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POLICY FOR URBAN BLACKS IN THE REPUBLIC OF SOUTH AFRICA

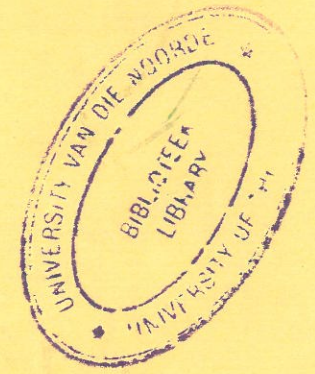
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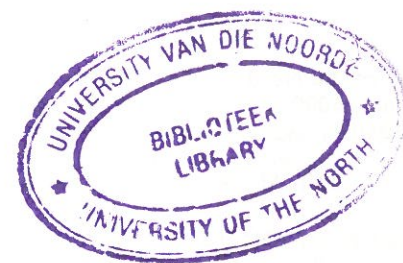
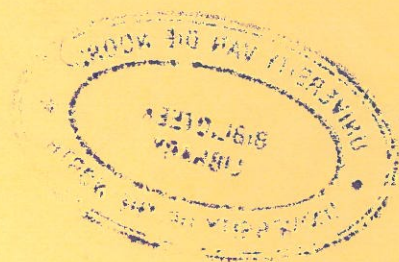
I.O.H.M. MAPENA
M.A. (S.A.), U.O.D.



INAUGURAL LECTURE DELIVERED ON ACCEPTING THE CHAIR OF
AFRICAN GOVERNMENT AND LAW AT THE UNIVERSITY OF THE NORTH ON
FRIDAY THE 15TH OF SEPTEMBER 1978.

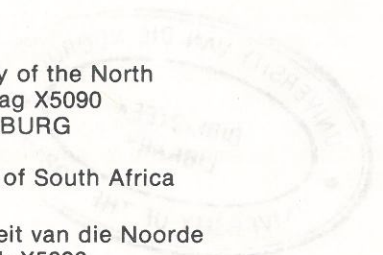
POLICY FOR URBAN BLACKS IN THE REPUBLIC OF SOUTH AFRICA

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(This address is published posthumously. It was brought up to date and prepared for publication by R.M. Leseme, lecturer in the Department of African Government and Law, University of the North.)

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Mr. Vice Chancellor, members of Council, Colleagues, Ladies and Gentlemen.

INTRODUCTION

Official policy divides the South African population into four main groups, namely, Whites, Africans (Blacks), Coloureds and Asiatics. The lastnamed three are sometimes all referred to as Blacks, and it is particularly the members of these groups who differ with official policy which stresses this distinction. The trend since the beginning of the second half of the twentieth century has been to draw sharp dividing lines between these groups and to bring about a greater measure of separation. This can be seen in the separate political and administrative arrangements for each group; separate social and educational facilities; and separate regulation of economic rights.

In so far as the Blacks are concerned separate areas of land have been set aside for them. According to statute such areas became known as "scheduled native areas" (Act no 27 of 1913) and "released areas" (Act no 18 of 1936). These areas were generally referred to as "native areas". The term "Bantu areas" replaced "native areas" from the 1950's, and in the 1960's they were officially styled "Bantu homelands". From 1 August 1978 these Bantu homelands have become officially known as the "Black states". They are Transkei (independent since October 1976), Bophuthatswana (independent since December 1977), Venda (independent since September 1979), and the self-governing Gazankulu, Lebowa, KaNgwane (Swazi), Qwaqwa, KwaZulu and Ciskei; as well as the recently-established South Ndebele Territorial Authority.

According to official policy every Republican Black belongs to one of these states, and he can hope to exercise political rights only in the state to which he belongs. However, the extent of, and economic activities in, these states are such that at most not more than half of the "citizens" can in fact reside and earn a livelihood in them. The result is that in most cases more than half of these "citizens" live outside the state concerned: Some live and work in the rural areas in what is officially the "White area" (i.e. on White farms, etc.) and others in the towns and cities in this White area. It is the viewpoint of some South Africans that the so-called "White area" should in fact be called the "common area".

