



## 8. Smuts and the Politics of Segregation

### The Prosecution of Pass Laws Under the United Party Government

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#### Introduction

Jan Smuts's second term as Prime Minister of the Union of South Africa (1939-48) was a tumultuous period. During a low ebb in Allied fortunes in early 1942 when the country's World War II effort was his priority, Smuts was faced by a host of challenges on the domestic front. Not only did a sizeable number of white Afrikaners identify with Hitler's Germany, but Nazi sympathisers engaged in acts of sabotage and spying (Furlong, 1991; Kleynhans, 2021). Moreover, the Union's wartime industrialisation had stimulated economic growth which increased the need for unskilled labour in the manufacturing sector and effectively diluted the colour bar in the workplace. And in the face of criticisms that this growth had contributed to 'swamping' the cities by African workers, the so-called 'native question' that had historically been kept out of party politics became a contentious issue. Against this backdrop, Smuts questioned the efficacy of segregation in a well-publicised speech in January 1942 to the South African Institute of Race Relations (SAIRR). His admission that segregation 'had fallen on evil days' insinuated that the United Party government was prepared to concede that the policy of segregation had failed and signalled that the government was rethinking the status of urban Africans.

## Reappraising the Life and Legacy of Jan C. Smuts

As surprising as it might have been for some, Smuts's admission was not entirely unexpected. By the late 1930s, it was recognised that the success or failure of segregation would be decided in the cities. Officials in the Native Affairs Department (NAD) had attached more significance to attempts by the UP government under J.B.M. Hertzog, Smuts's predecessor as premier, to impose control over African influx into the urban areas than over either the political or the territorial aspects of the policy (Davenport, 1974). But officials alone did not shape policy; they had to weigh the vested interests of several stakeholders in the future of the cities. Employers in the burgeoning industrial sector and managers of newly created parastatals believed that the pass laws should be refined to make them more efficient and cost effective. Middle-class suburban white people would have preferred to keep the cities white without foregoing their servants, while working class white people regarded black unskilled labourers as unfair competition for jobs. Although passes were resented by Africans obliged to carry them, resistance to them before the war had been ad hoc and localised. Shear (2013) has argued that the suspension of the pass laws in May 1942 was not motivated by the manufacturing sector's demand for labour nor the state's incapacity to police transgressions. Rather, he ascribes the relaxation of the laws to a combination of official anxieties about the loyalty of urban Africans at a time when the Union was vulnerable to attack by the Axis powers and the influence of white liberals in the Smuts pro-war coalition. Although he refers to 'reformist opinion and organization', there is no mention of specific institutions nor any attempt to disaggregate the liberal lobby. And while Shear (2013) deftly delineates the interests of competing pressure groups in the prosecution (or not) of the pass laws, he overlooks the role of the local authorities.

The suspension of the pass laws coincided with and was connected to the UP government's efforts to extend welfare benefits to improve the quality of life of urban Africans. Posel (2005:65) has argued that the social welfare reforms initiated by the Smuts government in the early 1940s were not exigent

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wartime measures but reflected a growing faith in the ability of the state and public authorities to shape society for the better. Posel and a number of other essays in the volume edited by Dubow and Jeeves (Bonner, 2005) demonstrate how this agenda was translated into a package of – racially differentiated – reforms in the spheres of education, health, housing, pensions, and so on.<sup>1</sup> This arguably suggests that Africans were to be regarded as citizens – albeit second-class citizens without the franchise. Hyslop (2012) has unpacked the transnational imperatives that informed these ‘sweeping welfarist and reformist initiatives’. He attaches considerable significance to Smuts's 1942 SAIRR speech and argues that it reflects the influence of international humanist discourses on Smuts's paternal racist mindset. But Hyslop (2012) ignores the ambiguities in Smuts's remarks that raised the expectations of liberals but also gave conservatives ammunition to argue that segregation as enacted in the Hertzog's 1936 Native Bills<sup>2</sup> was no longer viable and required stricter enforcement rather than liberalisation. The working of influx control was a key issue for critics to the left and right of the UP government. The prosecution of the pass laws created tensions between administrators and police officers, as well as central and local authorities. Accordingly, the politics of segregation was to prove a critical issue for the Smuts government.

Notwithstanding Smuts's unchallenged authority in the UP and his extraordinary wartime powers, we should not overstate his ability to influence the implementation and practice of policy. Influx controls that included a suite of measures to control the movement of Africans are a case in point. They were widely but not necessarily strictly nor uniformly applied throughout the Union. When the government instructed the South African Police to curtail

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1 See chapters by Nattrass, Seekings, Posel, Jeeves and Phillips.

2 The so-called Hertzog Bills comprised The Native Representation Bill, The Native Trust and Land Act Bill and the Native Urban Areas Amendment Bill. The Bills were sponsored by the then United Party premier J.B.M. Hertzog and hence were associated with his name. For elaboration of their content and significance, see Dubow, 1989:131–76.

arrests for petty infringements of the pass laws, it did so against the better judgement of senior law enforcement authorities (Shear, 2013:208-10). However, in certain cities in the Cape province where the pass laws were not enforced prior to 1942, the response of local authorities was confused and inconsistent. This chapter provides a study of how the municipalities of Cape Town and Port Elizabeth tried to balance their own labour requirements with the provisions of central government directives. By examining case studies of influx control we are better able to understand why the moratorium on arrests for pass law offences was short-lived and inconsistently applied. And we should also be better able to grasp why the Smuts government's equivocation on 'native policy', and influx control in particular, contributed to his political downfall.

