

M E M O R A N D U M.

BANTU LAWS AMENDMENT BILL

GOVERNMENT GAZETTE EXTRAORDINARY.
No.430 of 8th February, 1963

6.3.63

After careful study of the Bantu Laws Amendment Bill, published in the Government Gazette Extraordinary No. 430 of 8th February, 1963, the Headquarters of the Black Sash (the governing body of the organisation), places its observations before the Minister of Bantu Administration and development.

In the opinion of the Black Sash, the proposed legislation will have disastrous effects on the spiritual, mental and economic well-being of the African people.

Although practically every facet of the day-to-day existence of the Urban African is already controlled under existing laws, the draft Bill provides for further, more stringent, restrictions. For example, Africans who qualify at present under the provisions of Section 10 of the Native (urban Areas) Consolidation Act, No.25 of 1945, have a legal right to live and work in a proclaimed area. The new Bill converts that right into a privilege to be granted or withheld by the Minister.

We believe that the proposed amending legislation will have the following effects on the African People, on the economy and on the future of South Africa, and will curtail still further the rights of citizens born in South Africa.

1. HUMAN CONSIDERATIONS./.....

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- (a) The Bill removes the small measure of security hitherto enjoyed by Africans living legally in proclaimed areas, which had given them some of becoming stable and responsible members of the community, but the removal of this security will create a rootless and unsettled community.
- (b) It will intensify the already evident break-up of family life, the cornerstone of stability in any society. Presently, the number of convictions for technical offences under the "Pass Laws" is nearly 400,000 a year. Under the new Bill this number will certainly increase, resulting in further loss of employment, and consequently an increase of "endorsements out". Children will be deprived of the care of their mothers; there will be a further decline in parental authority, a growing contempt for the law and an increase in juvenile delinquency and crime. The psychological effect of insecurity and the disruption of home life will affect the mental health and the physical well-being of the Africans. Implicit in this Bill is the control of a man's right to choose a wife because he cannot bring her to live with him in the area where he is employed, except in certain circumstances. This is indefensible. Generally, the separation of husband from wife and children encourages immorality and crime and corrupts the natural desires "implanted by God", which can only be "directed aright" if the sanctity of the home is maintained inviolate./.....

inviolate.

The removal of the discretion of the local authority to allow a wife to visit her husband in a prescribed area, if he has been in employment in that area for a period of not less than two years, is a violation of the right of a woman to live with her husband.

The restrictions which control the entry of women into prescribed areas will aggravate the imbalance in the proportion of males to females in these areas. The social evils which arise therefrom are well known. This imbalance, which is evident today in the Western Cape, may well have been a contributing cause of the disturbances in Paarl and elsewhere.

The sentiments expressed by the Honourable, the Minister of Social Welfare and Pensions, Mr. J. J. Serfontein, in Parliament on the 4th March, 1963 must surely apply to all races. He said,

"We are aware of the dangers which are working
"destructively on family life and this gives
"rise to concern.
"Phenomena such as divorce, alcoholism and
"juvenile delinquency must be seen as unhealthy
"symptoms of the inability of many a family to
"protect its spiritual, organic and functional
"unity in a changing world."

Mr. Serfontein's desire to preserve family life is nullified by the provisions of this draft Bill.

As women, we feel strongly that laws which adversely affect the happiness and stability of the family are unjust, unjustifiable and immoral.

- (c) If permit holders under Section 10 (1)bis of the Native (Urban Areas) Consolidation Act, leave the area at any time, they are in danger of being "endorsed out" on their return/

return, although their families may be dependent for support on their earnings. The deletion of this sub-section in the Urban Areas Act will force them to choose between losing contact with their families or giving up their employment and returning to their homes, where in all probability there is no work available. This is an unwarranted interference with family life.

(d) The Bill will create even more "stateless" people in the land of their birth. The Black Sash has ample evidence that many African men and women, "endorsed out" of a proclaimed area, are not permitted by the local Bantu Commissioner to remain in the area to which they have been sent. In some cases of which we have evidence, people not born in the Bantustans are not legally entitled to be anywhere in the Republic of South Africa. The ensuing frustration, impoverishment and hopelessness even result in attempts to commit suicide.

(e) Africans and their dependents who are removed from prescribed areas to their homes or to a scheduled or released area may be "endorsed out" to rural areas where starvation and malnutrition already exist; areas which are not equipped to house, feed and employ or sustain the people already living there. Africans who are "endorsed out" may be forcibly placed in employment for which they are not suited or which they do not like. They can be placed in "detention" (the Draft Bill does not define the term "detention"). In our opinion, the/

the Government, through these provisions, is planning to create a servile and poverty - stricken labour force.

2. ECONOMIC REPERCUSSIONS.

The Bill departs from the accepted principle of free and private enterprise and adopts the policy of a controlled and directed economy. The Minister will have the power to direct the employment and movement of the country's labour force. In practice this means, indirectly, the control and direction of capital. The minister will have the power to terminate labour contracts, to curtail and control the supply of labour and to force industry to operate in any area in which he may determine that labour is available.

The Bill imposes stringent and unfair conditions on the self-employed African and on the African trader, and provides for severe penalties for infringement of the law. This is contrary to the principle of free enterprise.

The Bill again denies the right, basic in every democracy, that a man shall be permitted to sell his labour freely and to his advantage. This denial makes the worker servile to the state, a condition found in totalitarian and Communist states.

3. THE COST.

(a) Apart from the inevitable deterioration in economic growth, the cost of implementing the new stringent clauses of the draft Bill is incalculable. It is impossible at this stage to predict precisely the increase in the number of man hours spent at Pass Offices, in Courts, in prisons and in the execution of the innumerable formalities imposed on the individual, as well as the ancillary expenses which/

which will necessarily be incurred by the Department of Justice.

(b) The Government's apartheid policy has seriously impaired the public image of South Africa and practically isolated the Republic from the rest of the world. The passing of this draft Bill must exacerbate that position.

(c) Although it was claimed that this amending legislation would smooth the path of the African, we are convinced that its provisions reveal arbitrary power and excessive control over the life of the African. These extremely wide powers conferred upon the Minister will make pawns of these people - pawns to be moved and directed at the whim of the Minister. This new Bill constitutes a further infringement of human rights and liberties.

The structure of race relations in this country, so vital to the well-being of all its inhabitants and the future of the Republic, is further drastically undermined by this Draft Bill. So many of its provisions give the Minister so much power over the lives of human beings that the Black man's bitterness and eventual hatred of the whites must create an extremely grave and highly dangerous situation, full of foreboding for the future.

The multiplication of oppressions under this amending legislation may result in a situation which all the physical power of the State will not be sufficient to contain.

The Black Sash has, over a number of years, consistently protested against the "Pass Laws" and their attendant deprivations/

deprivations of the rights and liberties of the individual. This mass of legislation is not only morally indefensible but is a prostitution of the ideals of democracy which the present Government so frequently professes to uphold.

On the basis of our practical experience of the effects of existing legislation on the urban African, we call upon the Minister to withdraw the Bill with its unethical and inhumane provisions.

Johannesburg, 6th March, 1963.