The urban Black residents, who are the subject of this discussion, have maintained a steady and consistent increase, as the following figures show (Unie van Suid-Afrika, U.G. No. 28 of 1948 para 7; Horrell (1963) p. 74; Horrell *et al* (1971) p. 59; Gordon (1977) p. 51):

Table Showing Growth of Urban Black Population

Year	No of Blacks	Percentage of total Black Population
1921	587 000	12,50
1936	1 141 642	17,31
1946	1 794 212	23,00
1951	2 312 000	27,10
1960	3 471 233	31,80
1970	4 989 371	33,13
1975 (est.)	6 240 000	-----
2000 (est.)	15 000 000	-----

It has already been mentioned that the urban Blacks are linked with the states occupied by their ethnic groups. This factor plays a very important part in the determination of the policy affecting them. It is particularly this policy which is discussed in this address.

HISTORICAL BACKGROUND

Historical evidence at our disposal points to the fact that South African Blacks started settling in the urban areas in large numbers owing to the attraction exerted by mining and the resultant industrialisation of certain parts of South Africa. This process has been going on since the last few decades of the 19th century. These Black immigrants came from the rural areas which had been specially set aside for them as "locations" or "reserves"; they also came from the farms which were owned by White farmers in whose service they had been. They were not alone in this migration: There were also Asiatics, Coloureds and Whites, and some of the lastnamed group even came from overseas to supplement the much-needed skilled labour. The mining and other industries as well as commerce needed the skilled labour of all these people; the newly-established communities around these mining and industrial areas needed their services in various spheres of life.

Before Union was formed in 1910, the general trend of policy in the Cape Colony, Natal, Transvaal and Orange Free State was to entrust the administration of, and provision of services for, the Blacks to the local authority established by statute and governing the particular urban area. The same local authority had jurisdiction over other population groups settling in the area. However, regarding the Blacks, there is this notable difference: Pre-Union legislation empowered the urban local authorities to establish separate residential areas for the Blacks, which were also called "locations". Separate measures were adopted to regulate the Blacks' entry into and residence in these areas, registration of service contracts,

movement within these areas, and to some extent the welfare of the Blacks. (G. Davis, *et al*, 1959 pp. 1-2).

These urban local authorities before Union were subject to the state governments which had established them. Provincial governments were substituted for the state governments after Union, and the former were charged with the control of these local authorities in terms of the constitution. (Sections 85 and 81 of the *South African Act*, 1909). The same Union constitution empowered the Governor-General-in-Council (i.e. the Governor-General acting on the advice of the Executive Council) to exercise control and administration over matters affecting Blacks throughout the Union. (Section 147 of the *South Africa Act*, 1909). These provisions created a conflict: There arose the question, debated over a number of years, whether in the exercise of their powers in regard to the Blacks the local authorities were subject to their respective provincial governments or the Central Government. It was finally accepted that the ultimate authority must be the Central Government. The Central Government insisted on this view for two reasons: First, that arrangement would enable it to bring about a uniform policy throughout the Union; Second, the Central Government department concerned would effectively supervise the urban local authorities in the promotion of the interests and welfare of the Blacks in the "locations". (Davis *et al*, p.2, 1959). The acceptance of this view paved the way for the Central Government to centralise matters affecting the Blacks, and in this particular case, to lay down what it considered as a uniform urban policy.

PRESENT URBAN POLICY FOR BLACKS

The present urban policy for Blacks was first laid down in an act of Parliament passed in 1923, (Act 21 of 1923) which was superseded by the present law enacted in 1945 (Act 25 of 1945) and has been amended not less than 28 times between 1945 and 1977. The 1945 urban legislation enshrines the views and principles of a Transvaal commission, which were adopted by the Union Government. The following viewpoint forms the cornerstone of urban Black policy:

We consider that the history of the races, especially having regard to South African History, shows that the co-mingling of black and white is undesirable. The Native should only be allowed to enter the urban areas, which are essentially the white man's creation, when he is willing to enter and to minister to the needs of the white man, and should depart therefrom when he ceases so to minister. (Davis *et al*, 1959, p.5).

