

Most of the background material used for *The Masterplan* and other revues came from Sheena Duncan of the Black Sash.

Here follow some of her papers on Section 10 qualifications for residence and employment in urban areas which give clear indication of the rigid and onerous controls placed on the movement of African people.

SECTION 10

SECTION 10(1)(a). People who have lived continuously in one town since they were born. Only absences allowed are for schooling purposes, medical treatment and domestic reasons such as looking after aged grandparents for a short time.

Proof required is a birth certificate and usually on house or lodger's permit and registered employment. People who have had no permits need very good proofs to get 10(1)(a).

SECTION 10(1)(b). People who have been in registered employment with one employer in one town for ten years - does not apply to those who have been registered on annual contracts OR people who have lived legally with permits in one town for 15 full years.

10(1)(b) is taken away from any person who is sentenced to more than 6 months in prison or to a fine of more than R500.

They have to start counting the 10 or 15 years again from the time they get registered after being discharged from prison.

SECTION 10(1)(c). This is a right which the wives, unmarried daughters, sons under the age of 18 years of a man or woman who is 10(1)(a) or 10(1)(b) acquire after their names have been put on the house or lodger's permit with their husband or parent.

SECTION 10(1)(d). This is not a legal right. It is merely permission to work in an area. Some people are given this permission fairly easily because they can prove they have been living and working there for many years.

Other people are only registered on one year contracts.

These people are not allowed to register in new jobs if they leave their work when the contract expires.

They are supposed to go back home and wait to be recruited again.

If they leave a job in the middle of a contract they may be allowed to register in new work for the period of the contract.

Sheena Duncan

(The Urban Areas Consolidation Act, Act No. 25 of 1945, established Section 10 regulations.

Section 10 reflects the intention from the very beginning of the establishment of towns to keep

African people out of urban areas and confine them to rural areas. This intent led eventually to the Homelands Policy (1970) and then to the Independent Homelands Policy (from 1976 when Transkei became an Independent Homeland).

The establishment of Independent Homelands, limited African people to citizenship in the Homelands, denied them citizenship in the country of their birth and for a period of over twenty years declared them to be foreigners in South Africa.)

THE MYTH OF REFORM

(1981)

This paper attempts to analyse what is actually happening in South Africa, to cut through the rhetoric about change and to look at actions which have been taken by Government since 1976 and legislation which has been introduced. It will argue that, far from being intent on reform or change to the policy of Apartheid Government is in fact accelerating the rate of progress towards Apartheid's final consummation.

The policy remains, as it has always been, one of exclusion, exclusion of all black [1] people from access to political power and the exclusion of all but those who are necessary to the development of the "white" economy from access to a share in the economic wealth of the white core. The majority are excluded from access to the land as well as from participation in industrial and commercial development.

1. The Urban Scene - exclusion in disguise:

Section 10(1) - "No Black shall remain for more than seventy-two hours in a prescribed area unless..."

The only legal rights of residence enjoyed by Black people in the urban areas (the group abhorrently referred to as "the urban black") are those contained in Section 10 of the Urban Areas Act. This confers upon those who have lived continuously in one town since they were born (10 (1)(a) and those who have lived lawfully in one town for 15 years or who

have worked continuously in one town for one employer for 10 years (10 (1)(b) rights to be in town. The wives and children of these qualified people acquire a right in terms of Section 10 (1) (c) to remain in town with their husbands and parents once they have taken up residence with them. All other black people may only remain in a town for more than 72 hours if they are given a permit to work.

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The National Party Government has always maintained that Section 10 confers privileges and not legal rights but the Courts have taken a different view. There is along history of attempts by Government to limit Section 10 rights.

In 1964 the terms of 10 (1)(c) were tightened and the amendments made succeeded in excluding the wives and children of qualified people from coming to town legally to live in family conditions for 16 years until the Appeal Court handed down the Komani judgement in August 1980. This judgement means in effect that the wife, son under the age of 18 and the unmarried daughter of a person with 10 (1) (a) or (b) qualifications has a legal right to be with the husband or parent in town as long as they are residing together in a black township.

This judgement is current1y being frustrated by officials of the Administration Boards and of the Department of Co-Operation and Development who insist that the judgement applied to Mr and Mrs Komani only. Other fami1ies are being denied the right to 1ive together and only when legal action is threatened in each individual case are their legal rights recognised.

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In 1968 the Government promulgated Regulations for labour Bureaux in the bantustans which introduced the one year contract system for migrant workers. Prior to 1968 if a man came to town from a rural area to work and was registered in his job the registration remained valid until he left his job. If he stayed in the Job for 10 years he acquired 10 (1)(b) rights. This was the path by which many people became urbanised.

