CHAPTER - I

WOMEN UNDER Apartheid Laws
Women all over the world face difficult situations in family, social, economic and political life. Both within society and family, they are discriminated by sex. They are not economically independent and even those in employment are seldom awarded higher ranks. Their degree of political participation is negligible. When women face such discrimination in any normal society, what do women face in a society under apartheid, which is not a normal one? Do the South African women face different problems and further discrimination compared to the rest of the women? If so, in what way is their situation or discrimination unique? An attempt is made to probe into these questions while discussing the plight of women under apartheid laws. Before dealing with the laws of apartheid, it is important to look into the concept of apartheid.

CONCEPT OF APARTHEID

'Apartheid' is an Afrikaans word meaning 'apartness'. It was first used on 28 March 1943 in the Cape Town newspaper Die Burger to refer to the policy of the National Party. It was described by the architect of apartheid, Prime Minister Malan, in his address to the South African Parliament on 25 January 1944 as "the policy to ensure the safety of the White race and of Christian civilisation." According to the American Heritage Dictionary, the term 'apartheid' means "an official policy of South Africa with a view to promoting and maintaining White ascendancy, the motive of which is to create an 'apartness' between Whites and Blacks". According to the 'doctrine of apartheid' each race and nation has a unique divinely ordained destiny and cultural contribution to make to the world. They should be kept apart so that
each can develop to the full along its own inherent lines. Inter-racial contacts must be avoided. The doctrine assumes that cultural attainments are racially determined and races are inherently unequal. Each racial group should have its own territorial area within which to develop its unique cultural personality.

Apartheid policy aimed at separating Whites and non-Whites. It had been the official policy since the National Party came into power in 1948. The Nationalists claimed that their concept of apartheid alone could ensure the future of 'White civilisation' in South Africa. Its supporters claimed that apartheid was not based on repression, but on a sense of trusteeship for the African population, allowing for their separate development along their own lines. It envisaged the creation of separate, closed, racial societies in South Africa as sanctioned by Christian precept and the scriptures.\(^6\) Apartheid doctrine as put forward by Verwoed and Vorster envisaged a programme of separate development, creating self-governing African States in South Africa.\(^7\)

A religious rationalisation of apartheid was based on the doctrines of the Dutch Reformed Church and other Church councils in South Africa. The Church Council of Cape Town in 1872 recorded "that neither the law of land nor the law of Church ruled that Christian Negroes had to be free."\(^8\) The Bible itself was mis-interpreted to support racial discrimination. Negroes were told to believe that they were descendants of Ham or Canaan on whom Father Noah had laid the curse - "And he said, cursed be the Canaan, a servant of the servants shall be unto his brethren."\(^6\)

Thus the Dutch Reformed Church supplied the Afrikaner with a justification of White

\(^7\) Ibid.
\(^9\) The Bible, Genesis IX, 25.
supremacy. A State theology allowed the Nationalist Party to rule South Africa with a clear conscience that their power to rule came from God.  

Apartheid practised 'racial segregation'. Racial segregation is "the practice of restricting people to certain limited areas of residence or to separate institutions (schools, churches) and facilities (parks, playgrounds, restaurants, rest rooms) on the basis of race." Pierre L. Van Den Berghe distinguished three degrees of segregation: They are Micro, Meso and Macro segregations. The need for the separation was justified by the Whites on the following grounds:

1. Cultural and material differences between racial groups are so basic that segregation is required for avoiding clashes.
2. Much of the best in African life is rooted in the tribal system. Hence the African will be happiest when left to develop along his own line.
3. The European Community of civilisation is in danger of being swamped by the brute majority of Africans.

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11 A Dictionary of Politics, n.6, p.15.
14 Micro-segregation: It was segregation in public and private facilities located in areas inhabited by the members of all racial groups. For example, segregation in waiting rooms, railway carriages, post-office counters, washrooms etc. Meso-segregation: It was the physical separation resulting from the existence of racially homogeneous residential areas within multi-racial urban areas. Macro-segregation: It was the segregation of racial groups in discrete territorial units such as the 'Native Reserves' or the Bantustans. According to Pierre, micro-segregation with grossly unequal facilities was a constant symbol of the racial status hierarchy. It was a source of "emotional gratification, economic advantages and other practical conveniences for the White group." Meso-segregation was for preserving the Whites from moral and physical contamination of congested, unhygienic slums. But the presence of many domestic servants living on employers premises made White sections of town inter-racial. Moreover, there were a number of racially mixed residential areas in Cape Town, Durban and Johannesburg. The Nationalist Government stressed macro-segregation the most. There are two reasons for this. First, if one accepts the government's premises that inter-racial contact promotes conflict and apartheid is the only salvation, then it follows that maximisation of physical distance between racial groups is desirable. Second, macro-segregation in the form of 'Bantustan' policy can be presented, for purposes of international apologetics, as an attempt at equitable partition between separate but equal nations. It was argued that their policy substitutes vertical, non-hierarchical barriers between ethnic groups for a horizontal, discriminatory colour bar.

Understanding 'apartheid' is incomplete without reference to the implied tendencies of intellectual inferiority associated with Black people in South Africa. Apartheid is seen as a part of eugenist ideology. Eugenics is the study of hereditary improvement especially of human improvement by genetic control. Arthur Jensen is one of the advocates of this theory. His 1969 article in the Harvard Educational Review started the controversial wave of genetic argument for IQ differences. The eugenist ideology was based on the notion that some descendants of a given race are well-born or noble. Others are inferior. As they believe in racial hereditarianism, they advocate sterilisation of those who are inferior. In the early thirties the Nazis passed marriage and sterilisation laws. Under such laws, in 1935 over 56,000 people, predominantly Jews, considered to be inferior, were sterilised. Also, the German Marriage Law, 1935, prohibited marriage between Jews and Germans. Under the Eugenic Qualification Law, 1933 Jews were excluded from State service jobs such as the post office, state bank, railway and all civil services. Equivalents of these laws were available in the US laws regarding sterilisation and inter-marriages. History shows that legal discrimination in US kept Blacks out of skilled and professional jobs for a long time. South Africa under apartheid is similar to above examples with "Blacks experiencing various forms of ostracism, repression, oppression and dehumanisation."

It is important to look into the reasonings of other theorists with opposing views. In this regard, the 'Cress Theory' deserves a mention. Frances Cress Welsing, a psychiatrist, propounded this theory. She presented a counter-view to the concept of White supremacy and its related intellectual implications. Welsing in her psycho-genetic theory argued that by virtue of their colour, Black people possess a

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16 Onwuzurike, n.4, p.217.
17 Ibid.
18 Ibid.
19 Ibid.
sixth sense, a sense that Whites do not have because of their lack of colour.21 She referred to a common scientific knowledge that all humans - Blacks and Whites - have an equal number of melanocytes in their bodies. While the melanocytes in Blacks produce skin blackness, the melanocytes in Caucasians produce relatively little melanin which is responsible for the whiteness in their skin. After analysing these data, Welsing came to a conclusion that Blacks and all 'Coloured' people have functional or active melanocytes while Whites have deficient and non-active melanocytes which result in their having "deficient pigmentation". She strongly argued that the active melanocytes are sense receptors or "sixth sense". While Blacks have it Whites do not have. Because of the active melanocytes Blacks can pick up certain vibrations which Whites cannot. For her, lack of skin pigmentation is lack of human energy or potential necessary for the performance of essential human functions or tasks. This potential can be regarded as forms of intellectual abilities. Hence the superiority complex that is manifest in Whites is actually a defence mechanism to ward off the inferiority complex associated with poor skin pigmentation. The counter discriminatory tendencies of the Whites take the shape of inferiorising and dominating the Black people of the world. By developing a power mechanism they suppress their inferiority problem. The concept of White superiority is indeed a compensatory response emanating from a sense of inadequacy.22 According to her, if someone says "I'm superior", "I'm superior", "I'm superior", it indicates that there is some sense of inferiority.

Presenting another dimension to the argument against apartheid, Fuller (1969) recognised White supremacy in South Africa as "functional racism". He argued that racism is not merely a pattern of individual or institutional practice but is a universally operating system of White supremacy rule and domination in which the effective majority of the world's White people participate.23 According to him various

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23 Ibid.
economic systems have been devised in the effort to achieve the primary goal of White domination. He further argued that the word 'race' has little biological validity, but is an "organisation" whose sole purpose is to maintain White domination and universal control.24

The Biological Theory of racism invalidates the above discussed theories. Biologically speaking, the term 'race' denotes a sub-division of the human species - the Homo Sapiens. Race refers to distinctive physical characteristics that distinguish one from the other sub-divisions of the human species. There are more similarities than dissimilarities amongst the Homosapiens. The dissimilarities25 have emerged due to a natural evolutionary process. By grouping similarities in pigmentation, hair texture and head shape it is possible to distinguish three broad divisions of human races - the Mongoloid, the Negroid and the Caucasoid.26 Since the similarities are greater, the differences get mixed up blurring the distinguishing individual features. In spite of the hybridisation, these biological differences though superficial do appear. Years of research has proved that these differences do not play any role in deciding the intelligence or the physical capabilities of the three races. This important factor is missed in South Africa as apartheid does not believe that race is merely a biological phenomena.

