

SECOND CARNEGIE INQUIRY INTO POVERTY  
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The Pension Crisis in Kwa Zulu

by

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## THE PENSION CRISIS IN KWA ZULU.

The scope of this paper is limited to a description of the shortage of funds in the Department of Health and Welfare, KwaZulu and the resulting break down of effective administration of pensions by that Department.

KwaZulu people have been ravaged by both drought and flood. Unemployment has risen dramatically as a result. The pensions of the sick or aged are all that families and even whole communities have as a means of survival. There is no doubt that the present financial crisis could not have come at a more critical time.

### An Outline of the financial problems since March 1983.

In March 1983 an additional R31 million was voted to the Department of Health & Welfare for the financial year ending 31 March 1983. At the meeting of the Sessional Committee on Public Accounts, Dr. Gumede, the secretary for Health & Welfare, was called upon to explain the deficit in his budget and say how the pensions backlog had arisen in 1982. The following are quotes from the Minutes of that meeting.

Dr Gumede: ...pensions had always been our lifesaver in the past. Well, it was a quick way of saving. What happened was that a number of pensions were dropped out by the computer and in some way this enabled us to effect some savings. But unfortunately the pensioners are now aware of their rights, thanks to Legal Aid (i) and the Black Sash the public is now very well educated on the rights of the pensioner ...

The Chairman: ...was enough money estimated or was it underestimated?

Dr Gumede: Mr Chairman, I am afraid budgeted but not adequate.

Footnote: (i) By Legal Aid, it is presumed that Dr Gumede meant the Legal Resources Centre which has taken up numerous cases for pensioners.

The 31 million apparently covered the backlog for 1982. R174,799,412 was voted for Health & Welfare for the year ending March 1984. It appears that this has only been sufficient to pay pensions already approved and that no new applications have been paid since March 1983 and in some areas since January 1983. The Black Sash in Durban has telephoned numbers of Kwa Zulu officials at Magistrate's offices throughout Natal. They have confirmed that this is so. An official at the Durban Commissioner's office which handles pensions for the KwaZulu township of Kwa Mashu said that no new applications had been paid at all in her department in 1983. She said even people who had applied in February 1983 were being told to wait until KwaZulu got more money in April 1984. Black Sash has been told unofficially by officials in Ulundi that this is the case. Dr. F. Mdalalose has been asked to issue a public statement to the people but had not done so by February 15th.

A Sunday Tribune article on 22/1/84 quotes the present Secretary for Health & Welfare, Dr Chuene, as saying that Kwa Zulu has always had a backlog but "now we have a terrific backlog. It is a very serious issue because every citizen is entitled to a pension". She said that 174,000 people are presently drawing old age pensions in Kwa Zulu. The article continued: "Dr Chuene says the situation is exacerbated by the Government's policy of moving settled communities to KwaZulu with the result that pensioners arriving in KwaZulu with their families are not transferred with their pensions. 'The result is you find many people suddenly flooding the national states and they have to compete for pensions with other applicants ... we need an increase of about 50% so that every pensioner can be paid.'"

According to an article in The Natal Mercury on 7/2/84 Chief Buthelezi acknowledged that 100,000 people in KwaZulu qualified for pensions but could not receive them because the region lacked the funds.

Whatever the precise details it is clear that a crisis of very serious proportions has developed. Officials of the KwaZulu Magistrates Offices are, it would seem, telling applicants that

they will have to wait until May 1984 for their pension. Unless KwaZulu has the manpower and financial resources to deal with the payment of an additional 100,000 pensioners in one month this is an irresponsible and cruel deadline to give people.

A Brief background to the pension legislation.

Schedule 1 (Item 3) of the National States Constitution Act (no 21 of 1971) gives self-governing territories the

responsibility for legislating on matters relating to "the payment of allowances to the aged, blind, indigent and those suffering from mental or physical disabilities."

It also states that "all rights, powers, authorities, duties, obligations and functions" hitherto vested in a Minister or executive body of the S.A. Republic, shall be transferred to the appropriate person or body in the self-governing territory, for all matters over which that territory has legislative power.

Prior to self-government legislative assemblies can legislate on the Regulations pertaining to the Acts covered by Schedule 1 but not the Acts themselves. After self-government the Acts are also taken over from the S.A. Government. They become incorporated into the laws of the self-governing territory and any amendments that the S.A. Parliament makes to its own Acts and Regulations are irrelevant.

Therefore the KwaZulu legislative assembly has had the power to amend the Regulations of the Social Pensions Act (no 37 of 1973) since 1972 and the Act itself since 1977. In fact the Act has not been amended at all. It is in the same form as it was in 1977 except that, due to Section 21 of the National State's Constitution Act the Minister and Secretary referred to in the Act are now the Minister and Secretary of KwaZulu.

The Regulations have been amended since 1974, mostly keeping in line with the amendments to the S.A. Regulations about increases in the monthly pension or monthly income allowed.

