

Chapter IV

Our Factories of Crime

Special

Offences for Natives only. According to the Official Year Book of Statistics, 1940, we find that in 1939, the estimated non-European population of the Union totalled 10,160,000 composed of 6,997,500 natives (Bantu), 2,31,200 Asiatics, 814,000 coloured, a total of 8,043,500 non-Europeans.

Predominant Offences

Under what are designated as predominant offences, during the year 1939, 108,631 Europeans were convicted. During the same period 622,079 non-Europeans or 98.7 per cent were convicted for such offences. But 319,179 of these were for statutory regulations which are offences and/or crimes for natives only as are hereinafter tabulated:

"Illegal possession of native liquor	77,582
Location Regulations	20,635
masters and servants acts	18,286
Native Labour Regulations	25,066
Native Pass Laws	101,309
Native Taxation	48,668
Native (Urban Areas) Act	27,517
Overpass	20,037
	<hr/> 319,179

Statutory It is interesting to note that these special offences, equal to one half the total convictions for Europeans, are concentrated under the heading of predominant offences for that year. By one half, namely 39 per 1000 and brings down their non-European rate of convictions under this head below that of Europeans, namely 50.4 per 1000 Europeans. This clearly indicates that the apparent higher rate of convictions among the natives is more apparent than real.

Factories of Crime

Here then in 1939 alone, 319,179 natives were convicted for infringement of statutory regulations which are no crime for other races. These laws are the most restrictive and discriminating are in the Union's Statute books for the purpose of controlling the natives. They make it an offence for him to do or not do what other races in South Africa are exempt from. There so many of these laws and hedge steps of the African that hundreds of thousands of Africans are convicted under them.

1930 1928 so as
(1) ~~Repeal of liquor~~ ^{to permit home brew} ~~to make possession of~~
~~native liquor~~ ^{no crime to} ~~to make possession of~~
~~to abolish police raids~~ ^{to make drunkenness}
~~with disturbance of public peace and selling without~~
~~licence is a serious offence.~~

- (2) Long Term Police
- (A) Development of Industries in ~~Native~~ ^{the} Reserves
 - (B) Training of Africans in skilled work to be employed in industry and trades according to ability and current rates of wages for that ^{work}
 - (C) Rights for Africans to acquire freehold title on land for all purposes
 - (D) Trading Rights for Africans everywhere
 - (E) Development and advancement of both our short and long-term policies in a manner calculated to give the fullest economic and social benefits to all sections of our community with consequent reduction of crime.

Chapter Conclusion Conclusion

(10) We wish to express our deep concern at the serious effects of the ^{what we hope will} "factories of crime" ^{namely the} statutory offences for natives in the criminalization of the African people. We found it difficult to understand why our Christian and democratic government can discriminate against some of the members of the state because according to C.D.H. Cole "the essence of the state is to include all sorts of people without reference to the sort of people they are, the sort of belief they hold, or the sort of work they do."

"The state ignores the difference between because it is concerned not with their differences, but with their identity, and its functions and interest are concerned with men's identity and not with their differences"

(10) We found both among some of the witnesses and some of the members of our Committee that in dealing with especially punishment and more punishment with restrictions for the native section seemed the only solution of all ^{the} ~~difficult~~ ^{problem} concerning the African no matter whether their origin was educational, social or economic.

(10) We do not deny that under certain circumstances punishment seems the only course open against the offender but we wish to quote, as a warning against the childish faith, from Mandel Sherman "Mental Conflicts and Antisocial Behavior" in his chapter "The punishment that

Summary of Recommendations

Short Term Policy

My recommendation

A. Adoption of a new formula of ^{unpublished} ~~unpublished~~ establishment of a free compulsory system of education controlled by the various Provincial Education Departments financed on a per caput basis from the Consolidated revenue.

B. Releasing of adequate land for African settlement is well as ^{adequate} land for purchase lease, or rent ^{with financial assistance for improvement} and improvement of farm labour conditions with adequate cash wages to prevent African migration from rural areas into urban areas.

C. Raising African wages to a living wage ^{immediately} with due regard to abnormal war conditions by.

D. Wage Determinations in industry, in all government departments, municipalities including small towns.

E. Recognition of African trade unions under the Industrial Conciliation Act.

F. Abolition of all ~~discriminatory~~ and restrictive laws against Africans ^{because they lead more} ~~make criminals~~ ^{of natives} by ~~introducing~~ ^{making up} gaols with innocent natives who are brought into contact with real criminals.

