

# **THE GROUP AREAS ACT IN DURBAN:**

## **Central - Local State Relations**

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## ABSTRACT

This study examines the roles of the central and local states in socio-spatial structuring with particular reference to the origin and implementation of the Group Areas Act in Durban. The Group Areas Act was an explicit territorial strategy to implement apartheid ideology and constituted a major exercise in socio-spatial engineering. Conceptually and analytically, this study was influenced by the 'state-centred' approach to human geography which emphasises the concrete role of the state and its various apparatus and institutions in regulating territories and people. The local state in Durban played a critical role in the development and implementation of the Group Areas Act. In Durban the local state had agitated for the residential segregation of Indians since the 1870s. This was largely because Indians were perceived as an economic threat to white interests. The politics of local white interests were often at odds with the central state which preferred voluntary segregation, while the Durban City Council demanded compulsory segregation. However, as the pressure from the white electorate and the local state increased, the central state was forced to introduce various legislation, culminating in the Ghetto Act of 1946, which laid the foundations of the Group Areas Act that followed in 1950. The various race zoning plans adopted by the local state ensured that white interests would be entrenched, and Indian communities would be destroyed. Opposition and protest by Indian political organisations were ignored. However, as the costs of relocating thousands of families, and central state's insistence that the local state bears the costs, the Durban City Council was forced to review its support for the Group Areas Act. The Council offered a compromise proposal in terms of which Cato Manor would be zoned for Indians. This proposal was rejected by the government and the spatial impress of the central state was imposed upon the local state. The analysis of the Group Areas Act in Durban demonstrated how the autonomy of the local state was undermined and usurped by the central state. This study not only contributes towards an understanding of the nature of the South African state both at the central and local levels, but also highlights the tensions, conflicts and contradictions in central-local relations with regard to the implementation of residential segregation.

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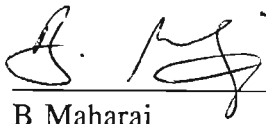
During the course of this project I was awarded a South African Fellowship at the University of Illinois at Urbana-Champaign, USA, which was administered by the Educational Opportunities Council.

In many ways my Dad served as an inspiration in my studies. Unfortunately, he did not see the completion of this thesis. My family provided essential social support and sustenance which made my study more endurable.



## DECLARATION

This thesis is the original work of the author, and where use has been made of other sources, this has been duly acknowledged. The thesis has not been submitted in any form to any other university.

  
B Maharaj

10-12-92  
Date

## DEDICATION



This thesis is dedicated to the memory of my parents ...  
and the victims of the Group Areas Act.

*He is the knowledge of light in all luminous  
objects. He is beyond the darkness of matter  
and is unmanifested. He is knowledge, He is the  
object of knowledge, and He is the goal of  
knowledge. He is situated in everyone's heart.*

Bhagavad Gita (13.18)

*Injustice and oppression, as with a red hot iron, scar the character of the people who  
oppress and of the people who are oppressed. There is an indelible brand on the  
character of the oppressor and oppressed. In the case of the oppressor, the effect is  
always and altogether evil. The oppressor passes from brutality to brutality, loses  
more and more the consciousness of his responsibility to God and sympathy for his  
fellow man.*

*Men reap what they sow,  
The mills of God grind slowly,  
But they grind exceedingly small*

*and red retribution one day meets the nation of the oppressor ... Nor does the  
oppressed go unscathed. In his weakness, he takes refuge in falsehood, treasuring  
revenge. But also noble characteristics are drawn out and stamped on him; he  
becomes united under the social and political pressure with which he meets. He  
becomes pertinacious to a degree which elevates pertinacity to a public virtue and he  
becomes capable of infinite self-sacrifice for his own people and his own kith and kin.*

Lord Selbourne

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## ABBREVIATIONS

ANC	African National Congress
CBSIA	Colonial Born an Settlers Indian Association
CDB	Community Development Board
CMCC	Cato Manor Co-ordinating Committee
DDC	Durban City Council
DCIRA	Durban Combined Indian Ratepayers' Association
GAA	Group Areas Act
GAB	Group Areas Board
GADB	Group Areas Development Board
LTAB	Land Tenure Advisory Board
MIRA	Mayville Indian Ratepayers' Association
NMA	Natal Municipal Association
NP	National Party
NIA	Natal Indian Association
NIC	Natal Indian Congress
NIO	Natal Indian Organisation
PDCC	Planning and Development Control Committee
SAIC	South African Indian Congress
SAIO	South African Indian Organisation
SAIRR	South African Institute of Race Relations
TIC	Transvaal Indian Congress
TSC	Technical Sub-Committee

### A Note on Terminology

Racial terminology in apartheid South Africa is a veritable minefield. Any study of the South African social formation cannot avoid reference to race and ethnic divisions. However, use of such terminology does not in any way legitimate racist ideology and doctrine. In this thesis the term blacks refers to all groups who are not white.

## CHAPTER ONE

### CONTEXTUALISING THE STUDY

It can be said that geographical modes of analysis are more centrally attached to contemporary political and theoretical debates than at any time in this century. But the attachment derives from many different sources, takes a variety of forms, and resists easy synthesis.<sup>1</sup>

#### 1.1 INTRODUCTION

In South Africa the state plays an important role in influencing the spatial and social organisation of society. The geographical landscape in South Africa (physical, social and economic), has been profoundly influenced by the policy of apartheid, which constitutes an unparalleled example of state-directed socio-spatial structuring and "has a special fascination for the geographer ... Indeed, it would not be too much of an exaggeration to describe apartheid as the most ambitious contemporary exercise in applied geography".<sup>2</sup> Apartheid is readily visible in the urban arena, and as Smith notes, "it has been inextricably bound up with urbanisation".<sup>3</sup> However, most scholars studying the apartheid social formation have "focused on the rural background to South African industrialisation and the continuation of rural structures of control until late into the twentieth century", while the urban component of the apartheid equation has been neglected.<sup>4</sup>

The implementation of apartheid in South Africa centred to a large extent on the control of residential location.<sup>5</sup> One of the cornerstones of apartheid and one of the few areas in which the policy has been effective was in the provision of separate residential areas for the different race groups.<sup>6</sup> This spatial segregation and segmentation of residential areas for whites, coloureds, Indians and Africans expressed the impact of apartheid most acutely. The Group Areas Act (GAA) was one of the key instruments used to reinforce the ideology of apartheid, and emphasised separate residential areas, educational services and other amenities for the different race groups. The overriding emphasis was on residential segregation.

However, the origin and implementation of the Group Areas Act has not been systematically studied. Mesthrie points out that the existing "secondary literature is seriously deficient in tackling the evolution of the system by which group areas were declared and there is little focus on the historical process".<sup>7</sup> Maasdorp and Pillay have called for a study of the "practical application of the Group Areas Act".<sup>8</sup> Indeed, there has been a "lack of theoretical and practical studies on the impact of group areas in germane disciplines such as urban economics, urban geography and town planning".<sup>9</sup> However, there are some notable exceptions.<sup>10</sup> A major weakness of these studies, nevertheless, was that they omitted an explicit analysis of the role of the state in the process of socio-spatial structuring. According to Mabin there has been

a tendency in the existing literature not to look too closely either at the origins of the GAA, nor to examine the specific nature of the changes which it introduced and how the superficially obvious policy of segregating towns and cities actually translated into practice.<sup>11</sup>

This neglect is particularly serious, since in South Africa, by regulating access to the spatial environment on a racial basis, segregation represented an evident and explicit use of state power to determine social, political and economic relations between the different groups.<sup>12</sup> Furthermore, the development of apartheid has conventionally been associated with the central state, while the role of other state apparatus, particularly the local state, has been neglected in scholarly analysis. According to McCarthy "local and regional state apparatus scarcely received a footnote in the works of both the 'liberal' and 'revisionists' (social scientists) who dominated the critical intellectual agenda on South Africa during the 1960s and 1970s".<sup>13</sup> This was mainly because of the high level of centralisation of state power and its institutional apparatus in South Africa. Yet, although the apartheid state has been referred to as a monolithic entity, there have also been several centres of power - central, provincial and local.<sup>14</sup> Initially, the central state was forced to rely on the local state for the enforcement of apartheid policies.<sup>15</sup> Historically, however, patterns

of racial segregation and domination had ... evolved piecemeal at the local level over more than a century, and they were largely administered by local authorities and institutions. Consequently, the thoroughness and rigour with which legal segregation was actually enforced tended to vary according to local social history and the political bent of local authorities.<sup>16</sup>

Hence, apartheid control should also be examined at the "local and municipal level and the centralisation and standardisation of policy at the national level".<sup>17</sup> In South Africa the incursion of the central state into affairs of the local state has been very evident, and the

application of the Group Areas Act is the most prominent example of this interference; the group area board which makes the decisions on the boundaries of such areas is attached to the state department of planning, and local councils are only consulted in such decisions.<sup>18</sup>

The central state acknowledged that the rapid proclamation of group areas depended on the close co-operation with local authorities. While the local authorities were generally co-operative, the Department of Community Development complained that "in many cases it is an arduous and time consuming task to persuade them to take action".<sup>19</sup>

Therefore, the nature of apartheid state divisions and their implications for structuring socio-spatial relationships need to be examined. This can be done by analysing the development of urban segregation in specific local contexts. The 1980s witnessed a burgeoning of studies focusing on the origins of segregation and apartheid at the local state level.<sup>20</sup> These studies were impressive in terms of their detailed empirical analysis. However, a missing link has been a failure to relate empirical findings with general theories of the state.<sup>21</sup> An implicit assumption has been that the local states were responding autonomously to local exigencies. The interaction between the central and local states in the structuring of urban social space has not been subjected to critical scrutiny. The present study examines, primarily within the ambit of urban political geography, the role of the local and central state in structuring urban social space with reference to the implementation of the Group Areas Act in Durban.

The major impact of group area dislocations has been borne by black communities, particularly coloureds and Indians.<sup>22</sup> Indians represent the smallest proportion of the four population groups in South Africa, numbering about one million. Yet, proportionately, the impact of the Group Areas Act "has been borne most heavily by the Indians, with one in four of them having been resettled".<sup>23</sup> Indians "suffered the most from the implementation of the Group Areas Act, either through removals or the inadequate provision of living space".<sup>24</sup> Furthermore, the Indian community has had an "unrecognised or discounted role in the inception of segregation in South Africa as a whole" in scholarly analysis.<sup>25</sup> Padayachee and

Haines have suggested that "empirical research into the effects of the Group Areas Act on the proletarianisation of petty bourgeois Indian traders and landed property owners would be a valuable contribution in itself - to a study of the 'urban ecology' of the city of Durban".<sup>26</sup>

Geographical theories and methodologies have undergone significant modifications in order to generate a more meaningful and relevant understanding of spatial processes, and the development of the discipline has been influenced by numerous paradigm shifts. This is especially so in the field of human geography, and exemplifies a desire for greater relevance as well as the pursuit of more theoretically informed explanations.<sup>27</sup> In order to contextualise this study within a dynamic discipline, the next two sections will briefly review paradigm shifts in geography, and trends in southern African geography, respectively.

## 1.2 PARADIGM SHIFTS IN GEOGRAPHY

During the past four decades human geography has been characterised by a great deal of intellectual ferment with regard to philosophies, theories, concepts and societal relevance.<sup>28</sup> This stemmed from dissatisfaction with the dominance of the positivist legacy, and demands for more theoretically informed research which took cognisance of social, economic and political realities. Reacting to the positivist assumptions of economic optimisation and rationality, the behaviouralists maintained that the spatial structure of urban areas could be explained by analysing individual decisions.<sup>29</sup> In contrast to the positivists and behaviouralists, the humanists focused on the subjectivity of human experience and awareness.<sup>30</sup> However, humanist geography could not be evaluated in the absence of specific criteria.<sup>31</sup> Others argued that the view that urban processes were the result of individual decisions and choices disregarded the contradictions of capitalist society, particularly the "reality of class struggle and conflict over the provision of local and urban resources".<sup>32</sup>

Most, agreed, however, that urban areas and processes do not exist in a void. In order to understand the spatial organisation of society it was essential to identify and explain the social

processes which structure space.<sup>33</sup> Although space has been structured and patterned by historical and natural forces, an overriding factor, according to the French sociologist Lefebvre, who had a strong influence on geography, has been the political influence: "Space is political and ideological. It is a product literally filled with ideologies".<sup>34</sup> Castells argued that geographers could not explain urban processes with any degree of accuracy because they did not consider factors producing social changes and were unable to determine the influence of political processes on urban organisation and management.<sup>35</sup>

The increasing realisation that prevailing theoretical structures produced inadequate and obfuscatory explanations resulted, according to Cox, in a 'paradigm shift' in geography - a move away from paradigms which espouse social harmony and consensus towards those which emphasised the conflicts and contradictions inherent in capitalist societies.<sup>36</sup> The new paradigm has been variously labelled as 'political economy', 'structural', 'radical', and 'marxist', and was primarily influenced by the works of Harvey and Castells.<sup>37</sup>

The urban political economy paradigm developed from an uneasy merger of Marxian and Weberian elements, fixed around a central focus: to delineate and explain the dynamic inter-relationships among capitalism, the state and urban processes. Marxist theory contributed to the conceptualisation of capitalism with key concepts such as "mode of production, class relations, the logic of surplus production and appropriation, social formation, economic crises, and the phases of capitalist development". The Weberian perspective "provided ideas bearing upon the relative autonomy of the state, the structure and dynamics of bureaucracy, and the place of status groups in the dynamics of urban conflict and change".<sup>38</sup> This perspective emphasised the need to understand the type of society within which urban areas were embedded, the manner in which the mechanisms of production and distribution were organised, and the importance of chief decision-making roles in terms of social class.<sup>39</sup> An attempt was made to explain urban forms in terms of their broader social, economic, political and historical contexts. Increasing attention was given to the role of the state in influencing urban forms and processes at local and central levels.<sup>40</sup>

A major weakness of the political economy paradigm was that whilst there had been rapid and impressive theoretical development, there was inadequate empirical evidence to validate



the theories.<sup>41</sup> Application of the political economy approach by geographers has focused primarily on the macro-scale level of analysis, with little evidence of attempts to assimilate this with empirical research at the micro-scale (urban) level.<sup>42</sup> In addition, much of the work conducted within the political economy rubric embodied a crude form of functionalism because it implied that all phenomena and processes could be explained by the dominance of capital, while ideology and politics were relegated as subordinate factors.<sup>43</sup>

Furthermore, whole domains of social experience which were non-class based were excluded or only partially examined.<sup>44</sup> However, as Goodwin has observed, there is "indeed a diverse realm of social relations, outside production and outside the state, where human subjectivity is constituted and reproduced. It will not disappear because we cannot conceptualise it".<sup>45</sup> Castells acknowledged that this was a weakness in his earlier work which resulted in "urban systems separated from personal experiences; with structures without actors".<sup>46</sup> Harvey also conceded that "marxists ... have had a hard time ... evolving a sensitivity to place and milieu".<sup>47</sup>

There was an evident need to "stress the importance of the particularities of space, place and the environment in the study of social relations, politics and the nexus of power relations".<sup>48</sup> It was essential to examine the microworld, "the immediate lived experience of individuals", focusing on the "family, network, community, neighbourhood".<sup>49</sup> In marxist accounts, for example, issues like race and gender were normally classified as "epiphenomena, a characteristic of the individual that is static, locally constituted and irrelevant to the elucidation of dynamic, global processes".<sup>50</sup> Consequently, the potential that individuals had to change their social and economic circumstances was underestimated.<sup>51</sup> There was a call for a form of inquiry that considered more explicitly the role of human agency in the structuring of socio-spatial processes in the urban arena.

An interesting development in the 1980s has been an analytical attempt to combine political and cultural elucidations, as well as the economic dimension, at the macro-and micro-levels, while retaining the basic assumptions of the critical paradigm. A significant outcome of this epistemological resolution is that more attention was given to the actions of groups and individuals in the urban arena, in addition to that given to structural factors.<sup>52</sup> According



to a recent President of the Association of American Geographers, this emerged from an increasing realisation that "individuals and structures, psychological states and political-economic contexts, power settings and individual choices - all have an influence in a complex world".<sup>53</sup>

The structure-agency debate was initiated by Giddens.<sup>54</sup> This was mainly in response to 'vulgar' marxism which curtailed the role of human agency to a dormant position before the ostensible unalterable logic of economic formations.<sup>55</sup> This emphasis on agency, however, does not call for a rejection of political economy approaches. Soja has suggested that Marx's dictum that "[m]en make their own history, but not of their own free will; not under circumstances they themselves have chosen but under the given and inherited circumstances with which they are directly confronted",<sup>56</sup> is the "most evocative encapsulation of the structure-agency relation in social theory".<sup>57</sup> According to Smith "[s]ocial actions and struggles by ordinary men and women are not only theoretically possible (that is, contingent) but also an empirically observable dimension of the social organisation of city life for any one of us who choose to look".<sup>58</sup>

By the mid-1980s social theorists had developed "a greater respect for human agency, and as a corollary, a much greater interest in the specificities of time and space".<sup>59</sup> According to Soja:

This process of critical re-interpretation is revealing what had been obscured in both social and spatial theory and in day-to-day practice: that spatiality situates social life in an active arena where purposeful human agency jostles problematically with tendential social determinations to shape everyday activity, particularise social change and etch into place the course of time and the making of history.<sup>60</sup>

The structure-agency debate in geography incorporated three themes: "the relative importance of structure and agency, and how they might be reconciled in a single approach; the efficacy of a realist methodology, and the importance of localities".<sup>61</sup> It is important to note that structure and agency are intertwined dialectically.<sup>62</sup> The interaction between structure and agency is interceded by institutional factors (e.g. the state) which facilitate as well as impede action.<sup>63</sup>

A key force in current social theory is the quest for what may be referred to as 'middle level' theory. According to Clark and Dear this endeavours to connect the plane of social manifestations, which is usually ideologically discerned, with the fundamental social reality which constructs such expressions.<sup>64</sup> There is a need, according to Cadwallader, to be able to interact "between structure, institution, and human agency, while at the same time maintaining an appropriate and mutually reinforcing, balance between theory and observation".<sup>65</sup> Others suggest that a method should be developed "that allows us to move between levels, from the abstract to the concrete and back again".<sup>66</sup>

A methodological base for the mediation between abstract and concrete levels is possibly offered by realism. Realism mediates between abstract theory and concrete observation, and differentiates between necessary (internal) and contingent (external) social relations. The objective is to identify causal processes and relations, and to explicate their operation in time-space continuums.<sup>67</sup> According to Fincher, "[r]ealism is a philosophy of science ... which takes the view that real causal structures of 'necessary relations' exist in the world, independent of our knowledge of them. They are continually reproduced (or transformed) in and by our conscious social practices".<sup>68</sup> To realists "[o]bjects are understood to possess causal powers and liabilities to do or suffer certain things by virtue of their structure and composition, but whether these powers or liabilities are activated depends on contingently related conditions".<sup>69</sup> Hence, depending on the contingent conditions, the operation of the same causal processes can present different results.

Realists maintain that the world is divided into distinctive domains, and each "domain comprises not only a level of appearances or phenomenal forms but also an underlying level or levels at which are located the mechanisms that generate the surface phenomena of that domain".<sup>70</sup> Hence, there is a need for multiple levels of analysis, as well as the exigency for different tiers of abstraction in each domain. This would enable the identification of linkages relating to structures and individuals that produce concrete outcomes.<sup>71</sup>

Realism is not concerned with identifying universal laws which can be verified in a positivist sense. In realism scientific 'laws' depict tendencies, rather than empirical regularities.<sup>72</sup> In the process realists uncover the evasive character of social 'facts' and acknowledge that the

"plausibility of knowledge must be evaluated in a given social context, not in the light of some 'objective truth'".<sup>73</sup> Emphasis is placed on conceptual precision, and explanatory, rather than predictive, capacity. In realism the emphasis on empirical work is on intensive research, where the major concern is to examine how causal relations operate in specific settings. According to Agnew "intensive research methods are mainly qualitative, participant observation and informal interviews, or a combination of local quantitative and qualitative analysis".<sup>74</sup>

The impact of realism on geography has been succinctly summarised by Peet and Thrift:

Perhaps realism's greatest impact has been in promoting the thoughtful conduct of empirical research ... By the mid-1970s it had become crucial for those sponsoring a political-economy approach to demonstrate that they could do good empirical or concrete research ... This meant that more careful attention had to be paid to how abstract theory could be applied in particular contingent situations. This, in turn, led to more careful formulations of theory by realists aimed at eliciting the causal powers of particular social relations in a whole range of contingent situations.<sup>75</sup>

Although the conceptual and theoretical underpinning of the present study is influenced by the critical perspectives which have characterised geography for the past two decades, there are certain points of departure. While political economy generally focuses on the mode of production, this study is influenced by the view that in South Africa, and many Third World countries it would be "more enlightening to examine class relationships in terms of the key bases for securing urban social reproduction, namely land and shelter, which directly affect all inhabitants".<sup>76</sup> Access to housing, for example, the predominant urban land use, is crucial for the reproduction of labour, and is regulated by property rights. The regulation of urban land through property rights "also means control over the reproduction of labour power. Ownership of urban land is, therefore, also ownership of the means of production".<sup>77</sup> Consequently, according to Evers, conflicts in the urban arena "are expressions of the tensions among the city population, and the struggle for control over the means of reproduction - that is urban land".<sup>78</sup> Following Quesnal, the focus is on the "ideological and political aspects of state intervention" in the control of urban social space ("studying the laws, regulations and the political and administrative authorities and their roles").<sup>79</sup> As Sayer observes, this is in keeping with recent trends in radical geography:

As radical geography has increased its influence it has changed considerably. The totalising pretensions of marxism have been deflated by the rise of concerns with sources of divisions and oppressions other than of capital and class. Explanations of concrete situations are now less reductively based upon abstract political theory but are enriched by the development of 'middle range theory', typically dealing with processes and institutions mediating the operation of mechanisms identified by abstract theory.<sup>80</sup>

The next section briefly reviews the impact of the paradigm shifts in southern African geography.

### 1.3 SOUTHERN AFRICAN GEOGRAPHY IN FERMENT

According to Taylor, "geographers like all members of humanity are shaped by their own geography, their location in this world of inequalities, and their production of geography is influenced accordingly".<sup>81</sup> Research in southern African geography emulated the intellectual trends in the western world, albeit with a considerable time lag. Until the late 1970s human geography in southern Africa was generally characterised by the traditional functionalist approach, which by then had been largely rejected by Anglo-American academics who were initially responsible for this trend.

By the late 1970s, geographic research, with few exceptions, was undertaken within the structures of the apartheid system and few attempts were made to question the status quo. In fact with their uncritical, descriptive studies geographers were accused of "legitimising South African society".<sup>82</sup> Very few researchers focused on black communities and their problems, and this constituted a "neglected research frontier in urban studies".<sup>83</sup> The blinkered nature of South African urban research is revealed by the fact that between 1917 and 1980 only two articles published in the journal of the South African Geographical Society focused on black townships.<sup>84</sup> The research focus was almost exclusively the white community, or "white social space" and it was tacitly assumed that there was a harmonious social order with no conflict.<sup>85</sup> These studies were also theoretically quiescent and failed to consider the impact of the state and the historically structured race-class inequities which permeated the apartheid space-economy. Although impressive in terms of quantitative

sophistication, such studies were unable to unravel or explain processes influencing the geography of apartheid.<sup>86</sup> There was a tendency to ignore the historical, political and ideological forces which structured apartheid social space. Referring to research in the social sciences in South Africa, a black academic therefore commented:

There is too much emphasis in some of these theses and dissertations on survey-outline and description, and not enough on critical analysis and original hypothesis-building. Others are correlational in nature, their findings being based on questionnaires administered to captive samples. Students go for 'safe' topics. This is a general tendency, in part the deleterious effect of a divided and segmented society. Cross-cultural research is difficult to pursue. And some areas, like the ... impact of the Group Areas legislation, or the effect of political powerlessness on blacks, are studiously avoided.<sup>87</sup>

After the Soweto riots in 1976, researchers, of necessity, became more aware of the need to investigate problems experienced by the black underprivileged and exploited majority. The housing and employment problems of blacks began to receive increasing attention from geographers, who also adopted a more critical stance towards explanation.<sup>88</sup> This momentum was accelerated in the 1980s when a number of articles appeared, both locally and internationally, critically evaluating the development of geography and geographers in southern Africa.<sup>89</sup> This period has been characterised by a methodological and epistemological shift in urban research towards the political economy paradigm.<sup>90</sup> Human geography in South Africa, according to Simon, finally began "to break out of the limited confines of apartheid apologism and 'liberal' analysis which have long held sway".<sup>91</sup> Associated with this trend, the difficulties and inequities of living under apartheid became a primary concern of geographic research.<sup>92</sup>

Despite these progressive developments, major problems remain unaddressed in terms of the critical perspectives occasioned by the paradigm shifts in geography. For example, as early as 1973, in his Presidential Address to the South African Geographical Society, Davies admonished geographers for their failure to consider the impact of the Group Areas Act on the spatial structuring and reorganisation of urban areas.<sup>93</sup> This call went unheeded, for almost a decade later, in his Presidential Address to the same society, Beavon similarly remarked that there was an urgent need for geographers to contribute to the literature that details the emergence, life and demise of African, coloured and Indian townships, suburbs and residential areas.<sup>94</sup> In this context there is an especially urgent need to critically examine

the Group Areas Act, (commonly recognised as one of the cornerstones of apartheid), and its associated amendments in order to understand the socio-spatial structuring of black residential areas, which may contribute significantly to an understanding of urban apartheid social formations in South Africa. Furthermore, as Marks and Trapido have observed, the current "turbulence in South Africa makes the study of its racially divided social order and its national and ethnic heterogeneity an urgent intellectual and political task".<sup>95</sup>

#### **1.4 AIM AND OBJECTIVES**

Against the background of the paradigm shifts in geography, and southern African trends in the discipline, the aim of this study is to examine the roles of the central and local states in structuring urban social space with particular reference to the origin and implementation of the Group Areas Act in Durban. More specifically, the objectives of this study are to:

- i) Examine the evolution of residential segregation in Durban - the prelude to the Act.
- ii) Analyse the role of the central and local state in the formulation and implementation of the Act.
- iii) Determine the level of resistance to the Act, particularly the role of political and community organisations.
- iv) Analyse shifts in local state policy towards the Group Areas Act with specific reference to the zoning of Cato Manor.
- v) Critically evaluate the Group Areas Act as an instrument of spatial, political, economic and social control.

Following a critique of neo-classical explanations of residential segregation, the role of the state in socio-spatial structuring will be analysed, drawing upon the critical insights presented by neo-marxian and neo-weberian perspectives. The nature of the interaction between the central and local state will also be evaluated.

## 1.5 HISTORICAL METHOD AND GEOGRAPHY - A CONTEMPORARY INTELLECTUAL IMPERATIVE?

The primary research method adopted in this study is intensive historical analysis, which in turn is influenced by recent historiographical trends in southern Africa. This method contrasts with the traditional descriptive studies which, until recently, have dominated South African historical geography. Such research is best exemplified by the work of Christopher,<sup>96</sup> which although it uses "contemporary printed as well as archival sources ... remains primarily descriptive and the connections between colonial politics, changing social relationships, economic development and the landscape are implied rather than revealed in his historical geography".<sup>97</sup> Mabin has argued that, in order to advance, it was imperative that historical geographers avoided purely descriptive research, and developed themes which would "contribute to the understanding of the forces which have produced the geographical changes of the past" in South Africa.<sup>98</sup>

The last decade has seen an emergence of new geographical literature on South Africa's history by local and overseas scholars. Although small in number, Crush contends that the research output of this group "makes historical geography one of the most vibrant and productive areas of inquiry within the discipline in South Africa".<sup>99</sup> One of the main aims of the new historical geography has been to examine the connection between the spatial, social and racial divisions within South African society. This literature was profoundly influenced by the social historians.