According to the Marxist approach the real driving force of apartheid is economic. Apartheid is the expression of a 'class political policy'.27 It reflects the interests of the capitalist rule which is based on the "maximum exploitation of Black labour."28 There is conflict between the capitalist class and the working class. This class conflict will lead to the dictatorship of the proletariat after over-throwing the

24 Ibid.
25 The dissimilarities which in any case minor may be noticed only with regard to marginal variations in the hair, nose, jaws, lips and the complexion of the skin.
28 Ibid, p.25.
bourgeoisie. The Marxists believed that the apartheid State under the Afrikaner rule cannot sustain for long. The racist and immoral facets of apartheid life under Afrikaner domination is explained in terms of the Marxist-Leninist axiom: "No nation that oppresses another can itself be free."29

Anirudha Gupta turned Marxism upside down with regard to South Africa. In the context of racism and apartheid, he raised the issue of the 'class of poor Whites' in South Africa. According to him "the association of foreign capital with a class of poor Whites laid the foundations of a racially segregated society which was absent in other African countries."30 In South Africa there is no class conflict between capital and labour, between bourgeoisie and proletariat according to the Marxist concept, but a colour conflict between Black and White workers in which the State intervened on the side of the Whites. Therefore, "it was race and not class that became central to South Africa's political ideology. And behind this ideology, emerged the Afrikaner need to preserve the 'volk' from the denationalising influence of British culture, liberalism and ideas of class division. Apartheid and Afrikaner nationalism became indivisible."31

It would be interesting to quote what South African women feel about apartheid. Different opinions are voiced by women belonging to different races and walks of life. According to a girl whose parents were in exile - "Apartheid is traumatic - psychologically, emotionally and physically. It is like a ghost; it tortures, it troubles, it hits but you cannot see it".32 According to a student of Witwatersrand - "The power of apartheid is such that it is still there in our minds. It developed 'self-hate' in us. Though I went to good schools, my White friends did not accept me as equal. They often said that I am a better Black than the rest as if the rest were dogs. I lost my

32 Personal interview, Zukiswa Poswa, Johannesburg, July 14, 1996.
identity. It was always like the White way is the right way”.

A Member of Parliament, Bathabile Damini said - "Apartheid is violation of human rights. I take it as a deadly disease because due to it a lot of people died, lost their loved ones. It destroyed family life”.

A South African of Indian origin remarked - "Apartheid is an extremely dehumanising experience. I was brought up with dignity and respect in the family but became a non-entity in the society because of my race".

Ilse Wilson, the daughter of Brown Fisher felt - "The system of apartheid was an evil system. It was to keep the class system in place. Initially class and colour coincided, but later it was only the question of class".

Margaret Nash, who was the national president of Black Sash explained that - "the system of apartheid was a refinement of a European colonial racial domination. It capitalised on White people's greed, insecurity, gullibility and manipulatic-1. The power of apartheid was getting the victims to go along with it. It is a system of deception and self-deception".

According to a Coloured woman who has been active in ANC - "Apartheid is a lot of negative emotions like humiliation, hurt, anger...you want to fight".

Mahatma Gandhi's grand daughter Sitaben Dhupelia saw apartheid in a different light. According to her - "You can never let anybody insult you. No matter what laws - nobody can insult you as you have the dignity. Apartheid did not affect me because deep down inside me I have my own dignity and nobody can touch".

These were the feelings expressed by South African women about what apartheid meant to them.

For the United Nations apartheid was a "crime against humanity." The Declaration on all 'Forms of Racial Discrimination' adopted by the United Nations General Assembly in 1965 stated that "Any doctrine of differentiation of racial superiority is

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33 Personal interview, Juliet, Johannesburg, July 14, 1996.
34 Personal interview, Bathabile Damini, Cape Town, August 14, 1996.
35 Personal interview, Ujala Jivan, Durban, August 23, 1996.
36 Personal interview, Ilse Wilson, Johannesburg, July 27, 1996.
37 Personal interview, Margaret Nash, Cape Town, August 10, 1996.
38 Personal interview, Shirley Chaplog, Johannesburg, August 28, 1996.
39 Personal interview, Sitaben Dhupelia, Durban, August 21, 1996.
scientifically false, morally condemnable, socially unjust and dangerous and that there is no justification for racial discrimination in theory or in practice anywhere."  

Paradoxically in 1948 when racism was institutionalised in South Africa, United Nations had adopted its Universal Declaration of Human Rights which proclaimed rights and freedoms for all without distinction as to race, sex, language or religion.  

According to Anirudha Gupta, this Declaration and apartheid could not co-exist. Hence United Nations initiated measures against apartheid. South Africa was denied membership in the United Nations. In 1977, the UN Security Council imposed a limited arms embargo on South Africa. Sanctions were imposed and the oil supplies were stopped. Apart from such negative measures, positive action was taken by UN by declaring the African National Congress's (ANC) liberation struggle as legal. It further designated the supporters of Pretoria regime as "collaborators in the act of genocide".

United Nations thus established "link between the issue of racial equality and the principle of national self-determination". In this context Anirudha Gupta in his study exposes the colonial nature of apartheid. He gave the following two reasons in favour of the argument:

(1) South Africa classified its population by race. The citizens were therefore mainly divided into 'the Whites and the Blacks'. The system of apartheid which was maintained by force, deprived the rights of the Blacks. By law Blacks were treated as 'a separate and alien people'. Thus, these characteristics of the South African system came close to "the classic imperialist-colonialist situation in which the ruling class of the dominant nations owns and controls the colonial territory and uses its instruments of

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42 Gupta, n.30, p.9.  
43 Ibid.  

(2). By creating independent 'Bantustans', South Africa attempted to deprive Africans of their rights as citizens by forcing them to accept the citizenship of the 'tribally constructed homelands'. This showed that the Republic had clearly become a colonial power and was subject to the provisions of Articles 73 and 74 of the UN Charter which spelled out obligations of the members in regard to the non self-governing territories.\footnote{Gupta, n.44, p.115.} United Nations therefore did not recognise the 'Bantustans'.

The United Nations was followed by the Commonwealth, OAU (Organisation of African Unity), NALI (Non-aligned Movement) and other nations in condemning 'apartheid'. The African states used both the Commonwealth and the OAU as a platform to fight Apartheid. The African countries regarded racial equality a prerequisite for Commonwealth membership. This resulted in the forced withdrawal of South Africa from the Commonwealth in 1961.\footnote{E.S.Reddy, "India - Partnership in Freedom and Development 1946 - 1995", \textit{Africa Quarterly} (New Delhi), vol.35, no.2, 1995, p13.}

In considering measures to put an end to apartheid, the Addis Ababa conference in May 1963 adopted the resolutions of 1960 of the UN General Assembly.\footnote{Cervenka, n.3, p111.} These resolutions called on the UN members to force South Africa to abandon its racist policies by:

(1) breaking off diplomatic relations with the Government of South Africa, or refraining from establishing such relations;

(2) closing their ports to all vessels flying in South African flag;

(3) enacting legislation prohibiting their ships from entering South African ports;


\footnote{Gupta, n.44, p.115.}

\footnote{E.S.Reddy, "India - Partnership in Freedom and Development 1946 - 1995", \textit{Africa Quarterly} (New Delhi), vol.35, no.2, 1995, p13.}

\footnote{Cervenka, n.3, p111.}
(4) boycotting all South African goods and refraining from exporting goods including all arms and ammunition to South Africa; and

(5) refusing landing and passage facilities to all aircraft belonging to the Government and companies registered under the laws of the Republic of South Africa.\(^{50}\)

OAU made an identical demand on its members as they all regarded apartheid as "a threat to international peace and security".\(^ {51}\) The Eighth Summit of the NAM held in September 1986 at Harare unanimously adopted a charter of economic measures against South Africa.\(^ {52}\) India was the first country in the world to raise the issue of racial discrimination in South Africa under Articles 10 and 14 of the UN Charter in 1946.\(^ {53}\) India was the first country to break off diplomatic relations with South Africa and introduce a general ban on trade and other contacts like sea and air travel with South Africa.\(^ {54}\)

Thus the whole world attacked apartheid. But then why did apartheid in South Africa provoke everybody and receive such world-wide condemnation? Are there not other countries facing more or less similar problems? Racism is present in the United States also. And the problem of untouchability in India is no less atrocious and inhuman. In South Africa the fact that apartheid was made the law, made all the difference. The Europeans evolved a very crude system of domination which caught the attention of everybody. That way the Whites in South Africa appear to be very immature compared to the section of Brahmins in India who developed a very sophisticated system of domination and discrimination based on caste, religion

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\(^{50}\) Ibid.