G. Provision of play-grounds ^{and} social centres for natives in all areas and sections of the towns where there are large groups of natives either as servants or as residents.

H. Employment of social workers and physical directors to supervise play-grounds and the centres and to organise the youth into useful activities.

I. Introduction of adult education with ~~less~~ ^{due} emphasis on civic duties and responsibilities as well as improving the students for adaptation and integration into the modern industrial society.

J. Employment of more educated Africans for police duties with graded posts ^{with permanent positions} in police officers.

K. Severe penalties for unwarranted assault on innocent members of the public by the police.

L. Careful selection of members of Civic Guards and training ^{on} ~~on~~ ⁱⁿ duties towards non-Europeans and ^{the use of firearms} ~~the use of~~ ^{careful control} ~~firearms~~.

M. Employment of sympathetic and understanding ^{native} ~~native~~ ^{interference in} ~~the law courts~~ ^{gallies acquainted with} ~~gallies~~ ^{prison reform systems} ~~prison reform systems~~.

21 Dec. 1942?

MINORITY REPORT

OF THE

COMMITTEE APPOINTED TO INVESTIGATE THE POSITION OF
CRIME ON THE WITWATERSRAND AND PRETORIA.

SUBMITTED BY:-

Dr. A.B.Xuma,
Mr. S.P.Mqubuli, and
Mr. R.V.Selope-Thema.

We, the undersigned members of the Committee appointed to investigate the position of crime on the Witwatersrand and Pretoria, with the permission of our Chairman, beg to have the honour of presenting the following minority report:-

CHAPTER 1.

INTRODUCTION.

1. We found ourselves unable to subscribe fully to all the recommendations in the majority report and to agree with the attitude of some of the members of the Committee towards certain aspects of the problem of our investigation, particularly as they affect the 'Native' section of our community.
2. We, therefore, signed the majority report with reservations.
CHAPTER 11. CRIME THE PROBLEM: RIGHT AND WRONG APPROACHES.
3. While there was a general agreement as to the existence of economic, social, educational and other conditions, among Africans, which are commonly known to be indirect and direct causes of crime in any community, aggravated by the policy of differential and discriminating treatment of the African here in almost all respects, we found differences of attitude and outlook, hallowed by custom or tradition and officially entrenched in the Union Native Policy and practice, as to the advisability of making definite recommendations for the removal of certain obviously remediable disabilities under which the Africans now struggle.
4. There were no ethical grounds advanced against the removal of these disabilities. The rightness or wrongness of their existence was not in dispute; but that "it was the native policy of the Government which cannot be changed for another 25 or 50 years, and that the white people of this country could not stand for such a change", seemed convincing and conclusive enough in certain minds.
5. We respect custom and tradition. We know that they die hard. We, however, believe that clinging tenaciously to long cherished traditions not based on fair, just, and ethical grounds might and can endanger the very institutions which it is aimed so jealously to protect and conserve for privileged sections only. To share is to protect and to conserve.
6. We are convinced that the policy of control of the native no matter what else happens connotes force and repression in its execution. It is, therefore, not calculated to encourage progress, happiness and contentment, and might, we fear, as it is evident from our study of the 'Crime Wave', lead to mutual distrust in race relations, antisocial behaviour and, worse still, anti-racial attitudes on the part of the victims which obviously may be disastrous for all concerned.
7. It is our considered opinion derived from intimate knowledge of the African people that it will be wiser and generous if an attempt were made immediately and voluntarily to remove the special native disabilities before a disgruntled, discontented, sullen African community which is fast developing, is consolidated.
8. We found that crime was committed by all races and all sections in South Africa. And we believe it right and proper that crime, no matter from what source, should be dealt with severely. The same treatment should be meted out to all criminals and potential criminals irrespective of race or colour.