The 1968 Regulations mean that a worker from a rural area may only attest a contract with his employer for one year at a time. At the end of the year the employer is compelled to discharge the worker and to return him to his home area. If he is to come back to the same job a new contract must be attested for another year. These Regulations were designed to prevent further urbanisation and to deny people the chance of qualifying as 10 (1)(b). The bureaucracy maintains that even when a person remains in the same job for 10 years and more the

employment is not continuous because it is broken and has to be renewed each year. Likewise a person is said not to be continuously resident in a town for 15 years if he has returned annually to his place of origin to attest another contract as he is obliged to do by law.

Some people have recently succeeded in getting their 10 (1)(b) rights by claiming that, although certain administrative procedures have had to be complied with annually, the agreement between them and their employers, has never been interrupted. However, this recognition of legal rights is acknowledged only when an individual threatens legal action. As with 10 (1)(c) rights the bureaucrats are succeeding in severely restricting the number of people who acquire these rights.

In 1969/70 the Government attempted to remove Section 10 altogether in the draft Bill which introduced the Administration Board. There was an outcry from employers who have regarded the provisions of Section 10 as a means of ensuring the stability of the skilled labour force. As a result of the protest Section 10 remained intact.

In 1978 Section 12 of the Urban Areas Act was amended. This amendment which is dealt with in the Citizenship section below means that Section 10 rights will eventually wither away altogether if the Government succeeds in persuading all the Bantustans to take independence.

In 1980 Dr. Koornhof published the Black Community Development Bill which again attempted to remove Section 10 rights and was withdrawn following protests. Had this Bill become law only those black people who had been able to buy a house in an urban area or who were the registered tenants of a rented house would eventually have had any semblance of security whatsoever.

It remains to be seen what the final form of this legislation will be but whatever the next attempt at removing "hurtful discrimination" turns out to be it is only a question of time before all black people in South Africa become "prohibited immigrants" or "alien guest workers" in terms of existing legislation. Dr. Koornhof's proposals would only have speeded up the process.

At the same time as Section 10 rights continue to be whittled away the events of 1976 and the years since have made it necessary for Government to respond to the threat of urban instability. Hence all the talk about

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improving the "quality of life" for black people in white areas. To this end they have been accorded certain privileges such as the chance to buy a house under the 99 year leasehold scheme (See below under citizenship) if they can afford 'it. Only people who have Section 10 (1)(a) or (b) rights are eligible to buy or rent a house but there is no legal right to demand housing. The opportunity to be housed is dependent upon the will of the Government to make land and housing available and the Government is not responsible to the needs and desires of the voteless black majority.

In Johannesburg we are told that no land is available for black housing. There is an officially acknowledged waiting list of over 34 000 families in Soweto, a list that goes back to 1969 and represents only those who qualify for acceptance on the waiting list. It does not reflect the real need for accommodation. People who now apply to buy a house are told that there are no houses for sale. In 1980 not one single house was built in Soweto by the West Rand Administration Board.

Another privilege being accorded to Section 10 people is the preferential allocation of jobs. In June 1980 amendments to the Black labour Regulations were published. These allow Section 10 qualified people to work without being registered in their employment provided that the job lies within the Administration Board area in which they hold the qualification. Qualified people may also move to another Administration Board area provided that they have a job and accommodation to go to. This follows on a recommendation of the Riekert Commission and serves to draw impenetrable boundaries between urban and rural people. Those who are not

already legally established in town increasingly find it impossible to obtain work. Employers must draw on the pool of urban "qualified" labour before they will be allowed to recruit workers from rural areas.

Already in the Black Sash Johannesburg Advice Office we have been faced with people who want "my qualification" because they say employers are demanding a Section 10 qualification, even for those who are legally registered to seek work, and that they will only offer jobs to qualified people. It is obviously much easier for an employer to take on a worker who does not 'have to go through the whole administrative hassle involved in registration.

The Star last year carried a story about a new computer system which is to be installed which will link all Administration Boards. Once this system is in operation it will be easy for employers to identify workers with Section 10 qualifications in small towns and all the indications are that Labour Bureaux will insist on offers of jobs being given to those workers on a preferential basis before recruitment from the bantustans will be allowed. Such people are already in the so-called "white" areas and their enhanced mobility will not increase the overall number of black people who are permitted to be in the "white" areas.

This follows the pattern we have seen before; job reservation gave white workers preferential access to work opportunities; in Coloured labour preference areas so-called coloured workers are given preference over black workers; the recent trend outlined above gives preference to urban- people to the exclusion of the rural poor.

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The privileges which are now being granted to urban people do not give them political rights. They are totally excluded from participation in Government on a national level and the legitimacy of the demand for universal adult franchise is, undermined by the Citizenship legislation as outlined below.