\(^{51}\) Ibid.

\(^{52}\) The Statesman (New Delhi), September 6, 1986.

\(^{53}\) Gupta, n.44, p.125.

and philosophy. Here the discriminated actually accepted their position as natural and destined to them.

**LAWS OF APARTHEID**

Apartheid is implemented through its laws. Before discussing the particular laws affecting women, it is important to briefly look into the general apartheid laws affecting men and women in South Africa.

**Population Registration Act of 1950**

This Act classified each person in South Africa by race. The South African population was officially divided into three 'race' groups, namely - Black, White and Coloured. The Coloured is further divided into seven sub-groups: Cape Coloured, Cape Malay, Griqua, Indian, Chinese, other Asiatic and other Coloured. The Government identified Asian (meaning the Indian and other Asiatic sub-groups of coloured) as a fourth major 'race' group. Racial classification determined each individual's destiny in terms of franchise, mobility, residential rights and social benefits and services provided by the State. The classification was so rigid that it often lead to unbelievable situations as explained by Rosemary Phillip, the headmistress of an educare centre for poor children (Black) - "I married an Indian and had three children. We all wanted to leave the country for security reasons. I wanted to put my children on passport as they were minors. The officials there told me that as I was classified 'coloured' and the children 'Indian', I cannot officially be their mother. It was so hurtful and painful. But isn't that silly too?"

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55 The first Population Registration Act (1950) used the terms 'White', 'Coloured', and 'native'. In subsequent legislation 'native' was changed to 'Bantu' and then to 'Black'.
57 Ibid.
58 Personal interview, Rosemary Phillip, Durban, August 22, 1996.
Group Areas Act of 1950

The Act empowered the Government to declare areas for use whether for housing, education or industrial development, strictly according to race. It provided for the designation of particular residential areas for specific races.\(^{59}\) The practical difficulties experienced as narrated by Shanthie Naidoo, a veteran freedom fighter - "I was subjected to separate housing under the Group Areas Act. Though I work in Johannesburg proper, I stay in Lenasia, an Indian area, which is 22 miles away from Johannesburg."\(^{60}\) In a ‘pure’ group area the acquisition, holding and occupation of immovable property will be restricted exclusively to a specific group.\(^{61}\) The Act was consolidated in 1965 and "it gave power to any policeman investigating a suspected offence relating to ownership or occupation of land, to inspect without any warrant during day or night and conduct searches and question any person".\(^{62}\)

Prohibition of Mixed Marriages Act of 1949

This Act strictly prohibited marriage between different races.\(^{63}\) A number of elderly couples living together as man and wife for many years were ordered to separate.\(^{64}\)

And those who did not want to separate took to any means to stay together. According to a student of Witwatersrand - "My aunt was registered as my Uncle's maid as it was illegal for them to live together."\(^{65}\)

Immorality Act of 1950

The Act banned sexual relationship between people of different races and particularly between Europeans and non-Europeans.\(^{66}\)

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59 Africa South of... n.5, p.770.
60 Personal interview, Shanthie Naidoo, Johannesburg, July 15, 1996.
61 Datta, n.15, p.10.
63 Datta, n.15, p.12.
64 Shirley Patterson, Colour and Culture in South Africa (London, 1953), p.142.
65 Personal Interview, Patience William, Johannesburg, July 19, 1996.
66 Patterson, n.64, p.142.
Reservation of Separate Amenities Act of 1953

The Act gave legislative sanction to race segregation in public places, trains, buses, post offices, hospitals, ambulances and beaches. "It permitted public facilities to be reserved for the exclusive use of any race without provision for equality of such facilities." According to an unemployed daughter of a domestic servant - "The Blacks are servants of Whites. If I work in a White house I cannot use their toilet. Whites use us for work but gives no facilities. We Blacks and Whites cannot sit together. Whites don't want to sit with me on one table and eat." A domestic servant explained - "Because you are a Black you cannot go to the White areas. In shops there are two doors - one for Blacks and one for Whites and if we or our children go to the White door, they catch us and punish us. In a White household we cannot walk with shoes. We cannot drink a cup of tea with the madam. They treat us very badly. They treat us like slaves whether you like it or not." According to the secretary of the Deputy Speaker, Provincial Legislature, Johannesburg - "Whites had many privileges which we didn't have. Apartheid covered every aspect of life. We couldn't use White toilets, transport or even banks. We always stood in different queues for everything."

Black Urban Areas Consolidation Act of 1945

It regulated Black residence with White urban areas. Under this Act, the only Black people who could remain permanently on the White urban areas were those who had lived in that area since birth, those who had worked continuously in an area for one employer for a period of not less than ten years and who had continually lived there for not less than fifteen years. And during this period he should not have

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68 Personal interview, Sylvia Ratombo, Johannesburg, July 12, 1996.
69 Personal interview, Lizzy, Johannesburg, July 13, 1996.
70 Personal interview, Loraine Mthembu, Johannesburg, July 16, 1996.
subject to a fine of more than 500 rands or imprisonment for a period exceeding six months.71

**Bantu Authorities Act of 1951**
This abolished the old Native Representative Council and gave new powers to headmen and chiefs. The Act provided for Bantu authorities who would be responsible for large regions and ultimately for the whole territories administered under Bantu laws and customs.72

**Promotion of Bantu Self-Government Act of 1959**
This Act reduced the many reserves to eight large units and appointed a commissioner to head each one with instructions to guide his region towards self-government.73

**Bantu Laws Amendment Act of 1964**
It removed all rights of Africans in areas outside the homelands.74

**Bantu Homelands Constitution Act of 1971**
This Act empowered the Government to grant independence to any 'Homeland'.75
Consequently Transkei became independent in 1976, Bophutswana in 1971, Venda in 1979 and Ciskei in 1981.76

**The Aliens and Immigration Laws Amendment Act of 1984**
This Act declared that all those people who were citizens of Independent Bantustans were aliens.77

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73 Ibid, p.248.
76 Ibid.
Bantu Labour Act of 1953
By this Act the Africans were prohibited to go on strikes. 78

Native Labour Act of 1953
This Act prohibited trade unions among the African workers. 79

Industrial Conciliation Act of 1956
This prohibited mixed (race-wise) trade unions and extended sweeping powers to the Ministry of Labour for deciding at its own discretion what occupations were to be open to any racial group. 80

Bantu Education Act of 1953
This Act placed all the Bantu education, which had been mainly in the hands of subsidised Churches and mission societies, under the control of the State. 81
According to the daughter of a domestic servant - "Apartheid deprived me of educational rights and job. Bantu education is not same as White education. I attended all Blacks schools." 82 According to a domestic servant - "I studied till standard IX but can't speak English. The education for us is inferior." 83 A receptionist in an organisation remarked - "When we look for work we don't get anything because of our race. I experienced a lot of racial discrimination especially when applying for technical education which is meant only for Whites." 84

Separate Universities Act of 1959
This prohibited the 'open' universities of Witwatersrand and Cape Town from admitting any more non-Whites and provided separate universities for the Bantu, the Indians and the Coloureds. 85

78 Ataov, n. 74, p. 3.
79 Ibid.
80 Ibid.
81 Selby, n. 72, p. 246.
82 Personal interview, Eunice, Johannesburg, July 13, 1996.
83 Personal interview, Punza Magata, Cape Town, August 8, 1996.
84 Personal interview, Patricia, Johannesburg, July 29, 1996.
85 Selby, n. 72, p. 246.
Suppression of Communism Act of 1950
Under this a communist was defined as "one who is seeking any form of social, political, industrial or economic change by unlawful acts or by means which include the promotion of disturbance or disorder." 86

Public Safety Act of 1953
This Act authorised the Government to declare emergency keeping public safety in mind. 87

Criminal Law Amendment Act of 1953
This Act penalised any political protest including exercise of speech to change public policy and law. 88

Criminal Procedure Act of 1955
This permitted detention for 180 days without any trial. 89

Prisons Act of 1959
This Act restricted the publication of information on prison conditions and prisoners, including treatment of political and other inmates. 90

Unlawful Organisation Act of 1960
This empowered the State President to declare organisations unlawful and dissolve them by proclamation. 91