In the early 1970s South African historiography was dominated by neo-marxists, who were strongly influenced by structuralism, and presented abstract, highly theoretical accounts of the past, in which "crude generalisations were advanced about the transition to capitalism and about the relationship between sectors of capital, between capital and the state at different periods, and between capital and labour".<sup>100</sup> A great deal of the early radical historiography primarily focused on the Witwatersrand and the gold-mining industry.<sup>101</sup> By the late 1970s, in response to the crude functionalism of the structuralists, social historians began to adopt a more empirically based approach to research, which "stressed the importance of experience, agency, consciousness, and regional and temporal specificities".<sup>102</sup> The complexity of the

South African social formation, as Smith observes, "does not lend itself either to dogmatic 'capital logic' types of explanation or to interpretations which prioritise a relatively autonomous political process".<sup>103</sup> Historical geography followed a similar trend, and "after some tentative toe dipping, historical geographers ... abandoned the language of Marxian high theory in favour of 'domain construction' of lower level concepts with more obvious material reference points".<sup>104</sup>

Recently, Driver has drawn attention to recent calls to 'bring history back in' to the study of human geography. Rather than championing the cause of 'historical geography', he argues that this call "throws into question the status of the separation of 'historical' geography from the rest of the discipline".<sup>105</sup> A number of disciplines have contributed towards the development of the 'social history approach'. Under the circumstances historical geography could not merely be viewed as a sub-discipline of human geography. Rather, Scott has argued that historical geography must be recognised as a "broader field of intellectual endeavour, embroiled in the current philosophical dilemmas of contemporary social science and greatly enhanced by the rich and innovative substantive contributions from other disciplines".<sup>106</sup> A similar observation was made by Guelke, who argued that the discipline of geography would be enhanced "if more geographers adopted a historical-intellectual mode of analysis".<sup>107</sup> This is especially so in South Africa, where history "has an acute relevance to the present".<sup>108</sup>

'Historical understanding', however, does not merely refer to the study of the past. According to Driver there can be an historical approach to both the past and the present. He emphasised that historical research cannot be separated from the political and ideological arenas "because, like all forms of knowledge, it is shaped in specific social circumstances".<sup>109</sup>

Therefore, Driver argues that "human geography is profoundly historical ... thinking historically is no luxury: on the contrary, it is an essential part of doing human geography".<sup>110</sup>

A similar call was made earlier by Slater, who argued that "in attempting to explain the organisation and articulation of space in any given and specific social formation, an historical perspective is required".<sup>111</sup> The 'historicity of human geography' has been emphasised in



recent geographical research.<sup>112</sup> Such contributions have basically unveiled a "retrospective approach to human geography - a recognition of its contemporary intellectual and even political importance - rather than the enclosure of a separate pasture to be grazed by a relic herd of historical geographers".<sup>113</sup>

Rogerson and Browett have suggested that geography would benefit immensely from its connections with social history, as the latter was viewed as the "vanguard of social science research in the 1980s and one which already has a solid and distinguished presence in South African studies".<sup>114</sup> Mabin, however, questioned whether geographers were making a distinctive contribution to the study of social history.<sup>115</sup> The challenge to geographers, according to Rogerson and Browett, was to break away from their parasitic tendencies - "not merely to hang on to the coat-tails of the social historians but to supplement and extend their work".<sup>116</sup>

There is evidence, however, that historians have been influenced by geographers, especially with regard to the interaction between social relations and space, as well as a consideration of specific localities. Most recently, social historians, Bonner and Lodge, cited the French geographer Paul Claval, who stated that "[s]ocial life is inscribed in space and time".<sup>117</sup> According to Bonner and Lodge this was especially evident in South Africa where

the policy of segregation has made the contestation of space one of the central political struggles ... A central theme in the history of black urban communities in South Africa was ... their attempts to create and defend illegal space. A central thrust of state urban policy was equally to close down such communities and to quarantine them in localities selected by the state where they could be more effectively regimented and controlled.<sup>118</sup>

The historian Cooper similarly emphasised that "social relations exist in space; even as society shapes space, space shapes society".<sup>119</sup> Furthermore, he contended that "space is ideologically charged. For that reason, the distinction between legal and illegal space both reflects and affects the form of the city".<sup>120</sup>

According to Baker the primary concern of historical geography should be period and space.<sup>121</sup> "Since ideologies structure time and space, since period and place are expressions of ideologies, studies in historical geography must logically themselves embrace ideologies

as well as being explicitly ideological".<sup>122</sup> By the end of the 1980s, indeed, it was evident that

essentially geographical questions of landscape formation, territorial control, and the construction of social domination over space had come to the forefront of the broader agenda. Social historians interested in the spatiality of life increasingly looked to geographical writing for guidance.<sup>123</sup>

A specifically geographic contribution to the social history movement could be a conceptual consideration of the state as well as specific localities. There has been a tendency amongst social historians analysing the development of the segregated and apartheid landscapes to view the local or central state as the principal spatial 'actor'. Little or no attention was paid to the nature of the interaction between the central and local states in the imposition of segregation and apartheid. A major weakness in the work of the social historians was a failure to 'problematise the state'. Frequently, the state was viewed as being homogeneous, and passing policies "according to some grand design or at the bidding of some powerful interest group".<sup>124</sup> Failure by social historians to examine the nature of the state lead to, for example, detailed examination of the development of segregation, without analysing the administrative structures required to implement it.<sup>125</sup> In this regard, historical geographers in South Africa have tended to follow the social historians, focusing on descriptions of state actions, rather than conceptualising how states function.<sup>126</sup> However, geographers are attempting to remedy this weakness.<sup>127</sup> Given the cardinal role of "spatial metaphors and symbolism to white racial discourse in South Africa", there is undoubtedly abundant scope for a "geographically sensitised analysis of state discourse and ideology".<sup>128</sup>

Conceptually, South African historical geography could also advance from a dialogue with the new regional geography and its focus on localities, especially the British experience:

... the localities literature does attempt to conceptualise the ways in which general processes of economy, polity, and ideology intersect with local conditions and lines of power to constitute distinctive local geographies.<sup>129</sup>

In this study the role of the central and local states in structuring socio-spatial relations with reference to the implementation of the Group Areas Act is examined in a specific locality - Durban. As such, the study "adopts an explicitly historical perspective on the various conditions and effects of state structures in different [local] contexts".<sup>130</sup>

## 1.6 DATA SOURCES

A primary source for geographers engaged in historical research to understand the nature of the state and its policies is written documents, especially official reports "compiled for the purposes of government and administration".<sup>131</sup> The empirical data upon which this thesis is based was derived from a variety of primary documentary sources, ranging from official government reports and newspaper articles, to memoranda prepared by extra-parliamentary groups. Central state records included various commissions of inquiry as well as Hansard of the Senate and House of Assembly, which are available at the libraries of the Universities of Natal and Durban-Westville. The debates recorded in Hansard often revealed the hidden purpose of the Group Areas Act, which differed for example from reasons given in official reports. At the local state level, minutes and reports of the Durban City Council, housed at the Don Africana Library in Durban, were useful. The minutes and reports of the Technical Sub-Committee of the Durban City Council, which discussed in considerable detail the motivation for different race zoning proposals, were particularly valuable.

However, the main weakness of the records of the central and local state was a tendency to emphasise official viewpoints, and to omit unofficial opinions. In fact official records "are rarely very useful in adumbrating a community's internal dynamics".<sup>132</sup> Also, there was a tendency to focus on 'facts', while differences of opinion and debates were seldom recorded. Hence, for alternate viewpoints and debates it was essential to consult newspapers which gave intensive coverage to group areas issues. In this respect, the Durban based dailies, Natal Mercury and Daily News (housed in the Killie Campbell Library, Durban), served as important primary sources.

These newspapers, however, tended to focus on the concerns of whites, while Indian views received only cursory attention. Indian viewpoints received detailed coverage in 'Indian weeklies' - the Leader, Indian Opinion (available in microfilm at the Documentation Centre at the University of Durban-Westville), Indian Views (housed at the Don Africana Library, Durban) and the Graphic (obtained from the private collection of veteran Durban journalist, Rajendra Chetty). Another important source was the records of extra-parliamentary organisations like the Natal Indian Congress and Natal Indian Organisation which are

available at the Documentation Centre of the University of Durban-Westville and the UNISA Documentation Centre for African Studies. In this regard, the Carter-Karris Collection (originals housed at the North Western University, Chicago) was also useful.

An invaluable source was the voluminous records of, and painstaking research pertaining to group areas in different parts of the country conducted by the South African Institute of Race Relations. The Institute's researchers often went to great lengths to ensure the accuracy of statistics pertaining to, e.g., relocation and financial losses, which often differed significantly from those of the state. The Institute's Group Areas Papers are available in microfilm at the William Cullen Library, University of Witwatersrand.

## 1.7 STRUCTURE OF THE THESIS

This study attempts to examine the nature of central-local relations and the development of segregation at the local or municipal level by analysing the implementation of the Group Areas Act in a specific local context - Durban. In the process the study will highlight the nature of the relationship between the central and local states in South Africa. It will confirm the view that the apartheid state cannot be viewed as a monolithic entity. Furthermore, the study will draw attention to agency, consciousness and experience - a neglected facet of state development.

This thesis comprises eight chapters. Following the introduction which provides the contextual setting for the study, the theoretical framework adopted is discussed in **chapter two**. The chapter commences with a critique of conventional theoretical approaches towards residential segregation. The dominant influences here were the Chicago school of urban ecology and neo-classical economics, and their implicit positivist assumptions. The emphasis was on describing and measuring segregation rather than offering explanations. A major weakness was that the city was examined in isolation from its underlying ideological, social, political and economic structures.

Urban residential structure is basically determined by those who control access to, and regulate allocation of, landuse. The apparatus by which such control is accomplished is generally embedded in the social and political establishment, of which the state is often assumed to be the most important part. 'Society-centred' and 'state-centred' theories of the state are consequently critically evaluated. In terms of Jessop's 'strategic-relational' approach neither the state nor society can be accorded a superior position for explanation. Rather, the state should be examined through its interaction with the rest of society.

The need to differentiate between the state's functions at different spatial levels leads to an analysis of the local state. Although the local state has been conventionally viewed as an instrument of the central state, it does have an autonomy of its own. Also, local states have distinct social histories, yet attempts to theorise the local state have lacked historical specificity. There has been a tendency to focus on the state as physical unit, rather than on the social relations which created it. A conjunctural analysis will reveal how necessary social conditions and contingent historical circumstances interact to create particular state forms.

Against the background of the theoretical perspectives presented in chapter two, **chapter three** examines the nature of the South African state, and the evolution of the local state in Durban. The nature of power relations is examined through an analysis of the conflicts, contradictions, resistance and repression in the relationship between the state, capital, white and black labour, and the bureaucracy. In theoretical debates on the South African state, liberals have argued that apartheid had a dysfunctional effect on economic development. Revisionists have argued that apartheid and capitalism were mutually beneficial. However, this latter approach was instrumentalist and reductionist. A historical review of the South African state reveals that while it was instrumentalist in responding to the needs of capital, it also served, for example, white working class interests. The state's own interests were moreover, often coincidental with, and served by the thriving white bureaucracy. Various political, ideological and administrative ideologies were developed to entrench segregation. More recent historical analyses of the state have emphasised the importance of politics, experience, agency, consciousness, and regional and temporal specificities.

An analysis of the local state in Durban suggests that although the decentralisation of power to the local level had been nebulous, the local state should not be viewed merely as an agent of the central state. The local state in Durban initiated a number of strategies in marketing the city and facilitating economic growth. It also developed a unique system of social and economic control, the so-called Durban system, which was adopted by the central state. A common area of conflict between the central and local state was finance - as local revenue was appropriated by the central state. The local state bureaucracy - in the form of the Medical Officer of Health, the Superintendent of Police, and the Manager of the City Estates and Valuation Department, for example - were influential in policy making. The bureaucracy was partial to white working class interests, and were partly responsible for the increasingly anti-Indian discourse of the local state.

In chapters four to seven, the role of the central and local states in segregating Indians, with particular reference to the Group Areas Act, is examined. More specifically, the local state's attempts to restrict Indian access to, and ownership of, land prior to the Group Areas Act is discussed in **chapter four**. Variations in central-local policies can reflect the development of peculiar local policies, or the distinctive local implementation of central measures. The chapter will reveal that demands for the statutory segregation of Indians emanated consistently from the local state in response to pressures from both local capital and more especially the white working class. Keen not to arouse the wrath of India and the international community, the central state unsuccessfully attempted to resolve the problem by supporting a system of voluntary segregation. However, these well-meaning efforts of the central state were consistently thwarted by the local state. Pressure from the local state led to the adoption of legislation by the central state to restrict and control Indian ownership and occupation of land.

The local state in South Africa has been regarded as a passive recipient of central state policies. Furthermore, apartheid was viewed as a policy of the NP dominated central state. However, **chapter five** reveals that there were significant continuities between the central and local state. The local state in Durban, a traditional United Party stronghold, had made a critical input into the introduction and refinement of the GAA. The central and local states collaborated in drawing up the legislation, and Indians were to be the main target. Hence, in addition to administering central policies, the local state was negotiating with, as well as

influencing, central state policies. This goes against the conventional view that in apartheid South Africa the local state merely implements central state policies. It was evident that the local state did have a level of autonomy. In terms of the GAA, however, the central state and its various bureaucratic agents effectively controlled all inter-racial property transactions. The autonomy of local authorities could also be undermined as the central state could impose its pattern of race-space zoning upon the local state.

The role of the local state in implementing race zoning is discussed in **chapter six**. The local state in Durban was the first local authority to attempt to implement the GAA in the city, and it appointed a Technical Sub-Committee specifically for this purpose. The DCC's criteria for the demarcation of group areas were subsequently adopted throughout the country. The hearings of the Land Tenure Advisory Board in Durban in 1953, and its subsequent recommendations to the Minister of the Interior, revealed once again the close working relationship between the central and local states. Attention will also be drawn to the agency exerted by whites and Indians in their attempts to defend their territorial space. The local state provides citizens with an opportunity to control their local affairs, and to oppose those policies with which they disagree. In all the race zoning proposals for the city of Durban, the views of the white electorate were considered by the local state, but those of the disenfranchised Indians were disregarded. Often, shifts in state policies at both the central and local levels are related to changes in its power base, or are the result of political pressure from popular class forces.

By viewing the local state as a passive agent of the central state, central-local conflicts, as well as the significance of politics and autonomy at the local level has been neglected. Increasing tension and conflict in central-local relations is the theme of **chapter seven**. The focus is on changes in the Council's race plans, particularly the struggle to zone Cato Manor for Indians. The local state was forced to review its race zoning plans as it became apparent that the central state expected it to bear the costs of uprooting hundreds of thousands of people. Eight years after the implementation of the GAA, and with the election of more liberal Councillors to positions of influence, and as the financial costs of implementing apartheid became apparent, the local state reviewed its support for the GAA. The DCC appealed, in vain, to the Government for a review of the 1958 proclamations on the basis of



minimum displacement of settled communities, and the rezoning of Cato Manor for Indians. The central state replied that it could force the DCC to bear the costs of providing alternate accommodation. Thus, while there was general consensus between the central government and the local state of Durban with regard to political and residential order, there was conflict over who would bear the costs of implementing the Group Areas Act. Finance is a frequent area of conflict between the central and local state, both of which have a strong interest in restricting expenditure and consequently strive to pass the financial burdens of various policies onto different parties. Tensions between the central and local states increased markedly.

Conservative Councillors objected to the rezoning of Cato Manor for Indians. However, influential whites supported the plan. The DCC adopted a compromise proposal which zoned a portion of Cato Manor for Indians. This was rejected by the central state in spite of numerous appeals by the DCC as well as Indian political and civic organisations. The spatial impress of the central state was imposed upon the local state. The fledgling apartheid state of 1948 was firmly in control by the early 1960s.

In **chapter eight** the summary, synthesis, and conclusion to the study are presented. Here the theoretical concerns of chapters two and three are evaluated against the subsequent empirical chapters. By adopting a 'state-centred' approach this study has highlighted the role of the state and its various apparatuses, especially the local state in regulating territories and people. In contrast to previous studies, this approach emphasised the historical and geographical specificities of state form. The study contributes towards an understanding of the nature of the South African state at the central and local levels. It highlights the tensions, conflicts and contradictions in central-local relations with regard to the implementation of the GAA in Durban. The study suggests that the apartheid state cannot be regarded as a monolithic entity. Furthermore, the local state cannot be viewed as passive, politically neutral, or as an agent of capital or the central state. The local state in South Africa does enjoy a degree of relative autonomy. In contrast to the revisionist approach, attention was also drawn to the importance of ideological and political factors in analysis of the state in South Africa. The study also emphasised the role of agency - a neglected facet of state development.



## ENDNOTES:

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## **CHAPTER TWO**

### **THEORETICAL PERSPECTIVES: SEGREGATION, THE STATE AND THE LOCAL STATE**

Residential segregation by race is neither a natural nor an inevitable phenomenon. Although prejudice on the part of individual sellers, and renters undeniably was and is a factor in segregated housing patterns, such patterns are primarily the product of two other sets of forces ... state and local government programs, on the one hand, interacted with and reinforced the segregative and discriminatory practices of a variety of private institutions involved in the housing market, such as real estate interests and financial institutions, on the other.<sup>1</sup>

#### **2.1 INTRODUCTION**

The segregation of groups in cities in terms of social class is well known. Segregation based on social or ethnic status has been common in culturally heterogeneous societies. While segregation has been widely documented as a spatial phenomenon, it is poorly comprehended.<sup>2</sup> It has often been argued that social class is primarily responsible for urban socio-spatial stratification. While this is clearly an important factor it is becoming progressively evident that class-based exegeses accounted for a more modest part of the diversity than is customarily ascribed to them: "The race-specific dichotomy of urban residential patterns is one of the most apparent attributes characterising urban residential space".<sup>3</sup>

Although empirical work on racial segregation has been exhaustive, many of these studies have been theoretically weak.<sup>4</sup> Geographers were pre-occupied with describing and measuring segregation rather than explaining its underlying processes. Although residential segregation is most perceptible in the spatial dimension, it has political, "economic social and cultural causes and ramifications".<sup>5</sup> Urban theorists manifested a proclivity "to regard race as marginal to the relations of production and consumption which structure residential space".<sup>6</sup> This revealed "a theoretical gap in the literature between political theories directly concerned with race but reluctant to explore the significance of residential segregation as a

basis for racial ideology, and innovative theories of residential segregation which failed to recognise the salience of race".<sup>7</sup>

Any study of residential segregation should focus on the uneven distribution of social groups in space. Although there is no one approach or method, "most studies use concepts of space, 'race' or ethnicity or both, and class".<sup>8</sup> In this chapter the different theoretical approaches to segregation will be evaluated in order to develop a conceptual framework for this study. Following an assessment of the Chicago school and its neo-classical positivist heritage, alternate theoretical formulations embracing recent paradigm shifts in geography are presented. This leads inevitably to a consideration of the role of power, ideology and the state in socio-spatial structuring. Society-centred and state-centred theories of the state are evaluated. The relationship between the central and local state is also considered.

## 2.2 THE CONVENTIONAL VIEW

Urban and social geographers have long held an interest in the spatial segregation of social and economic groups.<sup>9</sup> Until the mid-1970's geographers researching residential segregation did not pay specific attention to philosophical and theoretical considerations. However, the bulk of the research had an implicit positivist orientation.<sup>10</sup> Most studies on residential segregation focused on the separation of ethnic minorities (mostly immigrant groups) from dominant majority groups.<sup>11</sup> A frequent question posed was whether residential segregation resulted from racial factors, or whether it could be explained in terms of socio-economic variables. These studies were, however, largely conducted in a conceptual void and were mainly descriptions of spatial patterns.

Various techniques have been used to measure and describe levels of residential segregation. In the United States, for example, calculation of the 'index of dissimilarity' and the use of census data were very popular.<sup>12</sup> While these studies have produced detailed empirical and quantitative data on the levels of residential segregation and assimilation, explanations of the process have been theoretically moribund. Castells referred to such research as geographical empiricism as it "focused on the data collection of the spatial distribution of activities, using

increasingly sophisticated statistical techniques but which are devoid of meaning in relation to theoretical categories and social issues".<sup>13</sup> In the process "[r]ace becomes the explanation for segregation rather than a facet of segregation to be explained".<sup>14</sup> This revealed

a reluctance to consider that segregation has meaning, in social, political and economic terms, quite irrespective of the degree of spatial separation it entails. Consequently, more attention has been paid to the absolute magnitude or degree of segregation than to its social significance within specific (national) economies.<sup>15</sup>

Most attempts to explain residential segregation derived their theoretical underpinnings from neo-classical economics and the Chicago school of urban ecology. The Chicago School was strongly influenced by social Darwinism and assumed that urban evolution and development could be explained in terms of unconstrained competition for landuse.<sup>16</sup> Even in the 1950s and 1960s, as geography experienced the quantitative revolution "the Chicago school continued to be cited as intellectual heritage and theoretical rationale".<sup>17</sup>

The social area analysts,<sup>18</sup> and the factorial ecologists,<sup>19</sup> also developed their theoretical constructs from the Chicago ecologists. Attempts to explain the social patterns of ethnicity in urban space have been singularly influenced by this brand of ecological theory. The dominant influence was that of sociologist R.E. Park who contended that groups with few common cultural values with the host society prefer to reside separately.<sup>20</sup> According to Massey, "[w]hether researchers have been partisans or critics of this tradition, it has been the guiding beacon for sixty years of research in the field".<sup>21</sup>

The most prominent theories of the ecological tradition are the concentric zone theory of Burgess,<sup>22</sup> the sector theory of Hoyt,<sup>23</sup> and the multiple nuclei theory of Harris and Ullman.<sup>24</sup> These theories will not be discussed here as attempts to explain and apply them have been exhaustive.<sup>25</sup> The Chicago school depicted ethnic concentrations, (mainly immigrant groups), as occupying rundown residential areas between the CBD and the suburban areas. This area is characterised by commercial and landuse changes and is often referred to as the zone of transition. Such residential clustering is related to the group's low economic status; limited access to the housing market; hostility and discrimination; as well as shared cultural experiences. The development of ethnic concentrations is significantly influenced by the attitudes of the host society. In its extreme form hostility in the host

society can influence the development of ghettos and legalised segregation.<sup>26</sup> Social problems such as discrimination and unemployment were viewed as a "result of temporary pauses in a long established process of social and spatial mobility which was cumulatively extending improved living conditions to progressively lower social strata".<sup>27</sup>

Harvey asserted that the ecological approach represented "nothing more than generalised descriptions of patterns of use in the space economy".<sup>28</sup> Burgess has argued that the Chicago school theories were "nothing more than the ideological representations of the North American city at a specific period in the process of advanced capitalist development".<sup>29</sup> However, they were applied as if they were universal precepts. The theoretical foundations of the Chicago school were weak because they were rooted in functionalism. The underlying assumption was that competitive market forces influenced the development of urban residential patterns. However, explanations derived from neo-classical economics were naive because residential differentiation was interpreted in terms of individual utility maximising behaviour and consumer sovereignty.<sup>30</sup> As early as 1954 it was argued that

the image of a free and unorganised market in which individuals compete impersonally for land must be abandoned. The reason for this is that the land market is highly organised and dominated by a number of interacting organisations.<sup>31</sup>

Although individuals do have choices and preferences, they are often prevented from exercising their options because of inherent structural inequalities which limit their access to urban resources. Furthermore, the ecological approach does not consider "racism, manipulation, and coercion as factors influencing residential structuring".<sup>32</sup> Many groups often have no choice and are forced into particular housing locations "because of their position in the housing market and by individuals and institutions controlling the operation of particular housing systems".<sup>33</sup>

The urban ecologists were pre-occupied with examining the city as a separate physical entity, in isolation from its underlying ideological, social, political and economic structures. It is only when historical, ideological, political, economic and social factors are considered that urban residential differentiation can be understood. Attempts to explain residential segregation have ideological underpinnings, and cannot be value free.<sup>34</sup> A major problem

is "establishing the existence of direct causal links between ideology, social process and spatial pattern".<sup>35</sup> This would be possible if the framework for the study of racial segregation was "anchored in the historical analysis of the social conditions likely to give rise to both racial ideology and racial conflict".<sup>36</sup>

## **2.3 ALTERNATIVE THEORETICAL FORMULATIONS**

The ecologists ignored the paramount consideration that cities in western societies are structured on the capitalist ethic, and that this plays a key role in the allocation and distribution of economic and social resources. Individuals and groups have differing levels of access to urban resources which ultimately determines that some people are more advantaged than others. Consequently, conflict is endemic in capitalist societies because of the unequal distribution of power and resources.

Land is one such important resource around which conflict has often crystallised, and which has played a significant role in the development of socio-spatial structures in the city. Urban spatial structure is basically determined by those who control access to, and allocation of, land.<sup>37</sup> Any relevant theorisation of urban spatial structure must consider "the coalescent issues of land, land use, and the land contingent (or locational) effects of dense social and economic activity".<sup>38</sup> In fact land "fulfils a host of social functions and as such is closely bound up with the exercise of power and influence in society by a large number of competing interests groups".<sup>39</sup> The urban landscape can thus be viewed as "a mosaic of competing land interests capable of strategic coalition and action".<sup>40</sup> As Johnston indicates, access to land and housing provides the arena for a great deal of conflict in urban areas: "It is not the fundamental conflict of a capitalist society over ownership of the means of production. It is a secondary conflict over the benefits to be obtained from participation in the capitalist system".<sup>41</sup>

The residential environment presents a good example of urban conflict because it is the predominant urban landuse, and households have a strong commitment to their neighbourhoods.<sup>42</sup> In terms of the locational conflict approach residential differentiation is

not the outcome of decisions of "individuals in a free and unorganised land market but rather the result of conflicts between interest groups with varying goals and differing degrees of power and influence".<sup>43</sup> Conflict develops between groups in terms of their access to, and competition for, housing resources in the urban economy. Racial or ethnic factors will tend to compound such conflict, often giving it a distinct socio-spatial formation. There is a potential for political conflict to become more pronounced "when spatial divisions coincide with class or ethnic divisions".<sup>44</sup> In societies where residential separation is prominent, conflict develops between groups as the segregated try to gain entry to the advantageous locations occupied by the segregators.<sup>45</sup> The dominant group manipulates the urban political economy to meet its needs and aspirations at the expense of the subordinate group. Using its hegemony, the dominant group denies the minority access to basic resources such as employment, education and housing. As one of the resources which the hegemonic group wishes to control is access to housing space, segregation is an inevitable consequence. Generally the minority group is confined to spatial enclaves of inferior quality.<sup>46</sup>

Ultimately, access to power by different social groups determine their ability to influence the appropriation of resources, and this will reflect the class stratification of any society.<sup>47</sup> Competitors for resources do not begin on an equal basis. The inherent inequality in the distribution of wealth and power means that the more powerful class or ethnic fractions are able to manipulate political distributive systems, and social and economic space to their own advantage, selecting the most desirable residential locations, and relegating the less desirable areas to groups lower down in the power hierarchy.<sup>48</sup>

In this context, as Smith argues, segregation represents "a form of political exclusionism which can isolate and marginalise the demands of a minority too small to make any serious political challenge".<sup>49</sup> The cornerstone of residential segregation is, therefore, controlled by the social distribution of resources. The apparatus by which such control is accomplished is generally embedded in the social and political establishment.<sup>50</sup> Indeed, the spatial organisation of society is fundamentally political. However, analysis of the role of power in patterning urban spatial structure has been neglected by geographers.<sup>51</sup> This is ironical since, as Stetler and Arbitise argue, the structuring of urban space is a "reflection of the power structure of the larger society".<sup>52</sup> This geographic disregard for politics is particularly

serious when cognisance is taken of Soja's contention that the "political organisation of space reflects the way in which spatial interaction is structured to fulfil political functions".<sup>53</sup>

There is, thus, a necessity to emphasise the importance of political processes and social power at all levels from the local to the global within the political economy approach. This perspective will demonstrate how "power relations underlie the formation of dominant political-economic ideologies and the production of urban form".<sup>54</sup> Indeed, urban politics is basically concerned with the allocation of relative locations between individuals and groups.<sup>55</sup> In this context, as Dear and Cox argue, residential segregation can be explained as "manifestations of urban land use and space... outcomes of private and political decision-making within capitalism".<sup>56</sup>

Urban landuse differentiation can only be understood after ideological factors and the extent of political domination are considered.<sup>57</sup> A key actor in this arena is the state, which represents the institutional embodiment of dominant ideology and politics. The state plays a significant role in the arrangement and management of space nationally, regionally and at the local urban scale. According to Ogborn the state is "always involved in the tenuous and difficult practice of exercising power across space".<sup>58</sup> How does the state intervene in the urban system? A good example is state intervention and control in the distribution of land. Land allocation provides an indication of whom the state is representing, in whose interest it is acting and against whom.<sup>59</sup> State intervention on the urban land market "varies in form and degree, but it is bound to be the subject of debate and competition between different political and social groups".<sup>60</sup>

The state determines whether land is distributed according to the market mechanism, the type and proportion of landuses which are controlled and the proportion of land allocated to the private and public sectors. At the local level a key strategy used by the state to influence urban form and structure is via landuse plans.<sup>61</sup> The state also intervenes in the urban system by introducing legislation to control the ownership and use of land. State apparatus is used to create particular residential patterns. The state's legal institutions are used to arbitrate in, and diffuse, political conflicts emanating from the allocation of land.<sup>62</sup> Smith therefore argues that a theoretical framework to explain segregation must explicitly link "the



general tenor of political discourse with the intended and unintended outcomes of specific legislative and executive decisions".<sup>63</sup>