From the S.A. Parliament KwaZulu inherited a system that is not only blatantly discriminatory but which has been administered in such a way as to cause untold suffering. The legislative assembly has the power to re-draft the pension laws and create a system that could be an example to the rest of S.A. It has not done so. In fact as will be explained below it has exacerbated the harshness of the system and extended the suffering of the people.

Amendment to Regulation 10 - the Accrual date of a pension.

In 1977 KwaZulu amended Section 10 of the Pension Regulations. Before 1977 Section 10 stated that a pension accrued from the 1st day of the 2 month period in which application was made. The amendment was to the effect that a pension accrued from the 1st day of the two month period in which the application was approved. The S.A. Regulations give the Secretary the right to determine the accrual date and at present it is from the date of application.

The KwaZulu amendment means that the longer the delay in processing applications, the greater the financial benefit to KwaZulu.

The effect of this on the people is crippling. No one is allowed to apply for a pension if (s)he is collecting unemployment insurance at the time of application, (even if it will be exhausted when the pension comes through) or if (s)he has an income of more than R40.00 a month (this includes maintenance from children, rents, charitable grants and the value of crops and cattle). This means that only the destitute can apply for a pension. At present some people have waited over a year for their application to be processed. When it is they will receive no back pay. As an example, a person who applied in March 1983 and who is paid in May 1984 will have lost R742 to KwaZulu through a delay over which that person has no control.

Cases involving long delays.

Mr Thwala - lives in Kwa Mashu. He applied for a disability grant in February 1983. In August he came to the Advice Office for help. Although letters have been written regularly since then he has still not had his pension approved. He has been going to all the payouts since May 1983 hoping to get his pension.

Mr Mcunu - lives at Mpumalanga. In February 1983 he applied for a disability grant. In January this year he went to the pension office to ask why his application was taking so long. He was simply told that KwaZulu had no money to pay him.

Mr Maphumulo - lives in Inanda. He is 70 years old. He applied for an old age pension in 1981, and again in November 1982. He came to the Advice Office in September 1983 because he had been told to make a third application. The Department of Health & Welfare confirmed that his application was in their hands and should be ready to be paid in 1984. He will go to the May 1984 payout in the hopes of finally getting his pension.

Administrative practices that cause financial loss to the pensioner.

The 6 monthly review system.

Reluctance to pay arrears.

Names dropped from the computer.

The 6 monthly review system.

Pensions that have to be reviewed every 6 months are disability grants, where the person is not permanently disabled and any pension where a procurator is appointed to collect the money for a pensioner who may be too sick or old to collect it. More than 50% of the Advice Office's pension cases involve procurators and the review system.

One of the reasons that so many procurators are appointed is that frail people are quite unable to cope with the payout queques, the long wait in the open without shelter from the weather and what is often a long journey to and from the paypoint.

Section 8(e) of the Regulations sets out the powers and duties of the District Pension officers concerning reviews. A review may be done "from time to time but at intervals of not less than 6 months". The Department of Co-operation & Development has the identical regulation and requires people to do a review once a year. KwaZulu has opted for the shortest possible interval between reviews. This means that people who are unable to collect

their pension every two months are nevertheless required to visit the Magistrate's office once every 6 months. This is usually a far longer and more expensive journey than going to the paypoint.

To ensure that the pension does not stop while the review is done pensioners are supposed to get a card, handed out at the payout, warning them well in advance that review documents are required. In practice this is simply not happening. It takes 4 to 6 months for review documents to be processed which means the pensioner would have to do reviews 6 months in advance to ensure continuation. In fact cards calling the pensioner in for a review are usually given out at the earliest 2 months before the pension is due to be with-held. Usually the cards are handed out the month that the pension stops, but sometimes the pensioner never receives a warning at all. Pensioners are waiting 6 to 8 months before their pensions are re-instated. During that time they do not receive anything. We have cases where people have completed up to three review forms before getting their pensions re-instated.

The whole object of having a procurator is to avoid travel and worry for the pensioner. It is an object which is totally defeated by the present chaos with review documents.

It is difficult to see any reason for insisting on a 6 monthly review other than that it is bound to operate against the pensioner and to the financial gain of KwaZulu.

#### Cases involving problems with reviews.

Mrs Mthembu - is a very old frail lady who is unable to walk without the assistance of 2 people. Her daughter is her procurator and collects her old age pension for her. In March 1983 there was no money at the payout and a clerk told the procurator to come back in May. When there was still no money Mrs Mthembu was taken in a taxi to the Magistrate's office. Although no warning card had been issued, review documents were completed. In September the procurator came to the Advice Office for help; they had still not received any money. In October the Department of Health & Welfare replied to enquiries about the case and said



that no review documents had been received. This was 5 months after the completion of the review form. In November the case was referred to a lawyer and the pension was re-instated in January 1984 with R520-00 arrears. It was a year since Mrs Mthembu had last been paid.