9. If any measures are found or are considered effective prevention of crime in any section of the community, they should be applied equally to all sections alike.
10. If it is established that crime is less or absent under certain types of environment, we urge that all efforts must be made to create similar environments for all sections.
11. While we believe that real criminals - that is, murderers, thieves, robbers and housebreakers - must suffer the full penalty under the law for their wrong-doing, we, nevertheless, feel that no pains should be spared in attempting to rehabilitate such offenders regardless of race or colour.
12. It is essential to recognise that most murders and other acts of violence among Africans are, generally speaking, committed by the ignorant, illiterate, Africans. Crimes of house-breaking, robberies, and most thefts are bound up with poverty. The motive is more often than not to get money and food. The amount of money to be realised, by taking any of these chances, is likely, if one is successful, to be far more than the current wages that most Africans receive and sometimes more than an African's year's wages.
13. It is significant to note the following statement from the "Findings and Recommendations Of a Conference on Urban Juvenile Native Delinquency, 1938":-
 - "(a) 64.9% of the Bantu delinquents at Diepkloof Reformatory in 1937 had never attended school, and 13.3% had only attended in the sub-standards."
 - "(b) 60% of the Bantu children in Johannesburg attend no school and are not in employment. The existing schools are overcrowded." (Page 1.)

"THE PROBLEM: (2) The records of the Diepkloof Reformatory show that 82.4% of African male juvenile inmates from the Witwatersrand have been convicted for theft, housebreaking robbery- crimes usually associated with an impoverished community."
14. During the Committee's sittings and during the discussion among the members one often heard it said that most of the thefts, house-breakings and robberies had no economic basis because the perpetrators of such acts are young single men and not family; **that illicit liquor sellers and brewers are not always family people**; but seekers after the profit to be made from illicit liquor sale. While these half-truths sound plausible what is not understood is that these acts are anti-social drives which are the only means of escape for some Africans from perpetual want and starvation wages. It is the only remunerative way of earning an adequate living, a reprehensible way, we admit, for these Africans who are restricted and excluded by State laws from engaging in honest remunerative skilled employment.
15. Unfortunately, more and more money so acquired is being reluctantly accepted out of desperation by those who would depend on the earnings of these people. It pays rent and brings in bread. Goods find quick sale at ridiculous prices, this being the only way these poverty-stricken masses may ever acquire the luxurious materials which they have so long coveted.
16. Who can blame them, since life here for them, under special native restrictions, is neither hope nor heave?
They can be saved if we will.
17. Is it not well known that Africans in South Africa are no free agents like other races. They have no freedom of movement limited freedom of thought and action, and no freedom of choice.

18. They/....

18. They are restricted in employment; underpaid for work done. They may not live wherever they choose. They may not buy or build homes wherever ground is offered. They may not engage in any business wherever there are opportunities.
19. It is well to remember and realise that Africans like other races in South Africa desire possession to satisfy their wants, to gain power and to satisfy "desires of prestige" and "social recognition". To gain these, fair means are first earnestly and honestly attempted; but when legislative and administrative colour and racial barriers are met with then illicit and illegal means of obtaining a livelihood such as theft robbery, house breaking, and illicit liquor traffic, are resorted to as a result of thwarted ambitions. In other words, crime among Africans in the Union of South Africa, as in communities that live elsewhere, is antisocial behaviour arising from hard living conditions and discriminating legislative disabilities. It is a protest of a weak section from frustrated desires.
20. WHO IS TO BLAME?
21. All thinking people know that people who have no land and no work or those who have only 2½ to 5 morgen per family or tax-payers under Native Land Trust Regulations even though they are born and bred in rural areas cannot, under South African climatic and farming conditions, make a living there, much less get money with which to pay taxes, buy clothing, pay children's fees and buy their books etc. Besides, farm labour conditions are bad. The operation of the Masters and Servants Act and other disabilities for Africans living on European farms are a blind alley for children brought up on these farms. Added to these is the overcrowding and overpopulation of most 'Native Reserves'. In these reserves many Africans are landless. They can not produce any food but depend on buying food from store keepers from what money they can earn during the sojourn into industrial areas or through selling their live stock, if they have any.
22. The above-mentioned conditions and many others drive Africans into urban areas, in addition, attractions of growing industrialisation which under normal conditions should lead to urbanisation of workers with permanent homes near their places of work.
23. This drift is inevitable. It has a parallel in other parts of the world and among the white section even in our own country.
24. Let it be realised now and for all time that further restrictions, far from being remedies, aggravate the situation, dis-gruntle the victim and encourage revenge on the society which is alleged to deny them opportunities for advancement and improving their status.
25. These problems cannot be solved merely by control, restrictive laws and punitive actions which seem to be the basic philosophy of our legislative and administrative practice in Native Affairs. These are social problems, common to all maladjusted communities and arising from typical social, environmental and economic conditions.
26. They call for a well planned and imaginative economic, educational and social policy which considers all human beings not as a means to an end but as ends in themselves and aims at improving them not only for their intrinsic worth as individuals but also for the value and assets they are to the community.

