, but the ugly red-brick structure with rows upon rows of small barred windows and a fortress-like wall, complete with lookout towers, surrounding it, that I was peering at now from an army van, struck fear in my breast. This was the white male section, part of a large complex of buildings which together comprised Pretoria Central Prison, and a part I had never seen before.

Once through an elaborate double gate, I was led to the "reception", passing on the way someone who I immediately recognised as a prisoner amongst all the warders. The recognition was instant because he fitted my stereotype of a "jaillbird" - youngish, drawn pitted face, wavy Brylcreemed hair, long sideburns, tattooed arms. He was dressed in the standard

prison uniform: faded bottle-green shirt and long trousers, brown socks and brown lace-up shoes - no arrows and no huge number stitched on the back as I had been half expecting. The number appeared on one's prison card, together with thumb prints and details of offence and sentence. The card was carried on one's person at all times. My number was 2592/82; as it was the 31st of December, this gave me some idea of how many inmates entered the prison in one year.

I had to wait in a small yard, together with a number of other new inmates. Most of them had been awaiting trial at other prisons and had been transferred to Pretoria now that they had been convicted and sentenced. I remember armed robbery, car theft and housebreaking being amongst their crimes. Their sentences were all four, five or six years, so I didn't feel too badly off with my six months. They animated experiences about the prisons they'd come from and discussed how they were going to cope in these new surroundings. One guy for whom the surroundings were not new - this was to be his second stay - gave a run-down on what to expect and answered numerous questions. All the while Radio Highveld wafted cheerily over a loudspeaker.

We were taken for lunch. We passed through a gloomy cavernous hall with enormous iron girders holding up the roof. The floor was highly-polished black concrete and one had to walk around the edges and keep silent. We went out into a yard, about the size of three tennis courts laid end-to-end and enclosed on three sides by the high red-brick walls with their rows of barred windows. Dozens of prisoners in their drab green uniforms were milling around while others sat with their backs against the wall in a concrete rain-water gutter that ran along next to the wall (a position I would come to spend many hours in). The sight was unreal - I remember having the impression of watching a movie.

We were handed battered stainless steel "dixies" and stainless steel mugs, and were told to form up in a double line. As we were doing this, Charles Yeats, a conscientious objector whose court martial I had attended, and I recognised each other. He came over and we spoke for a while, and I had my formal welcome from amongst the ranks of the "bandiete", as the warders fondly called prisoners (they were called "boere" in turn). It was very reassuring to meet someone I knew. There was a call of "val in!" and the prisoners instantly formed up in two long lines. All talking ceased. We were given lunch which we ate with spoons kept on our persons.

Back at the reception the warders decided that I would go into "married quarters". I was about to protest that I was not in fact married when I thought it might be wiser not to say anything as "married quarters" sounded like they might be better conditions than "single quarters". But I was uninitiated in prison jargon - "married quarters" meant the larger communal

cells as opposed to single cells. They were located right at the end of the cell blocks and one had to walk down a long narrow corridor past all the single cells to reach them. Walking down this corridor gave one the sensation of being on a train, except the compartments were on both sides and not on one side only. "Short-timers" (those with sentences under two years) were placed in the communal cells, whereas those with sentences over two years went first to "observation", where they remained locked up in their cells virtually all the time. They wore grey shirts and the prison's social workers ("die welfare" - "Kyk voor jou! Die welfare, kyk agter jou" was a popular saying) and psychologists interviewed and assessed them. The period of observation seemed to last anything up to two or three months, then the observed joined the ranks of the ordinary prisoners or were transferred to other prisons.

Charles introduced me to Billy Paddock, another conscientious objector who organised for me to move into his cell in the "married quarters". The third occupant of the cell was a tall elderly man who was pleasant enough. Billy and this man had persuaded the guy I replaced to move to another cell; they were relieved when he agreed as apparently he had whined incessantly about everything.

That night, my first in prison, 1982 changed into 1983. It was the strangest way I'd ever celebrated the birth of a new year.