Almost thirty-five years later the above viewpoint was emphasized by the then Minister of Native Affairs, Dr. H.F. Verwoerd, in the following words:

(The) European areas... (are) the home of the European's rights and there the Native is the temporary resident and the guest, for whatever purpose he may

be there... The Native residential area in the town is only a place where the European in his part of the country provides a temporary dwelling for those who require it of him because they work for him and thus earn their living in his service. (Davis *et al*, 1959, p.6).

The first fundamental principle of policy which is emphasized in the above extracts is that of *the impermanence of the Blacks in the urban areas*. The Transvaal commission is of the view that the Black should only be allowed to enter the urban area in order to serve the needs of the White man and must depart as soon as his services are no longer needed. It should, however, be pointed out that the right of some Blacks to enter and reside in the urban area in order to serve "the legitimate needs" of their fellow Blacks is acknowledged. (Davis *et al*, 1959, p.4). This has made possible the presence of Black clergymen, teachers, medical practitioners, nurses and other professional classes and artisans.

I wish to draw attention to what I regard as a second fundamental principle. The Transvaal commission already referred to points out the "undesirability" of the "co-mingling of black and white". In so far as urban settlement is concerned we have seen above that all four territories before Union adopted the principle of residential segregation or separation in the urban areas. We find it in application in the Republics of the Transvaal and the Orange Free State whose standpoint was segregation and no equality between Black and White; it was also in force in the liberal Cape and the less liberal Natal, where it was influenced by the dictum "equal rights for all civilized men", particularly in the Cape Colony. The Transvaal commission was evidently referring to the armed clashes between Black and White as well as the division of land in South Africa through the reservation of "locations" for Blacks; and the pre-Union residential segregation in the urban areas strengthens this conviction. The Black people in the urban areas are clearly treated as a separate population group, as is the case in the constitution. This has led, we have also noted, to differential laws imposed upon this separate group.

The 1945 legislation empowers the urban local authority, after due approval, to set aside separate residential areas for the accommodation of the Blacks and to compel all Blacks in the urban area to take up residence in such separate areas. (Sections 2 and 9 of Act 25 of 1945). The effect of these fundamental principles can also be seen in a number of aspects of the urban local government of the Blacks. I propose to deal with only a few of these aspects in this address.

1. Separate administrative machinery

Up to 25 November 1971 the Blacks in the urban areas fell under the jurisdiction of the town councils and other local government bodies which are named in the Union and, subsequently, Republican constitution. These urban local authorities, as they are called, were compelled by law to

establish a separate administrative machinery for the management of the affairs affecting the Blacks and the promotion of their interests and welfare. (Section 22 Act 25 of 1945). A new machinery of administration boards came into operation from 26 November by virtue of an act passed by Parliament during the 1971 session (Act 45 of 1971). As a result of the recommendations of a departmental committee twenty-two administration boards were established between September 1972 and September 1973. (Horrell *et al*, 1972 p. 152; 1973 pp. 127-8). It was announced recently that the number had been reduced.

This 1971 legislative measure is a sequel to the struggle between the central authority and local authorities since Union. It introduces far-reaching changes in urban administration in the Republic of South Africa. By virtue of this measure a machinery is created whereby the Department of Coöperation and Development can see to it that the government's policy is carried out uniformly and according to the letter of the law. This measure was evidently inspired by the provisions of the constitution of the Republic of South Africa which empower the Central Government to exercise all powers in respect of Black policy and administration. (Section 111 of Act 32 of 1961), A greater measure of administrative centralization in respect of matters affecting the Blacks is envisaged, which has been a marked feature of the second half of the twentieth century. It is also a further separation of Black affairs from matters affecting other population groups. It should also be noted that the act is applicable to rural areas outside the Black States as well, i.e. to the White rural areas.