27. Pass Laws, Liquor Law restrictions and Police liquor raids Location Regulations, Masters and Servants Acts, Native Labour Regulations, Native Taxation raids, Native Urban Areas Act and Native Trespass Regulations, no matter how stringently they are enforced will never solve our crime problem but will tend to increase our criminal population from resentment arising from such humiliating treatment associated with the enforcement of these repressive laws.
28. The only sound approach to this problem will be:-
 (1) a comprehensive, adequate land settlement scheme for all with facilities for improving the land and increasing its productivity. Productivity can only be increased by training landowners in better methods of farming with State financial assistance for improvements
 (2) Better working and living conditions for farm labourers with actual cash payments.
 (3) Cooperative schools for children of farm labourers belonging to a group of adjoining farms.
29. By attempting the immediately suggested scheme, a step in the right direction will have been taken towards encouraging more Africans to remain at the country-side.
30. With a liberal policy of free elementary for all and with more people self-supporting on adequate land with increased productivity and consequent increased national wealth, it should be possible to develop intelligent, efficient workers who should be entitled to higher wages and a better standard of living which should bring about happiness, contentment, and decent social attitudes.
31. We stated in a memorandum we submitted before this Committee that "We are only indirectly interested whether one goes to gaol for a life-time or for a shorter period with lashes, spare diet, or solitary confinement. We are chiefly concerned about circumstances that lead one into a reformatory or into gaol. We are more interested in finding out whether there were any factors in the individual's life and home or in the community environment which favoured an eventual career of crime and gaol life. If so, we are anxious to discover if there is anything that can be done to rehabilitate the victim and/or to prevent others, under similar circumstances from suffering the same fate. In other words, it is with the prevention of crime, the removal of its causes, and less with the punishment for crime that we are chiefly concerned."
32. We are much alarmed at the steadily increasing ratio of recidivism and relapse into crime. To us it seems to indicate that either (1) There are certain bad general conditions which drive certain classes or certain races of our population into gaol, or (2) Our system of punishment and imprisonment are no deterrent to crime, or, (3) Our prison conditions are so bad for certain classes as to be soul-destroying and doom its inmates to perpetual prison life.
 It is well here to quote Mrs. M. Ballinger M.P. in an unpublished paper on "Preliminary Memorandum On Need for Penal Reform in South Africa" in which she writes:-

"The following figures for Recidivism and Relapse into crime bear their testimony also to the progressive criminalisation of the population."

"Recidivism and Relapse Into Crime, 1934 - 1940."

<u>Year.</u>	<u>Total Sentenced Prisoners.</u>	<u>First Offenders.</u>		<u>Recidivists.</u>	
		<u>No.</u>	<u>%.</u>	<u>No.</u>	<u>%.</u>
1933	123	11	9	11	17.5

5. 1934/....

<u>Year.</u>	<u>Total Sentenced Prisoners.</u>	<u>First Offenders.</u>		<u>Recidivists.</u>	
		<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
1934.	173,602	141,304	81.4	32,298	18.6
1935.	169,076	139,493	82.5	29,583	17.5
1936.	157,956	125,713	79.6	32,243	20.4
1937.	162,007	127,252	78.5	34,755	21.5
1938.	157,503	116,052	73.7	41,444	26.3
1939.	157,716	115,301	73.2	42,415	26.8
1940.	167,094	118,574	70.9	48,520	29.1 "

33. It came as a shock to us as we suppose it will to most of the enlightened public to learn that according to Mrs. Ballinger "..... perusal of the annual reports of the Director of Prisons reveals as the longest established the mining industry and the Department of Railways and Harbours. The Cinderella prison at Boksburg supplies labour to the E.R.J.M. mine - one of the oldest and deepest mines on the reef - while the Railways and Harbours Department itself built new prisons at Pietermaritzburg and Bellville as its contribution to the maintenance of the prison population by which the bulk of its quarrying work is done. It also apparently has first claim on the Non-European convict prison at East London. "

Besides, it is generally known that short term prisoners are hired out to private employers at 6d.(sixpence) per day.

