

REPRESENTATIONS AND COMMENTS BY THE BLACK SASH, CAPE WESTERN  
REGION ON THE BANTU LAWS AMENDMENT BILL - GOVERNMENT GAZETTE  
EXTRAORDINARY NO. 430 DATED FEBRUARY 8TH 1963.

The Black Sash wishes to express its shock, deep disapproval of and disappointment in the Bantu Laws Amendment Bill, published in the Government Gazette Extraordinary No. 430.

The draft Bill does nothing to relieve the hardships and injustices which Africans suffer under existing laws, and takes no cognisance of the repeated representations made by the Black Sash and other responsible White and non-White bodies, of the need to repeal these laws so as to do away with these injustices.

Many of the clauses in this Bill will greatly increase the hardships which Africans suffer on account of discriminatory legislation. The only "concessions":-

1. the possibility of the Minister's granting some exemptions from the application of curfews;
2. the right of Africans to visit African townships in which they are not themselves resident; and
3. the acceptance by the Government of responsibility for paying the cost of repatriation of certain classes of Africans (and their dependants) who are being endorsed out of prescribed areas,

are not likely to do anything to make this Bill more acceptable to Africans. They are in any case not concessions, but merely reasonable ways of administering some aspects of these unjust laws. They will be lost sight of under the multitude of severe new hardships which this Bill will cause.

The Bill makes further drastic inroads into the freedom of individuals, both Black and White, thus undermining the best practices of democratic government, the remnants of which, in the Republic of South Africa, should be carefully preserved and not further eroded.

The Bill contains the undesirable principle, against which the Black Sash has so often protested, of throwing the onus of proving himself innocent on the accused, instead of an accused person being presumed innocent until proved guilty. This subverts the ordinary practice of law in this country and the Black Sash deprecates the tendency of the present Government to extend this principle in many important new pieces of legislation.

Previously it has been mostly non-Whites who have been affected by this departure from established practice, but in this Bill Whites will also be affected as for example by Clause 17 (28 quin (3)(a) of Labour Act), Clause 60(q) ((5)bis(a) of Urban Areas Act) and Clause 64(c) (Section 11(2)(c) of the Urban Areas Act).

While believing that the contents of this Bill will result in increasing race frictions and in causing economic uncertainty, the clauses which most deeply concern the Black Sash are those which tend to increase African hardships and insecurity.

These include all those clauses which tighten up the prohibitions against Africans working in prescribed areas which are usually those areas where the best opportunities of employment are to be found and where the best wages can be obtained.

1. In Clause 61 (9 bis (1) of Urban Areas Act) of this Bill the Minister may, after consultation with the Urban local authority concerned, if any, declare any areas outside a scheduled Bantu area or a released area to be a prescribed area, thus drastically reducing the number of places in the Republic in which an African may be without obtaining special permission.



2. Under Clause 12 (21 ter (6)(b) (x), (xi), (xii) of the Labour Act) district or municipal labour officers are granted the power to refuse Africans permission to be or continue in employment in an area if the State President has prescribed that no further Africans should be employed in that area, or part of an area, or even any particular stand in a town, or if the class of work for which the African is suited has either been totally prohibited by such a regulation in that area, or the quota for that type of work in that area (which quota is decided on by the Minister) has been reached. This will greatly limit the amount of work available to Africans and, therefore, correspondingly increase the amount of unemployment among them. In addition, a labour officer is apparently to have an arbitrary power to refuse to sanction or even to cancel an employment contract if he regards it as not in the public interest or not in the interest of the employer or employee concerned. The Black Sash submit that to give such powers to any official is against the best interest of the public.

3. Over and above these new difficulties placed in the way of Africans seeking work, Africans may, under Clause 60(a) (Section 9(i)(a)(b) of Urban Areas Act) be forced to leave their employment for no better reason than that there is no accommodation for them of the type required by the Government in this Clause, in the vicinity of their place of employment. This, regardless of the fact that they are, or can be, accommodated elsewhere. This is a particularly obnoxious clause as it both deprives the African of his work and deprives the area of his services which are needed.

4. One of the worst clauses in the Bill is 77(p) Section 28(9) of the Urban Areas Act) which makes it possible even for those Africans who, under the present laws, qualify to be in a proclaimed area, to be moved out. The much valued qualifications which, up till now, have given them the right to remain in a prescribed area will be rendered quite valueless as a result of this clause and of Clauses 12 (21 ter (8) & (9) of Labour Act) and 13(b) (Section 23(i)(g) of Labour Act).

In our view, the fact that there has not been more widespread dissatisfaction publicly manifested among Africans at the existing laws has been due to the fact that in every urban area large numbers of Africans had some sense of security as a result of being able to qualify to remain in the area. The fear of losing this right has prevented many who were deeply dissatisfied over conditions generally, from participating in political activities. The loss of this right will remove the most stabilising factor among urban Africans and can serve only to create a feeling of desperation and despair among them.

