

miscellaneous problems

Orphaned children

It is a complicated process for an urban African to become the legal guardian of an African child who was born in and lives in a rural area. He has to comply with the following procedure before he is allowed to bring the orphaned child to live in his home with his own family in an urban area:

- He must apply to the Bantu Affairs Commissioner to be appointed the legal guardian of the child;
- The guardian must go to the rural area where the child lives and obtain permission from the Bantu Affairs Commissioner there for the child to leave the area;
- He must then return to the prescribed area where he lives and ask for permission for the child to come into the prescribed area; and
- If he is granted the necessary permission he must then approach to the township Superintendent to have the child's name included on the housing permit.

The guardian will have to prove that he has a right to the guardianship of the child; that he lives legally in the prescribed area to which he wishes to take the child and that he has a home of his own there.

It takes a long time for permission to be granted — and sometimes months, even years. It is often difficult for a man to get leave from his work to go to a country area to get the necessary permission and it is difficult to find someone to look after the child in the interim period.

Frequently, through ignorance, the guardian does not know the procedure with which he must comply and he takes the child into his family, assumes full responsibility and brings the child

into his home without permission. In due course this is discovered and the child has to leave the area, because the guardian cannot have the child's name included on his housing permit.

There are many Africans who take over the guardianship of children born and living in the same urban area. Many of these men and women take the child into their own home without adopting him legally. They do not have the child's name listed on the housing permit, either because it is refused or because they are afraid to go to the Superintendent in case it is refused and the child is endorsed out.

There are hundreds of children, some of them illegitimate, whose mothers die or desert them and they are brought up by relatives or neighbours.

The trouble for the child comes when he has to apply for his reference book. He has no proof of his birth or of his residence in the urban area or anywhere else, and he is often endorsed out with nowhere to go.

Orphaned children and adoptive parents will often live in fear of this happening and experience particular insecurity.

The aged

Because the normal wages paid to African workers do not allow for savings, old people are often destitute. If they qualify to remain in the prescribed area where their sons or daughters have houses, they may be allowed to live with their children, provided that their names are on the house permit.

If they do not qualify to be in an urban area it is almost impossible for them to obtain permission to come to the prescribed area to live with their families. For an old woman it is quite impossible because of the embargo on the entry of women into prescribed areas. Many of them are not capable of looking after themselves or may be ill.

In reply to a question asked by Mr Oldfield in Parliament on September 11, 1970 (Hansard No 8 Col 3929), the Minister of Bantu Administration and Development said:

- that no homes for aged "Bantu" in the Republic are administered by the State;
- four are administered by welfare organisations and 154 persons were accommodated in them.

He also said that subsidies are paid to welfare organisations in respect of aged persons accommodated at homes administered by such organisations. These grants are determined in consultation with the Treasury, depending on the institution's financial development.

Apart from the four homes run by welfare organisations, six settlements for the aged are run by churches as agents for the Department and two by Bantu authorities, accommodating a total of 726 persons. Furthermore, the frail and infirm are trans-

ferred to shelters for the chronic physically disabled, which are also run by churches and other bodies. The total number of persons (including the frail and infirm aged) accommodated in the shelters is 1 195.

Settlements are subsidised on the basis of R1 per person per day but the basis may vary from case to case.

Pensions

Pensions are only paid in urban areas if the applicant can prove that he or she is living lawfully in the area concerned. If the name is not enumerated on any residential or lodger's permit no pension will be paid and no welfare assistance will be given by the welfare section of the Bantu Affairs Department.

The maximum pension an African can receive is R8 per month. The average pension paid in 1972 was R5,38 per month to the aged, R5,21 to the blind and R5,35 to disabled pensioners. Pensions are paid out every two months.

An African can earn up to R6,66 per month and still receive the full pension. But when earnings exceed this the pension is progressively reduced. When earnings equal the maximum pension i.e. R96 p.a. no pension is payable. Pensions accruing from firms' pension funds to which the employee contributed during his period of service are regarded as earnings, but if the employee receives ex gratia payments from his ex-employer these do not affect the State pension.

Case

MRS MOSOTHO was born during the Anglo-Boer War and, according to her reference book, was granted an old age pension in Randfontein on November 17, 1963. At that time she was permitted to reside in the Location there.

In November 1968, by which time she had been widowed, she was ordered to leave her house. She says she was told by the Superintendent to go to her only daughter who was working legally in Johannesburg.

Mrs Mosotho came to Johannesburg as instructed and has been refused a permit to remain in Johannesburg and therefore cannot get a lodger's permit. Because she is not on any house permit her pension payments were stopped in June 1969. The authorities have refused to resume payments. Because she left Randfontein in 1968 she has lost her rights there. She is a displaced person. She has now been told to report to the Bantu Commissioner in Randfontein for resettlement.

Once she has been resettled in one of the homelands she can reapply for her pension. But she does not want to be moved to a strange and distant place and is too frightened to go to the Bantu Commissioner's office.