### **The Administration of Native Affairs and the Policy of Urban Segregation**

In order to understand the purpose and (dys)functionality of the influx control system,<sup>3</sup> we should first examine the working of the system of administration that was responsible for urban Africans. The South Africa Act of 1909 effected the separation of Native Administration from that of other government departments. Section 147 reserved to the Governor-General-in-Council (i.e. acting on the advice of the Cabinet) the control and administration of Native Affairs throughout the Union (Union of South Africa, 1948:3). As Supreme Chief of all Africans in the country, the Governor-General was granted the authority to legislate by proclamation in respect of Native Affairs. In 1927 the Native Administration Act conferred these special executive and legislative powers on the Minister of Native Affairs. He had the right to amend by proclamation any law applicable in Native areas (defined

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3 Bonner (2005) points out the ineffectiveness of urban policy and administration, as well as the absence of capacity, of the Native Affairs Department in his study of grassroots struggles in Benoni. This study of Cape Town and Port Elizabeth bears this out.

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as areas within which two thirds of the population consisted of Natives). For the purposes of administration, the Union was divided into several large districts under the control of a Chief Native Commissioner, directly responsible to the Secretary for Native Affairs (SNA). Smaller units within these districts were under the control of a Native Commissioner, or a magistrate, or both. Where an area had a predominantly African population, the magistrate was almost always an officer of the NAD. In areas where there was a large white population as well, the magistrate was usually an official of the Department of Justice who held a watching brief from the Native Commissioner for those Africans who fell under his jurisdiction. Conversely, officers of the NAD asserted primacy over other departments where their responsibilities impinged on the administration of Africans (Union of South Africa, 1935-6:12).

Native Administration in the urban areas was the subject of divided control. Municipalities controlled and administered their African populations in terms of by-laws based on legislation and regulations tabled by the Minister of Native Affairs and passed by the legislature (Davenport, 1971:1-6). But the NAD was responsible for administering the policy of the government of the day. The NAD had certain supervisory functions which were largely exercised through circulars, memoranda, and so on from the NAD to town clerks and, hence, to other municipal officers. In addition, Inspectors of Urban Areas were appointed by the SNA to undertake visits to townships in person. In some respects, local authorities served as agents of the NAD: in the first place, the municipality accepted responsibility to provide its African population with essential services, housing and financial management in common with its responsibility to render such services to all ratepayers; secondly, a separate municipal department assumed responsibility for township administration and labour regulation. The locations or townships were administered by Location Superintendents (or Managers of Native Affairs in the larger centres) and their staff who were employees of the municipalities. Superintendents usually met with the municipality's Native Affairs Committee on a regular

basis and were obliged to submit reports on the state of affairs in the townships under their charge. The provision of services such as water, sewerage, refuse removal, roads, transport, and healthcare were assigned to the relevant municipal departments. In addition, a specific municipal department assumed responsibility for the provision of housing in townships under its jurisdiction. And the municipal treasurer was required to keep a separate Native Revenue Account that comprised all income and expenditure relating to Native Affairs (Bekker & Humphries, 1985:16-17).

The principle that urban local authorities were responsible for Africans within their boundaries was enshrined in the 1923 Natives (Urban Areas) Act. And because the Act was permissive rather than prescriptive, local authorities were accorded some scope to frame their own policies in respect of their African population. In some cases, municipalities guarded their autonomy from the central state rather jealously and pursued divergent practices. Although there were often tensions between the NAD and the municipalities over specific issues, overall, their respective interests were not irreconcilable and so relatively good relations between the local authorities and the NAD prevailed. Indeed, the NAD had to rely on the cooperation of local authorities because it arguably lacked the capacity to ensure effective control of urban Africans without it. Moreover, the municipalities had discretionary powers in administering African townships, albeit subject to broad policy guidelines from the NAD established in legislation and stipulated in circulars (Bekker & Humphries, 1985:2). Rather than assume direct responsibility for urban Africans, the NAD sought to implement central state policies by securing the consent or acquiescence of at least three constituencies: employers of urban African labour, Africans living and seeking work in the cities, and the municipal administrators of its policy (Posel, 1991:149). In other words, the NAD served as an interlocutor between central government, local authorities and other stakeholders in negotiating the implementation of policies in respect of urban Africans.

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If jurisdiction over urban Africans was ill-defined, the broad framework of the policy of segregation was well-established by 1936. According to Dubow (1989:180), segregation was essentially a 'defensive strategy aimed at consolidating white supremacy in the face of the challenge posed by the emergence of an African proletariat'. There were competing discourses and strategies for solving the problem of how to secure a regular supply of cheap labour without constraining economic productivity and growth (Maylam, 1990:57). 'Idealists' envisaged that Africans would be allowed to stay in urban areas for only as long as their labour was required. This thinking drew on the doctrine of 'Stallardism' which regarded urban Africans as 'temporary sojourners' who should minister to the needs of white people in the cities (Davenport, 1991:524).<sup>4</sup> 'Realists' argued that the demands of industrialisation entailed acceptance of the fact that Africans were in the towns to stay and that the authorities could do no more than regulate their movement. This approach is evident in the suppressed Young-Barrett Committee Report (1937) that rejected the notion that the towns belong essentially to the white people (Davenport, 1974:81). This line of thinking came to be known as 'Faganism' following the recommendations made but never enacted by the committee chaired by the Minister of Native Affairs in Smuts's post-war cabinet. Many senior NAD officials were schooled in the tradition of Cape liberalism (Duncan, 1995:214), but these values became increasingly anachronistic as the politics of segregation was polarised. Most United Party members were conservative segregationists. There were a few liberals amongst its MPs but only Smuts's Deputy Prime Minister, J.H. Hofmeyr, revealed a tendency to swim against the tide. However, Smuts believed that Hofmeyr was out of step with white public opinion (Lewsen, 1987:110-111).<sup>5</sup> Although Hofmeyr deputised for him

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4 Cited in the *Report of the Transvaal Local Government Commission, 1921*, TP 1/1922. The Commission was chaired by Colonel C.F. Stallard, a 'hardline' segregationist, who gave his name to the doctrine.