The act empowers the Minister of Coöperation and Development to establish an administration board with jurisdiction over an administration area declared by him in the Gazette. Such an administration area may include the whole or portions of areas under the jurisdiction of existing local authorities as well as rural areas in a number of districts, and will therefore be much more extensive than that of municipalities and similar authorities. (Section 2 of Act 45 of 1971). For example the Vaal Triangle Administration Board when established in 1972 comprised areas of 6 local authorities; the Central Free State, 19 local authorities; the Western Transvaal and the Northern Free State, 26 local authorities each. (Horrell 1973, p. 127).

Each board consists of a chairman appointed by the Minister and as many members as the latter may determine. Such members must consist of one or more representatives of each of the following: (a) agricultural employers, (b) commercial and industrial employers, and (c) every local authority, the whole or part of whose area of jurisdiction is included in the board's administration area. Where there is a large number of smaller local authorities the representation is per magisterial district. (Section 3 of Act 45 of 1971).

An administration board supersedes any local government in so far as the

administration of Blacks within its area is concerned. Generally speaking, the object of a board is to administer within its administration area all matters affecting the Blacks so as to give effect to the purposes of the act, which was enacted "to make better provision for the administration of Black affairs" outside the Black states. The Deputy Minister of Coöperation and Development stated the objects as follows: (Republic of South Africa 1971 Column 1963) "... to achieve an efficient administrative system which will in the main have to meet three requirements, namely:-

- (a) to provide greater mobility of Bantu labour;
- (b) to establish a more effective machinery in respect of Bantu affairs over a much larger area; and
- (c) to join in a statutory body, and on the basis of knowledge of Bantu affairs and a real interest in the Bantu labourer, as a worker and as a person, the best talents for the achievement of the objectives mentioned."

The administration board is responsible for the allocation of labour within its area. It is vested with the wide powers in respect of land to enable it to provide the necessary accomodation. (Sections 11 - 12 of Act 45 of 1971). The board inherits the separate financing system under the 1945 urban areas act, and it is required to be self-supporting financially. Unlike the urban local authorities under the 1945 legislation, (Section 38(3) Act 25 of 1945, Section 22 of Act 45 of 1971) the boards are not competent to make regulations, this power being vested in the Minister.

Some adverse criticism can be levelled against the system of administration boards. In the first place, there are no Black members on these boards, and they are therefore unrepresentative of the very people whose affairs they are to administer. Second, while the board may be successful in the implementation of policy, the provision of essential services suffers, because the board's teams cannot cope with the demands of each area of a former urban local authority. Where a Black township is removed to another locality a board does not always have its priorities right.

Third, the requirement that the boards should be financially self-supporting has been to the detriment of the Blacks.

Right from the very beginning the boards have encountered difficulties because of the rising costs of services, salaries, etc. (Horrell *et al*, 1974 p. 165). The result has been the imposition of increased rentals at frequent intervals since 1974. Such increases are not in keeping with the financial position of the Blacks and constitute a really heavy burden. The boards will no doubt argue that they have no power over remuneration which employers pay their employees; yet those very boards are representative of the employers of the Blacks.

2. Separate and limited participation in local government and administration

The limited rights of the Blacks are also seen in the extent to which they can influence decisions and acts affecting them. There are at present three forms in which the urban Blacks play some role in their local government, namely, Black advisory boards, urban Black councils and community councils.

The urban *advisory boards* are provided for in the 1945 urban legislation. Although the relevant clause (Sections 14 (1) of Act 125 of 1977) has been repealed as from 29 July 1977, (Sections 14 (2) and 10 (1) of Act 125 of 1977) there are many advisory boards still in existence during this transitional stage (Section 21 (1) of Act 25 of 1945) and it is therefore necessary that we acquaint ourselves with this institution. Up to 1961 all urban local authorities were compelled to establish advisory boards in respect of their Black townships. Each advisory board consists of a chairman (who may be white), and at least three Black residents. The urban local authority has power to define, by regulation, the mode of election or nomination of members; the procedure; the period and conditions of office; the duties and functions of a board as well as joint meetings of advisory boards.

