

What Now?

Professor N.J.J. Olivier's comprehensive and detailed article in the September issue of **Reality** was headlined; The Abolition of Influx Control: What Now?

The "what now" is beginning to appear.

It is much too early to be able to provide any definitive overview of the new system but there are straws in the wind which can be described and which do indicate that, while there is a vast improvement in the situation of some people where the search for work is concerned, there is no real freedom of movement for black South Africans. One set of legislated controls has been removed but new administrative structures have been put into place which deny freedom, in any meaningful sense of the word, to the vast majority of people who do not have the money necessary to buy themselves into a secure and permanent place in the urban areas.

It may even be proved over the next few years that the new controls are more efficient and much more difficult to circumvent than the old ones. It is always more difficult to deal with wide discretionary powers in the hands of bureaucrats than it is to cope with legislated restrictions which can be challenged in the Courts, as was done in the Komani and Rikhoto cases.

That is not to say that the removal of the pass laws is not to be welcomed wholeheartedly but it is premature to be euphoric about freedom of movement when the law does not provide any positive protection of the rights of people to move freely around their own country.

It is, of course, an enormous relief to be able to tell people who come to the advice offices because they have lost their jobs that they can now apply for their U.I.F. benefits wherever they choose to do so and that they can actively seek for new work while drawing the benefits. They are no longer obliged to return to homeland or rural area to apply for U.I.F. and they need no permit to seek work or to work wherever they prefer to be – **PROVIDED that they are not Xhosa, Tswana or Venda speaking.**

All Xhosa, Venda and Tswana people in South Africa were stripped of their South African citizenship when the TBVC homelands took independence. It is estimated that there are now more than 9 million of these "new foreigners". Approximately 5,75 million of them reside within those four homelands. Of the rest the government expects no more than 1 751 400 to get their South African citizenship back through the provisions of the Restoration of South African Citizenship Act. (Minister of Home Affairs Second Reading speech 23rd June 1986) The rest, 7,25 million people, remain foreign and are now in a much worse position than they ever were before.

They are aliens in South Africa. In order to obtain work in South Africa they must be recruited through the Labour Bureau in the homeland, attest a contract there, and have a permit endorsed in their passport by an immigration officer giving them permission to enter and to be in South Africa for a specified period, for a specified employer, in a specified place. "Change of employer without prior official approval is not permitted" (Department of Home Affairs circular "Employment of Alien (Foreign) Black Labour" 17th July 1986) This is the same old system, imposed under different legislation, and much worse in the following respects:

1. Employers can now employ any person who is entitled to the new Identity Document without any red tape or permits of any kind. Those who are aliens and who are not regarded as being permanently resident must continue to carry passports as identification and may not be employed without permission. The work permits given are temporary and permission to renew them must be sought when they expire.

In addition employers must fill in a monthly return to the Department of Home Affairs listing every alien in their employ with a whole list of particulars of each one.

In these circumstances employers will inevitably give preference to workseekers with I.D.s and foreigners will be increasingly excluded from the job market.

Community workers in the Bophuthatswana area north of Pretoria are already reporting that Bophuthatswana workers who are resident in that homeland and who therefore are not entitled to a South African I.D. are being displaced from their jobs in the Roslyn industrial complex and are being replaced with workers who live in the townships outside Bophuthatswana and who can have I.D.s because they are South African citizens.

The old line between insiders and outsiders which was the line between those with Section 10 rights and those without has gone but a new line has been drawn between those who are South Africans and those who are not. Coloured Labour Preference in the Western Cape was withdrawn. It is now back again with some black people who are able to get I.D.s joining the insiders and the rest being excluded.

2. Temporary workpermits granted to aliens can be withdrawn at any time. From the Cape Town office of the Black Sash it is reported that women workers who have in the past been granted six month permits to work are now being refused renewal of these permits because, they are told, "Transkei wants its women to till the land".
3. There is now no way in which migrant workers from the TBVC homelands whose permission to be in South Africa is always "temporary" can win a right to permanent

residence. Under the old system they could acquire Section 10(I)(b) rights after 10 years continuous and lawful employment in the urban areas. Section 10 is now gone. All those who had not completed the 10 years before the 1st July 1986 are cut off for ever. They can work for ten, twenty, thirty years in South Africa as "foreign guest workers" without acquiring any rights of residence. In order to acquire permanent residence in South Africa an alien must be granted a Permanent Residence Permit. It is highly unlikely that these will be granted to many aliens from the TBVC homelands. The Aliens Act provides that such a permit shall not be issued unless "the applicant therefore does not and is not likely to pursue an occupation, in which, in the opinion of the Board, a sufficient number of persons is already engaged in the Union to meet the requirements of the inhabitants of the Union..."

That is one way of resolving South Africa's unemployment problem by excluding permanently those who have every right to a full and free share of the resources of this country.