5 Hofmeyr arguably proved a liability for Smuts in the 1948 Election.

during his lengthy absences overseas, he still doubted his heir apparent's leadership skills. And Hofmeyr would never cross the *Ou Baas*.<sup>6</sup> Thus there was no liberal caucus as such within the UP that debated and fashioned 'native policy'. However, senior civil servants were often able to obtain the confidence of ministers and their backing for their initiatives, especially when said ministers lacked knowledge of their portfolios. And these officials could be influenced by colleagues as well as lobbyists outside of government circles.

Douglas Smit, who became the Union's longest-serving Secretary for Native Affairs (1934-45), was a career civil servant appointed by Smuts, when the latter was Deputy Prime Minister in Hertzog's cabinet.<sup>7</sup> Smit brought to bear a wealth of experience from his time in the Department of Justice and he set about building a formidable administrative apparatus. The capacity and know-how of the NAD was bolstered by the emergence of a professional discourse in urban Native Administration (Robinson, 1991, 1999:66, 74). In the absence of any special interest in the administration of Africans by successive Ministers of Native Affairs in the UP government, Smit assumed responsibility for translating policy into action. This is well-illustrated in respect of the implementation of influx control measures in terms of the 1937 Native Law Amendment Act. The Act established the principle of the removal of 'redundant' Africans from urban areas, by means of a biennial census which would determine the labour requirements of each area, and the number of Africans who were surplus in this regard. Smit seems to have regarded the legislation as a mandate for increasing NAD jurisdiction in the urban areas (Union of South Africa, 1938:19). In September 1938, the NAD convened a conference in Pretoria with representatives of municipalities and in the opening address Smuts (reading a speech prepared by Smit) stressed that the government had now taken the initiative to enforce influx

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6 Literally 'old master' (Afrikaans). An honorific title that suggests the bearer deserves respectful submission.

7 For further biographical and career information see Bell (1978:3-7).

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control because the local authorities had failed to implement measures themselves. In response to his pressure, 205 urban areas had implemented the provisions of the Act by 1939 and Smit expressed his confidence that 'the next few years will mark a radical change in the conditions under which Natives live in urban areas' (Union of South Africa, 1940:22). The 'radical change' which he envisaged was in the development of better housing and living conditions for urban Africans but, at the same time, he wished to tighten up on the administration of influx controls. Before the war, Smit clearly had no intention of relinquishing NAD control over urban Africans nor delegating much responsibility to municipalities.

So how can we explain the shift in Smit's position in respect of influx controls? Why did he come to advocate greater leniency in their implementation? Bell (1978:153-4) attaches considerable weight to the testimony given before the Inter-Department Committee on the Social, Health and Economic Conditions of Urban Natives chaired by Smit. The Committee heard from liberals associated with the Joint Councils (JCs) and the South African Institute of Race Relations (SAIRR).<sup>8</sup> The SAIRR grew out of the Joint Council movement and had overlapping membership that included prominent white liberals like Senators Edgar Brookes and J.D. Rheinallt Jones, as well as Native Representatives (NRs) Margaret Ballinger<sup>9</sup> and Donald Molteno.<sup>10</sup> They constituted a liberal caucus in Parliament and conferred regularly with government Ministers and officials. The NRs enjoyed reputations as indefatigable defenders of the rights of their African constituents after they were removed from the Cape Provincial common voters' roll in terms of the 1936 legislation. The JCs included African

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8 For a detailed history of the Joint Councils see Haines (1991). For a history of South African liberalism see Rich (1987).

9 Margaret Ballinger served as Native Representative between 1937 and 1960. Her husband was a prominent trade unionist. See Mouton (1997) for a biography of the couple. Margaret Ballinger penned her own political biography. See Ballinger (1969).

10 Molteno served as a Native Representative in parliament from 1937 to 1948. For a biography see Scher (1979).

members of statutory bodies like the Natives' Representative Council (NRC) and Advisory Boards, as well other politically moderate leaders who favoured gradual change. Those affiliated to the JCs and SAIRR represented a cross-section of viewpoints but shared a common goal of African upliftment. Liberal academics offered input to a plethora of commissions during the 1940s tasked with making recommendations on Africans' social and economic conditions. For instance, Alfred Hoernle and Rheinallt Jones, who submitted a memorandum to the Smit Committee, stressed that industrialisation caused the breakdown of African societies in rural reserves and that this called for the amelioration of the living conditions of urban Africans (Rich, 1987:71). To be sure, the principle of segregation was seldom rejected out of hand even by those opposed to certain of its discriminatory features and white liberals of the inter-war years were usually content to promote philanthropic projects that improved the social conditions of Africans (Haines, 1991:438). The percolation of liberal discourse in the JCs and SAIRR might have nudged members into adopting a more critical stance towards government policies but failed to permeate white society at large where reactionaries harped on about on the 'evils' of the cities and the supposed threats posed by the breakdown of racial barriers and miscegenation.