The powers, duties and functions of an advisory board can be summed up as follows: To consider and report upon proposed regulations; any matter referred to it by the local authority of the Minister; any matters specially affecting the interests of the Blacks in the urban area. A board can also recommend regulations which it considers necessary or desirable in the interests of the Blacks in the area. (Section 21 (2) of Act 25 of 1945, L. Reyburn 1960, p. 7).

Thus the advisory boards are purely advisory. The only influence they do exert is in the consideration of, and reporting upon, the estimates of expenditure and proposed regulations, which must be placed before the Minister before he can approve of the estimates or regulations.

After a fair trial the system of advisory boards has been found unsatisfactory. The boards do not afford the Blacks a meaningful role in the determination and management of their affairs, and the system is frustrating and embarrassing to those Blacks who offer their services to their fellowmen. The boards do not satisfy the Whites either because, in the latter's view, they serve as a political platform — hence the efforts to phase them out. What the White critics fail to appreciate is the fact that the Blacks on these boards have to advise honestly on the effect of policy and regulations framed thereunder upon the township residents.

The next form of participation which has operated alongside the advisory board system is the *urban Black council system*. This was introduced by an act passed by Parliament in 1961. (Act 79 of 1961). The first three of these councils were set up in 1963 and by the beginning of 1975 there were 24 of them in the whole Republic. As in the case of advisory boards, provision has

been made for the repeal of the law under which the councils are established and they are also being phased out as a new system is introduced. (Cf. Section 14 (1) and (2) and 10 (1) of Act 125 of 1977). For purposes of continuity and comparison I wish to make a few remarks about this system which was never really accepted by the Blacks.

Under certain circumstances an urban local authority could establish an urban Black council in respect of a township, part of a township, two or more townships or parts of townships or even an ethnic group. (Section 2 (1) of Act 79 of 1961). The authority was empowered to determine the maximum number of councillors, the law only stipulating a minimum of six elected and nominated members. These nominated members could be selected from among the urban representatives of Black chiefs. (Section 2 (2) of Act 79 of 1961).

A study of the provisions governing the council's powers, functions and duties reveals that this body could play a meaningful role only after the urban local authority had assigned some of its powers to the council, or after the Minister had conferred some powers upon it. Normally the council started as an advisory body like its predecessor, with the law stipulating that it had to give advice and assistance to representatives of ethnic units and also consult with any Black who exercised judicial powers conferred on him by the Minister. Not only were the councils subordinated to the urban local authority but they had to maintain a link with the tribal and ethnic administration outside the urban area. The councils' lack of powers clearly contributed to their failure to win the approval of the Blacks. Evidently even the local authorities were not keen to have them, as can be seen from the small number of councils established in twelve years. (Horrell *et al.* 1976, pp. 186-7).

As mentioned earlier, advisory boards and urban councils are being phased out and in their place are to be established *community councils* by virtue of an act passed by Parliament in 1977. (Act 125 of 1977). It is noteworthy that the law-maker decided to drop the term "Bantu" from the name of this body long before replacing it in all legislation, although he was compelled to use it in the provisions of the act. In the case of the community councils we note the centralization which we saw in the discussion of the administration boards. Only the Minister of Plural Relations and Development can establish a community council and only he can dissolve it. (Section 2 (2), (3) and (5) of Act 125 of 1977). Consequently the Minister will determine the number of members of a community council, their mode of election, and the categories of voters. (Section 3 of Act 125 of 1977 as amended by Act 28 of 1978). The administration board — which is the local authority — will act in an advisory capacity, because the law provides for the Minister to consult it.

Once a community council has been established it will find itself vested with the following powers: submission of reports on matters referred to it; making of recommendations on specified matters to the Minister,

administration board, transport authorities and educational authorities. It must assist and advise the representatives of the Black states ("national units" or "ethnic units"); it will control and manage a community guard established by the Minister. Meaningful powers can, however, be assigned only by the Minister. Such assignment will be the subject of negotiation between the Minister, the council and the board. Such assignment may result in the council's exercising powers and performing duties in respect of fourteen matters relating to the social, economic, educational, cultural and recreational life of the Black residents. It is evidently after this assignment that the councils can appoint staff, impose levies and appoint committees. Then the council will be on a par with an urban local authority and, like the administration board, exercise powers and perform duties under certain laws applicable to Blacks in urban areas. The council will then have funds of its own once it has these powers. (Section 5 and 9 of Act 125 of 1977).