87 Ataov, n. 74, p. 3.
88 Ibid.
89 Ibid.
90 Friedman, n. 67, p. 47.
91 Ibid, p. 46.
General Law Amendment Act of 1962
This Act broadened the range of illegal acts of "sabotage".92

Publications and Entertainment Act of 1963
This Act specified as a 'criminal offence' the freedom of the press where a newspaper strongly criticised apartheid as unjust.93

Terrorism Act of 1967
"This established the crime of "terrorism" so loosely defined as to leave the Government virtually a free hand to prosecute anyone it so wishes, narrows the right of 'habeas corpus' and substantially eliminates the defence of double jeopardy."94

Internal Security Act of 1976
This allowed detention for up to a year without trial or recourse to a lawyer.95

Criminal Procedures Act of 1977
This permitted, in effect, trial in total secrecy including charging, trying, convicting and sentencing.96

Thus the concept of apartheid was materialised through its laws. These laws interfered in every aspect of the lives of the South Africans including very personal matters like marriage and sex. The other laws which were meant for security and safety were unfair especially to the Blacks. Sometimes Blacks were detained and prosecuted even without a trial. But again, such provisions are not unique to South

92 Ibid.
93 Ibid.
94 Ibid.
95 Ibid.
97 Ataov, n.74, p.3.
Africa. It is important to note that in South Africa laws were not just to regulate law and order or contain anti-social elements, but were meant to deprive South African Blacks from their basic political, economic, civil and social rights including their South African citizenship so that the White minority could be consolidated. Whereas laws promote and protect the rights of the citizens in other countries, in South Africa they acted otherwise. That is what is unique about the South African legal system which promoted discrimination instead of equality.

Under apartheid even the Europeans were subjected to certain limitations. According to Julian R. Friedman, the explicit restrictions on Europeans under law and by ministerial and police actions extended to:

(1) freedom to choose an area of residence;
(2) freedom not to be classified and identified by "race";
(3) freedom to marry a person of one's own choice;
(4) freedom to engage in personal and private conduct as a consenting adult;
(5) freedom to engage in business or practice professions in areas of one's choice;
(6) freedom to assemble or even visit with friends and other persons;
(7) freedom to select candidates for the parliament and other legislative bodies;
(8) freedom to travel throughout South Africa;
(9) freedom to enjoy a speedy trial upon detention;
(10) freedom to enjoy the privacy of one's home without invitation by the police;
(11) freedom of speech on public policy;
(12) freedom to travel abroad;

Friedman, n.67, pp.50-51.
(13) freedom to contribute to charities of one's choice and assist the needy;
(14) freedom to read publications;
(15) freedom to attend churches of one's preference;
(16) freedom to bargain collectively on the labour market;
(17) freedom to assign employees to jobs and tasks;
(18) freedom to house employees on one's own property;
(19) freedom to negotiate the sale or purchase of real property; and
(20) freedom to select students for schools and universities."

Thus, the Europeans too were affected by apartheid directly or indirectly. According to a social worker - "Even the Whites had their own limitations in spite of all the privileges. I used to get mad when I couldn't visit a friend living in a certain area. The power of the State was so huge that you simply couldn't do anything." Apartheid suited only those who believed in racial superiority and who were in favour of White dominance over the Blacks in every field. But what about those 'Whites' who did not believe in such a thing? In South Africa there were Whites who were anti-apartheid and who were sympathetic towards the Blacks. According to a Sociologist from University of South Africa - "For a long time I was in a situation where I did not know what was going on. It was a big shock when I realised the extent of discrimination. I feel angry and cheated that the reality of the situation was kept away from me. We have such wonderful people, rich culture especially of the African people who are warm and open. I think it would have benefited me if I could have mixed with them right from tender age." According to a student from East London - "The skin of the colour has nothing to do with what is inside. I have many Black friends and somehow I prefer to have a Black friend rather than a White." Such Whites were affected by the restrictions. However, they could not get away from the privileges imposed upon them. According to a medical representative who

98 Personal interview, Wendy Segerius, Durban, August 23, 1996.
100 Personal interview, Madeleine Due plessis, East London, August 19, 1996.
was active in Black Sash - "To me as a White person in South Africa was an embarrassment because you could never escape the fact that you were privileged no matter how hard you put in the struggle but you actually couldn't get away from the fact that you are a part of the privileged group. Even today we reap the benefits the kind of education, family background and privileged position."^{101}

Therefore the restrictions did deprive a section of Whites of their choices but it is important to note that the laws were for their benefit and well-being. The laws not only protected all their rights but effectively bridged the gap between the Dutch and the English and succeeded in consolidating the Whites against the Blacks.

WOMEN UNDER APARTHEID

Though all the apartheid laws affected women directly or indirectly, there were a few laws whose consequences subjected them to many difficulties. They were:

1. The Migrant Labour System
2. The Pass Laws and Influx Control Measures
3. Forced Removals and Policy of Resettlement, and
4. Policy on Homelands or Bantustans.

The Migrant Labour System

It is relevant to briefly mention the context in which the migrant labour system evolved in South Africa. In South Africa, there was a cleavage in the European Community which was divided into the Boers and the English. The Boers being staunch supporters of the Dutch Reformed Church were conservative, whereas the English were liberal. The English were professionals, civil servants and businessmen, while the Boers were poor, uneducated and jobless. This aspect

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^{101} Personal interview, Viki Proudlock, Port Elizabeth, August 17, 1996.
assumed importance with the inflow of foreign capital into the gold mining industry. Since mining required a regular supply of cheap labour, the foreign companies recruited both White and Black workers. This gave rise to a conflict between the White and the Black mine workers. Fearing competition, the White workers demanded that the Blacks be kept outside the mining compounds, be confined to manual labour and denied the right to trade unionism. The mining companies acquiesced to this demand. The State intervened on the side of the Whites. The Government passed the Land Act of 1913 which deprived the Africans of their ancestral lands and transferred them to White farms. It further developed the labour structure keeping in mind (a) the White economy and well being, and (b) the principle of racial segregation.

Thus the colour bar gave rise to the system of migrant labour in South Africa. This is clearly reflected in the statements made by the concerned officials during that time. A Nationalist Party MP, Mr. G. F. Van L. Froneman, who later became a Deputy Minister of Justice, Mines and Planning stated that "We are trying to introduce the migrant labour pattern as far as possible in every sphere and this is in fact the entire basis of our policy as far as the White economy is concerned." The Blacks were forced indirectly into the migrant labour system mainly due to two reasons -

(1) As they had to earn cash to pay the taxes, they worked in the mines and industries through the system of migrant labour. In fact "poll taxes were originally used as a mechanism to drive the Africans into the cash economy by requiring them to pay a cash tax." 

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102 Gupta, p.8.
103 Ibid.
Under apartheid, the 'homelands' allotted to the Blacks were "a jumble of unconnected arid tracts incapable of sustaining population". Africans therefore sought employment in the 'White areas' again under the migrant labour system.

Under this system all the Blacks outside the reserves were considered migrants. The workers operated on a contract basis. The Bantu Labour Regulations Act of 1968 stated that all the new labour contracts in the urban areas for migrants were for one year at the end of which the worker was to return to his homeland. He could return to the urban area only after he secured yet another contract. The migrant labourers were not allowed to take their families to the urban areas. They were therefore put up in the single men's hostels. They were given permission to visit their families only during their annual two-week holiday. No woman other than their wives could visit them. If a woman wanted to meet her husband, she had to travel to the urban area where he resided. Legally, she could stay with him for only 72 hours. To stay any longer she needed a special permission. And that permit was granted only "if she wanted to conceive or needed medical care". Thus the State decided when, for how long and for what reason could a woman stay with her husband.

The women were considered non-productive for the economy and therefore were not encouraged to migrate. In 1969, Mr. Froneman said that "the African labour force (men) must not be burdened with superfluous appendages such as wives, children and dependants who could not provide service." The reduction of women's status to 'superfluous appendages' deprived them of even the limited

109 The Plight of the Black Women..., n.106, p.11.
importance they enjoyed under any capitalist production relationships in other countries.

Thus the Black women in South Africa were debarred legally from all employment except menial or economically insignificant employment like domestic service and casual farm labour. And those women who migrated to the cities legally or illegally, were accommodated either in 'single quarters' belonging to their employers, or in single-sex 'bachelor hostels' whether they were married or not. In these hostels men were never allowed and no children were entertained. The Black women therefore were left behind in the Bantustans with the aged and the children to be taken care of. Under these circumstances leading a normal family life became difficult. During the long periods of their youthful, sexually active lives, husbands and wives lived apart. Children grew up with a single parent. And if women chose to migrate they were deprived of any parental affection. For many, the family unit was never formed.