The Smit Committee heard that the pass laws were a major source of grievance and that technical transgressions led to criminal prosecutions and convictions of workers that caused a loss in labour productivity. It recommended that it would be 'better to face the abolition of the pass laws' rather than perpetuate the status quo. Clearly the pragmatic Smit was persuaded that the enforcement of the pass laws exacted a high political cost and was expensive to administer. However, controls on the movement of Africans would remain. A network of labour exchanges to be set up on a voluntary basis in all urban centres would replace the pass laws. In industrial centres the registration of service contracts would be continued, and curfews - albeit shortened - would be retained. These measures did not amount to a laissez-faire approach

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to African urbanisation. The Committee also recognised the pervasive effects of poverty in the reserves and noted how migrant labour undermined family life.<sup>11</sup> It also noted the equally harmful effects of poor wages and recommended the recognition of African trade unions (Lewsen, 1987:113-4). Bell (1978:34) insists that the recommendations of the Smit Committee did not herald the radical change in policy with which they were commonly credited and on which white liberal and moderate African political hopes were raised. But other historians have argued that the Smit Committee reflected a major change in official thinking and that Smuts – who previewed its findings before it became public knowledge – was persuaded to adopt a range of liberal reforms because of its findings (Lewsen, 1987:105; Davenport, 1991:306-7).

As a civil servant, Smit was not expected to express personal views on policy matters but to endorse the government's segregationist policy and its manner of implementation. Therefore, he had not previously expressed himself publicly on the matter. Emboldened by Smuts's admission before the SAIRR that segregation had failed, Smit went on record as saying that segregation was 'unworkable' and that no solution to South Africa's 'racial problem' was to be found along the lines of further 'repressive measures' (Bell, 1978:5-7, 25). Thus he championed the moratorium in respect of the arrest of the pass law offenders that was introduced in 1942.

Smit's stance was not necessarily shared by all officials in the NAD, but he was responsible for improving the Department's reputation in liberal circles during the 1940s. He was called 'a liberal handicapped by his official position' by R.F.A. Hoernlé. But the Professor of Philosophy at the University of the Witwatersrand was likely mistaken. Smit still reckoned that the need for influx control was of paramount importance to ensure improvements in the living

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11 These issues had been previously identified by a conference held in Johannesburg in October 1938 as factors in the fostering of juvenile delinquency. See Posel, 2005:64, 82.

standards of urban Africans. 'Control' was the operative word in Smit's vocabulary, but it did not figure in the lexicon of liberalism (Bell, 1978:12, 22-3, 82). Smit, like his mentor Smuts, was prepared to recognise that African detribalisation and urbanisation was irreversible but clung to the notion that white trusteeship of African interests was still necessary. Thus, his paternalism would not allow him to fully embrace the view that industrialisation would render the social and political colour bar obsolescent. Hence Smit was not yet ready to abandon altogether the notion that segregation was the long-term solution to the 'native problem',

It is likely that Smuts discussed the contents and findings of the Smit Committee with his SNA but not necessarily his senior cabinet colleagues. Still, they fell in line with the new direction of Smuts's pronouncement. Smit apparently exercised considerable sway over the then Minister of Native Affairs, Deneys Reitz. The MNA spoke out firmly against passes at the same time as his senior official was calling for the government to ease up on them. Smit was also responsible for persuading Reitz's more conservative successor and staunch segregationist, Major Piet van der Byl, appointed by Smuts on the eve of the 1943 Election, that Africans should be regarded as permanent residents in the towns. Van der Byl admitted to knowing absolutely nothing about Native Affairs and having learnt everything from Smit. He appeared to endorse the opinion of his Secretary when he informed Parliament that 'the imposition of any pass law at this time would be deeply resented and is impossible' (Duncan, 1985:29, 108, 212). But he qualified his statement so as to mollify those in the opposition benches who insisted that the suspension of passes had occasioned an increase in vagrancy, crime, squatting and worker militancy - all of which contributed to crisis of confidence for advocates of white trusteeship and reactionary responses from white supremacists (Shear, 2013:226-7). Van der Byl's dissembling was tantamount to an acknowledgment that he viewed the easing of passes as a wartime contingency.

Meanwhile, the UP government faced growing criticism from the NRC for, inter alia, its refusal to amend the pass

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laws and accord direct African representation at all levels of government from municipal councils to Parliament. Following Smuts's seeming indifference to the appeals of the NRC and Smit's peremptory dealings with its members, the government effectively severed its line of communication with moderate African leaders. Most councillors were active members of the African National Congress and their frustration with constitutional channels led them to embrace extra-parliamentary politics. Under the leadership of Alfred Xuma and radicalised by its youth wing, the ANC had shifted its strategy from appealing for concessions to demanding political rights. The ANC played a prominent part in co-ordinating the nationwide anti-pass campaign of 1944 when it insisted upon their abolition and not merely their suspension.