The introduction of local government powers through Community Councils, Town or Village Councils, or whatever the new name is to be, serves to entrench the exclusion of black residents from political participation at municipal level. When Soweto was administered by the Johannesburg City Council, black people had no representation on the Council but there was a degree of economic sharing in that money generated in the City Centre was used for the development of Soweto, however inequitable the distribution of revenue may have been.

The introduction of the Administration Boards in 1971 did away with even this limited degree of participation. Now as local government powers are granted to black townships so they completely forfeit their claim to a just share in the total revenue from the metropolitan area in spite of the fact that a large percentage of this revenue comes as a result of the high rate of black consumer spending in the central business districts.

Far from moving any kind of power sharing the legislation is all directed towards the permanent exclusion of black people. It cannot be stressed too strongly that these laws are not a hang over from the past which is hampering the present government in its desire for change. Everything which has been done in the last five years is entirely consistent with all that has gone before.

2. The Citizenship Policy - exclusion from political participation

In 1970 the Bantu Homelands Citizenship Act was promulgated. This Act says that every Black person in South Africa is a citizen of one homeland or another.

It makes no difference if a person has no knowledge of his imputed homeland and no connection whatsoever with any region now set aside as bantustan.

A person is a citizen of a particular homeland if he was born there or is domiciled there or if he speaks the language of a part of the population of that homeland or if he is culturally or otherwise identified with any person who is part of the population of that homeland. The terms of the Act are all embracing and there is no escape.

The Act made little practical difference in the years between 1970 and 1976 because people's rights as South African citizens were not affected by the provisions. All that happened was that birth certificates were issued with the citizenship of the child shown as "Kwa Zulu", or "Qwa Qwa", "Gazankulu", etc.

But in 1976 when Transkei became independent the Status of Transkei Act, contained a clause which meant that all those people who were citizens of Transkei in terms of any other law ceased to be South African citizens on the day of independence.

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In 1977 and 1979 when Bophuthatswana and Venda respectively became independent the Status Acts contained the same provision.

The three Status Acts have deprived all Tswana-speaking, all Venda-speaking, and all Xhosa-speaking people who cannot prove that they belong to Ciskei rather than Transkei, of their South African citizenship. 6,75 million people were turned into foreigners in just over three years and at the end of this year another 1,25 million people will probably lose their citizenship when Ciskei becomes independent.

The newly created foreigners retain their Section 10 rights, if they have them, and influx control and the pass laws apply to them in exactly the same way as they do to other black people. They are no longer issued with Reference Books but must apply to their own governments for a travel document which is used in exactly the same way as a Reference Book and remains a dompas. The only difference is that instead of an endorsement out stamp reading, "ordered to leave the prescribed area of

... within 72 hours" it reads "ordered to report to the Magistrate at for residence before"

Some of these new foreigners get two years instead of one year contracts to work in the

so-called white area.

Section 10 rights do not, of course, override a deportation order made by the Minister of the Interior. People who are foreign can always be declared "prohibited immigrants" or "undesirable aliens" and be deported to their "country of origin" - even if they have never been there in their lives. This could obviously be a very effective control over political activists or trade union leaders who were considered to be becoming too effective and popular.

However, for most urban people life goes on as before and the effects of being foreign are only realised when a teenager goes to apply for an identity document and is issued with a foreign travel document or when a person wishes to travel outside South Africa's borders and is refused a South African passport. This has caused some embarrassment to the South African government because several important Black spokesmen who have been invited to Europe or America have refused to acknowledge their foreign status by applying for a passport from their Bantustan Government and have therefore been unable to travel.

There is also the problem that the Independent homelands are not internationally recognised.

In response there is now an arrangement whereby a person will be issued with a South African passport for international travel if his own government agrees.

It seems likely that all the talk about differentiating between "citizenship" and "nationality" for citizens of the Ciskei will prove to be nothing more meaningful than this arrangement.

The 1978 amendment in Section 12 - Section 12 is the section in the Urban Areas Act which deals with foreigners. It excludes the provisions of Section 10 and no foreigner may acquire Section 10 rights however long he may have lived lawfully in one place. This section used to say that no black person who was not born in South Africa could enter, be or remain in any prescribed area without written permission of the Secretary.

This permission can be withdrawn at any time without reason being given. In 1978 the words "not born in" were changed to "who is not a South African citizen, or who is not a former South African citizen who is a citizen of a state the territory or part of the territory of which formerly formed part of the Republic". This complicated wording means that any child who is born after the date of independence of his parents' home-land can never have Section 10 rights. He is not a South African citizen or a former

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South African citizen. He must be dealt with in terms of Section 12 which allows for permits not legal rights. He will only be allowed to be in an urban area if he is given a permit which permit can be cancelled at any time. He will have no recourse to the courts for protection against deportation because he has no rights of residence.