Men lived single in the urban areas. This decreased the wages paid to them because their families were assumed to be able to live on the proceeds of subsistence agriculture in the reserves. It also prevented Africans from becoming integrated into the 'White urban economy' and demanding services and rights. In this context the then Prime Minister Mr. B. J. Vorster stated that "We need them to work for us, but the fact that they work for us can never entitle them to claim political rights. Not now, nor in the future... under any circumstances." The Government neither intended nor gave any scope to the migrants to claim for any rights in the urban areas. Moreover, through legislation, the migrant workers were made ineligible for permanent urban residence.

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111 Bernstein, n.104, p.12.
Lastly, the migrant labour system turned the migrant workers into units of labour as they were judged only as units of production. They were legally deprived of something as basic and natural as a family. In this context, it is relevant to point out that this is not unique to the South African migrant labour system. In India as well as in other African countries there is migration and the migrants are often deprived of their families. And their wives are left behind in their villages. The only thing unique about the South African situation is that here the migration is more systematic and the migrants and their families are legally debarred from living together. It is only in South Africa that we find law interfering so much in the lives of the migrant workers. The position of women was determined by apartheid's' labour policies. Regarded as 'appendages' they were legally denied of an independent existence as human beings with abilities, aspirations and needs of their own.

The Pass Laws and Influx Control Measures
To regulate the circulation of labour and to check migration into the 'White' areas, the pass laws were introduced along with the influx control measures. Influx control was controlling the influx of Africans into urban areas. It was carried out by the labour agencies, police, magistrates' courts and the Bantu Affairs Department. In 1952, the various laws (relating to the type of passes) were consolidated into one Act enabling the authorities to issue 'reference books' to Africans in lieu of the various passes they were formerly required to carry. The reference book contained the holder's identity card as well as particulars of residence, employment contract, tax receipts etc. In addition, it contained endorsements regarding the eligibility of the holder to live in, work in or seek work in 

112 Ibid, p.6.
113 Ibid.
prescribed areas.\textsuperscript{114} 'Passes' and 'reference books' were therefore interchangeable terms.

To define a pass is difficult as historically passes were used in a variety of ways, came in many different forms and were applied with various justifications at different times and places. Pass laws in South Africa have a long history dating back to 1760 when slaves moving between urban and rural areas were required to carry passes authorising their travel. In 1809 the 'caledoon code' was introduced in the Cape Colony to limit the freedom of movement of Khoisan servants. In 1828 the system was expanded to accommodate the emancipation of slaves. The most common type of pass confirmed "a written labour contract detailing the period of work expected of the labourer, the identity of the employer and the terms of compensation."\textsuperscript{115} Workers who left jobs because of low pay, unreasonable employer demands or unsafe conditions committed a crime by breaking their contracts. The absence of an employer's monthly signature on a pass exposed the worker's non-compliance with demands which were often unreasonable. Thus, passes were used as a way of locking workers into unattractive employment, no matter how unfavourable the terms. Passes gave authorities the legal means to detect and deter absconders. The pass law legislation up to 1950 was designed to encourage the flow of labour into White agriculture and industry and to redistribute labour into geographical areas where it was needed. From 1950 onwards it was directed to 'relocating' Africans from 'White' areas and containing them within the Bantustans. Pass laws thus underwent modifications in efforts to rationalise them in the face of changing political and economic circumstances.

\textsuperscript{114} Ibid.

\textsuperscript{115} Julia C. Wells, \textit{We Now Demand! The History of Women's Resistance to Pass Laws in South Africa} (South Africa, 1993), p.5.
The pass law legislation can be divided into the following phases.

_The First Phase_: The first wave of pass laws focused around the need to control the vagrants and to prevent recruited labour from changing jobs or deserting. Their aim was to regulate labour and to lay down conditions under which labourers could move. In 1910, many types of controls over the movement of Africans evolved involving the use of travel documents, labour documents, curfew documents, residential documents and the imposition of penalties for the non-possession of them.¹¹⁸

_The Second Phase_: This phase of pass law legislation was directed to control the African presence in urban areas. In 1921, the Stallard Commission on Transvaal local government reported that "It should be a recognised principle of government that Natives - men, women and children - should only be permitted within municipal areas in so far and for so long as their presence is demanded by the wants of the White population and should depart when they cease to serve the needs of the White man."¹¹⁷

In response to the Stallard Commission, the Natives Urban Areas Act of 1923 emerged. The Act laid down the principles for urban African administration, directing municipalities to provide housing and services for African populations and giving them power to restrict entry in towns and expel those Africans "habitually unemployed... idle, dissolute or disorderly."¹¹⁸ The Native Law Amendment Act of 1937 altered this and tightened up pass laws on a national basis by linking them directly to provisions governing labour supplies and by introducing measures giving African work seekers fourteen days to find work or to leave the town.

¹¹⁷ Ibid.
¹¹⁸ Ibid, p.194.
The Stallard doctrine came under question as urban and industrial growth continued. 'Commission of Inquiry' and 'Inter-departmental Committee' reports provided evidence of the permanence of the urban African population and of the need to change the existing policy so as to recognise this. The statement of the position was provided by the Fagan Native Law Commission in 1948 which concluded that "the idea of total segregation is impractical and that efforts should be directed toward regulating the flow of labour and encouraging its stabilisation in urban areas under a changed system of influx controls."119

The Third Phase: This phase of pass law legislation was ushered in with the 1948 election of the National Party Government which repudiated the findings of the Fagan Commission and reaffirmed the Stallard doctrine that Africans should remain in towns only as long as their labour was needed by the Whites. The migrant labour system was introduced consequently. Urban Areas Act was amended in 1952 restricting permanent urban residence under section 10 of the Act. This section laid down that no African may remain in White areas unless he/she produces proof that:

1. he or she has lived there continuously since birth; or
2. he or she has worked there continuously for one employer for at least 10 years, or has lived there lawfully and continuously for 15 years, and has not been convicted of a serious offence and has not been employed outside the area; or
3. he or she is the wife, unmarried son or daughter under the age of 18 of someone in the above categories; or
4. he or she has been granted special permission to be in the area.120

119 Ibid.
120 Bernstein, n.104, pp.6-7.
The Act also reduced the length of time a person could visit an urban area to seek employment to 72 hours.

The tightening of influx control measures was marked by a spate of both legislative and administrative measures -

(1) In 1964, an embargo on the entry of African women into urban areas was imposed on those who did not have a visitor's permit for a specific period.

(2) In 1964, compulsory registration and employment of workers via a network of labour bureaux was instituted.

(3) In 1968, Labour Regulations were introduced to prevent contract workers from obtaining section 10 rights.

(4) In 1969, the building of family housing in urban areas was prohibited.

(5) In 1971, Administration Boards were established and urban African administration was removed from local authorities and responsibility for implementing pass laws was given to these Boards.

The Fourth Phase: This phase involved the adoption of an urbanisation policy with two aspects:

(1) The first aspect involved the freezing of section 10 privileges under an amendment to the Urban Areas Act in 1978. According to it no person born after the date of "independence" of their "homeland" could obtain permanent urban residence.\(^{121}\) Few migrant labourers could acquire rights to permanent urban residence. It is interesting to note that as independence is granted, section 10 rights cease without being formally abolished. The consequences of this would be that urban areas will have migrant workers and those with permission to be in these areas, but these persons will not have legal rights of

\(^{121}\) Savage, n.105, p.196.
permanence and their permission to be there administratively may be withdrawn anytime, without reference to the courts.

(2) The second aspect involved attempts to improve the conditions of Africans in the urban areas qualified then under section 10. In 1978, this group was granted rights on housing. The Rickert Commission recommended extension of their privileges by allowing them permission to move between urban centres without losing their legal rights as long as they have an offer of employment and accommodation. At the same time efforts were being made to increase the efficiency of the influx control measures.

The relationship of African women to this changing pass system evolved over time. Prior to the 1890s Black women were not covered by any pass laws. An African man could not freely enter the urban or mining area of his choice unless contracted as a wage labourer. Women could move freely and experienced no direct problems with passes. Their choices to enter such areas were determined by the availability of housing, income-generating alternatives and family problems and needs.