The suspension of the pass laws did not herald wholesale changes in the policies of the Smuts government. As the tide of war turned in favour of the Allies and his stature as a statesman rose, Smuts devoted more attention to international commitments than his duties at home. Buoyed by the UP's resounding 1943 Election victory which he regarded as a vote of confidence in his wartime leadership, Smuts felt confident enough to deflect demands from white voters for tackling the 'native problem' as he dismissed the notion that the situation had reached crisis proportions (Minkley & Rousseau, 1995). Notwithstanding his previous pronouncement on the failure of segregation, he now inclined towards the view that there was no need for hasty or drastic changes to 'native policy' (Dubow, 2005:12). This stasis can be partly explained by the composition of Smuts's cabinet and personnel changes in the NAD. As we have seen, Van der Byl was ambivalent on influx control and seemed to believe that the suspension of passes was a wartime expedient. And the retirement of Smit as SNA in 1945 did not result in significant changes to the disposition of the NAD. In fact, Smit remained an influential figure in government circles and with senior civil servants. His input was frequently solicited by his successor Gordon Mears when compiling departmental memoranda or preparing speeches for the Minister of Native Affairs, Deputy Prime Minister

Hofmeyr and Smuts himself. As a confidante of Smuts and as Deputy Chairman of the Native Affairs Commission (NAC), Smit continued to exercise influence on the framing of government policy.<sup>12</sup>

The NAC had been in existence since 1920 and comprised white 'experts' appointed by the government to advise it on formulating policy and preparing legislation. The NAC was chaired by the SNA and served as a sounding board for the NAD. Mears sought to put his stamp on native administration with the production of two memoranda in 1947 entitled *A Progressive Programme for Native Administration* and *Progressive Native Policy* which proposed, inter alia, a larger, more representative Natives' Representative Council and, furthermore, that the Advisory Boards Congress (ABC) should have representation on the reconstituted NRC. As a statutory body, the ABC should represent the views of 'urbanised Natives' to the government and exercise executive and administrative authority in respect of African townships (Bell, 1978:101-2; Davenport, 1981). Mears's reforms envisaged delegating powers to both a rural and urban African political elite (Rich, 1987:108-9). However, following Smit's input, Smuts approved the memoranda in attenuated form and they, in turn, were approved in broad principle by the NAC (Bell, 1978:104). But these proposals failed to satisfy the NRC that had resolved to adjourn until such time as the government gave serious consideration to its

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12 Although Smit had been the prime mover in the suspension of the pass laws, an overview of his career shows that he was inconsistent when it came to the imposition thereof: enforcing their application at first but then insisting they be eased when circumstances dictated. This suggests that Smit was more of a realist than an idealist. Bell (1978) contends that Smit was a paternalist when he was SNA who became increasingly liberal after he left office, especially after being nominated as a UP MP. Lewsen (1987:114) calls him a 'paternalist liberal', whereas I consider the label 'liberal paternalist' more apposite. Whatever his political persuasion and despite his inconsistencies, there seems little doubt that Smit was at least partly responsible for the UP government's pragmatic approach to towards urban Africans towards the end of his tenure as SNA.

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demands for it to become a properly representative executive and administrative body rather than a purely advisory one (Bell, 1978:80–83, 94, 97).

The NRC's demands for meaningful reforms had repeatedly fallen on deaf ears. Following the repression of the 1946 mineworkers' strike and the refusal of the government to grant Africans the right to engage in collective bargaining, it had adjourned indefinitely. In attempting to defuse the situation, Smuts sought the mediation of Margaret Ballinger. During their consultations, Smuts expressed himself in favour of the gradual liberalisation of 'native policy' and was encouraged by Ballinger to start afresh. For her part, Ballinger was encouraged to believe that Smuts was moving in a more liberal direction with regard to 'native policy'. However, this proved to be nothing more than wishful thinking, for Smuts was not inclined to alienate white public opinion and so the impasse with the NRC dragged on (Ballinger, 1969:125; Mouton, 1997:155, 171). Having chosen to ignore the entreaties of the liberal lobby, Smuts shelved all initiatives to reform 'native policy'. Instead, he appointed the Native Laws (Fagan) Commission that was tasked with the systematisation of the myriad laws pertaining to the administration of Africans. This was to include a review of influx controls. In the interim, the government quietly reinstated the pass laws.<sup>13</sup>

Although the practice of referring matters to commissions to provide guidelines for government policy had been borne of a wish to remove 'native affairs' from the political arena, it often served as a strategy for deferring decision-making on pressing issues. Smuts employed this stalling tactic as he was reluctant to confront the 'urban

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13 There is some difference of opinion as to when the pass laws were re-enforced. Hindson (1987:56) is vague and suggests 'after 1945'. Davenport (2005:198) notes that their suspension was lifted during 1943. Shear (2013:227) refers to a communication from the Secretary for Justice to the Police Commissioner dated 14 March 1946 that states that the MNA Van der Byl had authorised the reinstatement of the pass laws.

crisis' head on in the post-war years. The Fagan Commission concluded that the trend towards urbanisation was irreversible and could only be regulated and guided (Lewsen, 1987:112). The Commission's proposals included a Union-wide system of labour bureaux where workers with service contracts might be registered. But it equivocated with respect to passes. It recommended that passes should be retained as a control device, but that those with secure employment should be entitled to substitute passes for identity cards (Davenport, 1991:312). These recommendations suggest that the UP was willing to revamp influx control measures but not abandon them altogether. In the event, its recommendations could not be implemented because of the defeat of UP at the polls in 1948. Meanwhile, the National Party opposition advocated a return to 'hardline' segregation or 'Stallardism'. It had appointed its own Sauer Commission to make recommendations that were to inform its policy of apartheid.

