It will soon be nearly two years since the minority government of F.W. de Klerk took upon itself the role of reformer and began to initiate changes in the country’s legal system of racial discrimination. In the time since, the regime claims it has put apartheid firmly into the history books and has begun the process of building a new South Africa where all would enjoy equal rights. There is no doubt that South Africa is in a critical transition, and that much of what was called old style apartheid has been removed from the law books. But the critical test is determining what has been the effect of these “changes” on the lives of the Black majority who have been apartheid’s victims. Have their lives improved, have the worst abuses ended? Just the act of repealing discriminatory or repressive legislation will not guarantee a more humane country. Nor will the mere ending of the apartheid system bring about a just society, although its eradication is an essential prerequisite. It is therefore of critical importance that an accurate picture of just what has changed and what hasn’t be understood, both in terms of keeping the goals of the new South Africa in sight and in evaluating what role we in the international community should play. This review of human rights developments in 1991 is an attempt to do that.

Political Control

The South African Parliament is divided into three Houses; the House of Assembly for whites, the House of Representatives for mixed race “coloreds”, and the House of Delegates for Indians, with real legislative power residing in the hands of the whites. Africans, who outnumber the whites five to one, have no representation and no vote. Negotiations between political parties from around the country began on December 21, 1991 with the Convention for a Democratic South Africa (CODESA). This group will have to deal with setting up the process of writing a new constitution, creating the structure of the future government and finalizing the details of the transition process itself, for example who will oversee the process and guarantee fair play. Until a new
constitution is in place Africans will remain disenfranchised. Until the structure of the new government is decided upon, there can be no elections and the de Klerk regime will remain in power.

Legislation

The South African constitution not only allows for racial segregation but actually allocates rights and resources based solely on a person’s race. The whole legal system reflects this focus, and an entire network of laws and ordinances have been written, enacted and enforced. Among the key laws which have been dubbed the pillars of apartheid are:

- **The Population Registration Act** which classifies people according to race;
- **The Group Areas Act** which enforces segregation in neighborhoods and schools; and
- **The Land Act** which allocates land and ownership of land on the basis of race and formalizes the artificially created network of bantustans.

Among the key repressive laws are:

- **The Internal Security Act** which allows the government to detain prisoners without trial and in isolation, and to censor and ban publications, people and organizations;
- **The Public Safety Act** which allows for the declaration of a state of emergency and the suspension of normal judicial procedures; and,
- **The Public Safety Amendment Act** which allows the government the same far reaching powers as under a state of emergency without declaring one by citing localized “unrest areas.”

The government repealed **The Population Registration Act** in June of 1991. However the exemption from being classified applies only to those born after January 1990. Thus the bulk of South Africa’s population remains classified by race.

**The Internal Security Act** was allegedly scrapped in June of 1991 as well. In reality only parts of the law were amended. Despite the fact that detentions must now be renewed every 10 days, the actual detention does not have to be made public if the security forces feel it would adversely affect their case. In addition, the renewal of the detention order is done in private by the judge and the police only.

**The Public Safety Act** and **The Public Safety Amendment Act** remain unchanged. **The Group Areas Act** was repealed in March of 1991, but local legislation preventing Black people from moving into white neighborhoods and thus bringing down the “standard of living in the area” can be used to keep residential areas racially exclusive. **The Land Act** is dealt with below.

Land

_The Land Acts of 1913 and 1936 reserved 87% of South Africa’s land for whites, leaving the Black 86% of the population the remaining 13% of the land. Africans were forced to live in either areas designated as bantustans, or “black homelands,” and/or within specific locations known as “gray areas” or “black spots” when outside the bantustans. The government’s forcible relocation of nearly 4 million Blacks into these bantustans, often by means of violence and bulldozing homes, has perpetuated the system of migrant labor and resulted in a massive homeless community._

_The Land Acts_ were repealed in 1990. However the government has only now begun to acknowledge the possibility of returning land seized under apartheid laws or of offering compensation. Ironically, the majority of Black South Africans cannot afford to purchase land which in some cases was originally theirs. Furthermore, while the government tries to appear open to land reform it continues to maintain the ethnically segregated bantustans providing military support and anywhere from 70-90% of their budgets.

Housing

Black South Africans face a staggering shortage of housing which has been aggravated by years of neglect under successive apartheid governments. The government’s own figures estimate the backlog of houses for Blacks at over 1 million. When houses do exist they are often no more than one or two rooms with as many as three families dwelling within. It is not uncommon for as many as 16 people to share a room. Families which cannot afford such structures are forced to live in shacks of scrap metal, wood, cardboard, and plastic sheeting with no sanitary facilities or sewage. Such townships of “squatters,” as inhabitants are known, often endure such conditions as 1 toilet for every 180 people and 1 water spigot for up to 15,000 people. In 1990 at least 7 million people were estimated to be living in these “unofficial settlements.”
Education

With very few exceptions education remains segregated in South Africa, with separate schools, curriculum and departments of education for white, Indian, colored and African students. In 1990 the government proudly announced a plan that would allow individual schools to become integrated if 82% of the white parents approved. Yet as of June 1991 less than 100 schools around the country have been integrated under this plan, while some 2,000 schools remain all white. Thousands of African students who applied to enter these schools were turned away. The government still spends an average of $1,429 per capita on white students and only $370 (and even less in rural areas) per capita on African students. Furthermore, there is one teacher for every 14 white children and only one for every 70 students in African schools. In 1991 when student groups and members of the democratic movement attempted to highlight the desperate overcrowding in the African schools by occupying empty white school buildings, two students were killed by security forces, others were wounded and one school building was blown up by right wing forces. With only 16% of African students finishing high school compared to 82% of white students, the education crisis clearly will not be solved by the government's band-aid type approach.