With the discovery of gold on the Witwatersrand in 1886, competition for the control of Black labour accelerated among the small towns and cities of the White-dominated agricultural zones of the Free State and Transvaal. They attempted to apply various legislated means of control over their local Black population. These municipal regulations included both men and women. In such areas Black labour was not abundant ensuring that Black women were regularly engaged in domestic work. Early controls took the form of several kinds of permits enforced with varying levels of rigour. To the women, they were perceived simply as passes. In 1913, the central government encouraged non-enforcement of the local pass laws and then excluded women from pass law requirements. Under the 1923 Natives Urban Areas Act from 1923 to 1956, women were not technically liable to carry passes.
The rising industrial sector showed a clear preference for leaving urbanisation relatively uncontrolled for the need for labour. By paying higher wages than other sectors, industry attracted labour without legislative coercion. Because of this a pattern of restrictive pass laws emerged from 1923 to 1937 which included limited provisions for the control of African women. This legislation lacked effective enforcement mechanisms. In 1948 the new apartheid regime brought many changes. By 1952, legislation to implement stringent controls was drafted. This included the provision of passes for women on a comprehensive, national basis for the first time under the terms of the Natives Abolition and Co-ordination of Documents Act of 1952. This Act and amendments to the Urban Areas Act gave definitions of who was allowed and not allowed to live and work in the urban areas. Section 10 of the Urban Areas Act (as mentioned earlier) stipulated the terms by which an African woman could be considered a permanent urban resident.

Passes were used in a number of ways:

1. to hold farm labour on the farms;
2. to secure housing benefits for urban workers with the right to work in an urban area; and
3. to remove the unemployed or informal sector workers to homelands.

The passes were introduced at a time when new employment possibilities were opening up for women. The number of women in industrial employment had grown. These formal sector jobs paid much better than domestic service or farm labour. For women, passes also meant restrictions on their movement into and out of formal and informal sector employment in lieu of the changing needs of their families. Thus the options that they enjoyed because of their freedom of movement over the years was lost.

Failure to produce passes was met with arrests and detentions. It is important to quantify the manner the pass laws were applied overtime. It is difficult to obtain

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122 Wells, n.115, p.8.
reliable statistics regarding the number of Africans arrested, prosecuted or convicted in terms of pass laws and influx control measures. The following tables attempt to illustrate the pass law prosecutions.

**Fig. 1.1- African Population and Pass Law Prosecutions**

<table>
<thead>
<tr>
<th>Census year</th>
<th>African population (in 000's)</th>
<th>Urban population (African) (in 000)</th>
<th>Pass law prosecutions (in 000)</th>
<th>percent total prosecuted under pass laws</th>
</tr>
</thead>
<tbody>
<tr>
<td>1946</td>
<td>7,832</td>
<td>1,689</td>
<td>200.1</td>
<td>2.1</td>
</tr>
<tr>
<td>1951</td>
<td>8,561</td>
<td>2,329</td>
<td>280.2</td>
<td>3.3</td>
</tr>
<tr>
<td>1960</td>
<td>10,928</td>
<td>3,471</td>
<td>370.3</td>
<td>3.4</td>
</tr>
<tr>
<td>1970</td>
<td>15,340</td>
<td>5,070</td>
<td>631.3</td>
<td>4.1</td>
</tr>
<tr>
<td>1980</td>
<td>19,826</td>
<td>6,361</td>
<td>239.4</td>
<td>1.2</td>
</tr>
</tbody>
</table>


**Fig. 1.2 - Arrests in the Major Metropolitan Areas**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Bloemfontein</td>
<td>957</td>
<td>856</td>
<td>3055</td>
<td>5885</td>
</tr>
<tr>
<td>Durban</td>
<td>250</td>
<td>145</td>
<td>13444</td>
<td>15867</td>
</tr>
<tr>
<td>Cape Peninsular</td>
<td>1879</td>
<td>7169</td>
<td>1089</td>
<td>688</td>
</tr>
<tr>
<td>East London</td>
<td>503</td>
<td>2151</td>
<td>49</td>
<td>-</td>
</tr>
<tr>
<td>East Rand</td>
<td>5060</td>
<td>9873</td>
<td>23878</td>
<td>35891</td>
</tr>
<tr>
<td>Johannesburg</td>
<td>36582</td>
<td>40223</td>
<td>3994</td>
<td>6886</td>
</tr>
<tr>
<td>Pietermaritzburg</td>
<td>4</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Port Elizabeth</td>
<td>5</td>
<td>76</td>
<td>749</td>
<td>2648</td>
</tr>
<tr>
<td>Pretoria</td>
<td>13248</td>
<td>19499</td>
<td>6192</td>
<td>64</td>
</tr>
<tr>
<td>Soweto</td>
<td>24</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>West Rand</td>
<td>2590</td>
<td>2573</td>
<td>9504</td>
<td>10549</td>
</tr>
<tr>
<td>Total</td>
<td>61102</td>
<td>82566</td>
<td>61954</td>
<td>78542</td>
</tr>
</tbody>
</table>


The fig.1.2 shows that Johannesburg claimed the highest number of arrests during that period followed by Pretoria. The reason could be these areas being centres of
political activity and organisation. Under the administrative boards East Rand has the highest number of arrests. In 1981 both South African police and the Administrative Boards have more or less equal statistics but in 1982, the arrests under the police outnumber the boards.

Fig. 1.3: Pass Law Prosecutions 1916-1982

<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
<th>Annual Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>1916-1920</td>
<td>161,936</td>
<td>32,400</td>
</tr>
<tr>
<td>1921-1925</td>
<td>296,726</td>
<td>59,300</td>
</tr>
<tr>
<td>1926-1930</td>
<td>521,536</td>
<td>104,300</td>
</tr>
<tr>
<td>1931-1935</td>
<td>576,613</td>
<td>115,300</td>
</tr>
<tr>
<td>1936-1940</td>
<td>752,429</td>
<td>150,500</td>
</tr>
<tr>
<td>1941-1945</td>
<td>735,026</td>
<td>147,000</td>
</tr>
<tr>
<td>1946-1950</td>
<td>1,135,172</td>
<td>227,000</td>
</tr>
<tr>
<td>1951-1955</td>
<td>1,624,589</td>
<td>324,900</td>
</tr>
<tr>
<td>1956-1960</td>
<td>1,899,469</td>
<td>379,900</td>
</tr>
<tr>
<td>1961-1964/5</td>
<td>1,853,535</td>
<td>370,700</td>
</tr>
<tr>
<td>1965/6-1969/70</td>
<td>3,108,239</td>
<td>621,600</td>
</tr>
<tr>
<td>1970/1-1974/5</td>
<td>2,704,477</td>
<td>540,900</td>
</tr>
<tr>
<td>1975/6-1979/80</td>
<td>1,495,465</td>
<td>299,100</td>
</tr>
<tr>
<td>1980/1-1983/4</td>
<td>880,565</td>
<td>220,041</td>
</tr>
</tbody>
</table>

Source: Compiled from figures in the Annual Report of the Commissioner of South African Police (1917-20, 1925-33, 1935-39, 1941-79/80) and after 1980, from figures supplied by the Minister of Law and Order and the Minister of Co-operation and Development in answer to questions in 'House of Assembly Debates.'

Fig 1.3 indicates that from 1916 till 1970 there has been a steady increase in the number of prosecutions. But from 1970 onwards the prosecutions are on decline. Thus the data in all the figures demonstrate a massive application of pass laws and influx control measures. But it is important to remember that these statistics form only a conservative indication of the numbers of people directly affected by such measures. A range of legal mechanisms apart from the pass laws has enabled officials to remove Africans and sometimes their entire communities from White areas without resorting to pass law prosecutions.\(^{123}\) Another limitation is the

\(^{123}\) Savage, n. 105, pp. 186-187.
non-availability of break-up figures for males and females. Statistics on women prosecuted under pass laws is not indicated. Therefore, comparison between men and women in this regard cannot be possible.

**Forced Removals and Resettlement Policy**

'Forced Removals' of African population from the 'White' areas took place under apartheid laws. The basic aim was to separate the four racial groups. The moral justification behind this policy was to create 'bantustans' or 'homelands' for Blacks which would later become their independent states. To achieve this, the Black people were removed from one Black area to another or from 'White' areas to 'ethnic homelands'. The Government carried out these removals under the Group Areas Act and the Influx Control Laws. The policy contained in the General Circular No.25 of 1967 which was issued to the Bantu Commissioners by the then Department of Bantu Administration and Development. The Africans who fell under the following categories were removed by law under this policy.

(1) Those who in a course of time lost their ability to work in the 'White' areas. According to the General Circular "It is Government policy that Bantu are only temporary residents in the European areas of the Republic for as long as they offer their labour there. As soon as they became, for some reason or another, no longer fit for work or superfluous in the labour market, they are expected to return to their country of origin or the territory of the national unit where they fit in ethnically if they were not born or bred in the homeland." The Africans therefore were always temporary residents in the urban areas and could be removed from there anytime.