Ultimately, the nature of any intervention is influenced by the nature of the state, its ideology and social objectives, which basically determine the allocation of power in society. In recent years the state has increasingly intervened in the process of urban development. Consequently, it has discernibly influenced the allocation of profits and costs accruing to different social groups in the city. As state mediation escalates, the greater the probability that the legitimacy of its decisions will increasingly be challenged by individuals and groups. In the process urban life is increasingly embroiled in political polemics and mystifications.<sup>64</sup>

## 2.4 GEOGRAPHY AND THE STATE

In spite of the importance of the state in structuring urban space, its role has been virtually ignored or neglected in geographical analysis.<sup>65</sup> As Anderson argues, geographers have rarely considered "the role of powerful agents, such as the state, in defining place".<sup>66</sup> An implicit assumption has been that the political arena has little influence upon structuring urban space.<sup>67</sup> Clark and Dear point out that this position was adopted by "analysts of all persuasions (including monetarists, Keynesians and Marxists) in spite of their professed interest in the increasing level of state intervention in market societies".<sup>68</sup> A possible reason for this may be due to methodological and epistemological problems. In spite of vitriolic criticisms, the positivist tradition still dominates research in the social sciences, and as Herzog puts it, "state intervention and concepts such as 'justice' or 'public welfare' do not lend themselves easily to the scientific method".<sup>69</sup>

Geographers have only recently begun to appreciate the critical role of the state in controlling economic and social processes, and its consequent influence on spatial structures.<sup>70</sup> Attempts to relate theories of power, conflict and location presents geographers with significant new avenues for research. More specifically, they are offered an opportunity to utilise the theoretical structures and empirical studies generated by political scientists and sociologists.<sup>71</sup> It became increasingly apparent that they could no longer ignore the theory of the state:

Since the state provides the institutional context for so many geographical processes, and since it determines the extent of planned intervention in the processes, the absence of a consistent theory of the state is of fundamental concern.... A major reappraisal of the state's role in urban and regional geographic processes is long overdue.<sup>72</sup>

This argument of Clark and Dear is given greater credence by Johnston who notes that the state is "necessarily a territorial body associated with a clearly defined area. For this reason, geography is crucial to the understanding of the state - and, of course, the state is crucial to the understanding of geography".<sup>73</sup> This proposition is related to Mann's conception that "the state is merely and essentially an arena, a place".<sup>74</sup> Mann identifies the following characteristics of the state:

- i) a differentiated set of institutions;
- ii) political relations have a central focus, radiating outwards;
- iii) a clearly defined territorial area;
- iv) a monopoly on authoritative rule making, supported by the means of political violence.<sup>75</sup>

He argues that economic, political or military power is present in all social relationships, and is not unique to the state. The uniqueness of the state is its territoriality:

... the power of the state is irreducible in quite a different socio-spatial and organisational sense. Only the state is inherently centralised over a delimited territory over which it has authoritative power. Unlike economic, ideological or military groups in civil society, the state elite's resources radiate 'authoritatively outwards from a centre but stop at defined territorial boundaries. The state is, indeed, a place - both a central place and a unified territorial reach.<sup>76</sup>

The spatiality of the state is necessary to execute its functions. According to Smith "[g]enerically, the 'state' comprises a set of differentiated, autonomous and public institutions, which are territorially centralised and claim jurisdiction over a given territory, including monopoly over coercion and extraction".<sup>77</sup>

It is important to note that the "state is a more fundamental concept than government, because it is not merely the specific regime in power at any one moment - the governing coalition of political leaders - but also the basis for a regime's authority, legality and claim for popular support".<sup>78</sup> Any analysis of the role of the modern state in capitalist societies must take

cognisance of the fact that its political, social and economic responsibilities have increased significantly in the twentieth century.<sup>79</sup> Also, in most countries there are different subdivisions of the state. Hence it is necessary to identify the different divisions of state apparatus. The ambit of state activities extend over a diversity of functions embodying different spatial tiers: "local, regional, national and supra-national governments; diverse spheres of social life; economic, political, social and legal systems; and many levels ranging from individual through to aggregate processes".<sup>80</sup> An important division is that between local state and central state, and its associated implications.<sup>81</sup> Manion and Flowerdew identified the various government departments as the horizontal dimension of the state, and the central-local division as the vertical dimension.<sup>82</sup> These divisions have been associated with the assignment of definite functions which have financial, legislative and ideological implications.

There is, however, little agreement about the role and function of the state in society.<sup>83</sup> A popular view is that the state intentionally manipulates, and is the essence of principal processes, such as power, the distribution of income and social welfare programmes in society. The state has been variously referred to as a guardian of its subjects and property; a mediator in altercations; a unifying force; a promoter of economic and social advancement; an investor in progressive activities; and a bureaucracy with its own agenda and logic.<sup>84</sup> Ultimately, the type of state intervention, its political impact and the popular response it is likely to invoke, will alter with the nature of a particular state and with specific time periods.<sup>85</sup>

Researchers interested in analysing the role of the state in society have adopted a wide spectrum of ideological and theoretical positions. There has also been considerable debate about the relationship between the central and local state, especially the degree of relative autonomy of the latter. A discussion of the different perspectives on the state follows.

## **2.5 THEORETICAL PERSPECTIVES ON THE STATE<sup>86</sup>**

Social scientists studying the state have distinguished between 'society-centred' and 'state-centred' analytical frameworks.<sup>87</sup> The main theoretical "issue concerns the relationship among social classes, state structures and public policies".<sup>88</sup> The basic difference between these perspectives is "the kind of relationship they assume between the state and other social actors or structures".<sup>89</sup> In the society-centred approach the state is shaped by the interests of individuals, classes or social structures. State-centred theorists maintain that states do not merely reflect social structures, but have their own capacities and structures which influence society.

### **2.5.1 'Society-Centred' Theories**

Three broad perspectives can be identified in the literature on society-centred theories. These can be broadly categorised as the pluralist, instrumentalist and structuralist approaches. The latter two are derived from elements of neo-Marxism, while pluralism developed from neo-classical economics.

#### **i) Pluralism**

Pluralism views the state as neutral, acting as a mediator and arbiter outside any class or group interest, and is associated with the pioneering work of Dahl.<sup>90</sup> As Cox points out, an underlying assumption was that all individuals and interest groups had almost equal recourse to political resources and decision-makers.<sup>91</sup> Pluralists believed that a democratically elected, representative government prevents any one group or interest dominating, and guarantees voice for the majority. Competition between groups, together with the diversity and variety, will prevent any one group from dominating.<sup>92</sup> Neutrality of the state was ensured because if it did not act in a fair manner it would be voted out of power. The neutral view of the state which promoted "the national interest in terms of economic growth, efficiency and social welfare" is evident in many political manifestos and in much of the

literature on development.<sup>93</sup>

The pluralist concept of the state is, however, seriously flawed because it does not provide an adequate account of how the state is influenced by political and economic forces. In the neutral state urban planning policies are implemented in isolation from social, economic and political contexts.<sup>94</sup> Dahl has also been criticised because he did not consider constraints which influence the decision-making process nor the egoistic interests of participants.<sup>95</sup> It is difficult to accept the "altruistic notion of the state as a disinterested referee above and outside of society only when some abstract, formalistic criterion of social optimality requires it".<sup>96</sup>

The notion of the state as a benign, impartial and apolitical champion for the welfare of the populace is inadequate, and it should rather be viewed as an influential central institution, as well as a potential agent for the articulation of the interests of the powerful.<sup>97</sup>

## ii) Instrumentalism

Miliband was the main proponent of the instrumentalist approach.<sup>98</sup> His primary aim was to demonstrate how the state, as an instrument of the dominant class, is used to further ruling class interests and to maintain its hegemonic position. He demonstrated how in Britain, for example, senior politicians and civil servants who operated government bureaucracies were recruited from the capitalist class or were sympathetic to the maintenance of the status quo.<sup>99</sup>

The major criticism of instrumentalist theory was that it was both deterministic and contradictory. Instrumentalists oversimplified the relationship between the economic and political by maintaining that the latter was a reflection of the former. Jessop, for example, argued that the view that "the economic base determines the balance of political forces in the struggle for state power as well as the institutional form of the state as an instrument over whose control political struggle is waged" amounts to economic reductionism.<sup>100</sup> Moreover, Williams points out that instrumentalists adopted a functionalist position with regard to urban resource allocation by arguing that this merely reflected the needs of capital.<sup>101</sup>

Instrumentalists could not explain why the state adopted policies which were sometimes against the interests of the ruling capitalist class in spite of being dominated by this group.<sup>102</sup> This was possibly because instrumentalists ignored the ideological functions of the state. That is to say, the state plays a crucial role in legitimising the social order, and this demands that the state appear to be impartial in the class struggle. As Block observes, this suggests "the need for a more complex framework for analysing state policies".<sup>103</sup>

Although the instrumentalist thesis contended that the ruling class manipulates the state system, earlier studies by Marx and Engels presented evidence to the contrary.<sup>104</sup> The capitalist class cannot be regarded as a homogeneous group because capitalism is built on conflict and competition - both within and between classes. Hence, there are fractions of capital. The dominant class is also susceptible to domestic divisions and rifts. Jessop argues that the capitalist class "lacks the political capacities to rule in its own name and/or to its own long-term interest".<sup>105</sup> Hence any feasible state theory must acknowledge this and establish the state's function within the context of class conflicts.<sup>106</sup>

Williams contends that instrumentalist explanations did not consider historical influences and were static.<sup>107</sup> Others have suggested that the instrumental view and the reality of a degree of state autonomy are incongruous.<sup>108</sup> Furthermore, according to Hay, the instrumentalist view is untenable because of the "multifaceted composition of the state and the role of the individual within 'its' elements".<sup>109</sup> Following Clark and Dear, instrumentalists also fail to explain the rationale "whereby the elite themselves are constituent elements of a wider social order which is independent of specific institutions and personalities".<sup>110</sup>

It is significant that Miliband did acknowledge that "governments, acting in the name of the state, have in fact been compelled over the years to act against some managerial prerogative, to help redress somewhat the balance between capital and labour, between property and those who are subject to it".<sup>111</sup> Yet, as a result of emphasis on the instrumentalist function of the state for so long, other aspects of state activity were not adequately considered.<sup>112</sup> While retrospective analysis of the role of the state may reflect instrumentalist tendencies, this is not its primary function.

### iii) Structuralism

The structuralist view of the state developed largely in response to the shortcomings of the instrumentalist theory. This perspective emphasised that the structure of society rather than those who occupy positions of power and influence determined the function of the state.<sup>113</sup> Structuralists conceded that there was bias in state policies, but this was ascribed to the "form and structural location of the state within the social formation, rather than to any influence or control exerted by dominant classes confronting the state".<sup>114</sup> Although state policies primarily favoured the capitalist class, the state also implemented policies which favoured the interests of other groups, even at the expense of the dominant class in the short-term.<sup>115</sup> Hence, in the structuralist view, the state cannot be regarded as independent or autonomous; rather, it has limited or 'relative autonomy'.<sup>116</sup> However, ultimately, "the state in a capitalist society must always return to the defence of capitalism in the last instance".<sup>117</sup>

The concept of 'relative autonomy' was developed by Poulantzas and was based on the work of Althusser.<sup>118</sup> Poulantzas argued that a key factor of the capitalist state was "the relative separation of the economic from the political, and the relative autonomy of the state from the dominated classes".<sup>119</sup> He maintained that the most important role of the state was political. The state organised the political interests of the controlling class and it divided the oppressed groups. According to Harloe, "[t]his 'political instance' has 'relative autonomy', i.e. it is not determined by the economic instance".<sup>120</sup> In order to entrench its political power, it was therefore possible for the state to adopt policies which may be in conflict with those of the dominant classes. Skocpol also adopted a similar position, maintaining that states are "understood as potentially autonomous organisations located at the interface of class structures and international situations".<sup>121</sup> This perspective was partly a response to the reductionism and over simplification of the interaction between the political and economic, whereby the superstructure was viewed merely as a reflection of the structure.<sup>122</sup>

Structuralist analysis of the state was criticised as being ahistorical, deterministic and lacking in a comparative perspective.<sup>123</sup> Therefore, according to Szelenyi, it was "locked into a sort of determinism which meant that it was unable to conceptualise the problem of social alternatives in urban and regional developments so making it politically impotent and

insensitive to policy research.<sup>124</sup> Hence structures specific to particular historical periods were presented "as universal principles of social and class forces".<sup>125</sup> Neo-Marxist theorists have made abstract generalisations about functions or attributes shared by all states within a social formation. As a result it is difficult to designate causal weight to changes in state structures and policies between countries and across short time periods. Consequently, the usefulness of neo-marxist approaches for comparative research is limited.<sup>126</sup>

### 2.5.2 'State-Centred' Theories

Emphasis on the society-centred perspective resulted in many forms of autonomous state action being omitted. In contrast, Weberian scholars take for granted that the state is potentially autonomous, and that it may pursue policies which may be in conflict with the dominant class.<sup>127</sup> Max Weber argued that states are mandatory organisations commanding territorial control over people. The core of any state comprised administrative, legal, extractive as well as coercive organisations, and these structures varied in different countries.<sup>128</sup> This Weberian perspective is aptly captured by Stephen:

The state must be considered as more than the 'government'. It is the continuous administrative, legal, bureaucratic and coercive systems that attempt not only to structure relationships between civil society and public authority in a polity but also to structure many crucial relationships within civil society as well.<sup>129</sup>

According to state-centred theorists the state was an organiser of class interests and they emphasised the principal role of policy intellectuals and bureaucrats. In terms of this perspective, state managers<sup>130</sup> develop and execute policies arising from their expertise and dedication to public service rather than in reaction to coercion from social forces. Accordingly, this approach rejects the pluralist view of a neutral state, the power structure view that the state is dominated by the ruling class, and the structuralist position that the state responds to the demands of accumulation or class struggles.<sup>131</sup>

Skocpol, a leading proponent of the state-centred approach, called for a theory which refused to interpret states as if they were merely analytical facets of some abstract social formation, or even political features of tangible class relations and struggles. Rather, states must be



viewed as concrete organisations regulating (or attempting to regulate) territories and people.<sup>132</sup> Similarly, Dear and Clark have emphasised the need to analyse the capitalist state in its entirety, not merely in terms of its development from class relationships, and to "consider also its particular institutional form, functions and apparatus, and not to regard it merely as an hegemonic integrated institution".<sup>133</sup>

Three central arguments are critical to the state-centred approach:

- i) the state is composed of a set of institutions which possess a minimal degree of autonomy over civil society;
- ii) state interventions are vitally dependent on the capacities of states to implement policy; and
- iii) effective state interventions require a minimal degree of cohesion within the state structure.<sup>134</sup>

According to this position, the state 'does not become everything'. There are other organisations and agents which influence social relationships and politics. Hence, analysts must examine the state's structure and activities in relation to these organisations.<sup>135</sup> However, in terms of the Weberian perspective, the state is not merely an arena in which social and political struggles are engaged. Rather, the state has an autonomy of its own. Skocpol advocates two complementary analytical schemes for according the state a prominent role in comparative and historical studies of policy making, social change and politics. Firstly, states may be perceived as "organisations through which official collectivities may pursue distinctive goals, realising them more or less effectively given the available state resources in relation to social settings".<sup>136</sup> Secondly, states may be examined "more macroscopically as configurations of organisations and action that influence the meanings and methods of politics for all groups and classes in society".<sup>137</sup>

In order to ensure that the state was not viewed merely as a reflection of social forces, two dimensions of state autonomy have been emphasised:

- i) state autonomy as the ability of state managers to exercise power independently of (and even in the face of opposition from) social forces located in civil society - a power rooted in the state's own specialised capacities and/or in the room for manoeuvre which state managers enjoy vis-a-vis a pluralistic universe of social forces; and
- ii) state capacities or 'infrastructural' power, i.e. the state's ability to penetrate, control, supervise, police and discipline modern societies

through its specialised capacities even when these are controlled directly or indirectly by forces beyond the state.<sup>138</sup>

Driver has emphasised three aspects of state-centred autonomy. Firstly, the state is viewed in institutional rather than functional terms. The state comprises of centralised institutions (embracing the military, political and administration) which command authority and control over a specific territory.<sup>139</sup> Emphasis on the institutional form of the state means that questions of communication and organisation are important in any study of state formations. In this context, Mann's concept of 'infrastructural power', the capacity of the state to literally "penetrate civil society, and to implement logistically political decisions throughout the realm", is significant.<sup>140</sup> The infrastructural power of the state (and hence bureaucracy), has increased enormously in recent years.<sup>141</sup>

Secondly, the territoriality of states is emphasised. This contrasts with society-centred approaches in which the state was conceived independently of its concrete, territorial form. According to Mann state autonomy "flows principally from the state's unique ability to provide a territorially-centralised form of organisation".<sup>142</sup> Territoriality lies at the heart of state theory as "[o]nly the state is inherently centralised over a delimited territory over which it has authoritative power".<sup>143</sup>

Thirdly, the importance of historical and geographical specificity of state form is stressed. State form and structure and its interaction with civil society is likely to vary in different contexts, depending on different historical processes and specificities. This "'contextual' turn has lead to a new emphasis on comparative research, aiming to tease out the complex webs of structural and conjunctural influences on state structures in different contexts".<sup>144</sup>

Such a 'state centred' analysis of the state should

- i) be entrenched within a broader theory of society, and interpreted from a historical perspective;
- ii) explicate the interconnection between society, state and space;
- iii) illustrate how individual human agents and state actions impinge upon and influence specific spatial forms; and
- iv) be able to explain, and influence, social action.<sup>145</sup>

Skocpol has been criticised because her differentiation between state and society-centred approaches overlooks the many different perspectives in the latter camp.<sup>146</sup> Although state-centred theorists have presented useful "insights into institution-building and varying state capacities, they have done so by virtually ignoring the social forces within and beyond the state that influence those developments".<sup>147</sup> State policies cannot be imposed by officials and politicians "independent of ongoing processes of social reproduction and transformation".<sup>148</sup> Gilbert and Howe emphasise the capacities of both state institutions and social classes to converge to produce specific outcomes. They attempt to "synthesise positive aspects of the state-centred case with the contributions of recent marxist theory. While state institutions and class relations can be analytically separate, the former are part of the whole society and thus reflect, shape, and contain social relations. Similarly, class relations are in part constituted by the state".<sup>149</sup>

There is a need to examine the convergence of the institutional capacity (state factor) and the class capacity (society factor) to advance our empirical and theoretical understanding of the state.<sup>150</sup> Skocpol has similarly emphasised that "[s]tudies of states alone are not to be substituted for concerns with classes or groups, nor are purely state-determinist arguments to be fashioned in the place of society-centred explanations".<sup>151</sup>

### 2.5.3 WHITHER STATE THEORY?

It is evident from the brief foregoing review that a variety of theoretical approaches, influenced largely by specific theoretical and ideological orientations, have been used to analyse the role of the state. There is no single theory which adequately explains the role and function of the state and there is unlikely to be one in the future. As state actions vary with space and time, any single interpretation is likely to reveal inconsistencies and contradictions. According to Saunders, this was partly due to "the logical, methodological and epistemological weaknesses which represent internal problems within each perspective".<sup>152</sup> For example, pluralists and marxists cannot explain the prevalence "of so-called 'non-necessary' functions", the economic and political operations of the state that thrive beyond the conditions for social accord as in the former model, or social domination in the latter.

Furthermore, as Cox observes, the interaction amongst those seeking to influence state policies is far more intricate "than any simplistic vision of the working class versus the bourgeoisie in conflict over a relatively instrumental state, in which the capitalist ruling class must dominate in the short term or, if we take the structuralist view, in the long term".<sup>153</sup> Hence it is "only through some combination of different approaches, relating to different aspects of the state's role, that these problems of theory and methodology can be overcome".<sup>154</sup> Johnston and Kirby have also supported calls for rapprochement amongst the different theories,<sup>155</sup> and Dear has argued that "interdisciplinary discourse (on the state) is possible, indeed vital to progress".<sup>156</sup> The 'ideal' theory of the state, according to Johnston, should be able to "tackle both capitalist processes and their concrete realisations".<sup>157</sup> This could be achieved by a combination of elements of society-centred and state-centred approaches and calls for a "multi-level approach to theory".<sup>158</sup> Similarly, Mahon argued that there was a need for "a creative dialogue between the two, leading to a new synthesis capable of informing strategies for building a democratic socialist project for the next century".<sup>159</sup>

Jessop devoted considerable theoretical attention to resolving the issue of unity between the institutional and social (class) forces within the state. He was aware that given the different state apparatus, there was little possibility of state unity, and in fact a greater likelihood of conflict among its different branches and/or managers.<sup>160</sup> It was possible that specific, strategic 'hegemonic (state) projects' could provide the ideological and material foundation for relative state cohesion and unity. However, this approach did not differentiate clearly between administrative or 'apparatus unity', and the ability of the state to unite different social classes.<sup>161</sup>

Furthermore, following Jessop, the state is not a real object, and is unable to exert independent power. Rather, there are numerous "potential structural powers (or state capacities) inscribed in the state as an institutional ensemble". The powers of the state are triggered

through the agency of definite political forces in specific conjunctures. It is not the state which acts: it is always specific sets of politicians and state officials located in specific parts of the state system. It is they who activate specific powers and state capacities inscribed in particular institutions and

agencies. And, as in all cases of social action, there will always be unacknowledged conditions influencing the success or failure of their actions as well as unanticipated consequences which follow from them".<sup>162</sup>

Since the state comprised an ensemble of power structures, its "powers are always conditional and relational", depending on the structural links between the state and its enveloping political system, the vital links among state managers and other political forces, and the intricate web of interdependencies and social networks connecting the state system to its broader environment.<sup>163</sup> Further, the power structures of the state offer unequal opportunities to the varying forces, inside and outside the state to attain their political objectives. Jessop refers to this as the "strategic selectivity of the state system".<sup>164</sup>

Drawing on the work of Poulantzas and Hoffman, Jessop presents a theoretical breakthrough, arguing that

the idea of the state as a social relation offers a middle way between state-centred and society-centred approaches ... [because] the state is the concentration of relations of power. This is where the Poulantzas' claim that the state is a social relation provides more purchase since it suggests that power relations are condensed and materialised in and through the ensemble of institutions and centres of power which comprise the state. In turn this implies, first, that the state apparatus is a strategically selective terrain which has asymmetrical effects on the organisation of power; and second, it implies that, within these strategically selective limits, the actual outcome of state power depends on the changing balance of forces engaged in political action both within and beyond the state. This provides the crucial theoretical breakthrough for a coherent approach to the state.<sup>165</sup>

In terms of this 'strategic-relational' theoretical approach, (which emphasises continuing interaction between strategies and structures) the state should be examined through its interaction with the rest of society. Neither the state nor society should be accorded the privilege of being an automatic starting point for explanation. Rather, it is more significant to examine "how the state ensemble is related to other institutional orders to constitute a complex social formation and how it contributes to the reproduction of the overall formation of which it is merely one part". This will reveal the principal contradiction of the state: whereas it is just one part of society, it is responsible for assuring the general cohesion of that society.<sup>166</sup>



Jessop has emphasised that "an analysis of the state, its various conditions of existence, and its effects on other social relations will include much more than the issue of economic relations and class forces".<sup>167</sup> Epistemologically, this would be possible by the adoption of a realist perspective. According to Hay, by emphasising "relationships between phenomena realist thought leads to an acknowledgement that the state is located within an extremely diverse and complex social formation".<sup>168</sup> Interpretations of the role of the state are likely to depend on the specific issues being considered. Whether state policy is influenced by capital is contingent upon whether capital has a significant interest in the matter being considered.<sup>169</sup> The role of the state can only be comprehended via "long-term analysis of its articulations and implications in particular places".<sup>170</sup>

Generally, the focus of the role of the state has been at a macro-level, and "particular spatial realisations of state activity" have been virtually ignored.<sup>171</sup> Yet, as Stelter and Artibise argue, the influence of the state and political power "cannot be adequately explored without direct reference to local government".<sup>172</sup> A consideration of one variant of the 'spatial realisation of state activity', the local state follows.

## 2.6 THE LOCAL STATE

It has become quite apparent that there is a need to differentiate between the state's functions at different spatial and administrative levels. Decentralised administrative units have been created because human activities generally have specific locations in space. Just as the nation state is isolated from the world community when its system of government and administration is examined, similarly, a locality can be separated from the national unit when it is viewed as an individual entity.<sup>173</sup>

A common distinction is between the central and local state. There is no clear definition of the local state. According to Duncan and Goodwin the term local state "could equally refer to an 'autonomous local state' or a 'local institution of the central state', and both meanings are present in the literature".<sup>174</sup> Also, the terms 'local state' and 'local government' are often used interchangeably.<sup>175</sup> The term 'local state' is normally associated with

Cockburn's pioneering work in Britain.<sup>176</sup> Since then, as Kirby notes, the local state is generally taken to imply a "study of sub-national government (including local authorities, health authorities and so on) from a materialist perspective".<sup>177</sup>

Dear suggests that the local state "may be defined as any government entity having a political and spatial jurisdiction at less than a national scale, and having the authority to raise revenues from, and make expenditures on behalf of, its territorial electorate".<sup>178</sup> Local states, according to Greer, envelop particular "political and administrative, economic, and social arrangements; they form the administrative matrix through which central-state policies are exercised; and most important, local states, ... hold an array of rights and powers that enable localities to pursue and sustain different policies and objectives".<sup>179</sup> Further complications arise because the divisions between the central and local state decisions are often unclear. Moreover, the power and responsibilities of these spatial political units are not precisely stated.<sup>180</sup>

The local state demands a specific analytical focus because:

- i) the spatial organisation of the state hierarchy is manifestly complex and non-homogeneous;
- ii) variations in local state functional responsibility and policy making practice (for example, zoning) significantly alter local economic and political outcomes.<sup>181</sup>

It is not possible for the central state to plan for specific places, but it can determine general guidelines and principles which can be modified by the local state to meet regional requirements. Gottdiener posed a fundamental question: "What is unique about the local state?".<sup>182</sup> According to Clarke and Kirby "the uniqueness of local politics centres on conflicts over land as a commodity, the underpinnings of the spatial dimensions of local politics".<sup>183</sup> The principal domestic market of the city is the land market. The local state intercedes in the land market via land-use planning mechanisms to ensure that market forces can operate harmoniously.<sup>184</sup> It is through the planning mechanism that the local state is associated with the generation of spatial inequalities and disparities.<sup>185</sup> Thus, the local state is influential in the following realms:

- i) The urban land use process, which usually operates within some unit/s of metropolitan administration.

- ii) The urban planning process, which is, for the most part, an arm of the local state bureaucracy.
- iii) Urban social movements which are, most commonly, directed towards the challenge of local state practices.<sup>186</sup>

There is generally a dearth of theories concerned with explaining the role and function of the local state. Attempts to analyse the functions of the local state have broadly followed the theoretical perspectives presented on the central state. The primary concern has been to determine whether the local state is merely an extension of the central state, and the extent of the relative autonomy of the former from the latter. In fact the nation state has been the focus of state theory and the local state is usually viewed as an instrument, or an element, of the central apparatus. It is argued that local politics is determined by national issues and trends. This reductionism denies that local actions and processes could influence national politics.<sup>187</sup>

### **2.6.1 Central-Local Relations**

In the debate on central-local relations three basic points of view emerge.<sup>188</sup> Firstly, the local state is regarded merely as an agent of the central state, implementing and administering policies determined by the centre. Cockburn viewed the local state as an instrument of the central state whose primary function was to facilitate the accumulation process, and it thus had very limited autonomy.<sup>189</sup> There were two major criticisms of this conception: firstly, the complexity of group and class alliances associated with the policies of the various state structures was not considered; and secondly, the fact that state forms are products of historical processes was ignored.<sup>190</sup>

Secondly, the local state is regarded as a partner of the central state, in the provision of public services. Although policies are generally formulated at the central level, the local authority makes an input and adopts flexibility in interpretation and implementation. As Elcock observes, a "great deal of the debate about central-local relations has been carried on in terms of this balance between central and local discretion".<sup>191</sup> The existence and functioning of the local state in most views was dependent on the dictates of an all powerful central state.