Health

Poor health among Black South Africans is commonplace due to apartheid's unequal allocation of medical resources. Malnutrition among Black children is prevalent in at least one third of the population; in some areas it is as high as 60-70%, yet South Africa is one of the only countries in Africa which exports food regularly. Tuberculosis and other serious diseases run rampant as a result of poverty. Infant mortality is numbered at 100 deaths per 1,000 live births for African children, compared with only 12 per 1,000 for white children. In 1989 it was documented that while there is one hospital bed for every 61 white South Africans there is only one for every 337 Blacks. There is one doctor for every 400 whites and one for every 90,000 Africans. In some areas there are no hospitals and Black patients have to travel thirty miles or more past white hospitals with beds to spare, before receiving attention at a day clinic. At the end of 1989 the government claimed that it was desegregating health care facilities, yet only 30 hospitals were affected. Even now African patients are turned away daily from hospitals in white areas. They continue to be forced into overcrowded segregated hospital wards when in the same hospitals beds lie empty in the "special wards". Furthermore, the existence of not one but fourteen different ministries of health (a national ministry plus one each for whites, Asians, coloreds, and the ten African homelands) structurally prohibits uniform and equal provision of health care nationwide.

Political Trials and Prisoners

Despite the "new" South Africa being sold by President F.W. de Klerk, persecution for political beliefs is still government policy. In 1991 500 political trials were completed involving 3,000 accused. At least 200 trials involving nearly 2,000 people are presently ongoing. These "offenders" are men, women and youths whose only crime is challenging an unjust and repressive system.

Since the government often has no criminal grounds on which to try democratic activists, people are charged with arson, assault or unrest in order to detain them, or are simply denied a trial at all. They are often refused access to a lawyer or even family members. Furthermore, political prisoners are repeatedly denied basic care, and remain victims of brutality and torture at the hands of the almost exclusively white security police.

When the de Klerk regime began talks with the African National Congress in 1990 the release of all political prisoners was at the top of the agenda. Despite the South African government's signed agreement to release people being held on political charges, hundreds of such prisoners remain in jail nearly two years later.

Torture

In addition to generally poor conditions for all prisoners, ill-treatment and torture is prevalent in South African jails, with government sanctioning its use. In November 1990 a police official in the Bophuthatswana bantustan confessed in court that he had been taught at police college to assault prisoners "if a person does not want to tell the truth." Long periods of solitary confinement, electric shocks, suffocation with plastic bags and various other forms of physical and mental abuse have been reported with frequency.

One eyewitness, a sixteen-year old prisoner named William Makage, reported of watching police beat his friend Eugene while in custody in 1990. The policeman kicked the youth all over his head and body, after he had already been
hit across the lower back with a club. The two policemen, “then took an iron bar and placed it behind his knees and tied his hands with a rope. They then lifted him and dropped him again on the floor. In the office there was a bag with wires and what looked like fuses.” Such policemen are almost never brought up on charges.

Violence

South Africa is a land shadowed in violence, with some estimates putting the number of people killed last year as high as 5,000. In addition to seemingly random military-style attacks on the public there has been a surge in the number of political assassinations. Nearly 70 leaders of the democratic movement were either gunned down or hacked to death in 1991, most of them members of the ANC.

Careful investigations have uncovered growing evidence of a mysterious “third force” being used by the government in a deliberate strategy to destabilize and discredit Black opposition groups. This violence is then presented as being tribal and endemic, necessitating the continuation of white rule. South African police and members of the government funded Inkatha Freedom Party, a self proclaimed anti-apartheid group headed by bantustan Chief Gatsha Buthelezi, have been found responsible for three-quarters of all killings.

As South Africa and the world have reacted with growing horror to the rising levels of violence the government’s response has been mostly rhetorical. Despite the signing of the national Peace Accords in September the worst offenders remain undeterred: Inkatha has deliberately ignored regulations designed to reduce the violence, beginning with an armed demonstration outside the very hall where the agreement was being signed. The other culprits, the South African police, have arrested fewer than 10 people for any of the hundreds of attacks which occurred in 1991. Assassins open fire upon crowded Black commuter trains, shoot and kill unarmed demonstrators, and raid Black townships, burning houses and shooting, beating or stabbing people in their way. Unless the government makes a genuine effort to curb the violence the politicians who emerge from the CODESA meetings with a mandate for a new country will find there is no country left to lead.

Conclusion

Apartheid is dying, but it is not yet dead, that much is obvious. The changes that have been won by the democratic movement show that the process will be a long one and that it cannot be left to the government to dismantle apartheid. Formal negotiations about the country’s political future may have begun but the battles over access to land, health care, political freedom and justice will still have to be fought. Until these rights are enjoyed equally by all South Africans, the legacy of apartheid of will continue, and a new South Africa will not come into being.