### **The Practice of Segregation: The Working of Influx Control for Cape Town and Port Elizabeth, 1939-48**

The lack of uniformity in urban African administration stemmed from enabling legislation in respect of urban Africans and the well-established historical practices of local authorities. Although there was a large degree of consensus between municipal officials and the NAD, there were areas of conflict between certain municipalities and the NAD over aspects of policy towards urban Africans (Humphries, 1983:66, 69-70). These tensions were exacerbated by administrative obstacles and bureaucratic inertia. This will be illustrated by means of a case study of strategies employed by the local authorities in Cape Town (the 'Mother City') and Port Elizabeth (now Gqeberha) for dealing with the influx of Africans prior to and during Smuts's second term as Prime Minister of the Union.

The Cape Province's two main urban centres developed their own locally specific strategies for controlling the movement of Africans. The Mother City had a more transient

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African population than did the 'Detroit of the Union' (Baines, 2002).<sup>14</sup> Cape Town practised a form of Coloured Labour Preference (CLP) which afforded unskilled coloured workers preferential access to the labour market ahead of their African counterparts. CLP was applied during times of labour surplus or when it suited employers' needs (Kinkead-Weekes, 1992:563-6). But Cape Town did not enforce a system of pass controls for African workers. Port Elizabeth had devised its own form of urban control which Robinson has termed its 'location strategy'. Its main features included the issue of registration cards with which to control the entry of inhabitants into New Brighton township. This afforded the Location Superintendent the means to control ingress, so long as alternative areas of urban residence were eliminated (Robinson, 1996:124-5, 136-7). These strategies became increasingly ineffectual on account of the rapid growth of the urban populace from the 1930s and the consequent shortage of accommodation for African work-seekers.

Both Cape Town and Port Elizabeth prided themselves on their 'liberal' reputations which stemmed from the absence of pass laws. But in the face of pressures from white ratepayers and law enforcement authorities, the Port Elizabeth municipality devised other types of influx controls. The PE City Council (PECC) maintained that this was on account of the city's specific labour requirements for the manufacturing sector, the institutional interests of the local authority, the costs of introducing the system, and the possibility of resistance thereto (Baines, 2004). Pragmatic rather than principled objections to passes by liberal Councillors who dominated the Native Affairs Committee (NAC) and held the balance of power on the PECC meant that it stopped short of the introduction of passes in Port Elizabeth. Similar constraints seem to have been operative in Cape Town but here the NAC was conservative and favoured strict influx control measures,

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14 Port Elizabeth was known as such on account of the establishment of motor vehicle construction plants by Ford and General Motors in the 1920s. See Baines (2002:11).

whereas full meetings of the Cape Town City Council (CTCC) invariably rejected them (Kinkead-Weekes, 1992).

As we have seen, the 1937 Native Laws Amendment Act enabled the government to issue proclamations restricting the entry of Africans into specified urban areas and for the NAD to assume responsibility for and receive revenue accruing from the registration of contracts. Proclamation 210 of 1938 obliged African work-seekers entering the urban area of Port Elizabeth to obtain work or residence permits (*Government Gazette*, Proclamation No. 210, 30 Sept. 1938).<sup>15</sup> Previously, the PECC had been adamant that it would not exercise its prerogative to register Africans entering the city. Certain councillors opposed measures which might jeopardise the labour requirements of the local manufacturing sector and occasion African resistance. Such fears were exacerbated by recent episodes of opposition to the imposition of passes in both Grahamstown and East London. Subsequently, the UP government issued Proclamation 105 of 1939 which stipulated that any African entering the Cape Town urban area without a firm offer of employment could be prosecuted if they failed to heed a three-day warning to return to their place of origin. After some stalling, the CTCC felt itself compelled to implement a system of Native Service Contracts in order to manage and finance this 'soft' form of influx control (*Cape Times*, 6 May 1939, 'City Council May Act 'as Ordered'').

During the war, industrial and infrastructural expansion in Cape Town greatly increased the demand for unskilled African labour. Local employers repeatedly stressed that influx control should not be so stringent as to reduce the local reservoir of unskilled labour. In any event, there were many loopholes in the service contract system which enabled non-registered Africans to circumvent the regulations (Kinkead-Weekes, 1992:83-4). In his April 1941 report on Natives in the Cape Peninsula, an Inspector of Urban Locations, P.G. Cauldwell, noted that 'the Native now forms part of the

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15 *Government Gazette*, Proclamation No. 210 of 30 Sept. 1938. Port Elizabeth was listed in a Schedule attached thereto.

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economic life of the community and he [sic] has come to stay'. Although the majority of work-seekers were male migrants, there was a growing number of extended households and settled families in the townships of Langa and Ndabeni. He recommended the repatriation of those who failed to obey instructions to leave the prescribed area within three days in contravention of Proclamation 105. However, the reluctance of magistrates to enforce this recommendation, resulted in the transfer of jurisdiction over contraventions of Proclamation 105 from the Justice Department to the NAD. Despite the misgivings of S.N.A. Smit, criminal jurisdiction over influx control offenders was duly conferred on the Additional Native Commissioner in June 1941 (Kinkead-Weekes, 1992:84-5).

Notwithstanding the irregular implementation of the system in the Cape Peninsula, a shortage of labour in August 1941 caused the authorities to relax influx control measures. This preceded the national directive of March 1942 which announced the suspension of the pass laws in the major urban centres. Neither Cape Town nor Port Elizabeth were amongst the cities listed in the schedule to this directive (Hindson, 1987:56). The NAD instructed the authorities that the pass laws were not to be enforced unless a more serious contravention of the law (i.e. criminal offence) was suspected. Whilst the efflux provisions of the 1937 Act were to be temporarily ignored, no statutory change in the pass laws was affected. Smit's urging of leniency towards pass offenders solved neither urban overcrowding nor the problem of the shortage of farm labour (Bell, 1978:22). Restrictions were reimposed in Cape Town within a matter of months, but Proclamation 105 remained in abeyance until mid-1943.