5. Clauses 12 (21 ter (6)(d) of the Labour Act) and 13(b) (23(i)(g) of Labour Act), referred to above, are particularly harsh, as the first gives power to any district or municipal labour officer to insist that any African not employed or who has been rendered unemployed by having his contract cancelled (often only as a result of the passing of this Bill) shall be accommodated in a depot or in such other accommodation as he (the official) may approve. Thus not only can the African lose his right, under this clause, to remain in a prescribed area, but the comparative freedom which he enjoys as a qualified African can be replaced by confinement in depots, with no right of appeal to the Courts.

6. The Second (Clause 13(b)) arranges for the "disposal" or return to their homes or to a scheduled Bantu area or released area of Bantu (including their dependents) whose contracts of service have been legally cancelled or have otherwise terminated, or who have been ordered to such area by a competent authority, or Bantu declared medically unfit for employment and the placing in employment and detention of such Bantu in such areas. Thus the hardships of unemployment and ill-health which always press very heavily on the lower income groups, are to be greatly increased by making these two misfortunes the cause for the deprivation of security of domicile.



7. This Bill will make life more difficult for African property owners who, should their property be in an area zoned for a non-African group, under Clause 60(c) Section 9(2) of Urban Areas Act) will lose the exemption, which registered property owners in a prescribed area have, if their property is valued for rating purposes at more than R150.
8. Under Clause 60(g) (Section 9(2)(e) of Urban Areas Act) Domestic servants are likely to be driven out of employment as only one will be allowed to reside at his place of employment and, as there is no suitable accommodation in the Bantu townships for the others they will, under Clause 12 (21 ter (6)(d) of the Labour Act) have to go to a depot or to such other accommodation as the district or municipal officer may approve. Even if there were accommodation available in the townships, they are usually so far away from White residential areas that the extra time and cost entailed in going to and from the townships would make it impracticable and economically impossible for many households to continue to employ them. In this country domestic service provides a valuable source of employment and this clause will wantonly cause artificial unemployment among Africans who are seeking work and whose services are required.
9. The deletion under Clause 62(e) of the important right which Africans have had under the present laws (Section 10(i) bis Urban Areas Act) to return to their place of employment if they have not been away for more than 12 months, is iniquitous since there can be no certainty on the part of the man who goes to visit his family that he will be granted permission to return to his former job. This will make men fearful to visit their families outside a prescribed area.
10. The removal of the above-mentioned right under Clause 62(e) becomes doubly objectionable when taken in conjunction with Clause 75 which repeals section 23 of the Urban Areas Act under which local authorities had the right to grant permission to African women to visit their husbands or fathers, provided these men had been working continuously for two years in that area. If African women who at one time were free to come and go as they pleased are no longer to be granted permission even to visit their husbands, and if the price a husband may have to pay for visiting his wife is the loss of his right to return to his previous employer (with consequent loss of his right to remain in a prescribed area) how are married Africans ever to be together and at the same time earn enough money to support themselves and their families? "Visits" at least are essential between husbands and wives if homes and marriages are not to break up.
11. The difficulties of African women, which are already severe, will become even worse under this Bill. Under Clause 12 (21 ter 6(e) of the Labour Act) one of the worst aspects is that any African woman wishing to enter a prescribed area for the purpose of taking up employment must produce a certificate of approval from the Bantu Affairs Commissioner in the area where she normally resides, given by him after reference to the Chief, Headman or Bantu Authority; and if she is under the age of 21 years or is married or widowed, her guardian's or husband's consent, before obtaining the written consent of the Labour Officer and the Chief Bantu Commissioner in the area where she wishes to work. In the many, many cases which occur of husbands who have taken up with other women, because they have been away from home (and so have ceased to feel any close link with the wives and children from whom they have been parted for so long), it will be hard to get the husband to give such permission. Yet it is usually in these cases that the need of the wife to seek work in a prescribed area is most urgent.
12. Clause 12 (21 ter 6(c) of Labour Act) gives the Minister the sole power to decide who may trade in African townships. It seems to the Black Sash that no one person should have such powers in a so-called free society. These powers will have to be delegated to officials, and this lends itself to bribery and corruption.



13. Clause 78 (Section 29(3) of the Urban Areas Act) widens the definition of "undesirable" Africans to include people who, for example, advocate strikes or try to organise politically. If an African indulges in such activities within the Republic he can not only be convicted and punished by the courts but he can also, after he has served his sentence, be banished to any place indicated by the Bantu Affairs Commissioner or be sent to and detained in a work colony. The Black Sash not only strongly disapproves of political activities, which are regarded as normal and legitimate in other Western democratic countries, - such as the right to strike - being made illegitimate to Africans but it considers that removing discontented Africans unwillingly to their homes will only increase the discontent. It deplores the fact that under this draft bill Africans can be put under detention in depots for political offences which in other Western countries are regarded as accepted ways of obtaining improved conditions.