All the major decisions pertaining to the local state are made at the central level. For example, by determining their specific functions and powers, central government regulates the general scope of local state enterprise.<sup>192</sup>

A third view is that local states are competitors, and market factors determine who resides where, and the specific economic policies adopted. This emphasis on external factors suggests that the local state can only respond to external stimuli, whether economic or political. The weakness of this perspective is that it advanced no reasons for differences between cities and localities. As Greer observes, "[i]f localities are merely outposts of the national state, these differences should not exist".<sup>193</sup> However, central and local states are often in conflict because of differences in goals and interests. By regarding the local state as passive, conflicts within the state and the importance of politics and autonomy at the local level is neglected.<sup>194</sup>

An alternative view is that while central control is important, the local state does enjoy a degree of relative autonomy.<sup>195</sup> Local autonomy in this context is "defined here as the capacity of local governments to act in terms of their interests without fear of having their every decision scrutinised, reviewed, and reversed by higher tiers of the state".<sup>196</sup>

It has been suggested that variations in the policies of the local state from the central state "may reflect the development of distinctively local policies, or the distinctively local implementation of supposedly national policies".<sup>197</sup> Although the local state cannot be examined in isolation from the central state, it does have a unique spatial and functional formation. According to Fincher while "individual policy makers do influence the actions of the local state, this influence must be framed within the limits set by their context: economic and political realities, and their spatial manifestations in cities, significantly channel the options of local state officials".<sup>198</sup>

Furthermore, the local state manifests an individual structural association with local and national economies, and its form and function is therefore remarkably different from the central state.<sup>199</sup> Moreover, local states have distinct social histories which "institutionalise political practices such as participation, leadership, and partisanship".<sup>200</sup> Differences in

political practices between cities help explain for variations in local policy making and implementation. In this regard, the nature of political "participation, interest representation, and administrative arrangements in each locality" is very important.<sup>201</sup>

It is important to note that local governments have played an important role not only in executing policies originating from upper tiers, but also in negotiating with the central state as well as influencing policy.<sup>202</sup> The local state also presents citizens with an opportunity to control their local affairs, and to voice their views, especially when these are in conflict with the policies of the central state.<sup>203</sup> Thus, the local state has both an interpretive as well as a representational role. It interprets and implements central policies, and represents local interests. Duncan and Goodwin note that "[t]hese two processes allow it to be at once agent and obstacle ... to central control".<sup>204</sup>

Pinch points out that while the attempts by Duncan and Goodwin to "theorise the specificity of the local state and local social processes" is useful in explaining variations in local policies as well as central-local conflicts, empirical applications within this perspective has been limited.<sup>205</sup> Also, local governments are presumed to consider and act, to some extent, in favour of their constituents and represent "collective instruments of social aspirations".<sup>206</sup> However, Clarke argues that local governments do not necessarily represent all or even the majority of local citizens. Rather, the legitimacy of local government depends on the degree to which it realises its representative function. Furthermore, local governments are not merely symbols of democracy, but are "bureaucratic organisations with their own agendas of power and continuity (reproduction). Hence, it is assumed that local governments are purposeful actors and agents that interpret statutes, coerce their citizens, and manipulate their legitimacy".<sup>207</sup> The results of the local political democracy - who acquires influential leadership positions, the interests which are promoted by the city, and the nature of local policy - ephemerally moulds the goals of the local state. The extent to which personal interests are organised and mobilised influence local decision and policy making processes.<sup>208</sup>

A general differentiation is made between those state activities associated with the preservation of the central state (such as maintenance of law and order, legitimacy, durable

political institutions, taxes) and those concerned with supporting cities ("such as general and special collective goods, economic development policies, social service provision").<sup>209</sup> Moreover, it is possible for the local state to serve as a laboratory for the formulation of policies which could be applied nationally.<sup>210</sup> This last point appears to have special relevance in the context of the present study, as will become apparent shortly.

Generally, each local state has its own structuring of "political and administrative institutions and a set configuration of internal interests to which, directly or indirectly, it must be responsive".<sup>211</sup> Local imperatives may often influence local state managers to implement policies which may be viewed as inappropriate, or in conflict, with those of the upper tier. It is also possible for social groups which are under represented at the central level to dominate at the local state level. As Duncan *et al* note, these groups can use local state autonomy to further their own ends.<sup>212</sup> However, the basic framework within which local policy is formulated is determined at the national level. The policy agenda of the local state is determined by rules, regulations and fiscal controls originating from the central state.<sup>213</sup> Moreover, the central state is often the source of most local financial resources. Nevertheless, the local state has the power to control local resources, and these can be "mobilised in any conflict over autonomy with the central state".<sup>214</sup> Local states "can and do refuse to participate in central-state programs".<sup>215</sup>

The question of why particular state forms develop is related to the issue of "how the state develops in particular local or spatial circumstances".<sup>216</sup> In order to understand the form and function of the state, it is important to understand past events and processes.<sup>217</sup> Most attempts to theorise the local state and its interaction with the centre have lacked historical specificity.

### **2.6.2 Local States and Historical Specificities**

According to Duncan and Goodwin studies seeking to situate an analysis of central-local relations in a broader analytical structure, had a weak "historical conceptualisation of state action and were unable to specify the crucial determinants of local, as opposed to national,

state action".<sup>218</sup> It is important to note that particular political phenomenon and their consequences are inextricably linked to historical and spatial contingencies.<sup>219</sup> In this regard "[r]ecent calls for explanations of how people's actions and experiences shape state development, mark an important turning point in analyses of the capitalist state".<sup>220</sup>

Detailed historical research would reveal not only how local contingencies tangibly influence the results of more general processes, but also that these processes are devised by conscious, active individuals. Similarly, political and ideological shifts would reveal how people dynamically constitute social relations.<sup>221</sup> This 'bottom-up' perspective is viewed as an "empirical and conceptual advance compared to the purely 'top-down' world of given structures and institutions ... [and implies] that particular political events and outcomes are inextricably bound up in historical specificities".<sup>222</sup>

In supporting the call to study the local state 'from the bottom up', Clarke and Kirby emphasise:

- i) the importance of historical analysis, as opposed to a functionalist analysis, to the establishment and development of social relationships;
- ii) that neither the central nor the local state can be analysed in isolation; and
- iii) an all embracing analysis of either social, economic, or political changes is not possible; necessary as well as contingent relationships are important.<sup>223</sup>

Another weakness of attempts to theorise the local state was a focus on 'things' rather than on the social relations which gave rise to them.

### **2.6.3 Local States, Localities and Social Relations**

Researchers have implicitly viewed the local state as a static physical unit and have focused on descriptions of structures that basically result from social processes. In order to use the concept of the local state constructively, it must be integrated with general explanations of social relations and change.<sup>224</sup> The nature of state relations can then be explained rather than being merely described. This conceptualisation would make it possible to analyse state

policies and actions, because "rather than given, apparently autonomous and socially inexplicable changes in institutional 'things', state forms and actions become a part of changing relations between groups of people".<sup>225</sup>

As Fincher observes, for the 'local' in the "local state to be theoretically relevant, there must be evidence that social relations specific to a locality exist".<sup>226</sup> Indeed, the issue of why specific state forms develop is innately related to how the state evolves in particular spatial localities.<sup>227</sup> To Fincher, the local state is a "set of governmental institutions acting in a locality: the combination of government departments and agencies (federal, state, urban or regional in their spatial jurisdictions) that take action with respect to locality".<sup>228</sup>

Localities are conceived as "lived relations of interaction and dependence, and thus as arenas of every day life with a dynamic geography, rather than entities with relatively fixed boundaries (for example, 'a municipality')".<sup>229</sup> Localities can also serve as catalysts for essential social change. Since people vigorously challenge locality relations, particular localities can become arenas where prevailing social relations and practices can be opposed by subordinate groups and individuals, and this can lead to broader struggles for social transformation.<sup>230</sup> Thus, localities are not submissive recipients of the products of "external social forces. Rather, as contested arenas of everyday life in class societies, localities possess an 'endogenous' or a 'proactive' capacity for social change".<sup>231</sup> Thus, the "locality under capitalism is irreducibly political ... In consequence, the political, including the local state, has to be central to locality research".<sup>232</sup>

An understanding of the variable conditions under which states develop would lead to more lucid explanations of the contribution of local and non-local forces to "often marked variation between places in political responses to experiences of the state".<sup>233</sup> As Chouinard emphasises, this recognises that the development of social relations

within and against the state is an inherently geographic process. State development is an uneven process in which economic and political forces combine to produce distinctive forms of the state and state politics in particular times and places. The state not only reacts to the fact of uneven social development under capitalism but is also a product of uneven processes of social change. This conception encourages close attention to geographic variations in the social relations of the state, and to the causes of those variations.<sup>234</sup>

A key issue in the methodological debate relating to locality studies is the relationship between concrete and abstract (or empirical versus theoretical research). Key problems are viewing a dichotomy between abstract and concrete research, as well as equating the geographical and local with the concrete.<sup>235</sup> Fincher disagrees with Duncan and Goodwin's earlier view that the local state "can be one way of reducing local class relations to the legal relations of abstract, individual citizens"<sup>236</sup>, because it limits the "political relations of the local state to those concerned with the individualising legal institutions of citizenship and contract".<sup>237</sup> Separation of the state, economy and society into spheres creates the problem of having to classify social actions into one or other domain.

Cox and Mair propose that the apparent impasse between the concrete and abstract can be significantly allayed by the acceptance and implementation of "different levels of abstraction".<sup>238</sup> Realists have recognised that "social processes operate at various scales, and so their analyses are designed to transcend these scales".<sup>239</sup> According to Cox and Mair:

Marx proposed a crucial distinction in the levels of abstraction between transhistoric categories (means of production, immediate producers, and so on) and the historic forms assumed by these (capital, wage labour) that are specific to a given mode of production. At a still lower level of abstraction there are particular social formations (for instance, the contemporary South African social formation), which are structures of social relations specific to particular times and particular geographical areas (at various scales) ... At each level of this hierarchy of abstractions one can identify necessary relationships ... which at each succeeding and lower levels incorporate more and more historical and/or geographical variability ... The method can be used to develop concepts at any level of abstraction, including lower-level concepts that are better able to incorporate geographical and historical variation.<sup>240</sup>

Capitalist social relations do not consider the entire range of social relations prevalent in different societies. According to Chouinard and Fincher, since social relations associated with capitalism can "co-exist with contingent relationships characteristic of other modes of production (for example, patriarchy and socialism), those class relations necessary to capitalism often assume non-obvious empirical forms such as complex social divisions within the working class according to occupation, race or gender. The conceptual problem is to decide the relative importance of these necessary and contingent social relations as causes of aspects of state development".<sup>241</sup>

#### 2.6.4 Conjunctures, Contingencies and Necessities

There is a need for an explanation of local state forms that "shows how the necessary causal mechanisms of class conflict and competition combine with [contingent] cultural and ideological relations between people to produce specific outcomes in particular places".<sup>242</sup> Such an explanation would indicate "how causal processes necessary to capitalism are mediated by contingent conditions within actual places so that distinct forms of the local level capitalist state emerge ... [and it would also reveal] how forms of the local state are limited but not directly determined by necessary tendencies in capitalist development".<sup>243</sup>

Chouinard and Fincher have argued that "[e]xplanations of different cases of state formation, that is, of the form taken by the state and its class-based historical origins, require conjunctural rather than abstract analysis".<sup>244</sup> A conjunctural view of state development demonstrates how economic and political factors in capitalism merge to change state agendas and procedures in particular places.<sup>245</sup> In this context, the local state is regarded as a concrete, rather than an abstract, concept.

Approaches which identify the contingent nature of socio-spatial relations within localities and recognise the significance of contextual factors in influencing local experiences are functional to develop a "theory of place-based politics".<sup>246</sup> State forms emerge from struggles which influence

the politics of place by shaping subjective experiences of the state and political life. State policies, procedures and laws endow individuals and groups with specific political status and rights, in exchange for their participation in existing programmes and rituals. Struggles over state formation thus contribute to the political identity of individuals and groups: constituting them as actors with individual and/or collective rights to protection from the state ... State agencies also help to represent or interpret the social relations through which state formation is contested.<sup>247</sup>

Chouinard and Fincher's theory of state formation is not 'structurally deterministic', nor 'economically reductionist' or 'class essentialist' as "it will allow for many social practices that are not directly class related".<sup>248</sup> Such a conjunctural analysis of the local state is based on a realist epistemology, whereby "causal processes of capitalist competition and class conflict combine with complex contingent conditions to produce specific events".<sup>249</sup> A



realist view, with its emphasis on relationships between events and processes, concedes that the state is situated in a complex and disparate social formation. Therefore analysis of the state requires more than a consideration of class and economic factors.<sup>250</sup> From a realist perspective the state is not merely viewed in terms of social relations associated with government apparatuses and its policy implementation. It is interpreted as an historically specific set of social relations associated with particular relations of production and reproduction. Hence, the state is not viewed in abstraction, but is part of particular conjunctures.<sup>251</sup>

Chouinard and Fincher advanced the following theoretical propositions to develop a conjunctural analysis of the local state:

- i) Following Sayer<sup>252</sup>, the state is not viewed as a 'single abstraction', but rather "a synthesis of tendencies and conditions", (which Cox and Mair referred to as 'different levels of abstraction').<sup>253</sup>
- ii) The conviction that "relations in production and reproduction are the primary conditions affecting the causal process of state formation at the local level. That it is through such contingencies that people actively mediate in the development of local forms of the capitalist state".
- iii) The local state can be "defined as the forms of the capitalist state (its institutions, policies and implementation procedures) which are created in localities through contingent social relations and limited but not determined by necessary tendencies in the development of capitalism".<sup>254</sup>

If political processes in separate time-place frames are viewed as contingent influences on the development of capitalist states, then more research is required to determine the relative importance of contingencies on the evolution of the local state.<sup>255</sup> An important research emphasis is the influence of the local state on the formation of social relations in local communities, especially in terms of its customary collective consumption function. It is essential to investigate the "distributional consequences of local government's assuming greater responsibility for social reproduction. When accompanied by reduced central government funding, political and financial difficulties will ensue for even the most progressive local administration".<sup>256</sup> There is also a need to examine a neglected facet of



state development - the role of agency.<sup>257</sup>

In conclusion, it is evident that both theoretical and empirical analysis of the local state is very much at an elementary level. Advances have been made with the conceptualisation of the local state as a set of social relations in terms of its historical specificity, rather than as a physical unit. A conjunctural analysis will reveal how necessary social conditions and contingent historical conditions interact to create particular state forms. The local state is not merely an instrument of the centre, and it could pursue policies in terms of local imperatives which could conflict with upper tiers.

There is a need for further empirical investigation in order to understand the functioning of the local state, its decision making processes, its linkages with the centre, as well as its level of autonomy. Theoretical progress will be made through further analysis of the relationship between the state and the political economy which would highlight the nature of social relations, which would include both necessities as well as contingencies, in specific localities.

## 2.7 CONCLUSION

Conventionally, geographers studied residential segregation by measuring and describing, rather than explaining the process. The focus was on indices of segregation and individual choice, within an implicit positivist perspective. As geographers considered alternate theoretical formulations, it became evident that the spatial patterning of cities could not be explained in isolation from the wider society.

An understanding of urban residential differentiation requires an analysis of historical, ideological, political, economic and social factors. In this regard, the state, representing an institutional embodiment of ideology and politics, is a key actor. However, the role of the state in structuring social space has been neglected in geographical analysis.

An evaluation of society-centred and state-centred perspectives revealed that there is little agreement about the role and function of the state in society. Interpretations of the roles of

the state are likely to be dependent on the specific issues being considered. In this regard, Jessop's strategic-relational approach, interpreted from an historical perspective, considering both necessary as well as contingent relations, within a realist epistemology, is likely to prove useful.

The influence of the state in structuring socio-spatial processes would be incomplete without consideration of the role of the local state. Although the local state has been viewed as an instrument of the central state, it does have limited autonomy. Analysis of central-local relations needs to be situated in its historical specificities. Further, the local state should be conceptualised in terms of social relations and not as a physical unit. In terms of realist analysis, the local state is interpreted as an historically specific set of social relations associated with particular relations of production and reproduction.

Historically, the local state has been associated with planning and land use segregation world wide. However, no attempt has been made to examine the relationship between the local state and residential segregation. An attempt will be made to 'solve' the problem of the separation of the local state segregation issues in the final chapter.

Against the theoretical and conceptual background presented in this chapter, the following chapters will attempt to analyse the nature of the interaction between the central and local state by examining the origin and implementation of the Group Areas Act in a specific locality - Durban. More specifically, this thesis is influenced by the 'state centred' approach in which the specific role of the state and its apparatus (particularly the local state), and institutions (especially the bureaucracy) in controlling territories and people will be highlighted. The study will analyse the continuities, conflicts, and tensions in the relationship between the central and local states with regard to the segregation of Indians, considering necessary causal factors as well as contingencies. In the process it will contribute to an understanding of the South African state at both the central and local levels.

This study will reveal that Durban, a traditionally 'liberal' United Party supporting local authority, was at the forefront of calls for the compulsory residential segregation of Indians who presented serious threat to whites in the competition for economic and social space. The

local state in Durban worked in close collaboration with the National Party with regard to drawing up and implementing the Group Areas Act. Hence the apartheid central state can hardly be viewed as a monolithic entity, nor can the local state be regarded as a passive recipient of central policies. The study will also draw attention to the influence of agency - the white voters, and the disenfranchised Indians - on state formation. It is essential, however, to understand the nature of South African state formations, and this is the theme of the next chapter.

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## **CHAPTER THREE**

### **SOUTH AFRICAN STATE FORMATIONS**

On the one hand, South Africa appears to be very a state-permeated society. People regard the state as powerful, and extensive penetration of state power into people's private lives is often tolerated fatalistically, regarded as normal, or even advocated as appropriate ... Yet the South African state also seems a huge, sprawling, unco-ordinated, internally divided machine. It has, on occasion, seemed to lose control over some of its segments, especially at the geographical and institutional peripheries. There have been several competing centres of power: central, provincial and local levels are often not well synchronised; different departments may have conflicting goals; different geographical regions influence government officials with different social ethics; and officials from different ethnic groups often interpret their tasks in conflicting ways.<sup>1</sup>

#### **3.1 INTRODUCTION**

Against the background of the theoretical perspectives on the state presented in the preceding chapter, this chapter is concerned with an analysis of South African state formations. While the emphasis will be on the local state of Durban, the nature of the central state will also be examined. More specifically, the nature of social relations is analysed through an abstraction of specific moments in the periodisation of the central and local states. The focus will be on the nature of power relations through an examination of the conflicts, contradictions, resistance and repression in the relationship between the state, capital, white and black labour, and the bureaucracy.

#### **3.2 THE CENTRAL STATE IN SOUTH AFRICA**

There has been a great deal of debate about the nature of the South African state. The emphasis has been on the relationship between the state and the economy. Up to the early 1970s, the debate was dominated by the 'liberal' pluralist tradition. Basically this school believed that apartheid social formation in South Africa was a 'dysfunctional' intrusion in the

market economy, emanating from non-material forces such as prejudice and racism. Racial segregation was economically disadvantageous. Ultimately, the unyielding imperatives of capitalistic industrialisation would lead to the demise of apartheid.<sup>2</sup>

The pluralist orthodoxy was strongly attacked by neo-marxist revisionist explanations of the South African social formation, precipitated by formative and seminal contributions by Wolpe, Legassick and Johnstone.<sup>3</sup> In contrast to the pluralist position, neo-marxist analysis of apartheid does not commence at the political or ideological level, but rather with the social relations emanating from the mode of production, in accordance with Marx's own dictum.<sup>4</sup> The revisionist school emphasised that apartheid and economic development were not dysfunctional, but rather were mutually beneficial. In South Africa racial legislation was implemented for the mutual benefit of the capitalist class as well as the white settler community, because both groups benefitted from the exploitation of African labour.<sup>5</sup> Many of the features of apartheid had their origins in the mines where attempts were made to reduce labour costs. These include

- i) the migrant labour system, pass laws, and compounds;
- ii) the establishment of native reserves for the reproduction of the African population which lead to a reduction in labour costs to be borne by industry; and
- iii) the differentiation of the working class into white skilled labour and black unskilled labour.<sup>6</sup>

While the argument of this school was "elegant, precise and forcefully put, ... it lacked the nuances which more detailed empirical research would have revealed".<sup>7</sup> By arguing that all the state actions were geared to facilitate capital accumulation, this approach was often reductionist and instrumentalist.<sup>8</sup> Failure to "focus on the state as an institution and an agent with its own dynamics and interests" resulted in "many potentially important reasons for the history of South Africa's urban forms" being bypassed.<sup>9</sup> Although some researchers did "concede the state's 'relative autonomy' from its 'material base'", in practice there was a "capital/state-centric view of the South African political economy in which little is actually known about the nature of the state or the complexity of its workings".<sup>10</sup>

According to Posel, emphasis on the role of capital and class in determining segregation and apartheid foreclosed "inquiry into other sorts of questions concerning the tensions and contradictions in the relationship between racial policy and capitalism, on the one hand, and the irreducible importance of political and ideological factors, on the other".<sup>11</sup> Class analysis is insufficient for an understanding of the South African state. Political power, ideologies, ethnic cleavages as well as electoral majorities must be considered.<sup>12</sup>

There was also a tendency amongst revisionist scholars to neglect the issue of race. In South Africa racial groupings are tangible - a historical product of calculated human endeavour - and cannot be dismissed as 'false consciousness'. It is important to move beyond instrumentalist and reductionist conceptions of the state because this "tends to lead to a neglect of the study of the state per se, obscures the way in which the class struggle motivates political changes, and precludes an analysis of the possibilities and limits of reform".<sup>13</sup>

Furthermore, revisionists were inclined to emphasise the structures of oppression and neglect the struggles of the oppressed. More concern was expressed about "conflicts between 'fractions of capital' than with the struggles for survival and modes of resistance among blacks; where the working class entered the arena, it was, by and large, the white working class".<sup>14</sup> An understanding of the history of the proletariat is essential "in order to understand the specificities of capitalism and form of the state in South Africa", as well as to grasp the prospects for, and constraints on, change.<sup>15</sup>

Since the 1970s there has been a great deal of theoretical debate on the nature of the state, but little empirically based research.<sup>16</sup> However, since the 1980s, state-centred theorists have given more empirical attention to the complexity of the state and its level of autonomy. The influence of the bureaucracy on policy and legislation has also been emphasised.<sup>17</sup> Also, there was acceptance that the role of ideology must play an enhanced role in any analysis of specifically the South African state. State-centred theorists emphasised the role of the state as a political actor:

... theoretical viewpoints which break with the notion of the state as a simple instrument of the dominant classes, and which instead see it as a contested field of social relations, giving due attention to the autonomy of its internal structures, may add depth to our interpretation of current political processes.<sup>18</sup>

Historical analysis of state apparatus emphasised the significance of "experience, agency, consciousness, and regional and temporal specificities".<sup>19</sup> However, there has been a tendency to neglect the political dimensions of the state's interests.<sup>20</sup> Wolpe has argued that race, class and capital and the state are contingently related to each other, and this can only be determined by historical analysis.<sup>21</sup>

The following sections analyse the nature of the central state by examining its historical development, racist discourse, relationship with capital, attempts to control labour, response to the poor white problem, and its bureaucratic form. This is followed by an analysis of the historical formation of the local state in Durban. The focus will be on the role of the local state in facilitating capital accumulation, controlling and regulating labour, and responding to the demands of the white electorate. The nature of the conflicts between the local state executive and bureaucracy will also be highlighted.

### **3.2.1 The Early Years**

The history of South Africa since the 17th Century is permeated by the ruthless quest for increasing white domination and supremacy over blacks in order to control resources and exploit labour. By use of military force and various forms of social control blacks were subjugated into a dependent relationship with the white minority. The establishment of mechanisms of spatial and social segregation, which were actively developed over the past two centuries, assisted in the exploitation and servility of blacks. By virtue of its control over political, economic and social mechanisms the dominant white group determined the distribution of power and privilege among subordinates. Africans were denied access to, and participation in, all political structures, and hence had little or no influence on decision-making, especially with regard to the allocation of resources.

The first permanent European settlement in South Africa was established in 1652 at the Cape of Good Hope by the Dutch East India Company. The early settlers were mainly Dutch Calvinists. The Cape Colony grew through immigration, introduction of slaves and the growth of the so-called coloured population through miscegenation between Europeans, slaves

and indigenous Hottentots. Territorial expansion of settlement proceeded by the "dispersal of pastoral trekboere who laid the foundation for the development of a rurally oriented Afrikanervolk".<sup>22</sup>

The British occupied the Cape in 1795, gained political control in 1806, and annexed Natal in 1843. Under British economic and political hegemony the local bourgeoisie increased their wealth, extended their geographic influence, and moved from trade alone into the spheres of banking and land speculation and property ownership.<sup>23</sup> The influx of British settlers in the 1820s, their more liberal disposition, and the demands to make English the official language in the Cape were perceived as threats to the economic and cultural survival of the Afrikaners. This precipitated the so-called Great Trek in 1836 and the subsequent formation of the Transvaal and Orange Free State Republics.

The discovery of diamonds in Kimberley in 1867 and gold in the Transvaal in 1886 played a pivotal role in influencing the political and economic development of South Africa. It paved the way for a thriving capitalist economy and marked "the advent of the 'industrial revolution' in South Africa".<sup>24</sup> However, during this period the conflict and antagonism between the English and Afrikaner escalated and culminated in the Anglo-Boer War (1899-1902). Although the British won, they made major reconciliatory concessions at the Peace of Vereeniging (1902), allowing the Afrikaners to administer the Transvaal and Orange Free State, and giving them effective control over the African population in these regions.

The Union of South Africa was formed in 1910, comprising the four provinces (Cape, Natal, Orange Free State and Transvaal). Although the Union remained part of the greater British empire, (with the Union administration being headed by a governor-general who represented the British monarchy)<sup>25</sup> it was given political autonomy. Legislation promulgated by the central state was binding on all four provinces. The Union was, however, basically a political union of whites, (Afrikaners comprised 60 percent of the population, and the English the remaining 40 percent), who proportionately made up less than 17 percent of the total population, since with the exception of minor anomalies in the Cape, whites alone elected the Union parliament. Africans constituted 73 percent of the total population, with the remaining 10 percent comprising of Coloureds and Indians.<sup>26</sup> The political and administrative



structures of the Union were dominated by the Afrikaners, while the English controlled commerce, industry and mining. The 1910 constitution, by limiting the franchise to "all adult white males, ensured that the interests of landowners, of white workers and of the capital invested in mines (and then in manufacturing) would persistently demand attention".<sup>27</sup>

Thus, the main feature of successive South African governments since 1910 has been the persistent adoption, refinement and entrenchment of the policy of racial domination. The intention was to retain white hegemonic control in the arena of production and consumption to facilitate accumulation and exploitation. The main mechanism to achieve this was the adoption of an explicitly racist discourse.

### **3.2.2 Racism, Rationality, and the State**

Generally, racism refers to the assumption that people can be divided into "discrete 'races' according to physical, biological criteria and that systematic social differences automatically follow the same lines of physical differentiation".<sup>28</sup> If racism is "institutionalised through the power of the state" it can have serious consequences.<sup>29</sup> This is especially so in the case of the South African social formation, which has presented a hypothetical challenge to researchers investigating racial prejudices and its associated disparities. In any society where racial discrimination is predominant, racist ideology will be enunciated by the state and economic structures, and the dominant exploiting group will display high levels of prejudice. Quite often it is possible for race to be subsumed by class categories, and vice-versa.<sup>30</sup> In South Africa, revisionist scholars, by emphasising class formation, have tended to neglect an explicit consideration of the role of racism on the social structure. However, the emphasis on class formation does not repudiate the ontological status of race. Racial groupings are tangible, not mere substitutes for concealed material forces. As Jackson notes, the "political, cultural and ideological dimensions of racism [cannot] simply be read off from the economic".<sup>31</sup> Recently, Sigler suggested that "neither colonialism nor crude marxism fully accounts for developments" in South Africa.<sup>32</sup> Similarly, Greenberg has emphasised that in South Africa "[r]acial prejudice and group sentiment cannot be dismissed as superstructure or false consciousness".<sup>33</sup> The present study supports the contention that any attempt to

analyse social relations in South Africa must consider racial configurations which are integral to that society.<sup>34</sup>

In South Africa it is important to differentiate clearly between the different forms of racism:

- i) racism as an ideology - a basis of invidious distinctions between groups defined as races;
- ii) racial prejudice, which refers to attitudes, usually highly emotive and hostile, which are directed towards members of another group; and
- iii) racial discrimination, a type of social relations whereby one group subordinates and exploits another.<sup>35</sup>

A variety of perspectives have been utilised to explain the racism associated with apartheid. A prominent view emphasises religiously induced prejudice, and draws attention to the Calvinism of the Boers. This approach towards religion was apparently influenced by the austere conditions of the rural frontiers. Referring to the work of Gerhard Becker, Adam suggests that "the frontier isolation with its individual bible interpretation fostered unique race attitudes in a way similar to how Calvinism facilitated capitalism by encouraging thrift and asceticism".<sup>36</sup> However, he argues that the weakness of the religious explanation is evident when Afrikaner racism is compared to "an almost identical English segregationist practice in Natal, which preceded apartheid in all but its codified and legalistic features".<sup>37</sup>

In South African there has been a tendency to take the principle of race discrimination to its logical conclusion - "a kind of Herrenvolk society in which people of colour, however numerous or acculturated they may be, are treated as permanent aliens or outsiders".<sup>38</sup> Fascist analogy has also been used as an explanation of racism in South Africa. However, authoritarianism in South Africa is viewed as less totalitarian than fascism. Hence political persecution is aimed at those who confront the system, and not at those who refrain from engaging in such challenges.<sup>39</sup>

Conflicts of interest and culture are associated with, and have frequently been used to rationalise, discrimination and prejudice.<sup>40</sup> Race prejudice has also been explained in terms of competition among groups for scarce resources. In terms of this perspective racism was not irrational, but rather was a "social construction of reality ... corresponding to perceived group needs, threats to traditional status, or strife for a better one in the continuing battle for

security and equality".<sup>41</sup> This problem will not be solved here - this is for politics and sociology - but it is important to note, because at times the behaviour of the central and local states in South Africa appeared to reflect a pathological irrationality based on race.