With industrialists, private employers and even government departments preferring African labour, complaints were heard that coloured people had been deprived of work opportunities in the Cape Peninsula. The 1943 report of the Britten Committee of Inquiry into Conditions Existing on the Cape Flats rejected the principle of CLP and predicted that future industrialisation would absorb all African labour in the area provided that it was subjected to 'planned distributive

control' (Kinkead-Weekes, 1992:89). This appeared to imply the city could cope with the ingress of work-seeking Africans if provision was made for their residence in separately demarcated areas. An Inspector of Urban Locations, C.W. Slarke, dismissed the Britten Report's position on CLP. His own Report of April 1943 noted the inadequate provision for the growing number of African workers and their appalling living conditions. But Slarke agreed with his predecessor Cauldwell that 'the native has come to stay' and anticipated an increasing demand for African labour in the Peninsula. Slarke recommended that the City Council's successful system of registration of service contracts be extended to the whole of the Cape Peninsula as 'the best and most immediate means of controlling influx'. This would necessitate the establishment of a labour bureau which would effectively regulate the supply of labour in accordance with employer demand (Kinkead-Weekes, 1992:92-3).

As the labour needs of the industrial sector during the war changed, representations from urban centres to the NAD to tighten the strictures on the movement of Africans grew apace. When local authorities were informed that they would have to bear some of the costs of erecting a depot where service contracts could be administered (Kinkead-Weekes, 1992:94-6), many municipalities balked at having to do so. For instance, the PECC wanted central government to accept responsibility for implementing such a system. However, the NAD was itself not only short staffed due to the numbers of civil servants who volunteered for military service, but its own budget constraints meant that it, too, wanted to reduce expenditure (Bell, 1978:113). Accordingly, it wanted to pass on the administrative costs to the local authorities who could ill afford these.

In 1943, a committee under the chairmanship of S.H. Elliott, Chief Magistrate of Johannesburg, was appointed to investigate crime on the Witwatersrand and in Pretoria. The commission's mandate was to establish whether there was a connection between increasing levels of crime and the relaxation of the pass laws. It recommended a return to the

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pass laws not because it could demonstrate a causal connection between the existence of a reservoir of unskilled African labour and the increase in crime but because it was able to show that the suspension of passes had led to fewer Africans registering for work upon arrival in municipalities, which threatened to undermine the policy of influx control itself (Bell, 1978:91). However, the experience of local authorities in the Transvaal did not necessarily reflect that of their counterparts in the Cape Province.

In Port Elizabeth, certain councillors believed the implementation of pass laws exacted too high a political price. During a PECC debate on the issue of registration, Councillor Young commented that 'if Natives rebelled against measures like registration they could not be blamed'. Liberal councillors asserted that there was a shortage of African labour in the city, and thus no need for any controls on influx. One or two more cautionary notes were sounded but appeals to 'undying principles' and a commitment to giving Africans 'a square deal' carried the day (*Eastern Province Herald*, 1 Feb. 1946). Robinson (1996:154) remarks that 'on the whole the debate was a self-congratulatory reflection on the council's beneficence'. Thus the institutional interests of the council were accorded priority and it again rejected implementing a system of registration early in 1946 (Intermediate Archives Depot (IAD), Port Elizabeth, 25/279 No. 1, Minutes of the Native Affairs Committee, 11 Sept. and 4 Dec. 1945; Minutes of the PECC, 27 Sept. 1945 and 31 Jan. 1946). In spite of the growing chorus that included ratepayers' associations, the South African Police and senior municipal officials such as the newly appointed Manager of Native Affairs, the PECC was not compelled by the UP government to insist on work permits nor to introduce service contracts for its African population.

Local authorities in the Cape Peninsula, on the other hand, were becoming more insistent that steps be taken to control the influx of Africans into the region occasioned by the famine in the Reserves. With the backing of ratepayer's associations, as well as the Chambers of Commerce and Industry, they pressed for more measures to close loopholes in

the service contract registration system. In late 1945 the CTCC approved the extension of the registration regulations to the whole Peninsula, and this was promulgated by Proclamation 74 of 1946. A temporary reception depot was erected in Langa, but it proved impossible to enforce control at the point of entry. Accordingly, the provisions of War Measure 81 of 1943 were applied to restrict the sale of train tickets to Cape Town to Africans from the Cape Eastern districts. This measure was supplemented by strict policing of the service contract system by which 'illegals' could be ordered to leave the proclaimed area within three days or face prosecution. Then from the beginning of 1947, the issue of service contracts was made conditional on prospective employers guaranteeing to repatriate their African labourers to the 'Native Territories' on expiry of their contracts. Eventually, the War Measure was repealed but replaced by permanent legislation which had much the same effect (Kinkead-Weekes, 1992:97-109).

The glaring gap between policy and practice had exposed the failures of influx control and raised questions as to its long-term viability. For their effectiveness depended on a scale of administrative intervention beyond the existing capacities of both central state and local authorities (Bonner, Delius & Posel, 1993:5, 26-7). Contradictory statements by politicians and officials further confused the situation and jeopardised the ability of the NAD to secure the co-operation of urban local authorities during the early 1940s. But so, too, did the actions of the SNA. For instance, when Smit felt that the municipalities needed to be brought into line with Urban Areas legislation, as was the case with influx control measures in 1937, he acted to ensure something was done. But when he decided that the pass laws were becoming a burden on the NAD, he instructed them to ease up on their enforcement (Bell, 1978:91). The inconsistencies in the directives of the SNA made the task of ensuring conformity to national policy by local authorities difficult even for those municipalities that had wished to do so. But others like Cape Town and Port Elizabeth pursued their own agendas and alternative practices. Consequently, parliamentary opposition calls for the

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systemisation of pass laws grow apace while African resistance to their (re-)imposition also gathered momentum.