1978 was also the year in which the widely acclaimed 99 year leasehold system was introduced and welcomed as being recognition of the permanence of the urban black"

A person born after the date of the independence of his father's homeland has the right to inherit the house bequeathed to him by his father but he has no right to occupy the house. His ability to do so will depend on whether or not he is given a Section 12 permit to be in the area where the house stands.

If all the bantustans take independence, and there are great pressures upon them to do so, there will be no black South Africans and in a couple of generations there will be no black people with any rights of residence in South Africa outside the bantustans. They will all be "alien guest workers" subject to deportation if they are not wanted or if their labour is not required by the white economy.

3. Inside the bantustans - exclusion from economic participation - Even if some do resist the many pressures put upon them to take independence and do remain part of South Africa the condition of the people who live inside the non-independent bantustans is not much affected by their South African status. They might as well be foreigners as far as their exclusion from access to economic participation in the common society is concerned.

RESETTLEMENT:

It has been estimated that over 2 million black people have been relocated into the bantustans in the pursuance of Apartheid. Another 1 million are due to be and are currently being moved in terms of the 1975 Consolidation proposals. The bantustans, independent and non-independent, together constitute less than 14% of the total land area of South Africa. Their de facto black population was estimated by Benso to be almost 9 million in 1978 with 0,75 million people of other race groups also resident in those regions. The total population of the rest of South Africa outside the bantustans in the same year was estimated to be 18 million. Of these, 10 ½ million were black people who, it should be noted, form part of that curious South African statistic "the de jure population" of the homelands. They are resident in so-called white South Africa but are deemed to be part of the population of the bantustans. No black person may purchase land outside the bantustans for residential, agricultural or any other purpose.

Many of the relocated people have been moved from urban or peri-urban situations into new "towns" in the bantustans. Their problems are manifold, not the least being that families are put asunder as the breadwinners return to their jobs as migrants while the families must remain in the homeland settlements, but this paper is concerned mainly with the hundreds of thousands of people who have been rendered landless by their relocation.

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The history of the white occupation of South Africa could be described as being a history of the theft of the land from black people. The present relocation programme is part of a much longer and more gradual process of dispossession.

It is extremely difficult to obtain accurate figures for the total numbers of rural people who have been relocated but the following taken from the Institute of Race Relations Surveys and from their publication "African Population Relocation in South Africa" by Gerry Maré gave some indication.

1948 - 1973: People removed-from Black spots - 258 632

1960 - 1970: People removed from white farms - 340 000

as a result of the abolition of labour

tenancy

1960 - 1970: People removed as a result of laws - 656 000

preventing "squatters" living on white

farms

In March 1981 Dr. Koornhof presented the National Party election manifesto which claimed that 317 000 people had been removed into the homelands between 1970 and 1980. This would appear to be a conservative estimate. Gerry Maré quotes a figure of

400 000 people representing labour tenants and their families relocated between 1971 and 1974 and it has been established that the removal of labour tenants and squatters has continued steadily since 1974, especially in Natal.

These hundreds of thousands of people had previously enjoyed the use of land for growing crops and grazing livestock. They paid rent for this land either with their labour or, in the case of registered squatters and sub-tenants in Black spots, in cash to the landowner. But the rule on relocation is that only those who own 17 hectares (20 morgen) of land are resettled to compensatory agricultural land. The vast majority do not own the land on which they have been living and they are dumped into closer settlements where they are given small plots, 0,33 to 0,5 acres, on which they may be provided with a tent or with "temporary" tin or wood slat houses. They must sell all their livestock before they move. They are thus deprived of that agricultural subsistence base which has enabled them to survive, however inadequately and are rendered landless and entirely dependent on obtaining a job in order to be able to eat.

The only way in which people in the bantustans can legally obtain employment in the so-called white area is if they are recruited through the Labour Bureaux in the bantustans. They are not permitted to leave the bantustans to seek work. (We are not concerned here with those who live in homeland towns such as Kwa Mashu, Umlazi,

Ga Rankuwa, Mdantsane, etc., which are the "locations" for neighbouring white towns. Their inhabitants are able to register in the city concerned provided that they are lawfully resident in the location but, as they have no Section 10 rights because they live in a bantustan, they are excluded from the new privilege of being allowed to move to other centres (See urban section above)

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If home1and dwellers do come to town on their own initiative to seek work and if they find a job they are not permitted to work in it and are endorsed out when they try to register.

If they are recruited from the home area to a job, in town they will, be registered for one year only. The employer is compelled by law to discharge them and return them to the bantustan at the end of the year. A new contract can be attested if they are to return to the same job for another year.