### 3.2.3 Capital Accumulation and the State

One of the most important features of the South African social formation during the first quarter of the twentieth century was that it was characterised increasingly by the prevalence of capitalist relations of production in the major sectors of the economy. This was the result of large injections of imperial capital, particularly in the mining industry. During this period there was a hegemonic alliance between mining capital and the state. The manufacturing and agricultural sectors, in turn, responded to opportunities for capital accumulation arising from the development of mining enterprises.<sup>42</sup> According to Yudelman, in spite of its relative economic 'backwardness' South Africa presented a symbiosis between the state and capital earlier than most other industrialised societies, for the following reasons:

- i) The unusual concentration and homogeneity of capital resulting from the peculiar nature of the mining industry, and of the gold mining industry in particular.
- ii) The unusual concentration of political power in the hands of a minority group - the Afrikaners - which was relatively impermeable to direct infiltration by capital;
- iii) The extremely divided nature of the working class, which was split, not only on race, urban-rural, and skill criteria, but was also composed largely of (black and white) migrants.<sup>43</sup>

As a result capital and the state could not dominate each other. Also, as long as these two elements collaborated, there was no working class threat to the state or capital.<sup>44</sup> The Union of 1910 represented a fledgling capitalist state which was experiencing serious problems of raising revenue, and providing employment for its white voters who were moving rapidly into urban areas. The state's major revenue source was the gold mining industry, which also employed about 10 000 whites and "through its multiplier effect on the economy, was the source of many thousands more jobs in the state bureaucracy (particularly the railways) and in service industries".<sup>45</sup> Therefore it was difficult for the interests of the mining industry to be separated from those of the state. However, to view this relationship in terms of

domination would be inaccurate. The situation would be best characterised as a convergence or overlapping of specific interests. In order to survive, the state had to ensure the viability of the gold mines, without in any way alienating the white electorate.<sup>46</sup>

During most of its early history, the mining industry was disadvantaged by the high capital investments required for mining operations and by low returns through internationally controlled markets. Consequently, there was a great deal of pressure to reduce labour costs. However, during this period difficulties were experienced in recruiting labour. African farmers were reluctant to engage in what they perceived to be a dangerous job. With state imposed taxes (e.g. the hut tax), and the passage of legislation to restrict their access to the means of production (land), Africans were forced to move to the mines. The mining industry supported the establishment of the rural reserves in terms of the 1913 Land Act because "it saved the industry from having to pay for either the reproduction of labour or for the welfare of workers who were too old, sick or injured".<sup>47</sup>

As the gold mining industry expanded, its demand for cheap black labour increased. With falling international gold prices, the mines preferred employing blacks in skilled tasks, in place of more expensive white labour. During this period Africans were still predominantly subsistence pastoralists - some very successful. The outbreak of rinderpest in 1897 and subsequent epidemics reduced stock. The African petty bourgeoisie was also experiencing an economic catastrophe: "Erosion, ecological decline and 'overpopulation' fed into a growing pattern of indebtedness and immiseration".<sup>48</sup> To survive, males were forced into the migrant labour circuit.

However, in spite of several restraining measures, many Africans throughout the country were determined to hold on to whatever land they could. So long as Africans controlled their own means of production - land - the different fractions of capital (mining, agriculture and manufacturing) would experience continued impediments in guaranteeing sufficient African workers.<sup>49</sup> White employers became increasingly aware of this predicament. In order to increase the supply of labour the Transvaal Labour Commission of 1903, which generally reflected the interests of the gold mining companies, recommended 'compulsion, either direct

or indirect', the 'imposition of higher taxes', and the 'introduction of legislation modifying the Native Land Tenure'.<sup>50</sup>

There were two mechanisms to induce Africans into cities at low wages. The first was to undermine the control of black labour on farms, which resulted in conflict between mining and agricultural capital. The Natives Land Act of 1913 represented an attempt to reconcile these differences between agricultural and industrial capital over the supply of labour.<sup>51</sup> Agricultural capital responded with the introduction of a number of repressive measures to ensure the supply of a stable, cheap labour force, which included "limitations of African landholding and increased taxation of the peasant, near subsistence economy".<sup>52</sup> Secondly, by reducing the size of the reserves, more Africans would be forced to move into cities as rural subsistence would become impossible for increasing densities.<sup>53</sup> The different fractions of capital - agricultural, mining and manufacturing - were often in competition with each other for labour. For example, farmers could not compete with the wages and social control mechanisms (e.g. compounds) developed by the mines.

World War 1 ushered in a new phase of industrial development in South Africa which focused on the development of secondary industries, and was accompanied by rapid urbanisation. In the Rand, for example, the number of industries increased from 862 in 1916 to 1 763 in 1922.<sup>54</sup> Capital for industrialisation was provided by state taxation of gold mining profits. This was a controversial decision, and it divided the English speaking mining barons from the Afrikaans speaking petty bourgeoisie.<sup>55</sup>

With the whites going to war in 1914, the demand for cheap African labour also increased. The African workforce engaged in secondary activities increased from 67 111 in 1918 to 92 597 in 1920.<sup>56</sup> Employment in manufacturing offered higher wages than in mining, was less dangerous, and life was also less regimented when compared to the mining compounds. The structure of the African urban population also changed, with a large number of workers moving to cities with their families. By 1920 about 25 percent of the Union's total population was urbanised.



However, World War 1 generated an economic boom which was followed by a slump. The manufacturing sector was severely affected, and there was increased pressure on the working class.<sup>57</sup> The gold mines suffered major deficits, and required huge injections of capital and new methods of labour exploitation to increase profits. The mining companies attempted to reduce their costs by replacing semi-skilled white workers with lower paid Africans. The white workers responded with a number of reactionary strikes to 'keep blacks in their places', culminating in the so-called Rand revolt of 1922.<sup>58</sup>

In 1924 there was a coalition of classes with the pact between the National (Afrikaner) Party and the Labour Party (which favoured white working class interests), which defeated Smuts' South African Party to form a new government. The Pact Government introduced a host of discriminatory legislation (e.g. job reservation), and effectively represented an alliance between agricultural and industrial capital, and the white working class.<sup>59</sup> The South African Party drew its support from Afrikaners in the Transvaal who had benefitted from the discovery of gold, and who were more sympathetic to the needs of industrial capitalism. The National Party was initially made up of poor Afrikaners from the Orange Free State. This division between Afrikaners reflected their ambivalent attitude towards capitalism; on the one hand they were aware of the need to use its profits to subsidise agriculture, while on the other they resented its ability to destroy the structure of Afrikaner existence based on white supremacy.<sup>60</sup>

By the 1930s there were transformations in the labour supply and nature of industrialisation, and contradictions embedded in the pattern of accumulation which had developed since the turn of the century, were becoming increasingly apparent. The rural reserves which were intended to facilitate the reproduction of labour showed signs of collapsing. There was widespread disease and malnutrition, and employers complained about the declining health of the labour supply. The change in the structure of industrial development from mining to industrial development demanded a more skilled, permanent and stable labour force. The state and capital realised that such a new labour force could not be created without major improvements in the living and working conditions of workers. The inadequate living conditions served as an effective means of mobilisation.<sup>61</sup>

With falling profit margins, class conflict between white skilled workers and mine owners increased. In addition to wages, the jobs of whites were threatened as Africans proved themselves capable of doing skilled tasks at lower rates. Therefore, all white workers were united in their concern to abolish competition from cheap black labour.<sup>62</sup> The state expressed a great deal of concern about the poor white problem.

### **3.2.4 The Poor White Problem**

At the beginning of this century the white population in South Africa comprised of a widely differentiated group - Randlords; commercial farmers; civil servants; independent professionals; skilled and unskilled workers. The proletarianisation of unskilled whites was the initial result of the expansion of capitalist relations into rural areas. These whites had served as sharecroppers (bywoners) or tenant farmers on farms which were subsequently transformed into capitalist operations.<sup>63</sup> The Anglo-Boer War had expelled a large number of poor Afrikaners from rural areas into urban areas, "where their rural skills were useless and they formed a potentially explosive element in the population".<sup>64</sup> Class and race divisions were very apparent in urban areas, where conspicuous "contrasts between wealthy English-speaking suburbs and the squalid slums inhabited by Africans, Afrikaners, Indians and Coloured emphasised class, national and racial cleavages".<sup>65</sup>

Conventional interpretations have argued that the poor whites were unable to get jobs because they refused to do menial work at low rates of pay. The apparent rationale of the state and private sector was that whites should be kept out of low-paid jobs. However, this had nothing to do with protecting whites from engaging in 'uncivilised' labour, but rather ensured the continued super-exploitation of blacks. Unlike whites, Africans did not have the vote or bargaining rights.<sup>66</sup>

The super-exploitation of African labour increased the structural insecurity of the white workers as it presented a powerful "incentive to employers to maximise profit by maximising the utilisation of non-white labour and minimising the utilisation of white labour".<sup>67</sup> It must be emphasised that African labour was not naturally cheap. It was cheap compared to the



cost of importing labour from elsewhere, and it was cheap because Africans were denied powers to bargain with employers for higher wages.<sup>68</sup>

The state appeared to be particularly concerned about the poor white problem. Between 1900 and 1940 this was one of the principal issues discussed and debated by different apparatus of the bourgeois state. While this appeared to emanate from a humanitarian concern, the ideological concern was the effect that the 'poor whites' would have on the power bloc's struggle to assert its domination over the social formation.<sup>69</sup> This was because the social circumstances of the 'poor whites' created a potential for integration and the formation of class alliances which traversed racial barriers and undermined the doctrine of white supremacy.<sup>70</sup>

To prevent the development of a non-racial working class alliance, and to combat the threat it would pose to capital and the state, a number of measures were introduced by the state to increase the social divisions between white and black workers. A number of educational and training institutions were established for whites only. State departments reserved jobs for whites. The private sector was coerced to do likewise with offers of tax concessions for favouring white labour. The Pact Government<sup>71</sup> introduced a 'civilised labour' policy which guaranteed segregated jobs for whites in the public sector, especially in the railways and post offices. This was reinforced legislatively by preventing blacks from occupying skilled or semi-skilled positions.<sup>72</sup> An important distinction must be made between 'colour bar' legislation devised to preclude the movement of Africans into skilled jobs, and the 'civilised labour policy' which established jobs for poor unskilled whites at 'civilised' wages. The former was a response to differences between classes in terms of their relation to the means of production, while the latter was a response to divisions within a class, which were differently related to the superstructure.<sup>73</sup>

The power bloc and the different fractions of capital basically supported the state's white labour policy.<sup>74</sup> However, businessmen were concerned that the colour bar restricted the supply of skilled labour, increased operating costs and reduced productivity.<sup>75</sup> Ultimately, the ability and willingness of white workers to organise, mobilise and fight for reforms, their influential representation within the state, especially after 1924, and the concern that failure

to improve working conditions for white workers would influence the development of a broad-based non-racial labour movement, persuaded the mine owners to adopt a discriminatory system of wages and benefits. They were supported by the state, which was committed to the ideology of white supremacy in South Africa. In other words, "the needs of white labour, capital and the state came together in an uneasy alignment of political and economic interests ...".<sup>76</sup>

Advocates of free market principles were against any policy of institutional segregation as this would not be in the interests of capital. The state, however, was aware that the operation of free market principles in urban areas were likely to reduce the white working class to the economic level of Africans in urban areas. This would be especially evident in low cost housing areas, where there was rack-renting by unscrupulous landlords.<sup>77</sup> Under the circumstances, the struggle to improve housing conditions was related to the white workers' crusade to retain the job colour bar, and opposing forces which undermined industrial segregation.<sup>78</sup>

The apparatus of the civilised labour policy and colour bar exemplified one side of the growth of the state. The other side was related to the parallel need to maintain the supply of 'cheap' labour through institutions such as the compound, locations, and pass laws.

### **3.2.5 Labour Control - Locations and Compounds**

Most states are involved to some extent in regulating labour. However, among capitalist states South Africa is unique "in the extent, scope and directness of its intervention in this arena".<sup>79</sup> At an early stage, it began to control the movement and allocation of labour between different sectors (agriculture, mining and manufacturing) and regions.

The emergence of a coercive labour system did not deal with the problems of how the workers were to be accommodated in mines and in industrial areas, and how they were to be regulated and controlled to meet the needs of the economy. These problems were resolved by the creation of the compound system. According to Mabin "compounds as the first formal

means of segregation had a profound influence on the timing and emergence of the presently more widely known feature of the apartheid city: the ordered, state-planned township".<sup>80</sup> The compound system was developed by the De Beers Consolidated Mines in 1885, mainly in an attempt to reduce diamond losses from theft, as well as to control and confine the labour force around Kimberley. It was subsequently adopted widely in the Witwatersrand goldmines. Compounds represented a successful effort by mining capital to create self-sufficient labouring communities with restricted access to the outside world. By restricting the workers' access to town, services provided by African petty bourgeois traders were also effectively eliminated. Compounds and locations should be viewed as urban constructs which developed as historically specific social formations, whose position in relation to the rest of the city was determined by the nature of capitalist production - the need to isolate workers and to segregate them spatially.<sup>81</sup> Compounds, hostels and locations served as effective means of control and repression, and stifled political or labour action.<sup>82</sup>

At the turn of the century municipal health officials began to call for segregation of Africans in locations because of the poor sanitation and high disease rates associated with this group. They were supported by white religious leaders who viewed the rapid expansion of squatter settlements around cities as undermining the moral fibre of Africans, as well as that of whites who were 'living cheek by jowl' with Africans. Segregation was often implemented under the guise of health concerns and slum clearance programmes. Municipal officials also viewed locations as a mechanism to control the influx of Africans into cities. The outbreak of bubonic plague in 1902-1903 spurred this coalition of interests to promulgate a series of health legislation to forcefully remove thousands of Africans from urban ghettos into native locations. The influenza epidemic of 1918, and the serious tuberculosis problem led to the proclamation of the Public Health Act of 1919. This Act facilitated central state control over conditions in locations.<sup>83</sup> However, native locations failed to achieve complete racial segregation.<sup>84</sup>

While the locations may have fulfilled the aims of those who desired segregation for moral and economic reasons, as well as those who were anxious about the health of whites, they failed to improve the health conditions of Africans. Municipalities and white ratepayers were reluctant to grant the resources which were required to improve conditions in native locations.

Hence, slum clearance did not eradicate slums, but merely transferred slum conditions beyond the limits of the city. Given their limited resources, which was further depleted by higher transport costs, Africans in locations lived under worse conditions than in slums.<sup>85</sup>

Although the principle of urban segregation was firmly established by 1910 when the Union of South Africa was formed, legislation was introduced later.<sup>86</sup> At the formation of the Union most Blacks lived in 'locations' outside white towns, which were specifically designated for them by local authorities.<sup>87</sup> The 1920s were characterised by renewed calls for more rigid segregation as the rapidly urbanising population was perceived as a threat to white workers. Segregation was justified on the basis that the natives were 'primitive' and 'barbarous'. The fact was that tribalism was disintegrating, Africans were becoming more 'civilised', and demanded fairness and integration in the urban economy.<sup>88</sup>

The Natives (Urban Areas) Act of 1923 represented the first Union attempt to control, manage and segregate urban Africans. The rationale for the legislation was based on the findings of the Stallard Commission, initiated in 1922, which contended that the Native should only enter urban areas "when he is willing to administer to the needs of the white man, and should depart therefrom when he ceases so to administer".<sup>89</sup> This was a central state response to demands from various white classes (shopkeepers, small traders, property owners, and workers) who had campaigned for rigid segregation, influx control, the termination of property rights for blacks, and the prevention of the use of municipal rates being used to provide facilities and services for blacks.<sup>90</sup> The Urban Areas Act was subsequently amended in 1930, 1937 and 1942 in order to equip the central and local states "with powers to deny to the African any enforceable right to reside, acquire property, carry on independent economic activity, or freely to seek or take up employment in an urban area".<sup>91</sup> The implications of this legislation have been subject to in depth study and analysis.<sup>92</sup>

The worldwide outcry against racism and colonialism in the 1930s and 1940s had an influence on South African policies. Also, complaints by the private sector about the cost and inefficiency of the job colour bar, and labour policies which denied blacks training, security and satisfactory living conditions, did influence state thinking.<sup>93</sup> Moreover, black workers were successfully organising themselves in unions, and strengthening their bargaining

positions. In August 1946 more than 70 000 African mine workers participated in a massive strike.<sup>94</sup> The central state at this time essentially reflected the concerns of manufacturing interests. The problems of urban blacks began to receive some attention and three major official commissions (van Eck, Smit and Fagan) were engaged to investigate their plight.<sup>95</sup>

The essence of these reports was that a permanent urban African population was inevitable, and the "job colour bar, pass laws, and migrant labour were criticised as unjust and inefficient, deterring ambition and competition".<sup>96</sup> According to the Native Economic Commission of 1932, in "the interest of the efficiency of urban industries it is better to have a fixed urban Native population to the extent to which such population is necessary than the present casual drifting population".<sup>97</sup> In 1947 the Minister of Native Affairs maintained that "the native must be trained for his work in industry, and to become an efficient industrial worker he must be a permanent industrial worker. On that account he must live near his place of employment".<sup>98</sup> The Fagan Commission (1948) maintained that while a stable urban labour force should be encouraged, migratory labour should not be terminated. The state was basically responding pragmatically to the needs of mining and secondary industry for a stable labour force.<sup>99</sup>

The ruling United Party Government responded by limiting or reversing discriminatory labour practices. Job discrimination and pass laws were relaxed, trade unions were recognised, and there was an attempt to improve the socio-economic conditions of workers. However, these reforms conflicted with the needs of agricultural capital. The pass laws and influx measures were essential to ensure an abundant labour supply in rural areas. Also, the recognition of African unions pushed industrial wages higher, further limiting agriculture's ability to compete with industry for labour.<sup>100</sup> The United Party entered the 1948 elections committed to these reforms. It was significant that in June 1948 the Volkshandel, journal of the Afrikaanse Handelsinstituit, supported these measures:

It must be acknowledged that the non-white worker already constitutes an integral part of our economic structure, that he is now so enmeshed in the spheres of our economic life that for the first fifty years/hundred years (if not longer), total segregation is purely wishful thinking. Any government which disregards this irrefutable fact will soon discover that it is no longer in a position to govern.<sup>101</sup>

The victory of the Nationalists in 1948 brought into power a government whose political agenda was significantly different from that of the United Party. The Nationalists represented a collection of interest groups who were totally opposed to the pattern of social and economic development which had shaped the South African social formation over the previous two decades. They totally rejected the findings of the Smit and Fagan commissions that a permanent African population was inevitable and essential for economic progress. Rather, they emphasised the Stallardist doctrine of the 1920s. In order to maintain effective control over black labour, the state was served by a burgeoning bureaucracy, comprised of white civil servants.

### 3.2.6 The Bureaucracy

While the state acted to facilitate capital accumulation, especially through the regulation and control of labour, it was also developing its own interests, the most important of which was the protection and perpetuation of the authority of the state - an element which surpassed the acceptance of a government or political party.

Recently, attention has been drawn to the fact that the South African state's interests were not articulated primarily by the politicians, but rather by the civil service bureaucracy.<sup>102</sup> In fact between Union (1910) and the introduction of apartheid (1948) there was a major expansion of the South African state bureaucracy. During this period Parliament enacted legislation in very general terms, "leaving it to the administrators to guide their Ministers by adding long schedules to the Acts".<sup>103</sup>

The bureaucrats were committed towards the maintenance of the apparatus to impose the state's racial policies, and this included "along with repressive policies, an elaborate state machinery for monitoring and controlling the movements of black labour [which included] the labour bureaus, pass law administration, Bantu Administration Boards, aid centres, transit camps, police, informers, prisons, courts, and more".<sup>104</sup>



However, bureaucratic power does not guarantee bureaucratic uniformity. The South African bureaucracy was not totally consolidated nor integrated. For example, in cities, although township managers were accountable to a central state department, this did not prevent them from developing their own sense of what was appropriate for their townships. There were also tensions within the bureaucracy. Although municipal officials in charge of 'native affairs' were agents of the central Department of Native Affairs, they were employed by the local council. In addition to having divided loyalties, local interpretations of central policies varied greatly among officials.<sup>105</sup> Although the Government bureaucrats believed that blacks were socially and politically inferior to whites, there has been little consensus amongst officials on the 'way' in which blacks were unequal to whites, and what should be the nature of the association between whites and blacks. The Government policy was ambiguous with regard to the nature of the racial and social order it wanted to create. Moreover, vague policies had to be implemented by central, provincial and local government authorities, who translated policy in terms of their own experiences of social institutions.<sup>106</sup>

Furthermore, in addition to its race and labour control functions, the state bureaucracy was primarily comprised of the white working class community. In 1970 more than 25 percent of all white workers were employed directly by the state, and 10 percent by the parastatals.<sup>107</sup> More specifically, about 50 percent of all economically active Afrikaners were employed in the civil service and parastatals, and 80 percent of all such jobs were held by this group.<sup>108</sup> Under these circumstances, even if state desired to waive some racial functions - administration of influx control and pass laws, for example - they would experience difficulty in dismantling the accompanying white bureaucracies.<sup>109</sup> Therefore, the survival of the bureaucrats depended on the continuation of segregation and apartheid.<sup>110</sup>

Hence, it is important to consider the influence of these bureaucrats on state development and policy. This is particularly evident with regard to influx control. Demands from the private sector for the reform of the pass laws resulted in growing conflict between capital and the state bureaucracy. The state threatened to control the movement of capital.<sup>111</sup> State bureaucrats and ideologues influenced the establishment of a Labour Bureau to control worker mobility.<sup>112</sup> Industrialists complained about being subjected to bureaucratic red tape, delays and obstruction, a view which was confirmed by the Riekert Report. Officials complained



about widespread evasion and subversion of the labour control system by employers, who frequently bypassed the bureau and hired workers illegally. Employers were mainly concerned about greater mobility for their workers rather than for all blacks. Business organisations tended to avoid explicit political issues because of a desire to maintain cordial relations with the state, as well as because of divisions within their own ranks.<sup>113</sup> Furthermore, many businessmen presumably viewed white rule as assuring the political stability vital for their own security. This concern restrained their resistance to apartheid and its labour policies. However, the influence of this factor waned as the costs of apartheid increased, and it became a basis of tension, endangering the stability it was supposed to safeguard.<sup>114</sup>

In order to impose an unjust system on an unwilling majority, the bureaucrats were supported by coercive and repressive apparatus of the state. There was an enormous increase in the forces of repression. In fact "there was hardly a branch of government which was not directly involved in maintaining control over the black majority, whether in the rural reserves, or on white farms, or in the shanty towns and mining compounds".<sup>115</sup> The Suppression of Communism Act of 1950, the Terrorism Act of 1967 and the Internal Security Act of 1976 bolstered all efforts of the state to suppress or annihilate resistance. Other measures to stifle dissent included detentions without trial and bannings.<sup>116</sup> The Prohibition of Political Interference Act (1968) outlawed the development of multi-racial political alliances, and prevented the development of a combined black-white opposition to the Government.<sup>117</sup>

The tensions and contradictions inherent in the apartheid system generated various forms of organised and passive resistance against state oppression. The 1950s were characterised by various forms of peaceful protests against injustices. In 1960 the ANC and PAC organised protest action to defy the pass laws. This resulted in the Sharpeville massacre in the Transvaal where "sixty nine Africans were killed and 180 injured when the police opened fire on a crowd of demonstrators".<sup>118</sup> This precipitated massive protest countrywide in the form of marches and work stayaways. The Government responded by banning the ANC and PAC, and introducing a state of emergency and detaining thousands in 1960. This phase of the apartheid state can be described as what Poulantzas described as "authoritarian statism", characterised by "intensified state control over every sphere of socio-economic life combined

with radical decline of the institutions of political democracy and with draconian and multi-form curtailment of so called 'formal liberties'".<sup>119</sup>

### 3.2.7 Recent Developments

For about 15 years a relative lull descended over resistance politics. This was shattered by the 1976 Soweto uprisings, which was organised and mobilised by school students.<sup>120</sup> It became evident, even to hard core Nationalists, that there was a need for reform of apartheid. The 1980s were characterised by a reform of apartheid. The Mixed Marriages Act and influx control legislation were scrapped. Most forms of 'petty apartheid' had disappeared. A reform-repression' strategy was adopted as the state attempted to win over moderates and repress progressives in the mass democratic movement. In 1984 a tricameral parliament was introduced which co-opted the coloureds and Indians as junior partners of the Nationalists. This system was said to be fatally flawed because it excluded the black majority and was dominated by the nationalists. Coloured and Indian representatives went to Parliament on abysmally low polls and were unable to influence the government to make any major changes.

The United Democratic Front (UDF) was formed in 1983 in response to widespread calls for a united opposition to the tricameral system and represented over six hundred grassroots organisations.<sup>121</sup> The low polls in the 1984 elections was attributed to the UDF's ability to organise and mobilise on a non-racial platform. The period 1984-1986 was characterised by massive national work stayaways; rent, transport and school boycotts; and there were often violent confrontations between the masses and the police and army. From a policy viewpoint the government appeared to be struck by paralysis during this period. It reacted with brute force and declared a state of emergency in certain regions in July 1985, which was extended nationally in 1986. During this period international calls for sanctions increased, there was a flight of capital out of the country and South Africa reached the height of its pariah status. The apartheid state of the late 1980s can best be described as a 'rudderless ship'.<sup>122</sup>

The 1990s heralded the transformation of South Africa from an apartheid society towards a non-racial democratic society. This was initiated by President De Klerk's unbanning of the ANC in February 1990, and the subsequent scrapping of the Population Registration Act, the Land Act and the Group Areas Act. After the initial euphoria, it became apparent that the transition towards a democratic society would not be a smooth process as the country was wrecked by unprecedented levels of political violence.

### 3.2.8 Synthesis

A brief historical review of the development of the South African state suggests that it could be viewed as being instrumentalist, responding to the needs of capital. This was certainly so up to 1924, when the economy was dominated by mining capital, and the state responded to the accumulation imperative. However, the state also served white working class interests, especially with the rise to power of the Pact alliance. The Pact alliance ensured that the interests of the white working class, as well as the ideology of Afrikaner nationalism, were well represented within the power bloc. An explicitly racist discourse was adopted to rationalise white superiority. The state also increasingly attempted to serve its own interests, especially with the development of the thriving bureaucracy which absorbed many poor whites. The central state, therefore, functioned with a significant level of autonomy from capital. It would be wise, therefore, in any analysis of the South African state to avoid reductionism and functionalism of any form.

Various political, ideological and administrative strategies were devised to entrench segregation. Initially, both the state and capital supported segregation which served as a pervasive process to dispossess blacks of their land, and to facilitate the exploitation of their labour. Compounds and locations were developed as effective instruments of labour control and exploitation. The rapid urbanisation at the turn of the century, and the proliferation of the poor white syndrome, represented a potential for the development of working class alliances which transcended racial barriers. The state responded to this threat by actively espousing a policy of white supremacy in the form of the civilised labour policy, and the colour bar which was imposed legislatively in the workplace, much against the wishes of

capital. This served as the legitimating ideology of the state. However, increased controls and restrictions on labour were dysfunctional to capital, and this was acknowledged by various state appointed commissions in the 1930s and 1940s. Responding to the particular needs of manufacturing capital, the Smuts Government attempted to relax some of the controls on labour. The victory of the National Party in 1948 reserved these vacillating reforms, and imposed restrictions of the most repressive kind, administered by a burgeoning bureaucracy. In the next section, the historical formation of the local state of Durban is examined.