(2) The next category included those who were regarded as non-productive. According to the law the following fell under this category:

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125 Ibid.
(a) Non-productive bantus were classified as the aged, unfit, widows, women with dependent children and those families who do not qualify for family accommodation under section 10 of the Urban Areas Act.

(b) The others were professional bantus such as doctors, attorneys, agents, traders and industrialists who were not regarded as essential for the European labour market.\textsuperscript{126}

Moreover, as mentioned earlier, Mr. Froneman officially declared that African women were mere appendages who could not provide service. Women's economic role was undermined. It is also clear that the bantu professionals were discriminated and discouraged by the Whites.

(3) People classified as "idle Bantu" fell under the third category. And a person classified as "idle Bantu" was liable to be removed to the `reserve'. Women were classified as "idle" under the following conditions -

(a) if a woman without good cause failed to take up jobs on three consecutive occasions offered to her by the Labour Bureau,

(b) if she, twice within six months, was unable to hold her job at least for a month, and

(c) if she was discharged from her job for misconduct for more than three times in an year.\textsuperscript{127}

The above set conditions were difficult for the women to fulfil especially when they were married. Pregnant women could not work continuously without any break. The main idea behind such a clause was to remove women from the urban areas on some pretext or the other.

\textsuperscript{126} Bernstein, n.104, p.12.

\textsuperscript{127} International Labour Organisation, Eleventh Special Report, p.34.
(4) Under this category Africans concentrated in the squatter camps or the 'Black Spots' were liable to be removed into the Homelands or resettlement camps. Black spots were areas occupied illegally by Africans in the territory designated as 'White'. The squatter camps were the 'black spots'. In these camps, women who were legally not entitled to be in the urban areas, built temporary homes and lived.

(5) Many women migrated for work and settled illegally in the urban areas. These women did not necessarily belong to any squatter camp. Such women and their children were labelled as 'displaced' and therefore had to be removed from there.

(6) Finally under the Group Areas Act, Coloureds, Indians, Africans and to a much lesser extent Whites were removed and relocated so that each racial group is physically, socially and politically isolated from the other in its own racially segregated group areas.\textsuperscript{128}

It is rather difficult to obtain accurate figures as it was never the government's policy to publicise removals. Under the Group Areas Act 600,000 people were removed of whom the majority of 550,000 were the Indians and the Coloureds. Under the Influx Control Laws 400,000 people who were redundant to the needs of the 'White economy' were removed and an estimated one million Africans were removed from the squatter camps in the year 1973.\textsuperscript{129} It was estimated that between 1960 and 1980 around three million removals took place.\textsuperscript{130} The statistics on women as percentage of the total removals are not available. But as more women than men illegally settled in the urban areas it is probable that the majority of the Africans removed were women. Moreover, women being officially considered as non-productive, were more likely to be removed than men. All those who were

\textsuperscript{128} Walt, n.124, p.12.  
\textsuperscript{129} Bernstein, n.104, p.15.  
\textsuperscript{130} Walt, n.124, p.1.
"displaced", especially the women and children were removed and sent to the resettlement camps. These camps were situated in the remote areas of the reserves.

The following were a few such resettlement camps -

(1) 'Limehill' was situated in Natal. In this camp, during the first ten years of its existence, 11 percent of the children aged 5 years (at the time of the removal) died.\textsuperscript{131} This resettlement camp was described by the people living there as "a land of sorrows".\textsuperscript{132}

(2) Another resettlement camp was 'Sada' in Ciskei. It was the first such camp in the area established in 1976. It was a home to around 30,000 people. The camp failed to shelter so many people. Consequently, many lived in an adjacent mud village. This village was called by the local people as "village of Tears".\textsuperscript{133} In this village around 10,000 people stayed. It had only thirteen privately owned toilets which were insufficient for such a big crowd.\textsuperscript{134} There was not a single tap in the village and people went to neighbouring Sada for water. An outbreak of typhoid was imminent in the area.

(3) Similar conditions were echoed in the report in \textit{The New York Times} of 23 November 1980, which described the 'Nondweni' resettlement camp in the Kwazulu area.\textsuperscript{135} In this camp 4,000 to 5,000 people lived on an eroded and infertile grazing land which was actually a part of a farm owned by Whites. The families here were sheltered under metal sheds.

(4) The \textit{Johannesburg Sunday Post} report of 8 July, 1979 was based on an investigation of ten such resettlement camps in Natal and the Eastern Cape province. It found "malnutrition, sickness, unemployment and a general

\textsuperscript{131} Ibid, p.2.
\textsuperscript{132} Ibid.
\textsuperscript{133} \textit{The Plight of Black Women...,} n.106, p.5.
\textsuperscript{134} Ibid.
\textsuperscript{135} Ibid, p.6.
feeling of helplessness among the peoples restricted to these areas against their will".  

Thus these resettlement camps were characterised by unemployment, malnutrition, infant mortality, disease, poverty and lack of basic amenities. As the land was barren and infertile, subsistence agriculture was not possible. As they were situated in the homelands, opportunities for any kind of employment were bleak. In these camps women were in majority as more women were removed and resettled than men.

The above discussed characteristics of the camps were not unique to the South African situation. More or less similar conditions prevailed in slums of India and squatter settlements. It is relevant to distinguish slums from squatter settlements. Squatter settlements are defined "as illegal occupations of land. They are mainly uncontrolled low-income residential areas with an ambiguous legal status regarding land occupation. Slums on the other hand consist of run-down housing in idler, established, legally built parts of the city proper." The slums will be taken for comparison as both slums and the resettlement camps are legal. In India slums came into being as a result of urban growth. All Indian cities have slums. As per the data supplied by the Bombay Municipal Corporation in 1968, there were 320 slums in Bombay. In Madras there were 548 slums in 1961. Ahmedabad had slums in 15 out of its 25 municipal wards accommodating one-tenth of the city's population. An Andhra Government brochure on town planning and housing brought out in 1957 slated that 17 percent of the twin cities population lived in slums occupying 5 percent of the total city area.

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136 Ibid, p.5.
All slums were deficient in basic amenities. In Bombay the slums had no water taps and lavatories and some had just one for over a 1000 people.\textsuperscript{139} Slums indicated a higher rate of disease, illness and infant mortality. In Madras, the infant mortality rate in slum areas was found to be 124 per 1000 live births as against 73 in non-slum areas.\textsuperscript{140} K. N. Venkatarayappa in his study\textsuperscript{141} on slums investigated two slums in Mysore:

(1) Budabudakanakue with 210 huts with 1275 population and in three acres of land, and

(2) Ashokpura with 215 huts, with 1310 population occupying two and a half acres of land.

He concluded from the investigation that there was acute shortage of housing in these slums. The huts were `improperly built, unhygienic and dilapidated'. Impure air, inadequate water supply and improper sewage disposal were prevalent in these slums. This endangered the health of the inhabitants. Diseases were caused by dirty and stagnating water, poor ventilation, congestion etc. In one of the slums there were only two taps for the entire locality. And water was released only during certain intervals of time. Yet another feature is the inadequate toilet facilities. There were only two lavatories for the entire slum. The slum-dwellers were mainly sweepers, coolies, cobblers, beggars, railway ward boys and domestic servants. 88 percent of the slum dwellers were sweepers.

Coming to the question of women, in certain slums there were families with three, four or five earners. It indicated the existence of women and child earners. There was not much data to illustrate whether slum areas had more women and child earners than other areas. But the study of slums in Madras showed that women

\textsuperscript{139} A.R. Desai and S.D. Pillai, \textit{A Profile of an Indian Slum} (Bombay, 1972), p.95.
\textsuperscript{140} Ibid, p.101.
earnners did not form an impressive proportion compared with non-slum areas. The study observed that "females in the age group of 15-59 did nothing more than keeping the homes. One does not know whether scarcity of jobs is the reason for this."\textsuperscript{142}

Thus there were many common characteristics between the resettlement camps in South Africa and the Indian slums. It is important to say that these characteristics were there only in terms of their socio-economic conditions. Otherwise many differences existed between them which made the South African situation rather different and unique. It is relevant to look into these differences. They are -

(1) In India, the families left their villages and homes on their own and went to settle in the slums for better employment opportunities. But in South Africa the African families were forcefully sent to the resettlement camps.