14. The definition of an idle African is very much widened in Clause 78 of this Bill which amends section 29 of the Urban Areas Act, and now includes any African over the age of 15 and under the age of 60 (women) 65 (men) whether or not he is adequately supported by parents or guardians, if he offends against any of the clauses of sub-section (2) of Section 29 of the Urban Areas Act.

Clauses (ii) (iii) (iv) (v) (vi) of (a) and (d) of sub-section (2) are all new definitions of "idle", and it is quite obvious that if these new provisions of the law are enforced, thousands of Africans could be declared "idle" simply because they have failed to report as unemployed within one month of losing a job or because they have offended against any other of the above provisions often just through ignorance of the law.

15. Clause 13(j) (Section 23(i)((s) and (t) of the Labour Act) deals with the establishment of Depots and Youth Centres, the classes of Africans who will be sent to them, how they will be controlled, voluntary residence and compulsory detention at these places, and the control, housing, feeding, medical examination, training, treatment and placing in employment of Africans admitted to these centres.

There is nothing in the Bill to suggest that these Depots and Youth Centres will be subject to the ordinary existing laws governing health, sanitation, prisons, housing, education or, in the case of the Youth Centres, the provisions of the Children's Act, or that the Ministers of Health, Education, Social Welfare, Justice etc. will be as responsible for what goes on in the centres as the Minister of Bantu Affairs. It seems to foreshadow the erection of vast, otherwise useless camps into which groups of people will be concentrated and where no public inspection by local authorities etc. will be possible. The Black Sash views with alarm the idea that human beings can be forced to live in Depots merely because they are unemployed or not allowed to accept employment, and that what goes on in the Depots is the ultimate responsibility of one man.

16. In conclusion the Black Sash would like to state that it is utterly convinced that if the proposed Bill becomes law it will exacerbate, to an uncontrollable degree, the ill-will which already exists on the part of Blacks against Whites.

17. It would appear that the conception behind the Bill is that Africans shall have no rights in White areas of the Republic and that they will only be allowed in to work for Whites in such manner as may best suit the Government.

18. A careful perusal of this Bill makes us conclude that while workers are to be pushed out of prescribed areas, i.e. including all the Urban and Industrial areas in the country, and can even be arbitrarily removed from the employment they have, there is nothing to ensure that this will only be done if other suitable employment with comparable wages is available elsewhere.

19. From our experience of the position at present we know that people are sent out of urban areas even if there is no employment available elsewhere and/or without the worker being informed of where he can definitely obtain similar adequately paid employment.



20. It seems to be contemplated that the Africans not wanted by the Government in towns are to be sent to African areas where, as everybody (including the Government) knows there is virtually no employment available.
21. Indeed, the Bill evidently contemplates a concentration in these areas of settlements or camps of displaced persons which will serve alike as dumping grounds for their dependants and as sources of cheap migrant labour for White employers whose wages and conditions of employment would not attract "free" labour.
22. While it has been noted that sums of money are to be expended on the provision of houses in the Reserves it has also been noted that no provision has been made to provide adequate opportunities for employment for the Africans who are to be removed from prescribed areas.
23. The Tomlinson Commission made it clear that a living on the land could be had for only about half of the population of the African areas at that time, and that the other half needed to be provided with other avenues of employment if they were to earn enough to support themselves and their families. Avenues of employment for these people have not as yet been provided and yet it is now proposed in addition to send Africans there from outside.
24. Where there is real unemployment we believe that this should be dealt with as an economic problem and by using the methods adopted in other Western civilized societies; by creating, and encouraging private enterprise to create employment opportunities; by making assistance available in the form of adequate education, specialised training and unemployment insurance funds etc. etc. and not by driving away the unemployed to some remote place and by forced labour.
25. The Black Sash considers that it is morally unjustifiable and totally unrealistic to treat Africans in the so-called "White" areas of the Republic as if they were cattle.
26. The Black Sash believes that the increasing number of disturbances and the recent outbreaks of violence on the part of Africans are a direct result of the harsh, unjust, discriminatory laws which so bedevil every aspect of the daily lives of Africans in the Republic. So far the Western Cape appears to have suffered from the strictest application of the existing laws, but under this new Bill Africans throughout the whole country can be as adversely affected as those of the Western Cape are at the moment. In the opinion of the Black Sash this is likely to drive the majority of Africans to a point of complete desperation, and to cause them to form or join utterly undesirable organisations as being the only way left open to them to bring about change.
27. It is the firm belief of the Black Sash that laws which are unjust can never help to ease race frictions but only to increase them.
28. As has been shown fully, and we hope clearly, in this Memorandum, the proposals in this Bill will make the already very hard lives of Africans almost unendurable. To perpetrate such an abuse of the power which Whites have over the lives of Blacks by virtue of their political dominance would be to the everlasting disgrace of White South Africans in general and of the Nationalist Government in particular. We therefore request with all the sincerity at our command, that this Bill should not be adopted by the Government, whom we have been given to understand are not as yet committed to it.