### 3.3 THE LOCAL STATE IN SOUTH AFRICA - THE CASE OF DURBAN

The history of Durban indicates that some of the sharpest and most insistent pressures on policy-making and administration came from the towns, and that by the early 1900's South African history was being fundamentally influenced by urban factors. In the last quarter of the nineteenth century and the first two decades of the twentieth, Durban became a leading exponent of group race policy and a model for native administration to which other towns ... looked

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...

The role of the local state in South Africa has always been tenuous, particularly in its relationship with the centre. Atkinson has suggested that "[t]here is no strong tradition of city-based politics in South Africa".<sup>124</sup> Prior to 1948 the local state was relatively autonomous from the centre. All four colonies had well established forms of local government when the Union was constituted in 1910. As a result of the great geographical distance, a second tier government, the provincial council, supervised local authorities.<sup>125</sup>

After 1948, the level of autonomy of the local state was substantially diminished. The NP's apartheid policy "required intervention in the urban realm: that is, in the area of local government control".<sup>126</sup> However, it did not receive support from all local authorities. Many local authorities, especially in Natal, were dominated by commercial and civic interests, which were sympathetic to the opposition United Party, and attempted to obstruct the implementation of apartheid. The NP responded by attempting to restructure the local state

in order to facilitate the implementation of its policies. Hence, "direct state control at local level was needed to ensure the successful introduction of apartheid".<sup>127</sup>

This was achieved by attempts to reduce the autonomy of the local state. Numerous laws were passed which sanctioned central state intervention in affairs of the local state. In 1954 a member of the Natal Provincial Council stated that the "Local Authority is no longer an independent body, acting and answerable only to its inhabitants, but part of the body politic - a cog in the machinery of government".<sup>128</sup> Autonomy was also reduced by the imposition of financial constraints on the local state. Other measures included administrative restructuring to facilitate greater central control. However, Todes and Watson argue that it was difficult to determine the degree to which these measures reduced the relative autonomy of the local state:

After all, the degree of relative autonomy is not determined simply by administrative fiat but is rather determined 'rationally': that is, in the arena of contestation between political forces mobilised at the national and local levels respectively.<sup>129</sup>

According to McCarthy the emphasis on the impress of the central state in South Africa contrasts with anglophone trends, where the accent has been on the autonomy of the local state. Two possible reasons are advanced for this anomaly:

The first is that politics and the state are indeed abnormally centralised in South Africa; and the second is that a lack of historical research on local politics and the local state in South Africa has obscured our understanding of their relatively autonomous dynamics and characteristics ... the second of these two possibilities warrants further investigation.<sup>130</sup>

This section, by examining the historical formation of the local state in Durban, will reveal that although the decentralisation of power to the local level in South Africa has been nebulous, city elites could not be regarded as mere agents of the centre, and that "towns and cities have always represented a political space not quite wiped out by central government intervention".<sup>131</sup>

### 3.3.1 Accumulation and the Local State

#### i) The Industrial-Growth Agenda

The Durban Town Council had long actively pursued an industrial growth-agenda, and made every attempt to attract capital from other regional centres, as well as overseas, to the city. Whites settled in Durban since 1824 with the establishment of a trading post. Within the next three decades Durban developed into a harbour town, which encouraged the expansion of secondary and tertiary economic activities. In 1854 Durban became a municipality with an elected town council.<sup>132</sup> Durban experienced rapid economic expansion between 1870 and 1890, particularly in the shipping and allied industries. This was associated with increased production of raw materials, as well as diamond and gold mining in the interior, which generally increased trade. Consequently, there was unusual pressure on Durban's harbour facilities which lead to "increased capital expenditure and more labour".<sup>133</sup> According to Swanson "[b]y the 1890's material accomplishment had levered Durban into a commanding position among South African cities and it entered the heyday of municipal enterprise and local autonomy with which it supplied the infrastructure of material civilisation to its inhabitants".<sup>134</sup>

Prior to World War I, Durban was dominated primarily by mercantile interests, with very little evidence of the local political influence of manufacturing capital.<sup>135</sup> Merchant capital was comprised of traders and shopkeepers, as well as shipping and stevedoring companies.<sup>136</sup> However, there is evidence that even before this period, the town was developing very rapidly. In 1889 Mayor J.J. Hillier stated that Durban was a "premier borough" in the Union in terms of its potential for commercial and industrial development.<sup>137</sup> In 1911, the Mayor, Councillor F.C. Hollander commented on the rapid industrial development in the city and called for a comprehensive town planning scheme to facilitate and regulate this process.<sup>138</sup>

The Town Council emphasised the industrial and commercial advantages of Durban which enabled "private enterprise to develop on terms and conditions such as no other South African town can offer".<sup>139</sup> More specifically, the Council drew attention to the abundant supply

of coal; the plentiful supply of skilled and unskilled labour; the abundant and cheap water supply; the efficient municipal telephone service; the abundant electric power supply offered at very attractive rates to industry; and the low municipal rates. It also emphasised the availability of a wide variety of sites on very generous terms, both within and outside the borough's boundaries.<sup>140</sup> The Council was also prepared to offer special concessions with regard to services provided to industries.<sup>141</sup> For example, Messrs. Lever Bros.,<sup>142</sup> and Messrs. Dunlop Rubber Co.,<sup>143</sup> were offered special electricity rates. In April 1932 the Council agreed to sell to an unnamed firm ten acres of land in the Congella area "at a figure attractive to the applicants in view of the advantageous terms offered at other centres".<sup>144</sup>

However, the Council itself was criticised for apparently doing little or nothing to promote Durban as a manufacturing and industrial centre relative to other parts of the country. In 1927, Commissioner Arthur Collins who was conducting an investigation into the administration and organisation of the Municipality of Durban drew attention to this neglect.<sup>145</sup> This criticism was taken seriously, and in 1929 the Mayor, Councillor A. Eaton, reported that a "matter of great importance to which the Council has devoted much time and consideration during the period under review is the encouragement of industries and the provision of facilities therefor".<sup>146</sup> The mood of the late 1920s appeared to coincide with the rising influence of industrial capital on the Council. In 1931 the Council and the Durban Publicity Association jointly released a lavish brochure entitled "Industrial Durban - Opportunities at Port Natal", of which 10 000 were widely distributed internationally. The brochure was described as "one of the finest publicity efforts which has ever emanated from any centre in South Africa".<sup>147</sup> In his message in the brochure, the Mayor Rev. A. Lamont said that Durban was entering a new phase of industrial expansion.<sup>148</sup> The brochure highlighted Durban's advantages for industries - cheap labour, abundant land and efficient infrastructure.<sup>149</sup>

The provision of transport facilities and the allocation of routes influenced the process of accumulation.



## ii) Transport and Accumulation

Transportation and infrastructure issues were dominant concerns in the discourse of the local state. The Council had played an important role in facilitating commercial expansion by the provision of numerous support infrastructure and services which were essential to attract capital and facilitate accumulation.<sup>150</sup> The Council also recognised that the harbour played a critical role in the commercial and industrial expansion of the city.<sup>151</sup> Transport was important to the white bourgeoisie because development of the harbour facilities of the city was critical for the growth and expansion of local commerce and industry, especially as South Africa was being rapidly integrated into the global economy. Hence, advertising the advantages of the port united all factions of capital as well as the local state. At the intra-urban scale, however, there was little consensus and the local state's influence on the location of rail sidings and wharf improvements sometimes provided cause for public controversy "as individual industrialists and developers jockeyed for advantage in influencing the Council's decisions on the location of such facilities".<sup>152</sup>

It appeared that a close alliance had developed between the South African Railways and Harbours Administration and the Durban Town Council. In 1903 the Railway authorities sought approval from the Town Council for its plans for the expansion of its operations in Durban, which would require about 200 acres of Council owned land. The Mayor, Councillor J. Ellis Brown, strongly supported the scheme, and he emphasised that the business committee would benefit most from the better facilities which would be provided.<sup>153</sup> He quoted Sir David Hunter's (General manager of Railways) statement referring to the interdependence of the interests of his Department and that of the Borough:

It is impossible to separate the interests of the Railway Department and the Borough of Durban. If the railway facilities of the town of Durban are restricted, those who mainly suffer are the travelling public, embracing a large proportion of the Burgesses of the town, and the commercial community, whose interior trade is wholly dependent upon railway communication.<sup>154</sup>

The development of the tramways also played an important role in the expansion of the city. The tramways ensured that there would not be overcrowding in the central city area, and increased land values along its routes in the suburbs.<sup>155</sup> Although the trams initially served the CBD, there were soon demands from property owners and civic associations that it be

extended to serve the working class in outlying areas such as Umbilo and Mayville. The Council responded by attempts to depoliticise route allocation by delegating this responsibility to the bureaucracy and a Council sub-committee. However, this "insulation of the transport planning process from public debate apparently led to suspicions that land speculators were gaining influence behind a veil of local state secrecy".<sup>156</sup> The importance of electric trams was that they promoted urban development and expansion in regions which were formerly beyond travelling range, including areas which were outside the municipal boundary. Hence, it would be to the advantage of property developers and land speculators, for example, to be able to influence the routes of the trams.<sup>157</sup> There was also a public outcry over the differential taxation levied on central city and suburban residents for the funding of the tramway service. Basically, residents in the city centre objected to subsidising trips of suburbanites to use facilities of the CBD, which also increased the value of property held by suburban speculators.<sup>158</sup> The critical issue was that transport technology served different class interests, and was "crucial to the development of class conflicts and class alliances within the context of the local state".<sup>159</sup> In addition to commerce and industry, tourism played an important role in Durban's economy.

### **iii) Tourism and the Local Economy**

The economy of Durban also depended significantly on its popularity as a tourist resort. Durban had a large stretch of safe bathing beach, and an amiable climate, which influenced the development of tourism into a major industry. The local state had played a critical role in developing the tourist potential of the city, which resulted in Durban being regarded as the premier holiday resort in Southern Africa. The Council retained control of the beach and its surrounding environs, and encouraged the development of flats and hotels in the area, and continued to develop the beaches, as well as providing recreation amenities.<sup>160</sup>

In 1907 Mayor Charlie Henwood reported that attempts by the Council to advertise the town's winter tourist attractions had been successful.<sup>161</sup> He regarded the 1908 tourist season as the most successful ever achieved by the Borough, with 15 000 people having visited the city.

He urged that more efforts be made "to enhance the attractiveness of the town, and to bring it as near perfection as possible in every respect".<sup>162</sup>

In 1914 the Council agreed to form a sub-committee of the Beach and Entertainments Committee to advise this committee on advertising matters. The Sub-Committee comprised of representatives from the Durban Retailers Council; Durban Chamber of Commerce; and Messrs. Thomas Cook and Sons (travel agents).<sup>163</sup> In January 1915 the Sub-Committee proposed and the Town Council adopted a campaign to market the city in conjunction with the Railway Administration.<sup>164</sup>

There was a strong interdependence between the local tourist industry and the provision of transport facilities, particularly railways. In fact an alliance had developed between the railway authorities and the local state in promoting tourism in the city. This was acknowledged by Mayor Greenacre when he said that the success of projects to attract visitors from up-country depended upon the transport facilities which made this feasible.<sup>165</sup>

In July 1922 the Council adopted the suggestion of the borough's Musical Director that a meeting should be convened of the heads of various business houses in Durban to discuss ways in which to give greater publicity to the various attractions of Durban, as well as considering to extend the winter season, or creating an additional one from December to May.<sup>166</sup> Following this meeting, a proposal was submitted to the Council for the formation of a Durban Publicity Council. The Association would be administered by an Executive Committee of 15 members, of which 3 would be nominated by the Town Council; 2 by the Railway Administration; and the remainder would be elected by the business sector. The Mayor served as the Honorary President of the Association. The main source of finance of the Association would be contributions from the Town Council and the Railway Administration.<sup>167</sup>

The Council was aware that the development of different sectors of the local economy was interlinked. Durban was regarded as exceptional because it was attempting to cater for the needs of commerce and industry, as well as tourists.<sup>168</sup> The Council was optimistic about

the future growth and expansion of the different sectors.<sup>169</sup> In order to cater for the increased land requirements of industry, the local state campaigned for boundary changes.

#### **iv) Local Expansion - Boundary Changes**

The borough boundaries had hardly been modified since 1854. However, since 1913 the Town Council had periodically considered extending the Borough's boundaries.<sup>170</sup> In 1915, the following reasons were advanced by Mayor W. Holmes for the extension of the Borough's boundaries:

- i) A large increase in the population of Durban should be anticipated, given the development and expansion of local industries.
- ii) The majority of residents from suburban areas worked in Durban, and benefitted from the city's institutions and resources. Therefore, they should contribute towards the costs of the administration of the Borough, as well as participate in the management of the city.
- iii) The establishment of small, independent local authorities was likely to be inefficient, and would "impede and retard the realisation of schemes for the most effective administration of Durban and adjacent districts".
- iv) Extension would ensure uniform control over public health in the region.<sup>171</sup>

The General Manager of the Tramways also supported the extension of the Borough boundaries, especially as it would expand business interests.<sup>172</sup> The Manager of the Municipal Native Affairs Department argued that the extension of the boundaries would result in greater control over natives who had moved into the outlying areas to escape from the Natives' Affairs Bye-Laws of Durban.<sup>173</sup> The Town Clerk, Mr. Henderson contended that the extension of the Borough boundaries was indispensable for the city's prosperity, as a shortage of land was likely to hinder future development.<sup>174</sup> However, he argued that the fears of residents inside and outside the Borough needed to be addressed, particularly with regard to the individual costs that were likely to be incurred as a result of incorporation.<sup>175</sup>

Although the Durban Council had considered extending its boundaries in 1919, it did not proceed because neither the central nor provincial government were prepared to provide the necessary capital funding for the development of the peri-urban areas.<sup>176</sup> The boundaries debate was revived in the late 1920s. The primary motive appeared to be the control of public health.<sup>177</sup> However, there was also another problem - the shortage of land for industrial development, which was emphasised by Mayor A. Eaton:

The question of industrial development is bound up in a large measure with the subject of the extension of the Borough boundaries. There is not enough land available within the Municipal area which can be offered to industrialists at an economic and attractive figure ... The Council has before it at the present time several applications for industrial sites inside and outside the Borough

<sup>178</sup>  
...

The Durban Boundaries Commission was appointed in November 1929 by the Provincial Administration, and it presented its report a year later in December 1930, which led to the expansion of boundaries in 1932. Right up to the 1930s, the local state's attempts to define and expand metropolitan space was primarily concerned with space and infrastructural requirements of local capital.<sup>179</sup> In its evidence to the Commission, the Durban Town Council stressed the following reasons in support of extending its boundaries:

- i) The industrial development in the city would lead to an increased population.
- ii) Such population growth would take place just outside the municipal boundaries as land within the city would be too expensive.
- iii) Residents of surrounding districts were employed in the city, and they also benefitted from Durban's services and resources.
- iv) The public health of the city needed to be protected from the outbreak of diseases in the surrounding areas.
- v) Durban had the experience and resources to effectively administer the adjacent areas.<sup>180</sup>

The need for additional land for economic and industrial expansion was emphasised by the Commission.<sup>181</sup> The Commission also drew attention to the economic and functional interdependence in the region:

It is clear to the Commission that the region as a whole cannot but be regarded as an economic unit. On the one hand, the residents of peri-Durban are in the main dependent on Durban and its activities; they earn their livelihood in it, enjoy its amenities, and are completely wrapped up in its prosperity ... On the other hand Durban owes much to them. If their earnings come largely from Durban, it is true also that they largely return there. The inhabitants of peri-Durban are substantial contributors both to the municipal revenue and to the commercial prosperity of Durban. The bonds of economic interdependence are indeed close, and this should carry with it a mutual obligation.<sup>182</sup>

McCarthy questioned why the local state would consider extending its boundaries to incorporate areas which represented a fiscal liability. He concluded that the incorporation of the poorer Indian and African areas did not present a serious political or financial threat for two reasons. Politically, Indians and Africans were not enfranchised, and could not elect councillors onto the municipal council, and therefore could not challenge white domination. Economically, in terms of the Urban Areas Act (1923), the financing of urban African areas was separated from the remainder of the municipal budget. A separate Native Revenue Account, generated from the municipal beer monopoly, existed independently of any subsidisation from the local or central state.<sup>183</sup> Importantly, the peri-urban squatter areas actually undermined the Native Revenue Account. The existence of illicit liquor sellers, hawkers and petty landlords resulted in a potential source of revenue for the municipality's Native Revenue Account being lost.<sup>184</sup> In addition to facilitating accumulation, the local state was an entrepreneur in its own right.

#### **v) The Local State as Entrepreneur (Municipal Enterprises)**

In addition to encouraging the expansion of commerce, industry, and tourism, the Durban Council also engaged in entrepreneurial activities since the turn of the century, mainly in areas where it had a monopoly. The trading undertakings in Durban consisted of: the Abattoir, Electricity Supply, Markets, Tramways, Water Supply and Telephone Departments. Durban was the only city which managed its own telephone service. The Union Department of Posts and Telegraphs supplied telephone services to all other towns in the country. In addition, the Council also received income from issuing trading, liquor and vehicle licences, and from its administration of Native Affairs.



Most of the municipal enterprises had been acquired or established between 1895 and 1905.<sup>185</sup> The Town Treasurer reported that during this period Durban had invested a large amount of capital in the appropriation and development of undertakings which were formerly viewed as part of the domain of private enterprise.<sup>186</sup> The Council itself was keen to extend the services of its municipal enterprises beyond the town's boundaries, primarily because it would increase the Borough revenue.<sup>187</sup> It was also keen to increase the profits from its electrical undertakings. In 1939 the Electricity Committee drew attention to the fact that the Council had done little to popularise the use of electricity and electrical appliances. Its recommendation that a publicity campaign be undertaken in conjunction with retailers of electrical appliances was accepted by the Council.<sup>188</sup>

The profits from the trading undertakings accrued to the Borough Fund, and were used to offset increases in rates. In 1897 the Town Lands Committee contended that given the rapid development of the city, there was a need for the Council to increase, as well as find alternative sources of, revenue, because the income from rates was insufficient for the efficient administration of the city.<sup>189</sup> A comparison of rates paid and services obtained in different South African towns revealed that the citizens of Durban obtained far more than those in other cities. In fact between 1897 and 1914 the rate remained fixed at two and half pence in the pound.<sup>190</sup>

Since their inception in 1898 and 1914, the trading undertakings contributed a significant amount of 535 844 pounds in the relief of rates.<sup>191</sup> Table 3.1 indicates that this contribution increased constantly between 1905 and 1914. It is evident from table 3.2 that the largest contribution came from the water and tramways departments.



**Table 3.1 Rates Relief from Trading Undertakings: 1905 - 1914<sup>192</sup>**

Year	Amount (Pounds)
1905	35 448
1906	26 281
1907	34 935
1908	31 419
1909	41 384
1910	42 969
1911	48 302
1912	50 413
1913	56 803
1914	60 038

**Table 3.2 Contributions from Trading Departments to Borough Fund: 1909-1910<sup>193</sup>**

Department	Amount (Pounds)
Electrical	11 320
Tramways	14 029
Telephone	2 535
Water	15 084
TOTAL	42 968

**Table 3.3 Sources of Revenue: 1909 - 1914 (Percent)<sup>194</sup>**

Source	1909	1910	1911	1912	1913	1914
Rates	46	46	44	42	41	41
Trade	25	25	27	26	28	30
Rents	11	13	12	15	13	14
Licenses	10	10	10	10	10	11
Sundry Rec.	8	6	7	7	8	14

Table 3.3 shows clearly the sources of direct and indirect taxation which financed the operation of the municipality. It also reveals the extent to which the rates of Durban property owners were being subsidised by the Council's commercial and trading undertakings. This was emphasised by the Town Treasurer,<sup>195</sup> and supported by the Durban Municipal Employees' Society (DMES).<sup>196</sup>

However, not everyone agreed with the policy of using income from the trading enterprises to subvent rates. The Report of the Committee on the Incidence of Rating appointed by the Durban Town Council indicated that the use of profits from the trading undertakings could be used to reduce the cost of the services rendered.<sup>197</sup> The Committee also suggested that only certain groups, particularly the wealthy, benefitted from the relief in rates provided by the profits from the municipal enterprises. This was "contrary to the fundamental principle of municipal organisation that any one section of the community should benefit by the necessities of other sections".<sup>198</sup> While it was beyond its scope to comment on the policy of trading departments contributing to the relief of rates, the Committee "agreed that it would not be sound policy to call upon them for more". The Council was urged to evaluate whether the existing system should continue.<sup>199</sup>

The Council was aware that the viability of its trading enterprises could be threatened by the more competitive services offered by the private sector.<sup>200</sup> For example, competition from Indian and Native Taxis affected revenue from the tramways, and sustained efforts were made

to keep costs as low as possible.<sup>201</sup> Furthermore, efforts were made to stifle the burgeoning black transport industry through route restrictions and license objections. An unsuccessful attempt was made to "prevent non-European buses and taxis from access to Durban North Bridge" as it was illegal.<sup>202</sup> In 1934 the Council accepted the Treasurer's recommendation that a Commercial Manager (Trading Undertakings) be appointed to protect and develop its enterprises.<sup>203</sup> In spite of the income derived from its trading undertakings, the Council experienced periods of intense fiscal crisis.

#### **vi) Fiscal Crisis and the Local State**

The local state of Durban was always concerned about fiscal control particularly with regard to capital expenditure, and for many years claimed to be the only debt free city in the country. However, it often experienced periods of intense fiscal crises, when there was a call for general belt tightening on the part of both Councillors as well as Burgesses. This was evident as early as 1899 when the Council had initiated projects which required a great deal of capital expenditure.<sup>204</sup> Mayor J. Nicol therefore requested the "Council to be very guarded in the voting of additional works of any magnitude", and urged them to adhere "to the motto 'Progress with Prudence'".<sup>205</sup> This was followed in 1913 by a warning from Mayor Hollander relating to unproductive capital expenditure and the borough debt, and the need for "caution in regard to capital expenditure during the ensuing year".<sup>206</sup>

On 4 February 1915 the Town Council requested the Finance Committee to submit a report dealing with, amongst others, the evolution of the present loan debt, and its associated projects, especially works of an unremunerative nature.<sup>207</sup> The Finance report identified the following examples of unremunerative expenditure:

- i) The clamour of Burgesses for the extension of the same amenities to their districts as those which were extended to more fortunate districts during more prosperous periods.
- ii) The ambitious policy of the Council in striving to perfect Durban as a residential town and industrial centre, as well as a holiday resort.

- iii) The necessity for providing employment for the permanent staff and outdoor gangs of the Public Works Department.<sup>208</sup>

This was followed in 1916 by a report from the Town Treasurer, Mr. A.O. Jones, who argued that previous Councils had neglected to consider the long term implications of the city's fiscal policies. He emphasised the seriousness of the fiscal problem and called for restraint.<sup>209</sup> In 1917, Councillor O.J. Askew, Chairman of the Finance Committee, expressed concern about the rapid increase in the city's expenditure which appeared to be unjustified, especially in terms of services provided to citizens.<sup>210</sup> The main reason for the unsatisfactory state of affairs was attributed to poor financial management. At a Council meeting on 17 July 1919, Mr. J.W. Coleman, Chairman of the Finance Committee, expressed concern that "expenditure was being authorised by the Council despite the fact that reports had been made by the Finance Committee that no financial provision existed therefor".<sup>211</sup> Therefore, the Finance Committee appeared to be ineffective.<sup>212</sup> According to the Town Treasurer, Mr. A.O. Jones, these views "point clearly to a state of anarchy in the Durban Town Council's Affairs".<sup>213</sup>

The Treasurer was particularly critical of the attitude of the Council executive towards financial matters:

- i) Members are more interested in securing expenditure desired by their constituents, than in maintaining the due balance of the Borough's Finances.
- ii) The Council has ceased to be the checking, sparing, economical body it once was.
- iii) Members both as a body and still more as individuals are rather disposed to use their influence to increase rather than decrease expenditure.
- iv) Frequently no one in the Council is sufficiently informed about a particular financial issue or has sufficient courage to get up and denounce applications or to defend the public purse.
- v) Too much regard is paid to cases of individual hardship than to the efficiency of the service as a whole.<sup>214</sup>

The Council's response to the periodic fiscal problems was to argue that the city was well administered, with the second lowest rate tariff, and the lowest loan debt - "the results of sound government and far-sighted planning".<sup>215</sup>

The fiscal crisis experienced by the Council was related in part to the fact that it had lost sources of local revenue to the central state, which led to a great deal of conflict. The Durban Town Council was concerned with two related issues pertaining to Government owned property in the city, particularly as they affected the finances of the local state. The first was the reluctance of the Government to reimburse the Council for municipal services rendered to its buildings in the city.<sup>216</sup> The second was the exemption of Government property from rating.<sup>217</sup> Another issue which increased central-local conflict was the loss of licence revenues to the Province in 1924.<sup>218</sup>

In order to increase its revenues, the Council decided to introduce a differential system of rating which led to conflict between the local state and capital.

#### **vii) Local State - Capital Conflict**

During the early 1960s the DCC was faced with a situation where its rate funds needed to be boosted in order to provide for the expansion of the city, particularly transport serving commerce and industry. In November 1962 the Finance Committee recommended that the problem could be overcome by introducing a system of differential rating which would result in an increased contribution from commerce and industry.<sup>219</sup> In terms of the Draft Ordinance on Differential Rating (December 1962) the DCC intended to fix the lowest rate for unlicensed residential accommodation, an intermediate rate for licensed residences, and the maximum rate for all other forms of property (mainly affecting industry and commerce).<sup>220</sup> As early as 1955 Councillor Leo Boyd had expressed concern about the larger financial burden borne by property owners, compared to occupiers. He argued that although all citizens contributed in some way to the city's finances, the largest levy was paid by property owners. The increase in the number of flat dwellers had "upset the equilibrium of Municipal taxation".<sup>221</sup>

The Durban Chamber of Commerce and the Natal Chamber of Industries, representatives of local capital, objected in the strongest terms possible to the differential rates proposal which discriminated against commerce and industry in favour of residences.<sup>222</sup> The Durban Chamber maintained that if the differential between residential and non-residential is increased to an extent that it affected the profitability of industry and commerce, it would lead to a decline in business activity and its associated consequences.<sup>223</sup> According to the Chamber, Durban had a reputation of imposing the most restrictive conditions on commerce and industry in the country. Businesses were forced to comply with a host of regulations, and comparatively, the cost of land and services in the city was high. Under these circumstances, the threat of differential rating was likely to discourage economic investment in the city, encourage businesses to move out of the city, and reduce its rate income.<sup>224</sup>

It also drew attention to the massive unemployment in Durban, and pointed out that the situation was likely to deteriorate if the rate of economic expansion was insufficient to meet the increase in population. Under the circumstances "the City Council should rather be considering the introduction of measures to promote economic growth rather than stultify it".<sup>225</sup> Furthermore, the Durban Chamber pointed out that the country was undergoing major economic restructuring. The Government's policy of industrial decentralisation and its incentives was likely to influence businesses to move out of major urban centres. Therefore, any city would be well advised not only to ensure that no businesses leave its area, but also to attract prospective business.<sup>226</sup> In another submission, the Chamber referred ominously to the mobility of capital:

Because of the relative freedom which the businessman and investor enjoys in South Africa, capital enjoys a high degree of mobility. It naturally tends to flow into avenues of investment and into geographical areas where the highest return is obtained. If costs rise in one particular area and thereby the return on capital investment falls, this will have an adverse effect on the flow of capital to that area, even if the rise in costs is marginal.<sup>227</sup>

The above criticisms were embodied in a joint petition to the Administrator of Natal and the Select Committee considering the Draft Ordinance by the Durban Chamber of Commerce and the Natal Chamber of Industries. The petition emphasised the interdependence of the local economy.<sup>228</sup> The Select Committee of the Province rejected the Durban Rating Private Draft Ordinance (1963) "in the light of representations made by commerce and industry".<sup>229</sup>



The response of the DCC was to argue that because the Province and state had a varied tax base, they were not concerned about the problems of local authorities, whose main source of income, rates, was not increasing to keep pace with the higher expenditure incurred. The Chairman of the DCC's Finance Committee viewed rates as a "cruel method of taxation" which local authorities were forced to use because of a lack of alternatives. He also commented on the relative weakness of local government relative to the upper tiers:

And so because civic government is the weakest of the three tiers of government, those who are placed in authority over us are able by force majeure, not only to avoid paying for services which are their responsibility (and to pay for which they have powers of taxation which they can levy in accordance with ability to pay) but they also can and do prevent us from reforming our Rating System in a civilised and scientific manner which would enable us to lighten, though only by a little, the unjust burden of rates which the City Council is compelled to levy upon the home owner.<sup>230</sup>

### 3.3.2 Labour Control

#### i) The Togat System

Durban experienced the largest increase in African workers at the turn of the century, and served as a laboratory for competing doctrines and policies for social and political control of labour. By 1901 Durban had a population of 55 000, comprising 15 000 Africans, 14 000 Indians and 26 000 whites, and this increased to 68 000 in 1904, with proportions of 19 000, 16 000 and 31 000 respectively.<sup>231</sup> Changes in the population composition and demography of Durban led to the development of a unique system of black urban administration, which had a major effect on municipalities throughout the Union. A central concern of the local state was to control this rapidly growing African and Indian population in Durban, and this concern was commonly expressed in terms of the outbreak of diseases, insanitary conditions, and crime.<sup>232</sup>

An interesting contradiction which developed during this period was that "between the growth of day labour and the employers' insistence on the longest possible contracts of employment".<sup>233</sup> Those employed on a daily basis were called 'togt' labourers. This suited



shipping, the major employer in Durban, which had seasonal labour demands, characterised by great oscillations between seasons. 'Togt' labour developed as many Africans in Durban refused to enter into monthly contracts with employers, and forced a rise in wages by working daily. They enjoyed greater bargaining power, and greater freedom of movement, much to the dismay of employers. However, this went against the grain of existing employment practices, and the local state and capital responded sharply to increase control over labour.<sup>234</sup>

A collective strategy was developed "against the workers, which involved administrative, legislative and co-ordinated employer action, [and] served to reconcile the differing interests of capitalists under the strain of shortage of labour through a further extension of the state".<sup>235</sup> This took the form of rigid municipal control over togt workers, with the Town Council controlling the erection, maintenance and inspection of private compounds and forcing the owners to abide by the city's health regulations.<sup>236</sup> The demand for collective and organised action against togt workers emerged from an awareness of the disproportionate structure of Durban's labour market - a high concentration in the docks and a shortage in commerce and households.