This system, it appears to us, creates "a vested interest in convict labour" on the part of certain employers because of the cheapness of such labour and its inability to demand good working conditions. In other words, there might be a temptation on the part of those vested interests to encourage all conditions that tend to maintain a high prison population in the hope of using as little as possible the more expensive less docile labour from the free labour market.

34. We are convinced that our differential and discriminating legislation with statutory offences for Natives only has much to do with the apparently high Native criminality rate.

After studying the various conditions which favour crime under which the Natives must live, we were more surprised that our criminal statistics for "serious crime" did not show a greater number of native convicts in this class.

35. We believe that the function of Commissions is or should be the collection of all available evidence material to the problem, followed by a careful and critical study of the facts from which reasonable, practical, and unbiased recommendations are to be made in a report for the guidance and the stimulation of the authorities concerned in the action.

36. We are now in a position (1) to deal with the points on which we differed with the Majority report; (2) to emphasise or amplify points mentioned generally on the various subjects dealt with in the report; and (3) to deal with our National "factories of crime" that is, the effects of Statutory offences on the criminality of the Native; his economic status, and on the administration of justice.

CHAPTER III.

WHERE AND WHY THE COMMITTEE MEMBERS DISAGREED.

37. Section 11, page 5, of the Majority report states that "(a) Robberies by natives on Natives continue to be numerous. These crimes are, in a great majority of cases, associated with the sale of illicit liquor to the potential victims in order to reduce them to a condition in which the subsequent robbery can be readily effected."

We do not agree with the last half of this statement. We are not aware that liquor is sold to potential victims with a view to rob them when they are drunk and insensible. We do not deny that drunken persons have been taken advantage of and robbed but not by those who sold them liquor.

PASS LAWS AND URBAN AREAS ACT.

38.

Under this heading there were a few conclusions and recommendations which we found very contentious and on which no agreement was reached. Here are some of them. Under Section 26 of the Majority Report we read firstly,

"From the evidence placed before the Committee it is clear that there is a strong body of opinion in favour of the total abolition of the Pass Laws. On the other hand some cogent reasons have been advanced for their retention and indeed tightening them. Your Committee does not feel called upon to make a recommendation on this vexed question."

We, the minority members, do not share in this conclusion as we are definitely convinced that the abolition of the pass laws is long overdue since,

(1) they serve no useful purpose in the prevention of crime.

(a) The Honourable the Minister for Native Affairs has rightly said the pass laws have nothing to do with crime and that crime is committed by all races, Europeans and Non-Europeans.

(b) The Honourable the Minister of Justice was reported to have made the following statement in Parliament on April, 1942, "A gang had been caught of two Europeans, two natives and a Chinese to whom 27 thefts have been attributed."

(c) Passes are not used by all the races that have criminals - thieves and robbers.

(d) Most experienced criminals are always furnished with all the necessary documents but these do not prevent them from committing crime and are, in fact, used to remove suspicion and clear the way for the commission of crime. The bearer is able to convince the police of his innocent intentions by producing all necessary documents since it is commonly believed that only a passless 'native' is a potential criminal and one with a pass is innocent.

(2) Pass Laws have initiated criminal careers by bringing their victims into contact with seasoned criminals in police cells, prisoners' yards, and 'in awaiting trial' with consequent contamination of the former.

(3) They remove fear of gaol and as a result of marching through public streets Africans arrested for any offence as if they are inveterate criminals, they remove any sense of shame and being a prisoner and bring about contempt of all our system of justice on the part of their victims.

(4) They are an economic loss to the African by the small but numerous fines that hundreds of thousands of Africans have to pay and the loss of hours of work with consequent loss of wages and even of employment in many cases.

(5) They limit the freedom of movement of the African worker with loss of bargaining power resulting in maintaining a low standard of wages for the African.

(6) A Pass-bearing Native is no employee under the Industrial Conciliation Act, and if he strikes in an effort to improve his condition of work and wages, he is liable to arrest with consequent fine or imprisonment.