4. Even those who did acquire Section 10(I)(b) rights in the past are finding that they are being refused the new Identity Document and restoration of their South African citizenship if their families are resident in the homeland. In order to obtain either of these things a person must be permanently resident in South Africa. The department of Home Affairs interprets this as meaning that a person must be resident with his family in South Africa. The application for an I.D. contains the following question: "If you are a citizen of the TBVC country state the date with effect from which you **and your family** reside permanently in South Africa". Many thousands of people have never been able to bring their families to town to be with them because they have been unable to find any accommodation.
5. The penalties for being an illegal alien or for employing an illegal alien are much more severe than the penalties provided for in the repealed Urban Areas Act. For employing an illegal alien a person can go to prison for two years or be fined R5000. These penalties, as they become more widely known, will remove all remaining chances of people from the TBVC homelands finding unregistered employment. The responsibility for enforcing the new system has been transferred to employers. One hopes that they will refuse to accept this.

There have already been two reported instances of "pass raids" being conducted in streets and homes in Sandton in the search for illegal aliens. It must be pointed out that aliens are not to be distinguished from South Africans simply by looking at them so the indignity and humiliation of being called upon to identify oneself by production of an I.D. will inevitably remain part of daily experience if the police are instructed to actively search out illegal aliens. This will severely infringe the new freedom of all black South Africans and will necessitate more of the same old pass inspections at places of employment and on the streets.

The lack of freedom of movement for that two thirds of the black population who have remained South African citizens and who are not subject to the Aliens Act has also begun to emerge.

They are now free to work where they choose but they are definitely not free to live where they choose. Because of the

Land Acts and the Group Areas Act the only place where a black person may lawfully reside with his family in an urban area outside the homelands is in a black township, in a house which has been approved by the local authority. The provision of land for new black townships and for the extension of existing ones is firmly in the hands of the central government and the draft Guide Plan for the Central Witwatersrand does not bode well for the government's intentions.

It seeks to freeze development in Johannesburg and its environs in favour of the development line running from Rustenburg through Pretoria to Middleburg, the significance of that line being that it is in close proximity to Bophuthatswana and Kwa Ndebele. We will have to wait and see where new land is to be provided for black townships but present indications do not give much cause for optimism. Central government continues to regard decentralisation and deconcentration as an alternative to rather than a supplement to the growth and development of the metropolitan centres.

At the moment all black urban townships are grossly overcrowded. Allocation of sites and houses is in the hands of the black local authorities who are faced with enormous waiting lists. In the absence of new land allocations the local authorities become the enforcers of influx control.

Mrs. X came to Johannesburg from Gazankulu with her children after hearing about freedom of movement. Her husband has been working in Johannesburg for years and lives in a hostel. She went to the mayor of Soweto to ask for one of the sites in a controlled squatting area he has laid out (on his own initiative and without benefit of the Council's consent). He refused to allocate a site telling her that the sites "are not for outsiders". Reports have also been received from a small town in the OFS that the black Council is refusing to allow displaced farm workers to move into the townships with their families. In other places the Community Services branch of the Department of Constitutional Development and Planning (the new face of the abolished Development Boards) is providing sites on the edges of existing townships. The process of infilling in existing townships is going ahead in some areas but it is not yet clear whether plans are being made to accommodate a new influx of families or whether housing is to be provided only for those on existing waiting lists.

People who can afford the expensive kind of houses being built by private sector developers or who have the money required to buy themselves to the top of waiting lists will be able to exercise freedom of choice as to where they will live within the confines of the Group Areas Act but the poor have no freedom to choose. They are dependent on when and where the government decides to provide land for site and service schemes and controlled squatting areas.

The Housing Regulations for black urban townships have not been repealed. Amongst other things these require that every person living in a township must be listed on a house or lodger's permit. Superintendents have wide discretion as to whether such a permit will or will not be granted.

They can no longer refuse to enumerate South African citizens because they do not have a permit to be in the urban area but they can refuse if, in their opinion, a house is overcrowded. Officials in the Department of Home Affairs in Johannesburg are requiring that people produce a house permit when they apply for an I.D. This is quite unlawful but it means that for the ordinary black person nothing has changed from the days when they had to produce proof of

lawful residence in the town in order to obtain a Reference Book. The problem is, of course, that there is no new and "different corps of public officials". The same officials are doing the same old jobs in the same old way. The only difference is that they do it in the name of Home Affairs or Constitutional Development and Planning instead of Co-operation and Development.

Those people who cannot obtain authorised accommodation and who build themselves unauthorised shelters lay themselves open to prosecution in terms of the Trespass Act (penalties up to two years imprisonment or a fine of two thousand Rand) and the Prevention of Illegal Squatting Act which provides, among other things, for the removal of persons to another place. They may be removed yet again from the place where they have been sent to at the discretion of the local magistrate.

Removals are continuing in spite of government promises. Oukasie, the black township at Brits, has been dis-established. The people are being moved to a new town 24 kms away on the edge of Bophuthatswana. The stories of Kabah at Uitenhage, KTC and Portland Cement in Cape Town are well known. Now three thousand families in Duncan Village have been told that they will have to move in the interests of "upgrading". The list could go on and on.