While the togt regulations represented an attempt to dominate the African proletariat, they had their own contradictions. The large number of work seekers needed an unusually large police contingent. Workers resisted the assault to cheapen the value of labour. During periods of economic prosperity demands for high wages had to be acceded to, and this "tended to undermine not only the low wages the system was intended to enforce but also the basis for the political rule over the African working class".<sup>237</sup> Attempts were made by local property owners to force 'togt' workers to live in barracks or compounds which were built from funds accruing from the registration of workers. In spite of the provision of barrack accommodation which could house 450, by 1900 it contained only 250 togt workers at any one time.<sup>238</sup>

By 1904 the local white bourgeoisie were divided over what constituted the most appropriate conditions for the reproduction of African labour, and this concern was expressed in terms of whether they should be housed in compounds and barracks in the city, or native locations outside the town.

## ii) Black Housing and Social Control: Compounds, Locations and Influx Control

The Durban Council did not cater for the influx of Africans and Indians into the city, especially with regard to housing, and the majority lived in 'uncontrolled accommodation', (mainly squatter settlements), in peri-urban areas.<sup>239</sup> Attempts were made to provide 'locations' and 'villages' for them. At the local state level there were three influential constituencies shaping housing policy:

- i) Elected Municipal councillors, (the executive), with vested commercial and mercantile interests (see table 3.4).
- ii) The urban electorate which was "unanimous in demanding docile labourers at low wages, freedom from their competition in skilled trades or commerce, and protection from their 'barbarism' or 'demoralisation'".<sup>240</sup>
- iii) Municipal officials, (the bureaucracy), particularly the Superintendent of Police, the manager of the Native Administration Department, and the Medical Officer of health.

There was a clear contradiction in policy - white capitalist interests were dependent upon black labour, but other whites objected to people of colour living in close proximity to them. The local state executive was aware of the need for workers to have relatively cheap and easy access to their workplaces, without inconveniencing employers, as well as the demand from local state bureaucrats that they should be removed to locations outside the borough. The Council agreed that the high cost of transportation rendered the latter proposal impossible. This view was echoed by the Mayor, F.C. Hollander in 1912: "To be successful, it was felt that any scheme for the better housing of the natives must secure that object without in any way inconveniencing employers".<sup>241</sup> The first two togt barracks in the city were located at Bell Street, Point, and Ordinance Road (figure 3.1). The Somtseu Road location was developed in 1913.<sup>242</sup> However, in the Congella area employers were experiencing difficulty in securing togt labour because of the distance they had to walk from these two areas. In a memorandum to the Council, several large employers of togt labour in Congella urged that sympathetic and favourable consideration be given to the establishment of accommodation for labourers in the area. The Council acceded to their request and a hostel was located in Dalton Road (figure 3.1).<sup>243</sup> Significantly, during this period the Durban

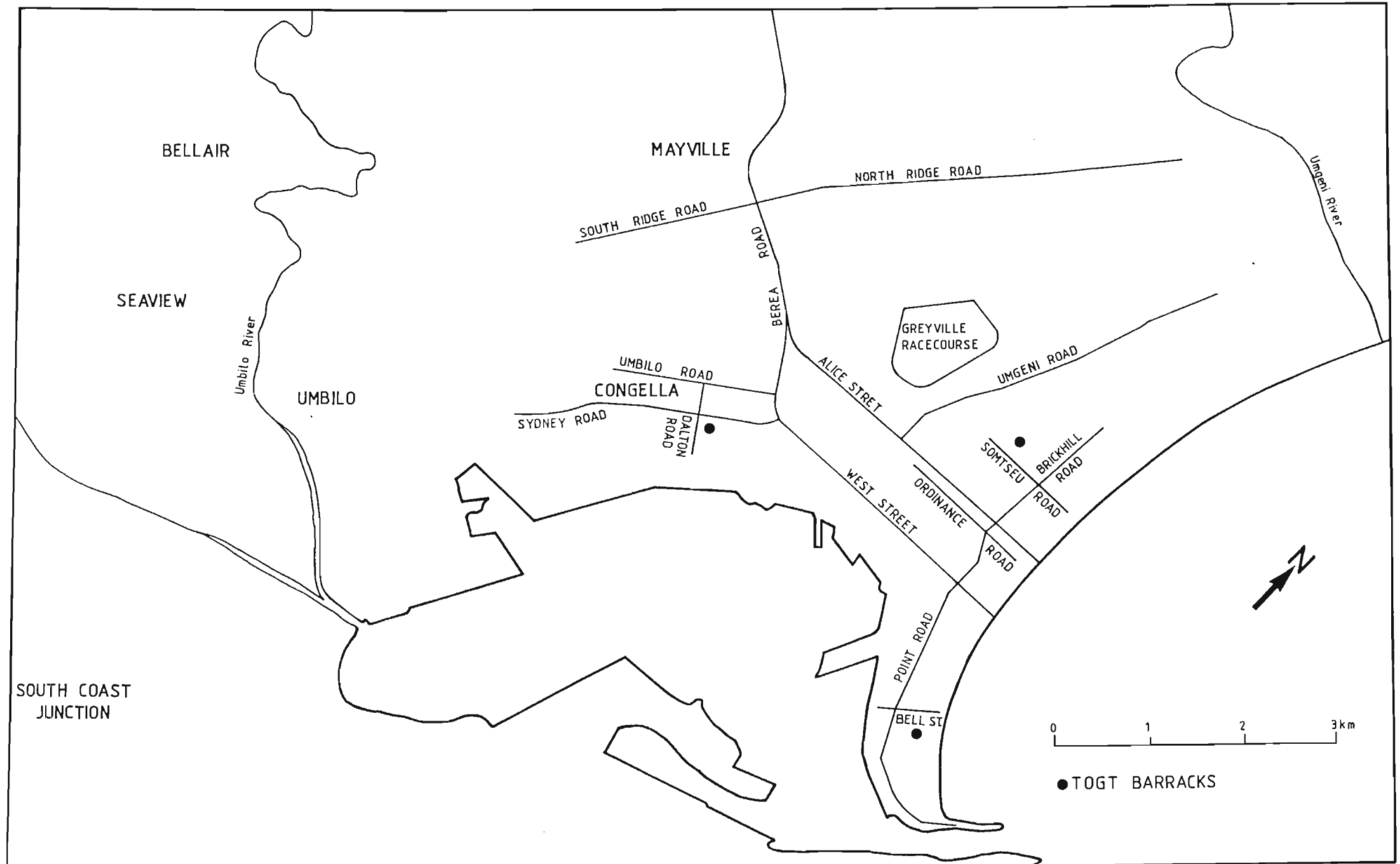


Figure 3.1 Location of Togt Barracks in Durban in the Early 1900s

Town Council was dominated by commercial interests (Table 3.4). Therefore, it was in the interest of the Durban Town Council not to "interfere with the flow of black labour to docks, warehouses, shops, factories and households while avoiding responsibility for its social consequences ...".<sup>244</sup>

The local state bureaucracy was influential in its demand for native locations at the outskirts of the city, as this would expedite effective police control, and ensure a stable labour supply with fixed wages. It was felt that compounds, hostels and locations served as effective mechanisms of control and repression, and stifled political or labour action. Hence, Superintendent of police in Durban, Mr. R.C. Alexander, was at the head of calls for segregation in Durban. Since he was appointed in 1876, he "had lectured the town council and scolded the citizenry on the presumably dire consequences of harbouring an unregulated black population in their midst".<sup>245</sup> Maylam emphasises that the debate between the local state executive and bureaucracy was about means rather than ends. There was basic agreement about the end - to exploit the African labour force to the fullest without "threatening the privileged political, economic and social position of whites". The debate focused on attempts to reconcile these contradictory aims.<sup>246</sup> It was not merely by chance that the police and health authorities were largely pre-occupied with the urban Native question. The municipal law identified such functions, apart from controlling trade licences and maintaining roads, as the chief function of local government. Furthermore,

the nature of the urban labouring led white society to perceive public order and personal security, overcrowding and slums, health and sanitation, in terms of racial differences. Whites found it easy to deal with the labour question as a police problem and to debate the social consequences of African urbanisation in the imagery of a health menace.<sup>247</sup>

In addition to controlling influx, the local state came under considerable pressure to effect segregation. This did not emanate from capital, and in fact was against employers' interests, as they preferred workers residing close to the workplace. The local police and middle-class ratepayers were at the vanguard of calls for segregation.<sup>248</sup> The white petty bourgeoisie in Durban responded in racist fashion by forming the Natal Native Reform League which demanded

greater control, segregation, enforcement of master-servant relationships and state intervention to strengthen existing property relations. The issues ranged from

keeping Africans off pavements to the perils of white women being nursed by African male domestics. Under the surface of racist sentiment lay the fear that a plentiful, well-coerced and controlled supply of African labour was being threatened. Class antagonism became increasingly subsumed within a cultural and racial order.<sup>249</sup>

These demands were full of contradictions. While whites called for segregation, the city's labour needs, particularly in the shipping industry, fluctuated. Segregation in locations outside the town would result in increased costs to the municipality and private capital.<sup>250</sup> A major problem was the availability of low income housing finance, and this was aggravated by the fact that neither the central nor the local states, or capital were prepared to fund African housing in Durban.<sup>251</sup>

Torr draws attention to the unsuccessful efforts of the Durban Council to persuade employers to be involved in the subsidisation of employees' accommodation.<sup>252</sup> The central government also called for greater employer involvement in the provision of housing for workers, and received the support of the Mayor of Durban.<sup>253</sup> The Durban Chamber of Commerce agreed that the responsibility of housing migrant labourers should lie with employers. Where this was not possible municipal accommodation should be provided for which the employer should pay an economic levy. However, the Chamber refused to accept responsibility for housing families. The Chamber's primary concern was to ensure that there was an adequate supply of native labour i.e. the city should not be "faced with a superfluity, or enterprise to be hampered by a shortage of Native labour".<sup>254</sup>

**Table 3.4 Durban's Municipal Councillors and their Occupations: 1901 - 1910<sup>255</sup>**

Occupation	Number
Merchants	15
Manufacturers	4
Agents	4
Lawyers	3
Building Contractor	1
Horse Breeder	1
Restaurateur	1
Printer	1
Auctioneer	1
Manager	1
Editor	1
Land Speculator	1
'Gentleman'	1

In order to resolve the problem of housing, the local state pioneered a unique system whereby black labourers contributed towards their own reproduction.

### **iii) Local Innovation - The Beer Monopoly**

In Durban there was need for funds for African housing. The Native Location Act was passed in 1904, but the scheme was not realised because the local state was reluctant to bear the associated costs. However, the local state soon devised its own revenue raising methods. This included attempts to control the emerging African informal sector trade, regulating the sale of beer as well as an offensive against native women in town. This reflected the "tentative manoeuvrings of the local bourgeoisie, wary of committing the municipality to planned urban segregation and meeting the expenses of a location away from the city centre,

but also determined to eliminate the bases for non-racial urban communities which undermined the 'barracks strategy'".<sup>256</sup>

The Durban Town Council attempted to obtain revenue from an ingenious source - the monopoly on the sale of Native beer. This was facilitated by the Native Beer Act of 1908, which authorised the Durban municipality to establish a monopoly over the sale of native beer. The profits were to accrue to a municipal native administration fund. This was referred to as the 'Durban System', and "[b]eer revenues became the key financial support of a more intensive and comprehensive programme of paternalistic administration than ever before, tending with relative efficiency to restrain Africans to barracks and locations".<sup>257</sup> The 'Durban System' was subsequently adopted by municipalities throughout the Union. The Transvaal Local Government (Stallard) Commission "commended Durban as a model for African administration".<sup>258</sup>

Basically, the beer monopoly represented a sophisticated form of coercion whereby workers were subsidising their own reproduction and control at no cost to the local state and capital.<sup>259</sup> "Between 1909 and 1930 revenue from the monopoly was ploughed into the maintenance, establishment of barracks, beer halls, hostels and beer breweries, as well as supporting the costs of policing the town".<sup>260</sup> Although the Durban beer monopoly generated sufficient profits to finance some housing programs, it also produced new contradictions. The greater the consumption of beer, the higher the profits. However, increased consumption lead to drunkenness, reducing worker efficiency and control. A proposal to reduce the alcohol content of beer was considered, but "was not implemented, presumably out of a concern to maintain profit levels, but it serves to highlight the contradiction".<sup>261</sup> The wages of African workers contributed to the local state's bureaucracy - managers, clerks, police - to regulate the urban labour force. This was done surreptitiously. The local state's function in connection with the "black working class became removed from the direct rule of the openly coercive state, the police, to the more sophisticated rule of fluent linguists and specialists who stressed the welfare aspects of segregation".<sup>262</sup> The institution of the beer monopoly was not, however, the result of a judicious strategy on the part of the local state. Rather, it was the final form in which the exploitation of Africans in Durban was achieved. The final form, in turn, was the result of a phase of intense conflicts between the



local state, different factions of capital and white elites over what comprised the most suitable configuration of social relations in Durban.<sup>263</sup> In order to escape from the 'Durban System' Africans moved to squatter settlements on the periphery of the city.

#### iv) 'Black Belts'

There was a serious shortage of formal accommodation for Africans in Durban. In 1930 it was estimated that there was a shortage of accommodation to house 38 000 Africans working in Durban.<sup>264</sup> By 1939 this had led, for example, to the development of 1 000 shacks in the peri-urban area, half of which were located in Cato Manor. In 1946 there were 5 000 shacks in the area, and by the end of the 1940s shacks in the Cato Manor area housed approximately 50 000 people.<sup>265</sup>

There were advantages as well as disadvantages associated with this development. The squatter settlements were important to the local state and capital as they effectively subsidised the costs of the reproduction of labour. This was acknowledged by the Department of Native Affairs, which argued that "the erection by Natives of their own housing saves the local authority capital outlay as well as the supervisory difficulties and costs of maintenance".<sup>266</sup> There were also advantages for the occupants of shack settlements. There was no municipal control or regulation. The dwellings were cheap, and located in proximity to workplace to reduce transport costs, and offered employment in the informal sector. However, there were contradictions here as well, especially in terms of serious problems of social control. Shack settlements such as those in Cato Manor were the major centres of illegal liquor-dealing, which undermined municipal beer profits, and it was difficult to police these areas.<sup>267</sup> While the DCC acknowledged the role of shacks in alleviating the housing shortage, it expressed concern about the health implications. The Council viewed the shack settlements as the main centres of crime, vice and illicit liquor traffic. It was keen to demolish the shacks, but was unable to assert its authority as it could not offer alternative accommodation. Under the circumstances it could only peg the number of existing shacks, and prepare a list of all such dwellings in the city so as to preclude additions.<sup>268</sup> The problem was adequately summarised by Durban's manager of the Native Administration Department, T.J. Chester:

The question of proper housing of Natives employed in urban areas, and the control of such housing, has been and still is a very serious problem throughout the Union ... there does not exist any machinery or means whereby any programme of housing on a comprehensive and desirable scale can be attempted or carried out without serious financial loss and consequent burden on the funds of the local authority.<sup>269</sup>

The DCC experienced a crisis which "reflected the contradiction between secondary industry's demands for a 'cheap' reserve army of labour and the maintenance of repressive controls over the African labour force".<sup>270</sup> Shack settlements were not favoured as it subverted influx control, and provided a sanctuary for illicit activities.<sup>271</sup> By the 1950s both the local and central states preferred stringent measures to control the development of squatter settlements. However, such measures had to be reconciled with capital's need for labour. Influx control legislation was to be used to "achieve what the Natal Chamber of Industry and the Durban City Council called 'orderly and controlled' urbanisation".<sup>272</sup> There was a great deal of resistance and protest against measures to control and regulate the African labour force.

#### **v) Resistance and Protest**

In spite of the initial euphoria, the Durban system began to fail in the 1920s. The increasing resistance and militancy of the African working class threatened to undermine the local state's attempts to exert social control over the labour force. Between 1918 and 1920 the dockworkers and municipal workers were involved in numerous strikes. This period was characterised by labour unrest and resistance nationwide. In April 1918 Durban's 'ricksha' pullers refused to work because of an increase in their vehicle rentals. In other industries, many workers were demanding wage increases, under the leadership of J.L. Dube, President of the South African Native National Congress, and editor of Ilange lase Natal.<sup>273</sup> The local state reacted by requesting the central state to take action against Dube.

In July 1918 the railway workers were involved in strike action and the local state used the police force to intimidate the labourers, requesting the chief magistrate to intervene and the police to investigate potential instigators. As a result "the close networks between particular

employers, municipal officials, and representatives of central government, were lit up starkly in the suppression of working class action".<sup>274</sup> In fact the local state, (a large employer of African labour) entered into a pact with local capital in September 1919 to control wage increases. However, as worker action became more militant, employers were forced to make individual concessions.<sup>275</sup>

Meanwhile, the Industrial and Commercial Workers' Union (ICU) headed by Champion was well established in Durban by the late 1920s, and successfully used the judiciary to stop some of the measures of control, such as

the abolition of the night curfew for black residents; the ending of compulsory disinfecting of blacks ... entering Durban; the exemption of Black women from the pass system; the restraining of the police from summarily demanding the production of passes.<sup>276</sup>

One of the issues taken up by Champion was the local state's beer monopoly. Simultaneously, yet independently, this protest was also taken up by the toggt workers. This lead to the boycott of beer halls in June 1929 which was sustained for 18 months. During this period the petty bourgeois political leadership "lost ground to popular militancy as ultra-low wages and economic hardship fuelled the resistance to the monopoly system".<sup>277</sup> This culminated in a clash between white vigilantes, blacks and the police, which left many dead and injured.

The state responded by appointing a commission of inquiry, headed by Justice De Waal. He claimed that the white mob had precipitated the violence.<sup>278</sup> While de Waal supported the Durban System, he was also critical that the local state which had pioneered control over the urban African proletariat had, compared to other large industrial towns, lagged behind in the provision of housing or recreational facilities for this group. De Waal suggested that a 'native residential township' should be provided for the 'better class native' where he could live with his family.<sup>279</sup> De Waal did not probe into the exploitation and oppression of workers, which had crystallised around the beer hall boycott. The workers grievances were ignored and the Durban System, with its barracks, police and bureaucracy was endorsed. The local native bureaucracy and elements of the central state were concerned that the report had

undermined the effects of communist agitation.<sup>280</sup> But it was generally acceptable to white middle class interests in Durban.<sup>281</sup>

In response to the militancy of labour, industrial capitalists in Durban merged to establish a united front with the formation of the Natal Employers Association in the early 1940s, whose main task was to deal with labour matters. Overall, African militancy in Durban initiated a dual response from the state. The central state responded with increased control and repression, which continued into the 1930s. The aim of repression was to stifle militant activists; reduce African influx into town; and increase control over urban labourers. For example, entry of women into town was rigidly controlled, and the pass system was regulated more closely.<sup>282</sup> Furthermore, legislation was introduced to declare strikes as illegal. However, the need for a large black labour force and for continued production during the war "provided the working class with a measure of protection from state repression".<sup>283</sup>

The local state adopted a policy of amelioration, particularly the incorporation of aspiring middle class Africans, which fractionalised the working class. The Durban Native Advisory Board was established in 1930 to defuse African discontent.<sup>284</sup> The municipality also attempted to provide more recreation facilities for workers. Sport and recreation served as effective instruments of social control.<sup>285</sup> Ironically, the Council's reluctance to establish urban locations did not foster bourgeois interests, as the high concentration of workers in compounds and barracks could rebel against employers and the state. By the end of the 1920s the proletariat had succeeded in transforming the barracks into fortresses, which required repeated police action to restore 'normal' bourgeoisie control.<sup>286</sup>

The rapid development of the commercial, industrial and tourist sectors of the local economy resulted in an influx of population into the city. However, it appeared that the housing production in the city was unable to meet the demand, and this resulted in high rents and demands for public housing for working class whites.

### 3.3.3 The Local State and Class Issues

#### i) The Case of High House Rents

The Durban Chamber of Commerce was responsible for representing the interests of commercial capital in the city. In a letter addressed to the Town Council on 20 August 1912, the Chamber argued that the "high scale of house rents" was likely to have a detrimental effect on the industrial development of the city, and it urged the Council to inquire into the reasons for such high rentals.<sup>287</sup> The Town Council acquiesced to this request, and a Committee of 11, consisting of representatives from the Council, Chamber of Commerce, Natal Manufacturer's Association, Durban Master Builder's Association, Durban Retailer's Council and the South African Labour Party was formed.<sup>288</sup>

The Committee concluded that house rents in Durban were not higher than other coastal towns of South Africa.<sup>289</sup> However, it established that there was a shortage of housing in Durban. This was attributed to the high cost of land, labour, materials and high building standards which made housing an unprofitable investment. The Committee suggested that the Council should sell land at a lower price, and reconsider building bye-laws. Furthermore, an extension of the Borough's boundaries would result in more cheap land being available which would ultimately lead to reduced house rents. Another reason for the housing shortage was the Town Council's policy of levying uniform rates on the value of land and buildings which penalised the "legitimate user of land as against the speculative holder of unoccupied land".<sup>290</sup> This was because buildings invariably had a higher value than land, and dwellings therefore carried a higher rates burden. The Committee was of the opinion that the rates on land should be twice those on buildings.

The Town Council accepted the Committee's report that rents in Durban were not higher than other urban areas. In fact as a result of the high cost of living and accommodation in Johannesburg, many workers in the mines maintained separate houses for their families in Cape Town, England and elsewhere. In 1907 the Council had been urged to advertise the relative cheapness of living in Durban in order to attract such families to the city. However, the Council was not prepared to take any steps to implement the Committee's suggestion that

rates be levied on a 2 to 1 basis on land and buildings.<sup>291</sup> In addition to the apparent shortage of housing, it appeared that there was also a shortage of land in Durban.

## ii) The Land Question in Durban

In 1916 the Medical Officer of Health, Dr. Murison, had advised the Council that there was a great deal of overcrowding in the city. However, he contended that ejecting offenders without making provisions for rehousing them was not likely to improve public health.<sup>292</sup> The Council instructed the Town Clerk, Mr. W.P.M. Henderson, to prepare a report on the problem. In a comprehensive report entitled "Durban's Land Problem", the Town Clerk argued that the problem could be related in part to the fact that the Council initially had a monopoly over land.<sup>293</sup> However, he cautioned that before arriving at any conclusion, the difficulties experienced by the Municipality should be considered. The Council had to alienate land to obtain funds for public works. There was a great deal of debate about whether the land should be sold in freehold or leased, and the Council had experimented with both schemes. The leasehold system was unsuccessful because "the period of lease was too short to induce leaseholders to erect even moderately substantial houses".<sup>294</sup>

Prior to 1894, the Council had not offered freehold sites for housing purposes. Hence, those who wanted such sites acquired them outside the Borough in suburbs like Sea View, Bellair and South Coast Junction (figure 3.1).<sup>295</sup> According to Mr. Henderson the high cost of land within the borough and the stringent building regulations had contributed to a flight of whites to the outlying suburbs.<sup>296</sup>

Another reason attributed by the Town Clerk for the shortage of land was the encroachment of Indians into traditionally white areas of the town. He was particularly concerned about the threat this presented to poor whites. In many areas

the poorer white classes are obliged to huddle together in the poorer localities of the Borough and in many cases in close contact with coloured people and Indians ... a state of affairs which is and always must be demoralising to the European and especially to the younger generations.<sup>297</sup>

The Town Clerk advocated some form of segregation to resolve the problem:

One is averse to suggesting the segregation of the Asiatic community, but the remedy would seem to lie in that direction. Every additional house occupied by an Indian decreases the available accommodation for European families and consequently helps to swell the population of the suburbs.<sup>298</sup>

He argued that the Indian opposition to segregation could be overcome if the Council acquired statutory power to forbid white occupation of coloured areas:

The Town Council should have the power to define areas within which only European occupation will be permitted. From past experience it would appear to be doubtful whether any legislature would permit the allocation of areas confined solely to Indian and other coloured races, but it might be possible to accomplish this end by prohibiting the European occupation of certain areas.<sup>299</sup>

The Town Clerk concluded that the land and housing problem in the city were related to the high price of land; the stringent Building Bye-Laws; and the infiltration of Indians into white areas.<sup>300</sup> In his opinion the adoption of a leasehold system; the allocation of specific areas for Indian occupation; the extension of the Borough boundaries; and the acceptance of more realistic building standards were likely to considerably ease the land and housing problem in Durban. He devoted considerable attention to an evaluation of the merits of municipal housing.

### iii) Municipal Housing: Advantages versus Disadvantages

Mr. Henderson argued that the provision of municipal housing must be approached by considering the well being of the community rather than as a private sector profit operation. He emphasised the danger of restricting access to property, arguing that

wherever the rights of property are most widely distributed and most commonly held, they will be most respected and more secure. No state is at rest where multitudes inhabit what they cannot hold, and the seeds of discontent root themselves in vast private estates, and not on small holdings of a conservative and democratic people.<sup>301</sup>

The ultimate concern with public housing was to cater for poor whites who were forced to live next to Indians. The Town Clerk also emphasised that the housing of single white



women in Durban needed the urgent attention of the Council.<sup>302</sup> This concern with the problems of working class whites permeated the discourse of the Town Council. In November 1927 the Public Health Committee stated that there was an urgent need for the provision of houses for the poor class Europeans and called for the initiation of a housing scheme to improve their living conditions.<sup>303</sup> Although the Council's entry into the housing arena would disturb market forces, the Town Clerk argued that the supply of housing would be increased and rents would therefore be lowered. Overcrowding and its attendant social problems would also be reduced.<sup>304</sup>

The argument against public housing included the view that it would lead to the unproductive use of public funds, and that only a few would benefit, leading to the creation of a favoured class and the development of the politics of patronage.<sup>305</sup> Furthermore, municipal housing schemes could seldom be operated according to rigorous commercial principles, and rent would have to be below that of prevailing market rates. Therefore, the majority of the ratepayers would be forced to subsidise a few municipal tenants. According to the Town Clerk, "the outstanding point would appear to be whether the Council is justified in embarking upon a scheme involving considerable financial risk solely for the benefit of a small section of the Burgesses".<sup>306</sup> Significantly, an important white working class constituency, the Durban Municipal Employees' Society, also opposed to the provision of municipal housing as this would lead to the creation of a favoured class.<sup>307</sup>

The Special Committee appointed to inquire into house rents in Durban in 1913 was also opposed to the idea of the Council being involved in the provision of housing.<sup>308</sup> The Natal Mercury warned ominously that the Council must carefully weigh the advantages and disadvantages of public housing, especially as they would be speculating with ratepayers' money, the majority of whom belonged to the working class.<sup>309</sup> According to the Natal Mercury, the housing problem could be solved, in part, if the Corporation provided houses for its employees. This would be regarded as an appropriate development of the municipal enterprise, and would help reduce the housing shortage.<sup>310</sup> As early as 1914, the Council had considered the possibility of erecting cottages for its employees. The Council did not pursue this matter because of financial constraints.<sup>311</sup>

In July 1918 the Town Council formed a Joint Committee re Land, Housing and Rating to "consider and report upon the question of housing generally".<sup>312</sup> The Joint Committee's investigations revealed that there was a shortage of working class houses, which forced whites to live next to blacks:

The consequence of this scarcity of housing accommodation is a point which calls for the Council's earnest attention. Not only is considerable hardship and burden thrown upon those in receipt of small incomes, but a practice has grown up of several families occupying one house, and, in many cases, European families are forced to live side by side with coloured persons - consequences fraught with many evils and seriously injurious to the social well-being of the community as a whole.<sup>313</sup>

The Joint Committee recommended that the Council institute a municipal housing scheme, and provide financial assistance to those who had acquired Corporation land on a 99 years' lease so that they could erect dwellings. The former would provide suitable housing to those who do desire or cannot buy property, while the latter would provide material assistance to those who wanted to help themselves. The advantage of these schemes was that the Council would derive income from rates, which would otherwise be lost to the "Municipality if the population is driven by lack of suitable accommodation to the suburban districts".<sup>314</sup>

These recommendations were accepted by the Town Council.<sup>315</sup> The initiation of numerous municipal schemes were influenced by the Council's adoption of the following resolutions, that:

- i) poorer class whites were not adequately housed;
- ii) the Government must be approached to assist in the provision of housing for this group; and
- iii) alternate accommodation must be provided before any dwelling is condemned as unfit for human habitation.<sup>316</sup>

The conflicts and contradictions experienced by the local state were often interpreted differently by its executive and bureaucracy. The next section focuses on the organisational form of the local state, particularly the nature of the interaction amongst the executive, bureaucracy, the white working class and capital.