(7) They prevent Africans from becoming skilled workers in any trade or industry as a pass-bearing native must find some work within 12 days from the date of leaving one job to taking up the next one. He may not wait for a job of his choice and skill. He may be ordered to go to a new area, with money or no money to get there, and may thus sooner or later fall into the hands of the police for being without a Service Contract or suitable Special.

7. (8) They/.....

(8) They consume a valuable time of the police in their prosecution.

(9) In 1939, alone 101,309 natives were convicted under the pass laws.

In view of these facts and many others we have not mentioned, we feel that pass laws except as an instrument of easy exploitation, prosecution and persecution of the African serve no useful purpose.

Secondly, Recommendation 6, page 28 of the Committee's Report reads as follows:-

"Functions under Section 12 of the Urban Areas Act (excluding registration of Natives employed on mines) to be transferred to local authorities."

39. We disagree with the Majority members on this recommendation because we are convinced that,

(1) effective control under the circumstances without removing the causes of the influx merely subjects hopeless and helpless individuals into a net of harassing and confusing regulations which land them into the hands of the police and finally into gaol.

(2) Pass Laws have been proved to be only partially effective in preventing the influx of natives into urban areas.

(3) Natives are driven into urban areas by landlessness, lack of cash and better wages, and the lure of industrialisation.

An adequate land settlement scheme with freehold, leasehold and renting rights should be developed with facilities and state assistance for its improvement and for increasing its productivity so that its produce can be sufficient in meeting their human requirements, in money and kind, thus encouraging people to remain on land.

(4) If Pass Laws control is transferred into the hands of Municipalities, it is most likely to be a "vested interest" like beer halls, because of the large sum from pass fees that will accrue into municipal treasuries and relieve taxpayers from certain usual obligations pertaining to the native section.

(5) Even if the money accruing from pass fees were to be used for Native Education and other Native welfare, as has been suggested by some of the municipalities, the good effects will not offset the criminalization, demoralization and humiliation of the Africans by the pass laws system and similar discriminating laws.

(6) The £.S.D. aspect will tend to entrench opposition of some of the municipalities against the abolition of these regulations on the grounds that they were being deprived of funds with which they were improving the natives.

(7) Those who advocate abolition would now have to fight against two fronts. The Government front from long experience seems now strongly sympathetic in favour of abolition. Transferring the control, at this stage, to municipalities will only complicate the issue and postpone abolition.

The proper approach here would be a social inquiry into the causes of the influx and drift of natives into the urban areas and deal with these in the light of the findings and not the application of restrictive and punitive measures which neither improve the situation nor remove the causes.

Thirdly, Recommendation No.7 page 28, of the Majority Report calls for:

"More extended use to be made of Section 17 of the Urban Areas Act by police and municipal authorities" (page 19).

40. We are opposed to this recommendation because

(1) it imposes restrictions and conditions for African people which are capable of wide and divergent interpretation by various officials leading to victimization of certain persons especially in native locations.

Fourthly, Recommendation 9 (page 19) of the Majority Report states that

"Curfew Regulations to be strictly enforced between the hours of 11 p.m. and 4 a.m." (Page 19 Majority Report).

41.

We object to this on principle as we suggested on page 2 of this report that any measures, laws, or restrictions that are proved to be effective in preventing crime should be applied alike on all the sections that have criminals irrespective of race or colour or else be abolished for any and all races.

42. In short, we believe to quote the Majority Report on pages 18 and 19 before they recommended the strict enforcement of the clauses discussed above, that

"The control of the influx and the stabilisation of the urban population is not one capable of easy solutions by their application of further restrictions."

CHAPTER IV.

STATUTORY OFFENCES OR CRIMES FOR NATIVES ONLY.

43. Our Statute books are full of many laws and regulations which were and are enacted to operate against the natives only. Europeans, Coloured people and Indians are exempt from their operation. These laws are restrictive and discriminating against the African in the extreme. Their spirit and philosophy seem to be control of the natives no matter what happens to them so long as that control is effective. The evil consequences of that control on the natives seems immaterial so far as legislators and administrators are concerned, judged by the fact that this policy of racial differentiation and discriminations is strongly supported and defended by the majority of the Europeans and some public officials even during this war which the Africans are dying and sacrificing their all with their white fellow South Africans. These laws encourage pernicious attitudes in race relations. They affect the Africans adversely, morally, socially, economically and even in the administration of justice and have no freedom in the true sense. Many other customary artificial restrictions are imposed and being more stringently enforced in an effort to "keep the Native in his place" in which place the Native seems too unhappy and uncomfortable to remain as shown by anti-social acts of revolt.