(2) In India, the people left villages and migrated to the urban areas for better living conditions whereas in South Africa the people were removed from the urban areas with better facilities to remote rural areas without such facilities. According to Bernstein the Africans were removed "from homes in towns where there were some amenities - schools, shops, transport, industries, clinics to arid settlements in distant places in the countryside which was often grotesque and desolate."\textsuperscript{143} Ethel Walt in his book \textit{South Africa - A Land Divided} rightly said that - "people were uprooted from homes in which they may have been settled for generations and dumped in some strange and inhospitable place.... People were moved from places where there was employment to places where there was none, from places where they had land and cattle and where they could do some subsistence farming to places where this was impossible."\textsuperscript{144}

\textsuperscript{142} Dessi, n.139, p.130.
\textsuperscript{143} Bernstein, n.104, p.16.
\textsuperscript{144} Walt, n.124, p.2.
In South Africa people were resettled under law and most importantly on the basis of race. The law decided which race should live where. The resettlements were a part of the State's apartheid policies. Resettlements were compulsory. But it was not the case in India. Though slums were formed "on the basis of kinship ties, caste affiliations, religion, village, region of origin or occupation",¹⁴⁵ no rules or law regulated their formation or functioning. It cannot be denied that caste did play a role in India. For example, in Delhi about 60 percent of the jughis are inhabited only by the members of the lower castes while 16 percent are inhabited by members of lower castes mixed with people of intermediate or high castes.¹⁴⁶

In South Africa these camps were dominated by women who were burdened with the aged and the children as men lived in the urban areas under the migrant labour system. On the other hand in the Indian slums families lived and women often did not work.

Finally in South Africa the resettlement camps were designed by the State and for the State at the cost of the Africans who were subjected to agony and inconvenience.

Policy on Homelands or Bantustans

Officially the 'African reserves' were "historically justified traditional tribal homelands of the Bantu".¹⁴⁷ Legislation for these homelands was closely linked with the removal of African's civil rights in South Africa as a whole. The ultimate aim of the homeland policy was "to strip the African people of their South African citizenship."¹⁴⁸ A number of measures dealt with this idea:

¹⁴⁶ Ibid.
¹⁴⁸ Walt, n.124, p.16.
1) Natives Land Act of 1912, which prohibited Africans from acquiring land in any other parts of the country, first recognised the idea of territorial segregation in legislation.

2) Native Administration Act No.38 of 1927 gave the Governor-General the power to legislate for Transkei without reference to Parliament, by simple proclamation.

3) Native Trust and Land Act of 1936 removed Africans from the common voting roll of the Cape province.

4) Natives Laws Amendment Act of 1937 limited the right of Africans to acquire property and provided that all institutions serving Africans - churches, schools etc. must be in African locations.

5) The Natives (Abolition of Passes and Co-ordination Documents) Act No.67 of 1952 required all Africans to carry passes containing proof of employment and permission to be in an urban area, at all times.

6) The Natives Laws Amendment Act No.54 of 1952 extended passes to women and established labour bureaux in the reserves to control the movement of work-seekers.

7) The Native Labour (Settlement of Disputes) Act No.48 of 1953 prevented White trade unions from having African members and prohibited strikes by Africans.

8) Native Trust and Land Amendment Act of 1954 was designed to limit and register all African "labour tenants".

9) The Native (Urban Areas) Amendment Act No.69 of 1956 enabled urban authorities to order Africans out at their own discretion.

10) Native (Prohibition of Interdicts) Act No.64 of 1956 provided that no court may issue a verdict to suspend the execution of a removal order.
Thus the above measures reflect the idea of the South African Government to implement its Homeland policy. To promote territorial segregation, a series of specific measures were taken up by the Nationalist Party. They were the following:  

(1) Bantu Authorities Act No.68 of 1951 which established local "tribal authorities".

(2) The Promotion of Bantu Self-Government Act No.46 of 1959: According to the Government publication this Act "gave the Bantu peoples of South Africa a categoric assurance that the South African government had irrevocably set a course on a road that would lead the homelands to meaningful self-government." The Act established a number of White Commissioners-General to act as agents of the Central Government in the homelands, and set up the eight Bantu authorities.

(3) Promotion of the Economic Development of Bantu Homelands Act No.46 of 1968: This was concerned with the consolidation of previous legislation governing the financing of development in African areas and the functions of the Bantu Investment Corporation (BIC), Xhosa Development Corporation (XDC) and any future bodies to be set up along those lines.

(4) The Bantu Homelands Citizenship Act No.26 of 1970: It provided for all "Bantus in South Africa to be given citizenship of one of the "Bantustans". Each Bantu was to be issued with a certificate of this citizenship. This applied even to those residing in the urban areas under section 10 of the 1945 Urban Areas Act.

(5) The Bantu Homelands Constitution Act No.21 of 1971: It provided for Legislative Assemblies to be set up by mere proclamation of the State President, without reference to parliament. The president can proclaim any Homeland a self-governing territory. It provided for Bantu Affairs

\[149\] Rogers, n.147, p.12-13.
Administration Boards to supervise the affairs of Africans outside the Bantustan areas.

(6) The Constitution Amendment Act No.1 of 1971: It gave the State President the powers to determine as an official language one or more African languages in each of the homelands.150

The South African Government proclaimed eight official "homelands" for Africans. These homelands played an important role in maintaining the South African economy. The base that the workers retained in the 'reserves' meant an enormous saving for the capitalist sector on wages and in the social services of the State in general. As it was assumed that his family could eke out an existence in the 'reserves', the workers were paid single man's wages. The young, the old and the sick were expected to be cared for by the womenfolk in the reserves. Since "the maintenance of and dominance over the pre-capitalist reserve was necessary for the growth of capitalism in South Africa, it was absolutely essential that the Black women were tied down to the reserves by any means."51 Yet another reason why the women were not allowed to accompany their male-folk to the White areas was that they were viewed as the key to a possible breakdown of geographical separation of Blacks and Whites. The Government officials therefore recognised "the home-making role of the women and feared that their presence in the cities would lead to the establishment of a stable, Black urban population."52 Such Blacks they feared would demand permanent residence and other rights in the White areas. Women were thus trapped in the reserves. In 1921, 58 percent of all African women lived in the reserves and another 42 percent in the White owned agricultural areas and towns.153 In the late 1970s there were four million African women living in the homelands.154 These women played an important role in keeping the "subsistence

150 Ibid, p.15.
152 Ibid.
153 Ibid, n.115, p.11.
154 Bernstein, n.104, p.18.
economy functioning. They could cultivate only a few crops. Unable to irrigate, the women were forced to use the most primitive tools to work on the soil which gave very low yields.

The plight of unsupported women in the homelands was made worse by the fact that they were often denied even the use of land which is generally allocated under custom to the male head of her 'kraal'. Such women were denied the use of their husband's plot of land. They instead received 'pauper's ration' which was insufficient. In South Africa, an African woman forfeited her right to cultivate her or her late husband's land, if she left the 'reserve' and went to the urban areas either in search of work or to join her husband. In contrast, African men left the reserves in search of jobs and still retained their right over their land. That way women were discriminated against.

Moreover, women's social status declined while their work-load doubled. Previously work, whether performed by men or women, was regarded as of equal value. With the introduction of wage economy via the migrant labour system, work was divided into production for exchange which was performed by men and production for use which was performed by women. Through the system of producing for exchange men were able to accumulate wealth and hence social power also. Whereas women who produced only what was immediately consumed within the household had no opportunity to acquire the means by which they might exercise social power. Women's labour was thus a necessary but socially subordinate part of producing an exchangeable surplus.

155 It is a Bantu word which means a 'hut'.
156 Tripathy, n.107, p.55.
157 Ibid, p.54.
Regarding their employment, women were hired by the White farmers for their farms adjacent to the reserves as seasonal workers. In the off season they remained unemployed. These women workers were paid in kind. Black women were sometimes employed in the factories situated near the borders of the homelands. These industries were set up in accordance with the government's "border industries policy". White-financed industries were encouraged and given numerous incentives to shift to places near the borders of homelands. Women were exploited in these industries. They were invariably paid less salary than their counterparts working in the White areas. In a study conducted in 1973 by SPRO-CAS (Study Project on Christianity in Apartheid Society) a South African organisation affiliated to the Christian institute, it was found, for instance, that a female African machinist at 'Babelegi' one of the border industries' started at R 3 per week and the rate for the same job in Transvaal was R 7.50 per week. After two and half years, the female machinist in Babelegi became a fully qualified machinist at R 5.50 instead of R 13.60 per week outside the border industry areas. In addition, a machinist in the border industry area worked for 45 hours a week instead of the standard 40 hours. It is clear from this example that in South Africa there were instances where a Black woman in the homeland was discriminated against yet another Black woman in the urban area. Besides having to face the economic difficulties, an enormous emotional toll was extracted from the women in the homelands who were forced to live apart from their husbands and fathers.

It is important to question whether all these women stuck to the homelands or did they migrate. In South Africa women did migrate from the homelands to the reserves legally or illegally. Conclusions about these women can be drawn only after analysing the data on women's migration. This will be looked into while discussing the social and economic conditions of women under apartheid.

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