As set out in the Riekert Commission report there is now a cut back on recruitment from the bantustans. Riekert found that employers were "'choosy" about whom they would employ and that they preferred to employ migrants. This was undoubtedly so -migrants were cheaper and more controllable. Riekert said that this choosiness must be combated and that employers must use local, i.e. urban qualified labour, before requisitions for rural workers would be accepted. Now an employer must show that there is no urban black labour available before he can employ rural people. Hence the computer linking Administration Boards, the closing down of decentralised tribal labour bureaux and their concentration at assembly points inside or just outside the bantustans, and the cut back on recruitment.

An effectiveness limitation on recruitment is the lack of accommodation. Even where no local labour is available employers cannot recruit rural workers because the authorities have failed to provide sufficient accommodation or have not made land available on which employers can build accommodation. This control has been vividly illustrated in recent weeks by the extensive pass law raids on construction sites on the East Rand in which illegal workers were dragged from hiding places and arrested while their employers were charged with the unlawful employment of unregistered black workers.

However, in spite of this example, the needs of industry and commerce are increasingly for fewer, more skilled and stable workers rather than for large numbers of unskilled labourers. It is this coincidence of the demands of the economic sector with the demands of the Apartheid ideology which makes the present structures of oppression so very strong.

For people living in the bantustans these trends spell total disaster. There has always been serious unemployment in these regions. Now it has reached crisis proportions. The indications are that whole communities are entirely dependent on the pensions of the old people, and there is much evidence that thousands of old black people never receive the pensions to which they are entitled.

The way out of this disaster for many people has been illegal employment in the white areas. Thousands of people have come to town without permits in the past and have been able to find unregistered work. They were, of course, often grossly exploited but it meant the difference

between survival and starvation.

Dr. Jan Lange of UNISA published a table a couple of years ago which showed among other things, that a worker from Ciskei who worked illegally for 9 months in Pietermaritzburg and went to prison for 3 months as a consequence improved his standard of living by 702%.

In July 1979 the Government increased the fine which can be imposed on the employer of an unregistered black worker from R100 to R500. There was an immediate panic and hundreds of people were threatened with the loss of their jobs. The following week Dr. Koornhof announced a moratorium which allowed illegal workers who had been in the same job for one year, or in several different jobs in the same town for three years to be registered. This moratorium lasted for three months and defused situation temporarily.

Now, 18 months later, the full effect of the higher fines is being felt. People still come from the bantustans. The pressures forcing them to do so are irresistible but when they get to town and find work employers insist that they must be registered. Registration is refused and they lose the job. This severe penalty on employers is a much more effective tool of influx control than anything which has gone before.

Rural people are quite literally being crushed between these forces. Relocation pushes them away from survival into the bantustans. Poverty and landlessness pushes them towards the towns. Influx control and the measures to concentrate the "privilege" of being allowed to work in the urban population pushes them out again.

As this vice tightens total social disorganisation and disintegration become more and more apparent. In the bantustans crime, violence, war between landowners and the landless, between the haves and the have-nots, corruption, ruthless and uncontrolled oppression as well as hunger and starvation are the marks of many communities. Everywhere there is a vast, rootless, shifting population of displaced people living from hand to mouth, begging or stealing and fighting for tonight's shelter and tomorrow's bread.

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TO ALL ADVICE OFFICE WORKERS

1. You will all have seen the press reports of Mr Justice Goldstone's remarks in the Supreme Court last week when he asked that his "displeasure" be conveyed to Dr Koornhof and WRAB (West Rand Administration Board) that a woman should have to approach the Court for recognition of her 10(1)(c) right to be with her husband in Johannesburg.

This was one of our cases which we referred to the Legal Resources Centre.

When all administrative procedures had failed.

It is now important that the wives and children of a 10(1)(a) or(b) husband or parent be given their legal rights without intervention from us.

In all such cases proceed as follows until further notice.

1. Open a file

2. Establish that the person is the legal wife of a man who has his 10(1)(a) or (b) in his Reference Book, or that he is the son under 18 years of age of a mother or father who has 10(1)(a) or (b), or that she is the unmarried daughter of a 10(1)(a) or (b) mother or father.

3. Establish that the wife, son or daughter is living with the qualified husband or parent in a black township in lodgings or in a house rented or owned by the family. It is not necessary that the husband or parent has a lodger's permit but it must be proper accommodation - i.e. shacks in Kliptown or backyards are not good enough, nor is residence together in White suburbs.

4. Explain the position to the applicant. Ask them to go to New Canada with he husband or parent and the marriage certificate to ask for the 10(1)(c).

DO NOT MAKE ANY AFFIDAVITS.

5. Ask the PLEASE to come and tell us exactly what happens whether the answer is "yes" or "no" and whatever instructions they have been given.

Write "No. 1 in queue" on their file cards, so that they do not have to wait to make a report.

If the 10(1)(c) has been refused, they must be referred to Legal Resources by ELIZABETH, BEULAH or myself.