For the first few days I was consumed by a gnawing feeling of dread in the pit of my stomach, but this feeling left me as the routine and the surroundings became familiar.

Short-timers usually had cleaning jobs within the prison, whereas the others worked in the woodwork and metalwork workshops. A small number comprised the building group who worked outside the prison walls. They were renowned as the ones who smuggled dagga into the prison. One smelt it being smoked around the place every now and then.

I was given a cleaning job in one of the cell blocks. An expanse of concrete floor and some stairs were mine to sweep, wash and polish daily. My "hoofskoonmaker" was a kindly old man who supplied all the cleaning materials.

The daily prison routine was as follows:

The radio would come on at about 5.00am (there were speakers in the corridors outside the cells) and shortly afterwards the warders would walk around switching on the lights (the switches were outside the cells). You then had an hour to wash, shave with cold water from a large enamel or stainless steel basin you'd filled the evening before, make your bed, dress and clean the cell. The cell had a double door: an inner iron grille and

an outer wooden door. The warders would come around and unlock and swing open the outer wooden door. Then there would be a shout of "Stand to!" at which the occupants of the cells would stand at the door in silence and with their hands behind their backs, while the warders went around counting everybody. No smoking was allowed while the counting was in progress, but occasionally a hardy character in the cell opposite you would ask you to "keep chips" for the "boere" while he indulged in a puff or two.

When the "boere" were satisfied with their tally they unlocked the grille doors, and if it was your turn you took the "piss-pot" (not your conventional chamber pot but a much larger artifice with a lid, large enough to hold three basins of dirty shaving water too), empty it down the sluice in the washroom and pour a little over-diluted disinfectant into it, and return it to the cell. In the meantime everyone else had lined up in silence on the stairs for breakfast.

You watched the long line of prisoners spiralling its way slowly down the stairs. Far below you watched a prisoner hold out his dixie for a slop of mealie-meal (or occasionally oats complete with oat husks) and his mug for a ladle of coffee, and then make his way to a bench at one of the wooden tables. Breakfast was eaten in silence and it took a few mornings to get used to being jammed elbow to elbow and having old toothless men opposite you slurping up their porridge. It took more than a few mornings before you could manage a whole bowl and when you'd had enough and you pushed your bowl to the center of the table, there were many eager takers for the leftovers.

Towards the end of breakfast came the time for "klagtes en versoeke". I discovered the futility of this exercise when I made a versoek to be placed in a single cell as I was studying (people studying were allowed late lights privileges). The bureaucracy, red tape and more than a good measure of blatant obstructionism typical of such institutions ensured that my request was, of course, never met. But you made your versoek in Afrikaans anyway in the hope that it would at least be heard and understood.

After breakfast the first "val in" gong would sound and those who worked in the workshops would file out and be counted as they did so. At the second gong the remainder would file into the cavernous hall, where you formed up with your particular squad of cleaners. The laborious process of everybody then being counted got underway, in silence. You then moved to the area where you cleaned and began work. This task of several hours completed, you could go out into the yard and pace up and down, read your library book, chat or just sit about in the gutter. At midday those in the workshops would return and all would have lunch, the main meal of the day. It consisted of vegetables and a few

chunks of something that you were never quite sure was offal or meat. Lunch was a more relaxed affair than breakfast; you could sit where you liked and talk as much as you liked and there were usually few warders in sight. The eating done, people would play chess or draughts, or have a snooze. The elite group of bodybuilders would get their weights. We conscientious objectors, and some others, established a "Lunchtime Forum" where we discussed all manner of things - I remember leading a discussion on the Trinity!

The routine after lunch was the same as that after breakfast: the workshop people filed out; the remainder formed up in the hall and stood in silence while being counted. Then back to cleaning, but less thoroughly this time.

Supper was at about 4.00 pm. It was always the same: four slices of bread, a dollop of white margarine and a dollop of syrup, and, very occasionally as a treat, some peanut butter, and greenish tea. Showers came next, with dozens of tattooed bodies jostling and elbowing for space under the trickles of water. At least the water was always hot. You usually took the opportunity to wash your socks and underwear. Warders strutted around shoeing you on. The seatless toilets in the washroom had low walls and a low door so that you did your business there in full view of everybody.