The mentally defective, mentally retarded and physically handicapped

Some of these people, mentally retarded or mentally defective through injury, are not ill enough to be certified or to qualify for sheltered employment. But they need the care and supervision of their relatives. They may not, however, be able to have this care because they cannot get permits, even though the relatives are responsible for them and are anxious to give them the care they need.

They are an anxiety because:

- they are frequently arrested and sentenced to imprisonment or to a fine. After serving the sentence and on release, they are sometimes incapable of finding their way home and get lost;
- they are arrested again, as they are unable to give a satisfactory explanation as to what they are doing or where they came from; and
- they are often unemployable or cannot keep employment or cannot be registered in employment.

Cases

MRS MASHOAI is 56 years old but appears to be much older. She suffers from mental confusion and lapses of memory. She first came to the Advice Office in August 1969, because she had a mutilated reference book and had been endorsed out of the prescribed area of Johannesburg. She was refused a new reference book and was unable to get any help whatsoever from any official.

She first came to Johannesburg in about 1920 and lived continuously in the city from that date. Because of her mental state it was difficult to collect proofs of her long residence but she was able to trace two of her employers and Baragwanath Hospital was able to certify to her treatment there. All these proofs showed that she had been living in Johannesburg for at least 15 years.

She was issued with a Temporary Identification Certificate which was later cancelled and at that stage an attorney took Mrs Mashoai's case up with the authorities. After innumerable letters to officials and innumerable visits to various offices and after notice had been given to the Department of Bantu Administration and Development that Mrs Mashoai intended to apply to the Supreme Court for a Declaration of Rights and for an order directing the Department to issue her with a new reference book, she was issued with a reference book on June 4, 1970.

She was immediately endorsed out of the prescribed area of Johannesburg, although her Temporary Identification Certificate had been stamped that she had permission to remain in terms

of Section 10(1)(d). After intervention by her attorney, she was given permission to remain. On June 8 she was again endorsed out and later that day was given a stamp permitting her to remain "for investigation". On June 12 she was finally given permission to remain in terms of Section 10(1)(d).

But her troubles were still not over. She could not find anywhere to live. She had been living in Pimville which is being demolished and when she went to the Superintendent and asked for somewhere to live he told her she did not qualify for housing and must look for somewhere for herself in Soweto. On several occasions she was threatened with arrest for occupying the house where she had lived for years. On October 23, 1970, she was arrested and fined R2. Eventually at the beginning of November she was given a lodger's permit and somewhere to live.

MRS ANDRIES is legally employed in Johannesburg. She has a child of nine who is severely retarded and has been living with her grandmother in Hammanskraal. The grandmother cared for the child while the mother earned the income for the family but she is now failing rapidly and losing her sight and is no longer able to give the child the care she needs.

Mrs Andries has three sons who are all working but are unmarried and between them they also support three small children of her younger sister.

Mrs Andries wishes to apply for a house in Soweto so that the family can live together. She would like to bring her mentally retarded child to Johannesburg where she could attend the Pumula Day Care Centre. None of this family qualifies to have a house. The two older sons are over 21 but are not married and are not regarded as having dependants. Mrs Andries and her sister do not qualify because no woman may apply to be the tenant of a house.

Even should Mrs Andries manage to solve her accommodation problems she will have to apply for a permit to bring her daughter from Hammanskraal, which may well be refused. This child is going to need care for the rest of her life and it is difficult to see how this can be provided by her family under the present system of laws.

Comment

A mark of a civilised society is the humane treatment of its helpless people. In South Africa orphaned and deserted children, the mentally ill, the aged and physically handicapped have not even the minimal security which normal healthy people may expect. Apart from the unhappiness caused by the failure to keep them in society the treatment they receive causes further anxiety and distress to their families.

Old people on White-owned farms who have become "super-

fluous" because they can no longer work must move to the homelands — to relatives if they have any, or to resettlement villages or to an old aged home.

It is very hard for old people whose families are living in the urban areas and who themselves have probably lived for the greater part of their lives in urban areas. Old people, as a rule, are happiest living with their own families and this separation and the resulting insecurity together with the poverty which results from the very inadequate pension is poor reward for a lifetime of labour.

Ex-prisoners

Africans who have acquired rights in terms of Section 10(1) (b) lose them if they are sentenced to a term of imprisonment exceeding six months or to a fine exceeding R100. They thus no longer qualify for permanent urban residence. But if they can prove that they have no other area in which they can register as workseekers they may be allowed to accept employment in the place where they previously had rights.

Those who qualify in terms of Section 10(1)(a) do not lose this right but may have lost the tenancy of the house they lived in previous to the imprisonment.

At one time prisoners had difficulty in obtaining reference books and permits to work when they were released but the authorities appear to have taken steps to avoid these difficulties during the past two years. The number of ex-prisoners coming to the Advice Office to seek help for these reasons has dropped. The work of Nicro is to be greatly commended in this regard.