6. Refer every one of these files to me without exception after every visit. Do this by giving the file to MARGARET to hand to me.

I shall be on leave from 10th to 24th August.

In my absence see that ELIZABETH or BEULAH gets the files. They will keep a summary of what happens to give to me on my return.

It has taken us 17 years to get this far. Section 10(1)(c) was put into its present form in 1964!

We are elated by Judge Goldstone's remarks and the effect they have had but we must be mindful of what a total nonsense the whole thing is

and of those thousands of wives and children for whom the judgment is meaningless because the husband or parent has no qualification.

2. THE 10(1)(b) TEST CASE ON THE ISSUE OF WHETHER A CONTRACT WORKER HAS BEEN IN ONE JOB FOR TEN FULL YEARS IS ENTITLED TO 10(1)(b)

We are still waiting for this to reach Supreme Court. The difficulty has been that officials have chosen to settle when court action is threatened so give the 10(1)(b) to one individual which makes no difference to the whole group.

Once case on the East Rand is progressing towards a Court hearing now with Legal Resources as Lawyers.

Another is being brought in the West Rand with Raymond Tucker as attorney.

Meanwhile we have won one small acknowledgement of rights. If a person was registered in the 10 years of employment before March 1968 he will be given the 10(1)(b) because that is the date when the one year contract system was introduced and if he was registered before that date he should not have been put on to annual contracts at all.

Remember that such a person must have remained in the prescribed area concerned since the ten year period expired and must not have been sentenced to more than six months imprisonment or to a fine of more than R500 either during or since the relative period.

Sheena Duncan

1981

NOTE: Absences from an area for schooling/university/training/hospitalisation do not cancel a 10(1)(a) right, but the person must be able to prove that he always returned to his home town for school holidays and that he returned to his home town immediately upon leaving school.

10(1)(b) Has he worked in registered employment in one town for one employer for 10 full years and/or

Has he lived legally in one town for 15 continuous years?

If so he is entitled to a Section 10(1)(b) right provided he has not been sentenced to a fine of more than R500 or to imprisonment for more than six months and provided that he is not at the time of asking for the 10(1)(b) employed in another area.

People who are registered on one year contracts and who fulfil the above conditions should also claim Section 10(1)(b) rights. If refused they should be referred to the Black Sash who will obtain legal assistance for them to demand the right.

Proof required. Because the 10 years employment or 15 years residence must have been lawful the proof is in the official records of the Administration Board concerned but it is helpful if employers furnish the person with a letter requesting the 10(1)(b) and stating the grounds on which it is claimed.

10(1)(c) Is she living in a black township with a husband who is 10(1)(a) or (b)?

A woman must never register her baby's birth in the name of her boyfriend. If she is not married the baby's correct surname is her own surname.

FOR OLDER CHILDREN AND ADULTS

Late registration of birth costs R2.00. If the person was born in a hospital or clinic he should know the exact date and the name his mother was using at the time.

If the hospital record cannot be traced or he was born at home without a midwife in attendance two witnesses of the birth are needed to make Affidavits giving the address and the date of birth. These witnesses should be women if possible (one must be a woman).

If the person requiring a late registration is over 16 years he/she must have a reference book first. It is important that the Affidavits proving the birth are submitted to the Commissioner when application for a reference book is made because the place and date of birth are filled in on the application form and it is very difficult to correct them if they are wrong.

IDENTITY DOCUMENTS

Every black person - male or female - has to be in possession of an identity document when they are 16 years old.

Every black person is classified as being a citizen of one homeland or another even if they have been in urban areas always and even if their family has been in town for many generations and does not know where they came from in the first place.

XHOSA SPEAKING PEOPLE :□ If the parents are married with a certificate the children take the homeland citizenship of the father. □ If the parents are not married or are married by custom it is the citizenship of the mother.

Most Xhosa-Speaking people in the towns are refused issue of a reference book and are told to take a Transkei Passport. □ The only way out of this is for them to prove that the family originally belonged to Ciskei or to go the Ciskei Government Office to apply for Ciskei Citizenship.

mother or father is Tswana or Venda is now a citizen of Bophuthatswana or Vendaland and it makes no difference if the parents are married or not. □ These people are made to take passports instead of Reference Books.

If the mother is Tswana or Venda but is legally married to a man who belongs to a non-independent homeland there is a chance for the children to remain South African citizens if the mother applies for citizenship of her husband's homeland and of South Africa and if her application is granted. □ Such cases should be referred to the Black Sash until you are more experienced because they are a bit complicated.

SOUTH SOTHO PEOPLE : Be careful about these. □ Some Swazis are South Africans and are citizens of the homeland Ka-Ngwane but if you find a Swazi person applying for a first reference book whose parents were born in Swaziland refer them to the Black Sash.