Rapid urbanisation during the war and the post-war years threw into sharp relief the problems attendant on the fact that authorities were unable to regulate the movement of Africans to the cities. Indeed, the number of black people surpassed that of white people in urban areas during this period (Haines, 1991:451-2). This seemed to confirm Smuts's admission that segregation had failed and that white fears of being 'swamped' were being realised. Hence the pass laws were reinstated. The suspension thereof by the UP government proved to be a short-lived experiment. The NP government, too, found it difficult if not impossible to reverse the process of urbanisation. It was only with the consolidation of political power and the systematisation of the repressive functions of the police services that influx control - and its concomitant, social engineering - could be effectively undertaken (Posel, 1991:119). The NP government showed itself less prepared than its predecessor to make concessions to meet particular local needs, and more determined to achieve a greater measure of centralisation and standardisation in urban policy. The central state became increasingly interventionist and undermined local autonomy as it enforced a more rigid form of socio-spatial separation and racial discrimination. Unlike the UP government, the NP sought to iron out any inconsistencies in policy and enforce uniform practices throughout the Union.

### **Conclusion**

Smuts had a vision for the post-war global order in which South Africa had its place (Hyslop, 2012), but he sorely lacked one with respect to the country's 'native question'. He gave mixed signals. On the one hand, Smuts spoke of the need to reform policy when addressing liberal audiences but, on the other, confirmed the UP's commitment to the tenets of segregation before more conservative white voters. Liberals who chose to view the social welfare reforms as presaging a substantial policy shift by the government that offered a

window of opportunity to bring about a change of direction in 'native policy' had their hopes dashed. And critics pointed out the inconsistencies between Smuts's pronouncements on human rights made in international fora and those he made about 'native policy' to domestic audiences. Smuts's equivocation provided Malan's NP with ammunition to criticise the government for having no long-term solution to the 'native problem'. For there was undoubtedly substance to accusations from opposition benches that Smuts had taken 'the line of least resistance' (Bell, 1978:154); that he failed to grasp the nettle. But he was not stung into action by such charges. As was the case with his first term as premier (1919-24), Smuts appeared to lack the political will to chart a new direction in 'native policy' before the issue became critical to his political future. His prevarication was a perennial failing and proved to be politically fatal.

In the 1948 Election, the NP made a point of campaigning for racial separation - or what became known as apartheid. Its platform included a commitment to turning back the tide of Africans in the cities and hence it adopted a hardline stance on urban segregation. For his part, Smuts decided that the final evolution of 'native policy' should be delayed until after the election, which he confidently expected to win (Rich, 1987:110). However, the UP was organisationally moribund, complacent, and conducted a lacklustre electoral campaign. Smuts still believed that he could rely on the loyalty of the *bloedsappe*<sup>16</sup> in the country's weighted rural constituencies,<sup>17</sup> but he was sadly mistaken. He underestimated the disaffection of white workers whose numbers were swelled by an influx of *bywoners* (sharecroppers) and agricultural workers from the *platteland* (rural areas). Newly urbanised 'poor white' Afrikaans-

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16 *Bloedsappe* can be loosely translated as born and bred South African Party supporters. The Afrikaans term implies that the SAP was literally in the blood or was hereditary. The United Party was created when the rump of Hertzog's National Party 'fused' with Smuts's followers in the SAP.

17 Smuts turned down calls to appoint a delimitation commission to redraw constituency boundaries that effectively gave greater weight to rural than to urban votes.

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speakers were mobilised by cultural and welfare organisations aligned with the NP. The propagation of an ethnic Afrikaner nationalism during the Voortrekker Centenary celebrations had galvanised Malan's supporters (Grundlingh, 2020). The deferred victory parade during the 1947 Royal Tour was not enough to satisfy the grievances of demobilised and socially dislocated ex-servicemen. The King's and Queen's charm offensive to court Afrikaner Nationalists was not successful even though some NP politicians and officials seized the opportunity to hobnob with royalty (Viney, 2018:27, 216). The NP downplayed its republicanism, and even its dalliance with Nazism did little harm at the hustings. Although the NP did not win the popular vote, with the backing of Havenga's Afrikaner Party, it won sufficient marginal constituencies to ensure a narrow electoral victory.

Smuts had ignored prescient warnings of imminent electoral defeat. One such warning was dramatised in the form of a futuristic scenario by historian Arthur Keppel-Jones. Written some eighteen months before the Nationalist victory at the polls, *When Smuts Goes* (1947) predicted that an election victory for the NP would ultimately result in South Africa returning to 'barbarism'; that the cities would become sites of confrontation between white and black people that would put the very foundations of civilisation on trial (Dubow, 2005:10; Bickford-Smith, 2016:197, 216). This stark scenario was a portent of things to come as the policies of an NP government would ratchet up racial frictions that would culminate in a conflagration. In Keppel-Jones's dystopian view, Smuts was depicted as a putative saviour rather than a flawed, mortal politician. Clearly, such faith in Smuts was unjustified, for his hubris was his undoing.

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