It is remarkable that the council will assume the status of an urban local authority in the administration area of an administration board, which is itself an urban local authority. It is also significant that the board will always be standing by, ready to resume any powers which the Minister may withdraw from the council. It is not clear from the provisions of the act whether the community council can own the land on which its citizens are resident, but it can be deduced from policy that this is unlikely.

Although a community council may have more powers than an urban council, it remains a subordinate body subject to the overriding authority of the Minister. (L. Gordon *et al* 1977, pp. 381-2).

3. Limitations on rights to land and accommodation

The principle of impermanence also operates adversely against the Blacks when it comes to acquisition of rights to immovable property. With few exceptions, Blacks can acquire only residential rights in the separate areas (which are called "urban residential areas", but are commonly known as townships). Hence a Black is not competent to own immovable property in a township, and the land is not heritable by his descendants or relatives. This is a radical change from African customary law, some of whose principles our policy recognizes. In terms of the indigenous legal system land which has been allotted to the head of the family becomes family property. This rule does not apply in the urban townships. (The position is also influenced by the land policy as embodied in the land acts 27 of 1913, 18 of 1936 as well as the *Group Areas Act* 36 of 1966).

In spite of this limitation Blacks have, in terms of the law, built themselves houses on sites allotted to them in some townships throughout the country. Such Blacks pay not only the fees and charges for services rendered but also rental for land, which is and remains the property of the urban local authority (i.e. the administration board). In other townships or parts of townships urban local authorities have erected buildings and have leased them to Black residents. Policy up to 1955 was for the urban local authority

to retain the ownership of such buildings and the residents were perpetual lessees. That year parliament passed an amendment to the 1945 urban areas act which allowed the local authority to sell such dwellings to Blacks. (Section 16(c) of Act 25 of 1945). That was done to promote a sense of ownership and cultivate civic pride. Restrictions were, however, imposed on house ownership by Blacks in urban townships outside the Black states in 1968, but these have since been lifted. (Horrell *et al*, 1976, pp. 186-7). Recently a 99-year leasehold scheme was introduced in terms of which Blacks can buy houses situated on land belonging to the administration board or lease vacant plots and build their own houses. Sections 6 A-D of Act 25 of 1945 read together with Government Notice no. R2471).

Here I quote section 6 A(1)(a) of Act 25 of 1945, inserted by section 2 of Act 97 of 1978:

Notwithstanding the provisions of this Act or of any other law to the contrary, an administration board may in respect of land acquired by it under section 12 of the Black Affairs Administration Act, 1971 (Act no 45 of 1971), or of which it is the registered owner, upon application made to it in a prescribed manner and on the conditions prescribed generally or approved by the Minister in any particular case, grant in the prescribed manner in respect of any surveyed site situated on such land, a right of leasehold for a period of ninety-nine years to a qualified person, excluding an association, for residential purposes or to a qualified person, including an association, for the purposes of conducting on such site any profession or business.

This will make it possible for Black owners again to mortgage, sell in execution or otherwise, or bequeath their property to other qualified persons, including legal persons. (See section 6 A (6), (7) and (8) of Act 25 of 1945 as inserted by section 2 of Act 97 of 1978.).

4. Precarious right to reside in the urban areas

As has been stated earlier, the Black's rendering of service in the urban area is the most important factor determining the permission to be, and reside, in the area. The Black male's right to be and reside in the area is determined by one of the following qualifications: (1) continuous residence in the area since birth; (2) continuous employment by one employer for not less than ten years; (3) lawful and continuous residence in the area for not less than fifteen years. The retention of the qualification depends upon a number of conditions, including continuous employment. Black females as well as children acquire the right to reside in the area through the Black male (i.e. husband or father) who so qualifies — and this often presents problems to a female or children coming from outside the area that make family life impossible. Another Black male who may be allowed into the area is the one permitted by the labour bureau, but his permit does not entitle him to bring his wife and children into the area. Urban employers are prohibited from employing Blacks who do not qualify or have not been permitted to take up employment in the area.