ZULU, SHANGAAN & NORTH SOTHO PEOPLE : are clear cases and belong to Kwa-Zulu, Gazankulu and Lebowa respectively. □ They normally do not have problems about being recognised as South Africans and obtaining Reference Books.

TRANSKEI, BOPHUTHATSWANA AND VENDA PASSPORTS are used in exactly the same way as reference books. □ People who carry them can still have their Section 10 rights and register in work in exactly the same way as before.

It is only the children who are born after the date of independence of the parent's homeland who have no Section 10 rights and will be dealt with in terms of Section 12 when they grow up and begin to work.

ALL REAL FOREIGNERS FROM RHODESIA, MALAWI, MOZAMBIQUE, ZAMBIA, SWAZILAND, LESOTHO, BOTSWANA etc. have no legal rights to be in South Africa. □ They can only remain if they are given permission to work or, in the case of a wife, if she is given permission to stay here with her husband.

You can do nothing to help them.

They can only collect as many proof as they can of their residence in South Africa and ask for permission to work in the area.

HOUSING :

Only a person who is 10(1)(a) or (b) and who has dependants legally living in the area can get a house.

Qualified 10(1)(a) and (b) women with minor children are now being accepted on the waiting lists again.

The waiting lists are very long. The quickest way to get a house is to buy. The family income needs to be at least R190 per month to make this possible but people who ear less should keep asking if there are no site and service or self-help schemes they can go into.

Kroonstad has such a scheme but as far as I know there is nothing like it on the East or West Rand.

If a qualified man buys a house the Minister has promised that his wife and children will be given permission to live with him even if they come form homelands and rural areas.

A qualified woman cannot buy a house if she is married in community of property. The marriage certificate shows whether the marriage is in or out of community.

She can buy if she is married out of community, if she is divorced or widowed or unmarried but she must have 10(1)(a) or (b).

If a person rents a house he can be given 7 days notice to vacate if he fails to pay rent.

If he is to be evicted for any other reason he must be given 30 days notice in writing. The most common reason for this notice being given is because his wife and children have left him and the house.

If he wants to appeal he can do so within 7 days but there is little hope of the appeal being granted if he does not have his minor children living with him in the house or if he cannot persuade his wife to come back to him.

If he is not alone in the house or if he claims he is evicted without written notice or if he says the Superintendent is wrong in the reason he has given for the notice do not delay.

Send the man at once to the Legal Aid Bureau, 209 Arop House or to the Black Sash if in doubt.

Background Material

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In rent cases check the receipt carefully. If they seem to be in order send him to Legal Aid Bureau at once.

If you are worried about a housing case and do not know what is right or wrong phone me at Black Sash, 37-2435, 37-2436 or at home 42-9713.

Accommodation is now important. No one will be registered unless he/she has somewhere where he can legally live.

Endorsement Out/

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ENDORSEMENT OUT

Anyone except proper foreigners who gets a stamp in his/her identity document saying "Ordered to leave within 72 hours" or "ordered to report to the Magistrate at before for residence" or who is refused registration in work is entitled to appeal. The appeal must be made within 7 days and must be made in an Affidavit and must be taken to the Commissioner's office of the town concerned.

THE EAST RAND BOARD is not as difficult as W.R.A.B (West Rand Administration Board) and does not demand Affidavits for everything. Please keep a careful record in your day book of every case you see, what the complaint is and what you advised.

Post the papers to me every two weeks and I will check them and write to you with any suggestions.

Once a month it will be a good idea if you come to the office so we can keep in close touch.

STATE PENSIONS

A man must be 65 years old and unemployed.

A woman must be 60 years old and unemployed, or they must have a district Surgeon's certificate saying they are disabled and unfit for work. □ An ordinary doctor's letter is not enough. □ A district surgeon has an office in any main state hospital.

People applying for a pension must have a permit in a house or a lodger's permit.

A man will not be given a pension if his wife is working unless she is earning very little.

A person must apply at the Commissioner's office for a pension. □ There is usually a 6 months delay from the time the pension application is accepted until it is paid out.

It is then paid out every two months.

DISABILITY PENSIONS are sometimes cancelled. □ The person must then go immediately to get a new district surgeon's certificate and take it back to the Commissioner.

FIRM'S PENSIONS. The conditions of these pensions are different according to the firm or the industry. People often have a little book setting out the conditions and need this to be read and explained to them. Other wise help them to write a letter to the firm asking for an explanation in writing as to how the pension scheme works and when they will be able to receive payments. If the pension is less than the State pension (it has just gone up and I will let you know the new amount.

It is approximately R25 per month) the person can apply to the Commissioner for a State Pension as well.

They will receive an amount to make the total income from both pensions the same as the state pension.