44. Dr. F.E.T. Krause put the Native's position aptly when he said "The native is all the time a prisoner in the land of his birth, although he might not be confined within prison walls."

45. Generally speaking these laws are politically undemocratic; morally unchristian; administratively unjust and unfair; and with no regard for human decency - the things for which our white and black 'boys' are dying 'Up North'.

46. They have undesirable and demoralizing effects on both Europeans (official and the general public) and Africans.

47. They are humiliating to the whole African race in the Union of South Africa. For instance, Africans may be stopped by the police anytime and anywhere and be asked for passes or poll tax and, if found without these documents, they may be marched through the streets in twos and fours manacled to one another as if they had committed some ignominious crime. Their homes are not their castles for they can be broken into and unceremoniously entered into by the police who often take the law onto themselves ready to arrest with least investigation and even to cuff, kick, and often abuse victims under any pretext. Many of these things are done in public view, partly, we suppose, to impress police authority on the natives, and partly to humiliate the victims.

9. 48. They/..

48. They restrict the African's freedom of movement. He may not move from one area to another in certain provinces without a pass. In pass-bearing areas, he is liable to arrest with subsequent conviction, fine, or imprisonment, as the case may be, for committing no more serious a crime than that of not having one of the many types of passes or tax receipt, on his person, when demanded by a police officer. He may not engage in a job unless his employer takes out a contract of Service for him which he must carry on his person at all times or be liable to arrest with consequent penalties. He may not look for work without a Special permit to look for work in a pass-bearing area, unless he carries an "exemption pass" which does not exempt its bearer from the indignities of being stopped and asked for it, and should he have forgotten it, he suffers the same fate as any other pass bearing native; that is, he is arrested, marched about with other gangs, brought before magistrates for trial and convicted.

LOSS OF BARGAINING POWER.

49. Because of these laws, the African may not move freely in search of work and look for a work of his choice as there is a time limit on his privilege to look for work in the same area. He may leave his employer, without being liable to arrest, only if that employer agrees to sign him off. Besides, the contract of service shows only the wages that was entered in at the time of employment, subsequent increments of wages are not usually shown unless the servant gets a new pass.

50. Legal colour bars and custom restrict him from engaging in skilled trades. Thus the man is not able to sell his labour at the best market on his own terms because he may be arrested as being a vagrant, for being alive and yet unemployed and for being without a Contract of Service for a period beyond the legal limits.

Further,

51. These laws have had social and economic effects in that Africans have so many more laws than other races for which they may be arrested and convicted. Once they are arrested, they are more liable to be convicted as they are generally not able to provide legal defence as Europeans can. Besides, most of them are ignorant of court procedure and may not understand any of the two official languages. This calls for interpretation which is often bad and more incriminating than the accused's statement if the interpretation is done by a certain type of European interpreter. All these difficulties help the accused towards a sure conviction.

52. Once the African is convicted, it is not uncommon for him to receive a heavy fine or a term of imprisonment both out of proportion of the nature of the crime and the earning capacity of the African. In addition, the African, feeling that there was no moral turpitude in the act committed, may refuse to pay even a small fine alleging that the whole system of justice is injustice for him. He may choose to go to gaol rather than pay a fine and thus swell the gaol population with an opportunity of coming in contact with seasoned criminals at police cells, court yards and awaiting trial.

53. These heavy fines lead to serious Social and Economic effects. As the chances of arresting the Africans by the police are so many and so frequent, under these laws Africans must of necessity try to obtain legal defence to save themselves from being easy prey in this vicious circle of criminalisation although they arrange to pay fees in instalments in some cases. If they lose the case, they may be fined or imprisoned, all of which mean great economic loss through loss of time from work, loss of employment, payment of lawyers and fines, as the case may be. All this economic burden of discrimination increases the poverty and starvation of African families and often

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