In the last days of the 1986 Parliamentary session the Borders of Particular States Extension Amendment Act was passed by all three Houses of the Parliament. This Act adds many communities on to the list of areas to be incorporated into the independent homelands of Ciskei, Bophuthatswana and Venda. Some of the people concerned are citizens of

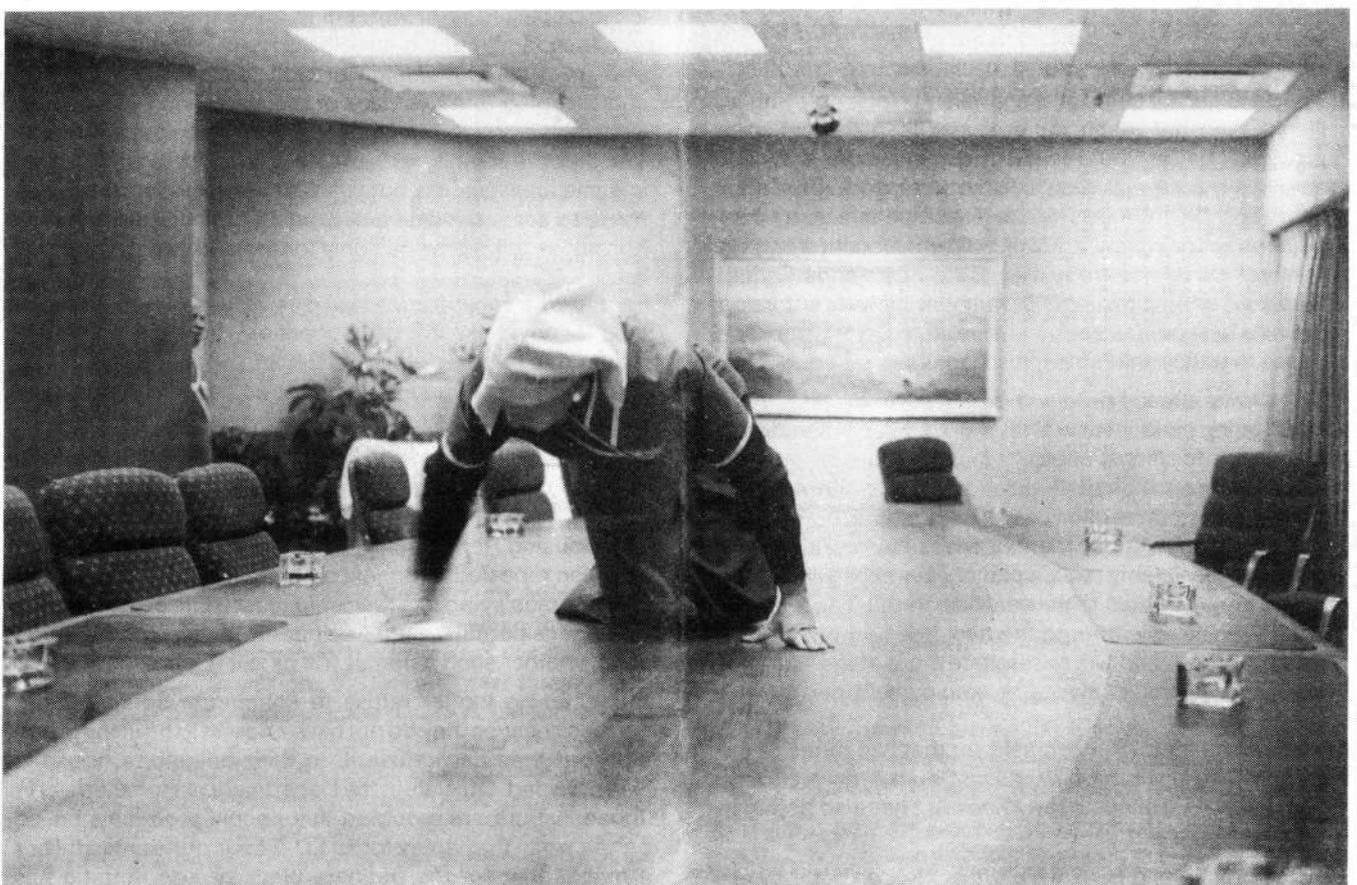
those homelands and will lose their right to have South African citizenship restored to them because they will no longer be permanently resident in South Africa. Others are still South African and will face the choice of living in a hostile "foreign" country or leaving their land to go to new resettlement areas established for them. The South African government claims this is not "forced removal".

We do wish that we were able to say that at last the South African government has done something wholeheartedly and without reservation to begin to undo the wrongs of the past.

In September 1985 when the State President announced that the pass laws were to be repealed I burst into tears in front of the television cameras. We believed it was true. We thought that maybe our advice offices would not be needed any more, or at least that they would not be needed to deal with the same kind of problems. We were not cynical. We did rejoice and welcome the announcement.

Now we sit with the same long queues, the same heart-breaking stories of divided families, homeless people, people who need their pass to be fixed up because they cannot find work without it. It is all new law, a completely different system, but the problems and anxieties, the divisions and despair are the same.

Now we too are cynical. It is not "easy to be cynical" as Professor Olivier claims. It is very difficult to have hopes dashed and to have to go on saying "We're sorry. There is nothing we can do to help you. The law does not allow you to work here". □



Office cleaner, Johannesburg 1984

Pic by: Leslie Lawson