

THE BLACK SASH

CONFERENCE WORKING PAPER.

THE ALIENS AND IMMIGRATION LAWS AMENDMENT BILL.

The Bill amends many sections of the Aliens Act, the Aliens Registration Act, the Departure from the Union Regulation Act, the Admission of Persons to the Republic Regulation Act.

This paper deals only with those aspects of the amendments to the Aliens Act which are likely to be relevant to the work in the advice offices and which could have the most serious implications for black people who are aliens in South Africa.

An alien is defined as a person who is not a South African citizen.

The Aliens Act provides that no alien shall :

- (a) enter or be in the Republic for the purpose of permanent residence unless he is in possession of a permit to enter the country for that purpose which has been issued to him in terms of Section 4.
- (b) enter or be in the Republic for the purpose of temporary sojourn unless he is in possession of a temporary permit issued in terms of Section 5 (1) or unless he has been permitted to enter under Section 7.

Section 7 provides for certain exemptions which are not relevant to the present discussion.

Permanent Residence permits are not issued to black foreigners who come to South Africa.

The Act lays down in Section 4 (3) that the Immigrants Selection Board shall not authorise the issue of a Section 4 permit unless the applicant therefor, "is likely to become readily assimilated with the European inhabitants of the Union".

A "European inhabitant" is defined as being a white person as laid down in the Population Registration Act of 1950.

In South African language black people are not "readily assimilated" with white people.

There are many thousands of black people who were born in South Africa and who have lived in South Africa all their lives who are still foreigners. They have no claim to South African citizenship if both their parents were born in another country because their fathers have never had a right of permanent residence in South Africa even if they have been living and working lawfully in this country for decades.

This is in marked contrast to the children of white immigrants who are automatically deemed to be South African citizens if they were born in South Africa. The difference is, of course, that their white fathers are granted permanent residence permits.

All black foreigners who have come to South Africa from neighbouring countries and who have been given permission to live or work here have temporary permits only and are therefore very vulnerable to changes in government policy regarding their continued residence.

The most that they can hope for is that their repatriation will be suspended for 5 years at a time. If it is not suspended they fall under the "Two Year Rule" which requires that they spend 6 weeks in every two years in the country whose citizenship they hold.

They are not eligible...Page 2/

They are not eligible to apply for South African citizenship because a permanent residence permit is a prerequisite for the application.

The precariousness of their position is illustrated by what has happened to black Zimbabweans in South Africa since the independence of that country.

The South African government laid down new guidelines for Zimbabweans which dictate that if a black Zimbabwean cannot prove that he has worked in the same job since January 1959 or that he has been continuously employed in South Africa since January 1953 he will not be allowed to remain in this country at all, even if his employer wishes to renew his registration in a job he has held for some time.

Hundreds of Zimbabweans have been ordered to leave S.A. over the last few years.

The screws are also being tightened on workers from the B.S.L countries. Lesotho citizens for example, must have entered the labour market in S.A. by 1963 in order to qualify for a suspension of repatriation. This applies even to those who have been in South Africa if they were not old enough to start working in 1963. Many of them have never been to Lesotho in their whole lives until they are ordered to go there to obtain a passport at the age when they must be in possession of an identity document.

Women who are born in a foreign country are finding it increasingly difficult to obtain permission to live in South Africa with their husbands, and this is the case even when the husband is a South African citizen. They now have to ask their own government to apply to the South African Department of Foreign Affairs. The application is frequently refused.

There has been a major cut back in the number of foreign black people who are given permission to work in South Africa.

In 1975 there were 646 504 foreign migrants working here. By 1981 this figure had dropped to 301 758 (I.R.R. Survey 1982).

All this means that there are thousands of black aliens in South Africa who are without permits of any kind. Women come to be with their husbands. Men who have spent their whole working lives in this country and who have married South African women do not leave when they are ordered to go. Their lives have been lived here and their homes established here. Many are very bitter because they know that if they had been white they would have been able to acquire permanent residence and citizenship. They look at their children who are forever temporary sojourners and they observe with cynicism the amendment to the Citizenship Act now before Parliament which will make young white immigrants, born elsewhere, into S.A. Citizens after five years residence to enable them to be called up by the army.

It must be remembered that white South Africa actively encouraged and recruited black people from neighbouring countries to come to work here on the mines, the farms and in industry, impoverishing the sending countries in the process.

Now that we do not need them anymore, we push them back across the borders.

This is gross injustice.

It is for these people that the amendments to the Aliens Act promise disaster.

The main Act prohibits a person from giving employment to or "harbouring" an alien who is without a permit. (Section 5 ter).

The proposed amendment adds on a few other prohibitions.

Such as on the carrying on of any profession or occupation with an illegal alien, or the letting or selling to him of fixed property.

The really disastrous change/---

The really disastrous change is in the penalties which are to be imposed on conviction of these offences.

The present penalties are a possible fine of R200 or 6 months imprisonment.

The Bill proposes a fine of R5000 or 2 years imprisonment for giving employment to or harbouring an illegal alien.

This is where the shadow of the Orderly Movement Bill becomes evident. In that Bill a penalty of a R5000 fine or 12 months imprisonment is proposed for anyone who gives employment to a black person who does not have a permit to work in the urban area concerned, and a fine of R500 or 6 months imprisonment plus R20 per day for every day during which the offence continues, on any person who gives accommodation to someone who does not have the necessary permits to be present in an urban area between 10 p.m. and 5 a.m. the following morning.

The new foreigners.

The law has denationalised at least 8 1/4 million black South Africans since October 1976.

When any homeland becomes independent all black South Africans who speak the language of that homeland cease to be South African citizens on the day of independence.

Thus all Tswana, Xhosa and Venda speaking South Africans are now foreigners in the land of their birth.

THEY ARE ALIENS.

The government says it is not the intention to use this amended legislation against the citizens of independent bantustans.

We are not reassured by these statements.

When a new Bill is passed it becomes Law and a person from Transkei or Bophuthatswana is as liable to be arrested/and charged as is a person from Lesotho or Botswana or a person from Portugal, Britain or Italy.

It is not good enough that government makes statements about its intention to use this draconian measure only against certain groups.

There have been many broken promises in the past. The Law is not to be made into a matter of selective executive decision.

SHEENA DUNCAN.

14th March, 1984.