However, migrant workers who are recruited for mining and other industries are not affected by these stringent provisions. This is because their stay conforms with policy: They have not come to swell the urban population because they are due to return to their homes at the end of their contracts.

Penalties for contravention of the entry and residence rules include removal of the Blacks to the Black states. (Sections 10 - 14 of Act 25 of 1945.).

THE NEED FOR CHANGE OF POLICY

The preceding discussion has drawn attention to the implementation of the two principles of policy which apply to Blacks in the urban areas of South Africa. This policy has its roots in the past century; it was influenced by the norms, values and circumstances of the nineteenth century. These norms and values have inspired the policy-makers to treat Blacks as a separate population group, belonging to separate areas where Blacks may exercise full rights as citizens. This policy, known today as "separate development", is regarded by the present white generation as traditional. The following description by the President of the South African Institute of Race Relations twelve years ago explains this fact aptly:

Today's white South Africans are the heirs of a social tradition of segregation, of white supremacy and white survival. They did not create the tradition. They were born or migrated into it. Our policy-makers have decided that this tradition cannot be changed. (D.E. Hurley, 1966, p. 6).

What has been the reaction of the Blacks to the policy formulated by the South African policy-makers for them? A study of the history of African nationalism reveals a consistent rejection and mounting opposition from before Union up to the present day. The urban Blacks in South Africa are like urbanites everywhere: They are more literate, more informed, they have greater opportunities to exchange views, and they are thus more vocal and active politically. They cannot understand the logic — if there is any at all — of the non-recognition of their rights where they live and work, and the denial of full rights as citizens of the part of the country where they were born and have always lived and to whose development they have contributed as their forebearers have done.

A further examination of the statistics given at the beginning of this address shows a remarkable growth in the proportion of urban Blacks *vis-a-vis* Blacks in the rural areas, both on White farms and Black territories: From 12,50 in 1921 to 17,31 in 1936, to 23% in 1946, to 27,1% in 1951, to 31,8% in 1960 and 33,13% in 1970. The proportion as at 1970 shows that the earlier tempo was not maintained. This can be accounted for in the following way: During the period 1960 - 1970 there was shifting of homeland boundaries resulting in some municipal townships falling within the homelands; other

municipal townships were disestablished and their populations settled in newly-established townships in adjacent homelands, and the Black residents thereof commute between these townships and the urban and industrial areas. It is further noteworthy that the Black urban population increased from just over half-a-million to nearly five million in 50 years (1921-1970) — the increase being 8½ times or 850% in that period, in spite of the increasing stringent application of the influx control regulations. This phenomenon and its significance were pointed out by two government commissions. The first is the commission whose chairman was Justice H.A. Fagan in 1946 to 1948. The Fagan Commission expressed itself on the matters as follows:

Ons het in ons stedelike gebiede nie alleen Naturelletrekarbeiders... nie, maar ook 'n gevestigde, permanente Naturellebevolking. Dit is eenvoudig feite, wat ons as sodanig in die oë moet sien... (Union of South Africa, U.G. No. 28 of 1948, para., 28).

The next commission to express its view on this point was headed by Professor F.R. Tomlinson. Having been committed ideologically, the Tomlinson Commission was not as forthright as its predecessor, but it stated its findings in the following words:

When it is desired to determine how many of the Bantu are already 'permanently' settled in the towns and cities, we are confronted with the problem that the interpretation of 'permanent' presents many difficulties, and that probably a number of degrees of 'permanency' can be distinguished. Various methods have been applied to determine the extent of the established Bantu population. The conclusion has been drawn that there may have been a minimum of 1 036 000 and a maximum of 1 618 000 of such Bantu in 1951, and that the actual number cannot differ much from 1 500 000.... Migration of Bantu women to the towns is usually of a permanent nature. (Union of South Africa, U.G. 61 of 1955, p. 28).