You filled up your basins for shaving the next morning, and your water bottle, made your way back to your cell and festooned any hanging place with your just-washed socks and underpants and regulation blue towel. The warders came round locking the grille doors (the time was about 5.00 pm); then it was "stand to" in silence as the umpteenth, but mercifully the last, count of the day began. Once the warder had slammed shut and locked the wooden door you were on your own until he opened it the next morning. This was arguably the best time of the day.

Radio Highveld started up on the public address system, then came a whole bout of announcements: lists of names of people who had interviews with the social workers and psychologists and chaplains the next day, "vrylatings m re", "oorplasings" (usually to Zonderwater), were all read out by the prison's resident radio-announcer cum deejay (a prisoner himself). Then there was "request time", which usually consisted of touching farewell messages to the lucky ones who were being released the next day, complete with many admonitions to tread the straight and narrow once back on civvie street, from your ever-faithful chinas Mossie, Blikkies, Tjokkie, Giepie, Scarface and various others. The songs "Adios Amigo" and "Tie a Yellow Ribbon" were invariably requested. The warder came round at about 8.30 pm putting out the lights, but the radio stayed on for the 9 o'clock news, which was always good to listen to.

I spent many of these long evening hours getting to know my cell mates. In hearing of the raw deal that life had dealt many of them I became intensely aware of my own naivety and sheltered upbringing. I also became aware that "crimes" were often committed by people who had simply been overwhelmed by the bewilderment of life, or who had done something in the process of searching for a stable relationship; for example, one guy, addicted to cough mixture (probably as an attention-getter as he had a father who lavished all his time and care on a younger brother and who constantly told him that he was "no damn good") would do the rounds of office blocks and steal money out of unattended ladies' handbags so that he could purchase his cough mixture, or he would simply steal it directly from a pharmacy. There were many other facets to his case (he spent hours and hours relating to me his life story) and all in all I thought imprisonment exacerbated the problem. It certainly wasn't rehabilitating as the prison officials would have claimed. Prison certainly broke the spirits of many.

On the other hand, there were some people who really were incorrigible. A fellow conscientious objector, Etienne Essery, shared a cell with two of these types who made life hell for him. They stole his possessions and then openly used them in front of him. When it was his turn to empty the piss-pot they would deliberately fill it to overflowing, making it difficult and heavy to carry. There was always the lurking threat of violence. Etienne later shared a cell (designed for one person - the prison was becoming overcrowded and in a major reorganisation of sections three people were put in cells made for one) with Billy and I in more amiable conditions.

The whole spectrum of (white male) humanity was in fact represented. People from deprived backgrounds who knew only poverty and humiliation rubbed shoulders with cultured sophisticated businessmen in for fraud. There generally seemed to be a "live and let live" attitude amongst the prisoners and in any altercation between boer and bandiet the prisoner's support for the bandiet was tangible.

The weekend routine was different. Saturday mornings were devoted to sport, but the pitifully meager facilities meant that only a very few could participate. Burly convicts sporting "Sentraal" T-shirts (I always found this sight bizarre - I mean did they like the place or something?) carried out weight lifting equipment. There was a walled sandy field where soccer was played, and volleyball and badminton were played in the yard. Some jukskei devotees went off to a secluded spot on their own.

After lunch everyone filed into the hall for a movie. Charles, being a "saalskoonmaker", had a large wooden chest at the back of the hall against the wall in which the hall cleaners kept their implements (Charles was responsible for the gleaming black

Collection Number: AG1977

END CONSCRIPTION CAMPAIGN (ECC)

PUBLISHER:

Publisher:- Historical Papers Research Archive

Location:- Johannesburg

©2013

LEGAL NOTICES:

Copyright Notice: All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

Disclaimer and Terms of Use: Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of paper documents and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

This document is part of a collection held at the Historical Papers Research Archive at The University of the Witwatersrand, Johannesburg, South Africa.