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INSURANCE AND COMPENSATION ARISING FROM MOTOR ACCIDENTS.

□□□□□□□□□□ *There are many dishonest lawyers and claims consultants who have touts in hospital who get people to sign forms asking them to act in claiming insurance payments after a road accident.* □ *These people sometimes take a huge amount of the money awarded as fees.* □ *In cases like this refer them to the Legal Aid Bureau.*

□□□□□□□□□□ *If someone has no lawyer in these cases they can go to the Legal Aid Officer at the Regional Magistrate's Court and ask to be referred to a lawyer.*

USEFUL OFFICES

INDUSTRIAL AID SOCIETY, 305 Sacta House, 277 Bree Street Corner Claim Street, Jhbg. □ NOT for domestic workers but any other workers can go to complain about pay, leave pay, overtime, long service bonus, conditions at work.

DEPARTMENT OF LABOUR □ 180 Bree Street, Jhbg.

Workers can complain to them if employers have not given them the 'blue card' when they leave the job (not domestic workers) or if the employee refuses to fill the card in correctly or if

they are not being correctly paid out at the Commissioner's office.

LEGAL AID BOARD. A person needing a lawyer to defend him in court on a criminal charge, or help with a divorce, or a civil action against someone but who cannot afford to pay a lawyer can apply to the Legal Aid Board. □ He can either go to any lawyer he chooses and on the first visit say he cannot pay and ask the Lawyer to apply to the board OR he can go to the Regional Magistrate's Court and ask to see the Legal Aid.

LEGAL AID BUREAU □ 209 Arop House, Von Brandis Street opposite G.P.O. in Johannesburg, will give free legal advice to anyone who cannot afford to pay on any subject.

All race classification cases should be sent to them and they are very good on housing.

LEGAL RESOURCES CENTRE - HOEK STREET CLINIC - Cnr Hoek Street and De Villiers Street near Park Station, Johannesburg.

Free legal help for domestic workers who have a case against their employers, any legal service and especially problems about hire purchase, consumer problems, Funeral Societies etc.

CHILD WELFARE 168 Fox Street, Johannesburg.

NICRO - People who have been in prison, Eplow House, President Street, Jhbg.

SANTA - families where a member of the family has T.B. They are supposed to give welfare help and there is a whole list of telephone numbers under SANTA in the Witwatersrand book.

Choose one nearest to where the person lives and phone.

I find them unsympathetic so if you do not get satisfaction, phone head office at 21/6137.

WELFARE. Each administration board has social workers and a welfare department. They will only deal with people who have permits.

It is very difficult to get Welfare help for people without permits. Try the Church they belong to first and if that fails, Quaker Service Fund, Merlon House, Cnr Pritchard and Simmonds Streets - Tuesdays, Wednesdays and Fridays only early in the morning because their queues are long.

BURSARIES AND SCHOLARSHIPS AND EDUCATIONAL ADVICE. Education Advisory Centre, Institute of Race Relations, Auden House, 68 de Korte Street, Braamfontein.

Anyone who is angry and has any complaint which has not been sorted out by the Administration Board or the Bantu Commissioner is entitled to write to complain or to ask for help to Dr Koornhof.

The Minister of Co-operation and Development,

P.O. Box 384

PRETORIA

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(from SHEENA DUNCAN)

ZIMBABWE CITIZENSHIP.

We have a case at the moment of a young man born in the East Rand in 1961 and lawfully resident there since birth who has the E.R.A.B (East Rand Administration Board) form for his Reference Book showing him as 10(1)(a). He was given a Temporary Identification Certificate initially but later was told that he must have a Zimbabwe passport because his father was born in Zimbabwe. □ His father is lawfully in South Africa and has been in the same job since 1950.

When the son went to apply for a Zimbabwe passport the Zimbabwe office refused to register him as a citizen. □ I phoned them and the Zimbabwe law is as follows:-

If a child is born outside of Zimbabwe he is not a Zimbabwe citizen unless his birth is registered at a Zimbabwe office within one year of his birth.

Applications made after the first year can be granted or refused by the Zimbabwe government at their discretion. □ In our case the application was refused which suits the young man concerned as he does not want Zimbabwe citizenship.

The only way in which he can obtain Zimbabwe citizenship in the future if he wants it is to go there and apply for a residence permit. □ After two years residence in Zimbabwe he would be eligible to apply for citizenship. □ The problem, of course, is that he could not go to Zimbabwe even if he wanted to, without a travel document which S.A. will not issue to him.

His position is now this:

He is not a South African citizen in terms of S.A. law.

[\[1\]](#) *Throughout this paper the term "Black" refers only to the African people because the legislation discussed applies only to them.*

[\[2\]](#) *Bantu Commissioner, in charge of official documents for African people.*