According to this reasoning about two-thirds of the Blacks in the urban areas in 1951 could be regarded as permanent.

Individual South Africans have time and again expressed themselves along the same lines, and it can be concluded that they reflect the thinking of many white South Africans. We refer to two of them who can be regarded as representative. This is what the first of them has said on this question:

...Vast numbers of Africans will inevitably live permanently outside their respective homelands in the White area. (D.C. Grice, 1974, p. 8).

The second South African, arguing about "own national territory", admits that the concept does not apply to the Coloureds and Indians and considers that for them:-

... an eventual dispensation will have to be found along the road of parallel development and also in respect of the large number of Bantu living outside their homelands (of whom) very large numbers, to put it bluntly, are settled *de*

facto in the White areas more or less permanently. (S.T. van der Horst, 1972, p. 24).

The above statements on census statistics and views on urban Blacks underlines the fact of their permanence in the urban areas. It is also important to point out that not only are the Blacks in the common area increasing proportionally but that they also exceed the Blacks in the homelands. According to the 1970 census figures, there were over fifteen million (15 057 559) Blacks in the whole of the Republic of South Africa. Of these, over eight million Blacks (8 059 325) — representing 53,5% of the total Black population — were counted in the common area (White farms and urban areas). (S.T. van der Horst, 1972, p. 6).

In the majority of the Black states more than half of their ethnic citizens are at any one time not resident in these states. Let us take two cases for purposes of illustration. The first is Qwaqwa, which is a consolidated state. As at 1976 its extent was 48 000 hectares and after the addition of promised land it will extend to 62 000 hectares. Qwaqwa is the homeland of the Southern Sotho-speaking Blacks who were estimated to be 1 698 000 in the Republic in 1976. The estimated *de facto* population of Qwaqwa then was 90 500 (although it is claimed that the correct figure is probably 180 000 because of unofficial migrants who are squatting there). (L. Gordon *et al*, 1977, pp. 311 and 358).

The following observation was made in 1973 about Qwaqwa and Thaba Nchu:

... It is of interest to note that the total Black population in the Free State in 1970 was 1 317 000 and of these 778 000 are Southern Sothos (described in the census as Seshoeshoe). There are officially only two homeland areas in the Free State — Thaba Nchu which contains some 41 000 Tswanas, and Witzieshoek which holds some 25 000 Southern Sothos.... It is difficult to appreciate the value of political rights in an area like Witzieshoek, when perforce the vast majority of Southern Sothos will live in the so-called White areas all their lives. By the year 2000 the population of 1 317 000 will have grown to some 3 200 000 if the 3% growth rate is correct. This additional 1 900 000 people will have to be accommodated in the 'White areas' on White farms and in White towns and cities, for clearly the Free State homeland areas cannot hold them. (D.C. Grice, 1973).

The second homeland is KaNgwane. Its extent when it is consolidated will be about 315 000 hectare. In 1970 there were about 498 716 Swazi in the Republic of South Africa, of whom only 99 269 — or about 20% — were actually resident in the homeland. The vast majority lived and worked in the common area in the eastern and south-eastern parts of the Transvaal as well as in the Witwatersrand-Vereeniging region. (Republic of South Africa, 1978, pp. 10 - 12).

CONCLUSION

If it is realised that the urban Black population has increased rather than declined because it is not physically possible to accommodate the majority of the Blacks in the states designed for them, nor can those states sustain them all, then the only conclusion that can be arrived at is that South Africa will have to reconcile itself to the stark fact of their permanency outside these states. I suggest that policy be modified accordingly. It is logical that the *de jure* position of the population should accord with the *de facto* position. Not only should the permanency of the Blacks be recognized where they are, but they should also be accorded full rights as citizens. Policy has to create the climate in which all South Africa's people can live harmoniously, with mutual respect for one another, in trust and goodwill, and free from bitterness and hatred.

Mr. Vice-Chancellor, herewith I now have the honour to accept the chair of African Government and Law at the University of the North.

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