Mrs T. Khathi - is an old age pensioner. She and her procurator completed review documents in November 1982. She last received a pension in January 1983. In December her procurator came to the Advice Office for help and a letter was written to the Department of Health & Welfare. At the time of writing this paper the pension had still not been re-instated. It is 13 months since Mrs Khathi received her pension.

Mrs Sabelo - is one of many cases of people who have had their pension withheld more than once. In March 1982 she was not paid and the Advice Office wrote a letter on her behalf and her pension was finally re-instated in July 1982. Again in March 1983 her pension stopped and she was told to fill in a review form which she did, together with her procurator. By November 1983, after much correspondence and still no re-instatement her case was referred to a lawyer and she was re-instated and paid arrears in January 1984. Between January 1982 and January 1984 Mrs Sabelo had been paid at 6 out of 13 payouts.

Reluctance of the Department of Health & Welfare to pay arrears.

62.5% of the pension cases in the Durban Advice Office between March 1983 and February 1984 involved claims on behalf of a pensioner for arrears which should have been paid as a matter of course, once the pension was re-instated. Although the Advice Office deals with comparatively few pensioners the arrear claims for those 62.5% (representing 150 people) amounted to R58,018. This would not have been paid to the pensioners without constant pressure from the Advice Office, threats of legal action and legal action itself. No doubt Dr Gumede was referring to this when he explained "unfortunately the pensioners are now aware of their rights."

Most of the arrear claims are for people whose pensions have been withheld while review documents are processed. If the review system operated efficiently the number of arrear claims would be drastically reduced. However, for every 150 people in the Advice Office there are thousands who never find any help and who never get arrears. If 150 people can constitute a claim for R58,018 then KwaZulu is certainly finding "a quick way of saving" in the abuse of the review system and the subsequent non-payment of thousands of rands worth of arrears.

Cases involving efforts to claim arrears.

Mrs Nyambele - normally receives a disability grant. From March to July 1981 she received nothing. The Advice Office wrote on her behalf asking for her pension to be re-instated and arrears of R216 to be paid. At the September payout her pension was re-instated without arrears. Under threat of legal action the R216 was finally paid in October. In March 1983 the pension stopped again and in spite of 2 reviews was only re-instated with arrears in October 1983 after the office had again threatened legal action.

Mrs Dlamini's - old age pension stopped in March 1983. She came to the Advice Office in August. She had already completed two lots of review documents. In September the Department of Health & Welfare refused to re-instate her pension saying they had no review documents. Finally the Magistrate of her area was asked to confirm that her reviews had been sent to Ulundi. He did this. In January 1984, 9 months after her pension had stopped, it was re-instated without arrears. She now has a claim for R528.00 with the lawyers.

Names "dropped" by the Computer.

When people who do not have procurators find that their pension has stopped, the excuse most frequently given is that the name was dropped from the computer. This matter was explained by Mr Liversage, the accountant at the meeting of the sessional committee on Public Accounts. He said "according to our

programme for the payment of pensions, if a pension has not been paid after the second pay period, the computer would automatically cancel it out. Now, it is then up to the Department of Health & Welfare to monitor those cancellations and re-instate them, if it is necessary."

Section 18 (1) of the Regulations states that a pension lapses when a pensioner has omitted to claim his pension for three consecutive two-month periods. It seems that KwaZulu is hastening the lapsing of pensions by cancelling them two months earlier than the prescribed period.

However, cases in the Advice Office show that people who have regularly attended every payout still have their names dropped.

#### Cases

Mrs Radebe - came to the Advice Office in May 1983. She had not been paid for 12 payouts. In June the Office was informed that her name had been dropped from the computer but that she would be re-instated. In July she received her payment with no arrears. Finally in August arrears of R1078.00 were paid.

Mr Nkosi - is permanently disabled. His disability grant stopped in March 1983. In August the Advice Office was informed that the pension had stopped due to non-review of the procurator. Mr Nkosi had no procurator. He was finally re-instated in November and arrears paid. We can only assume that his was one of the names dropped by the computer.

Mrs Maphumulo - is an old age pensioner. She has no procurator yet in 1981 and 1983 her pension stopped from March to July.

#### Conclusion.

Implicit in all these case histories is the mental and physical suffering of the people. The men and women who come to the Advice Office for help are desperate. So are their families, who often accompany them. They describe how they beg and borrow to stay

alive; how they and the grandchildren in their charge are starving, how every two months their days wait at the payout ends in despair; that panic has gripped them and they do not know how much longer they can survive.

The primary task of this paper is to call attention to the circumstances that are causing this particular kind of human torment.

These papers constitute the preliminary findings of the Second Carnegie Inquiry into Poverty and Development in Southern Africa, and were prepared for presentation at a Conference at the University of Cape Town from 13-19 April, 1984.

The Second Carnegie Inquiry into Poverty and Development in Southern Africa was launched in April 1982, and is scheduled to run until June 1985.

Quoting (in context) from these preliminary papers with due acknowledgement is of course allowed, but for permission to reprint any material, or for further information about the Inquiry, please write to:

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