### **3.3.4 Organisational Form of the Local State**

#### **i) Council Executive and Bureaucracy**

There has been very little investigation of the way in which the DCC functions, particularly in terms of the relationship between Councillors, municipal officials, local capital and the electorate. In Durban there were three divisions of local government - eleven standing committees (the local state executive); officials (the municipal bureaucracy); and the advisory committees and management boards (figure 3.2).<sup>317</sup> A traditional differentiation between the functions of the local state executive and the local state bureaucracy has been that the former deals with matters of policy, while the latter implements policy. This separation between politics and administration, however, is too superficial. Although the municipal official is not responsible for policy making, in practice he plays a key role in this process. He is a permanent staff member of the corporation, while the councillors are temporary, and have to subject themselves to periodic elections. As a result, the bureaucrats do not only provide expertise in local government, but are also responsible for continuity. They therefore had a significant influence on policy issues, "making their contribution by way of information on past practices, by discussion in committee meetings, and through proposals, reports and forecasts".<sup>318</sup> In Durban the coalition between Councillors and municipal officials had a long history in the administration of the city.<sup>319</sup> While officials were regarded as employees of the Council, their main concern appeared to be the welfare of the white working class, and they played an important role in influencing Council policies in this regard.

#### **ii) The White Working Class Alliance**

In Durban there was a strong historical alliance between the Council and the white working class. The Council bureaucracy, many of whom were recruited from this group, were particularly sympathetic to white working class interests. The main reason for this was because this class was threatened by the Indians who were competing with them in the labour market. As a result, the discourse of the local state bureaucracy was often blatantly racist. The alliance was at times supported by some members of the local state executive. Former

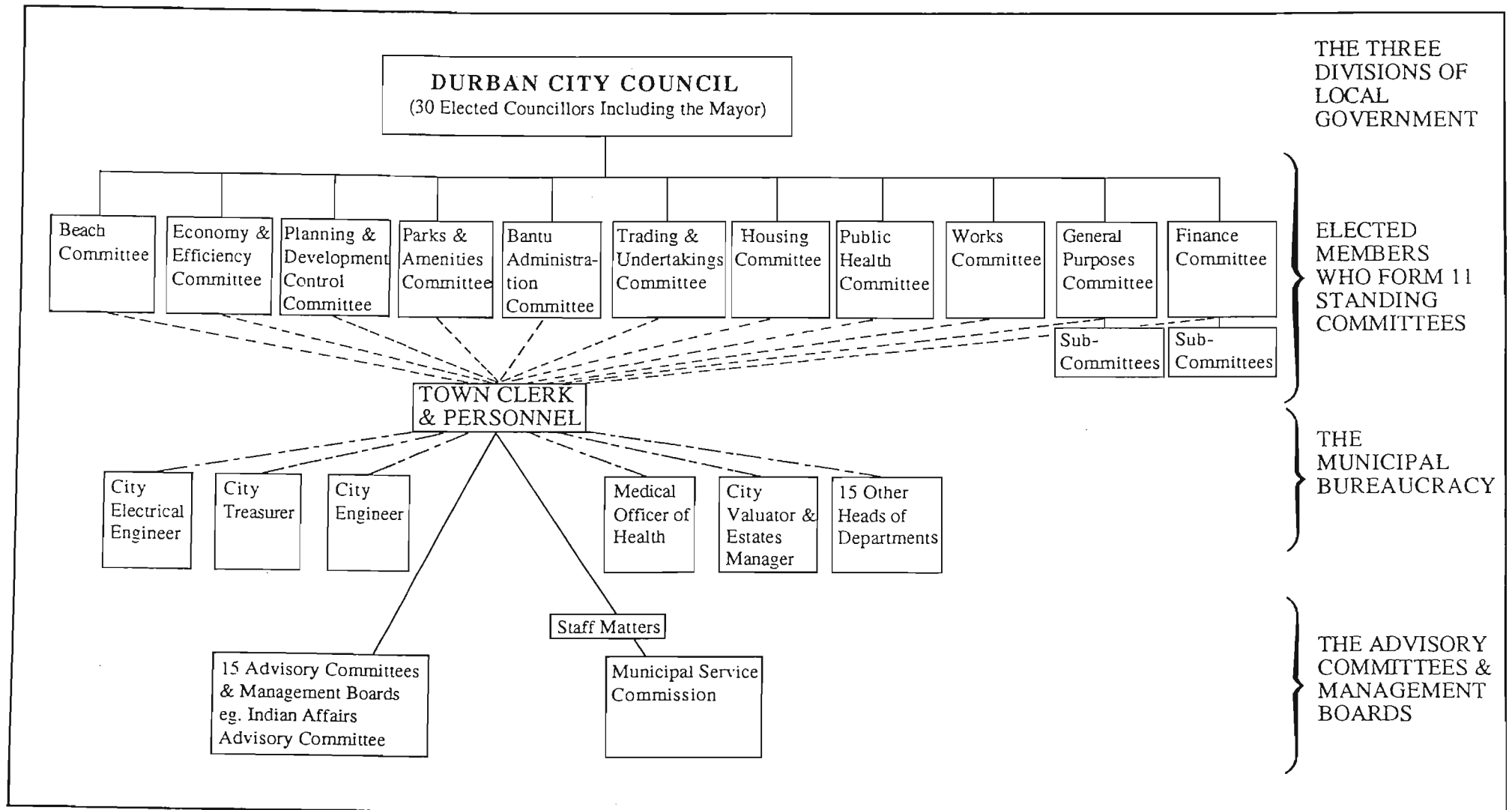


Figure 3.2 Structure of Local Government in Durban (1958)

employees of the Corporation, Councillors H.H. Kemp and S.J. Smith were very sympathetic to problems experienced by the white labour force. Councillor Kemp had very close ties with the (white) Durban Municipal Employees Society (DMES), and his views were given a great deal of publicity in the Durban Municipal Employees' Magazine.<sup>320</sup>

The strong alliance between the local state bureaucracy and the white municipal employees will be illustrated with reference to the Tramways Department, as well as by the policy to create employment opportunities for white youths. By 1919 the Tramways Department of the Council had emerged as major employers. Their work force soon became the vanguard of local white labour militancy, and were involved in numerous strikes which lead to clashes with the police, and shocked the local power bloc, and marked the beginnings of patronage politics at the local level. From this period onwards the local state made efforts to accommodate white working class interests. The "Council agreed to work towards a programme to promote home ownership amongst the [white] working classes so as to bring about 'stability, security and a stake in the town'".<sup>321</sup> McCarthy points out that between 1922 and 1924 Council expenditure on housing was only matched again in the late 1940s.<sup>322</sup>

The period of peak labour militancy in Durban (1920 - 1922) was also characterised by a phase in which problems of slums and squatting became prominent in public discourse, which soon acquired blatant undertones, particularly with regard to restrictions on Indian ownership and occupation of property.<sup>323</sup> This forged a complex alliance between local elites, white labour and the local state "in which racial differences amongst the workforce and conflicts with a nascent Indian land owning class proved to be crucial".<sup>324</sup> This represented the early stages of a conflict that was to continue into the 1950s.<sup>325</sup>

The alliance between the local state bureaucracy and the white working class was further cemented by the local state's decision to give preferential treatment to whites seeking employment in its different departments. In September 1914 the Council agreed to give preferential treatment to white unskilled workers in the City Engineer's Department.<sup>326</sup> This received the support of its burgesses.<sup>327</sup> Promotion of such policies was bound to find favour with the local state executive who owed their positions to the support they received from the electorate. The Council also adopted a policy of affirmative action to give white

youths employment opportunities in the Corporation's Departments, at the expense of Indian incumbents.<sup>328</sup> Consequently, the number of white employees in the Council under the age of 20 increased from 122 in June 1923 to 183 in August 1925.<sup>329</sup> The Council accepted the proposal of the City Treasurer and Abattoir Director that the "Municipal Abattoir shall be a white labour institution entirely".<sup>330</sup> Once again, the views of the bureaucrats prevailed.

However, there were often conflicts between the local state bureaucracy and the executive.

## **ii) Patronage versus Bureaucracy**

An analysis of the DCC in the late 1950s and 1960s reveals clearly the relationship between the local state bureaucracy and executive. During this period various allegations of corruption and mismanagement were levelled against the local state executive and bureaucracy. This culminated in the Natal Provincial Council instituting a commission of inquiry into municipal corruption in Durban, headed by Justice James, in 1966.<sup>331</sup> In addition to various malpractices, there was evidence in the James Commission that certain Councillors and officials, including the mayor, were using their positions to buy land cheaply from Indians who had been affected by the GAA.<sup>332</sup> Drawing from the findings of the James Commission, Purcell concluded that for almost a decade up to 1964 Durban was ruled by a power-bloc of city councillors which had changed minimally. This group was identified as the Smith-Milne-Osborn-Clique, who had controlled the most powerful positions on the Council for more than a decade.<sup>333</sup> This power group ignored or bypassed Council bureaucrats as they were assured of majority council support regardless of the circumstances.<sup>334</sup> The patronage practices were summarised by the James Commission

- i) Policy meetings of committees at which Council officials were not present.
- ii) Individual Councillors exerting personal pressure on Council officials.
- iii) Failure of Councillors to follow protocol. e.g. making enquiries through junior officials rather than heads of departments.
- iv) Individual committee chairmen suppressing reports of officials.
- v) Violation of executive authority (especially by the Mayor).



- vi) The tendency for Councillors to head the same committees for a considerable period of time, which could lead to questionable practices.
- vii) Some Councillors served simultaneously on local as well as provincial bodies.<sup>335</sup>

Local capital had limited access to the local state during this era. Purcell suggests that because the resources appropriated by the local state were small, business would have been less inclined to foster access to Councillors. However, the differential rates issue probably persuaded organised business that limited access to the local state was likely to be detrimental to their interests.<sup>336</sup>

Significantly, the Durban Municipal Employees Society (DMES) had very good access to the patronage power-bloc, especially because it played an active role in council election campaigns. As a result of the apathy of white voters, municipal employees had a significant influence on the "outcome of council elections and an understanding apparently existed between the Council and the ... DMES on personnel policy".<sup>337</sup> White apathy in the affairs of the DCC appeared to be characteristic of Durban.<sup>338</sup> The following factors contributed to white apathy - the inability to directly influence important decisions; the limited autonomy of the DCC; and a realisation that the black population would bear the brunt of unpopular decisions, e.g., urban renewal.<sup>339</sup> Furthermore, it was possible that whites are more concerned with group dominance and control than with their individual power and influence. In addition, having the advantage over blacks could obscure the perceptions of white citizens of their lack of influence in other arenas. Moreover, it "may also be that in order to maintain a stable system of white domination nationally, government at all levels must remove much decision-making power from the rank-and-file of all races".<sup>340</sup>

As a result of the James Commission, the council power-bloc was destroyed, and the patronage style also demised. This was followed by the dominance of the bureaucracy, which improved the access of the business community. Associated with this, the access of the white working class as well as municipal employee interests, which thrived under the previous patronage regime, declined.<sup>341</sup>



The bureaucratic style of local politics was characterised by the following features:

- i) There was a 'bureaucracy-centred coalition', comprising senior bureaucrats and their council supporters, which introduced, defined and implemented important decisions. Councillors were only important to the extent to which they approved proposals developed by the bureaucracy.
- ii) Bureaucratic decision-making criteria was employed. 'Overall planning and comprehensive development are the stated goals of the bureaucracy-centred coalition. Universalistic, technical criteria are used extensively to justify proposals'.
- iii) The dominance of the bureaucracy was restricted with regard to spending issues, e.g., when an issue is likely to lead to rate increases, councillors were likely to support the views of their constituents, who were unlikely to favour such an increase, rather than the goals of city bureaucrats.
- iv) Depending on the issue, organised business had a moderate to significant influence on council decisions.
- v) Citizen groups had no influence on council decisions.
- vi) There was very little conflict between the Council, its officials and big business. For example, both organised business and the bureaucracy were concerned about issues like 'economy, efficiency, planning and public interest'.<sup>342</sup>

Generally, in both phases, citizens played an insignificant role in influencing the decision-making process. This was entrenched by a highly centralised structure of authority. Hence, regardless of whether they were dominated by elected councillors or bureaucrats, the councillors and the bureaucracy were the only community-based source of decision making and authority.<sup>343</sup> There were changes as the power base shifted from patronage to bureaucracy, and these can be summarised as a shift

... from a formally weak mayor system in which the mayor and his council allies were in fact the most powerful local political force to a system which, while lacking a formal city manager, had a dominant bureaucracy which acted much like a committee of city co-managers; and finally from a ward system characterised by patronage, and lower-middle to working class domination to a ward system characterised by bureaucratic dominance and high access for

organised business groups as well as planning and other 'good government' interests.<sup>344</sup>

The significance of the "bureaucratic style of local politics [is that it] dampens overt conflict because technical considerations are emphasised over ideological and political ones".<sup>345</sup> A good example is the 'Technical Sub-Committee' appointed by the DCC to delimit group areas in Durban. However, the covert political and ideological agenda of the DCC was evident since the turn of the century, particularly with regard to the Indian question. A bureaucrat who played a key role in influencing residential and industrial development in the city was the City Evaluator and Estates Manager. He made a critical input into Durban's programme of post-war development by calling for some form of racial residential segregation, arguing that it would be in the interests of whites, Africans, Indians and coloureds to be housed separately.<sup>346</sup> According to the City Evaluator and Estates Manager, the major areas of employment would be the commercial and industrial areas of the Old Borough, as well as the industrial complex around the harbour which would expand southwards towards Isipingo. In order to realise this pattern of industrial development, and to ensure a stable labour supply

it will be necessary for housing accommodation to be provided for the four races, so as to enable each to be within reasonable reach of his place of employment. This means, therefore, that housing accommodation, for the future, must be provided for the four races to serve the Old Borough Area, and also for the four races to serve the industrial area.<sup>347</sup>

It was more than coincidental that the segregation and industrial patterns envisaged by the City Evaluator and Estates Manager in 1943 were almost identical to the apartheid city in the 1980s.

### 3.3.5 Synthesis

Cities provide the physical, social and political arena to facilitate production, distribution and accumulation. They provide the social and physical infrastructure required for the effective interaction between capital and labour. This process, however, is not without its contradictions and conflicts. The local state mediates in this conflict - facilitating accumulation as well as responding to the demands of labour in order to maintain legitimacy.

In Durban the local state had played a critical role in facilitating the growth and development of commerce and industry. In fact economic and industrial growth featured prominently on the agenda of the local state since its very inception. Every attempt was made to market the city as a 'premier borough' in terms of its potential for development, in order to attract capital to Durban. There was evidence of a 'growth coalition' between the local state, the Railways Administration and local capital, which co-ordinated attempts to market the city as an industrial and tourist centre. In Durban, the harbour was a key factor attracting industries to the city, which can be regarded as a significant 'local dependence' factor.<sup>348</sup>

In capitalist societies an important source of local state revenue is property tax (rates). The economic vigour of the local state is, therefore, directly dependent on the health of private enterprise. Hence, Durban was always competing with other centres to attract new investments and holding on to existing ones. In Durban frequent references were made to economic competition with other urban centres, and the mobility of capital. The spatial and social inequalities associated with economic development in the urban arena reflected the contradictions within capitalism. As a result of the uneven nature of capitalist economic development, cities are forced to compete for investments, industries, etc. Different social classes have unequal access to economic and political power.<sup>349</sup> Competition amongst local authorities means that any hesitation to grant incentives to private investors is perceived as a loss in the contest with other localities to attract investment funds.<sup>350</sup>

Durban struck 'special deals' with industry, which included concessions on electricity, water and land tariffs to ensure that capital remained in the city and was not attracted to other regional centres. The increased reliance of the local state on the tax base of its local economy, resulted in business elites assuming a privileged and influential position as they regulated the supply of capital and credit. Business interests, particularly the tourist sector, supported growth-enhancing policies of the local state because this would reduce the risks faced by private entrepreneurs, and/or increase their profits.

The local state was a key player in the growth of Durban because it was responsible for appropriating a key resource - land. In Durban land was used by the local state to facilitate economic growth (instrumental) and as 'sop' to the poor whites (legitimacy). In fact the local

state's focus on economic development was imposed on the process of urban land development. With rapid growth, industrial capital required more land to expand its activities, as well as to increase control over the bulk of the labour force which was living in informal settlements in the peri-urban areas. The local state responded by expanding its boundaries in 1932 which almost doubled the black population in the borough. However, since they did not have the franchise they could not influence the allocation of resources, nor challenge the hegemony of the local white power bloc. The view that the local state needed to expand its boundaries to expedite industrial expansion was reinforced during the 1940s, a period characterised by rapid growth of urban-based industrial capital. To plan for the anticipated economic growth the local state appointed a special sub-committee to investigate a 'programme of post-war development'. In his evidence to the sub-committee, the City Evaluator and Estates Manager emphasised the need to plan for the industrial expansion as well as racial residential segregation. It also became evident during this period in particular that city councillors as well as municipal officials supported racial residential segregation of the labour force, an issue which was later to be taken up vigorously by the central state. Hence, the local state of Durban had in many respects pioneered measures of reproduction, repression and segregation which were subsequently adopted by the central state and then implemented ruthlessly.

In order to further ensure that Durban was attractive to investors, the local state became heavily involved in the provision of the social means of reproduction - especially housing for working class whites. Both the local state executive and the local state bureaucracy were in agreement on this issue. The Town Clerk attributed one of the reasons for the housing shortage in Durban to infiltration of Indians into traditionally white residential areas, and he called for some form of segregation. This was one of the factors influencing the local state to adopt a racist discourse which peaked during the 1950s. The other reason was the threat to white labour presented by Indians and Africans.

By the late 1800s Durban had experienced rapid economic growth which required cheap labour. This led to a massive influx of Africans into the city. There was a growing concern among the white electorate that Africans in urban areas must be rigidly controlled. The perceived 'social menace' associated with the presence of Africans and Indians in Durban

compelled municipal officers to wrestle constantly with 'problems' of crime, disease and sanitation. A local debate ensued about whether the African proletariat should be accommodated in compounds and barracks close to their place of employment, or in locations outside the city. Employers (industrial capital and the municipality) supported the former, while the local state bureaucracy supported the latter. There was a great deal of concern about the rapid growth of togt workers, who commanded high wages and refused to be regulated by living in municipal barracks. The local state had to appease the white electorate without endangering the supply of cheap labour into the city, or imposing any additional financial burden upon the white ratepayers or capital.

However, to suggest that there was a rigid alliance between capital and the local state in Durban would be too deterministic. For example, each attempted to pass on the cost of housing the city's African labour force onto the other. Furthermore, the administrators of the local state were also engaged with the task of appeasing the fears of white ratepayers who were not employers of labour. The responsibility of the Durban Council was to expedite the exploitation of African labour and to reduce the social threat that the urban African presented to ratepayers.<sup>351</sup> The local state was not prepared to finance African housing from the municipal budget. It developed a unique system whereby African workers contributed to the cost of their own reproduction. It established its own African eating houses as well as a monopoly on the sale of beer. A separate Native Revenue Account was established which was used to finance the native affairs bureaucratic administration. Since very little housing was provided by the municipality, there was a proliferation of squatter settlements in the peri-urban areas, which further subsidised the costs of the reproduction of labour.

The local state's attempts to regulate and control the labour force was met with increasing resistance and militancy by the African proletariat. This culminated in strikes and violent confrontations between workers and the police in the late 1920s. The local state responded with liberal-reform measures designed to co-opt the African petty bourgeoisie, and created a differentiated labour force. The central state supported increased control and repression of labour.



In addition to facilitating the accumulation process, the local state was also an active entrepreneur, attempting to enhance its own fiscal base. The profits from the trading activities of the Durban Corporation were used to subvent the rates of the city, a policy which was controversial. In spite of its various income sources, the city experienced periods of intense fiscal crises, which lead to serious conflicts with local capital, as well as with the central state. Finance was a frequent area of conflict between the central and local state. In this regard the main concern is the extent to which the local economy provided adequate revenue to support the local state. An example of conflict between the local state and capital was an attempt by the DCC to increase the rates burden of commerce and industry. Conflicts between the local and central states were precipitated by the loss of licensing revenues to the province, and reluctance by the Government to pay rates, or to pay for services rendered to its properties in the city. The local state has frequently been regarded as part of the central state apparatus. In the process, conflict between the local and central state is neglected, and the importance of politics at the local level is ignored. In fact there were frequent conflicts between the central and local state bureaucracies, because each had different goals and interests.

The autonomy of the local state was determined by the extent to which it could follow its own interests without being constrained by local social and economic circumstances, or by interference from the central state. Furthermore, the opposition of major local interest groups to local state policy could also reduce the autonomy of the local state. A good example in Durban was the opposition of the private sector to the differential rates proposal of the local state. Local state autonomy could also be constrained by locally based social movements. In Durban an influential group in this regard was the white civic and ratepayer organisations, whose views were always considered by the local state.

Local states have unique histories and specificities which determine the nature of political practices such as participation and patronage. The manner in which these political practices are structured account for differences between local states. In Durban, local government could be divided into two main groups: the elected city councillors (executive) and the municipal bureaucracy (officials). At various stages during the period under review the local state of Durban was alternatively dominated by bureaucratic and patronage interests, which

at times was nurtured by informal coalitions with city councillors. The Council executive, felt accountable to the different interest groups in the city. This often lead to a conflict of interests. For example, on the one hand, bureaucrats like the Medical Officer of Health and the Superintendent of Police supported the removal of natives to locations and villages. The local state executive, on the other hand, was aware of the cheap labour requirements of capital, and favoured the establishment of barracks and compounds close to workplaces in the city. Such conflicts reflected the changing configuration of interests between the bureaucracy and the executive. However, in the main the bureaucracy predominated. The Manager of the City Estates and Valuation Department was to later become another key figure.<sup>352</sup> In Durban, the influence of a patronage style of local politics became evident since the early 1920s as the Council attempted to appease its white employees, especially those involved in the tramways strikes, with the provision of subsidised housing.

The patronage style was evident right up to the 1960s. Initially this took the form of an alliance between the working class white electorate and councillors, and which was often expressed in an extreme form of racist discourse, particularly against Indians. The Durban Municipal Employees Society had good access to the patronage power-bloc, especially as it was influential in Council election campaigns. Local capital had limited access to the local state during this period. However, as revealed by the James Commission, Councillors were not averse to forming an alliance with elements of local capital to line their own pockets. After the revelations of the James Commission, the bureaucracy reasserted itself. Referring to the British experience, Hoggart maintains that electoral considerations check councillors' inclination to support upper and middle class interests.<sup>353</sup> Bureaucrats however, do not have such restraints, and tend to favour upper class interests. In Durban, however, most of the bureaucrats were drawn from the white working class, and they were therefore loyal to this group.

The local state was subjected to numerous pressures from different sources. A common source of local pressure stemmed from the interests of the state and its managers to increase financial resources, and to strengthen its institutional power. There were also pressures from various sources within local civil society, which included capital, labour, civic organisations, and the general voters.



The historical analysis of the development of the local state in Durban supports Duncan and Goodwin's contention that "state forms and actions can ... be linked to changing relations between groups of people instead of being left as socially inexplicable organisational forms or bundles of given functions".<sup>354</sup> In Durban it is evident that there was a great deal of conflict and contradictions between the local state, the white elite and working class groups over transport, labour, housing and 'race' issues. This was diffused with the adoption of a patronage style of politics which accommodated white working class interests, e.g., the provision of subsidised housing. The increasingly racist discourse consolidated a political alliance between the local state, the white elite and the white working class.

### 3.4 CONCLUSION

An analysis of the central and local state in South Africa reveals significant similarities and differences. At both the central and local levels there was a concern to facilitate capital accumulation; to cater for the needs of the white working class; and to control, regulate, and repress black labour. The central and local states, however, cannot be viewed as instrumentalist because they sometimes acted against the interests of capital, especially with regard to catering for the white working class. This was very evident in the post 1924 period, when an alliance developed between the state and the white working class. In order to achieve their aims, these states nurtured, and were supported by, a burgeoning bureaucracy which often developed an autonomy of its own. In the main, the bureaucracy, (comprising primarily the white working class), was responsible for the development and implementation of the ideology of white supremacy, which was reflected spatially in the policy of segregation.

However, the local state of Durban did not always support central policy measures. The evidence presented in this chapter supports McCarthy's contention "that the time has come for reconsidering the exceptionalist hypothesis on the local state in South Africa: that is, the hypothesis that South Africa is relatively unique in having a highly dependent set of political processes and local structures".<sup>355</sup> Fiscal constraints were responsible for increased levels of central-local and local-capital conflicts. Durban also developed its own initiatives which influenced central state policies. This theme of local autonomy and central influence will be

developed in the following chapters, focusing on the development of residential segregation in Durban, particularly during the implementation of the Group Areas Act. Attempts by the local and central states to segregate Indians prior to 1950 is discussed in chapter four.

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139. Minutes of the Durban Town Council, 1/12/14.
140. Letter from the Durban Town Council to the Department of Mines and Industry, 5/9/16 (Minutes of the Durban Town Council, 4/12/16).
141. Minutes of the Durban Town Council, 23/1/28.
142. Minutes of the Durban Town Council, 1/12/14.
143. Minutes of the Durban Town Council, 8/4/35.
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145. Municipality of Durban: Inquiry into Administration and Organisation, Report of Mr. Arthur Collins, 7 September 1927, London, para. 370.
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150. Local Government Taxation in Durban. An analysis of the development of the City and the present rating system and sources of income, together with an examination of a change in the incidence of taxation with particular reference to the Council's proposal for the Differential Rating of properties according to types of usage. O.D. Gorven, City Treasurer, March 1963, p. 15.
151. Minutes of the Durban Town Council, 1/12/14.
152. McCarthy, 1991, *op. cit.*, 28. For example, in July 1914 the Natal Soap Works, Ltd., purchased 10 acres of land in Congella (Lot 27) for 10 000 pounds. However, prior to purchase the company inquired if the Council "would use its good offices at the right time to assist in getting the Railway Administration to lay down a railway siding to the property". The Council agreed to this request. The Company then requested if the Council could influence the extension of the railway siding from its terminus at the Municipal Abattoir, across intervening ground which belonged to the Council to Lot 27. Once again, the Council agreed (DCC Minutes, 2/11/15).

153. Mayor's Minutes, 1903, pp. 10 - 11.
154. ibid.
155. Report of the Committee on the Incidence of Rating, 12 April 1923, para. 29.
156. McCarthy, 1991, op. cit., p. 29.
157. ibid.
158. ibid.
159. ibid., p. 28.
160. Gorven, 1963, op. cit., pp. 24 - 25.
161. Mayor's Minutes, 1907, p. 7.
162. Mayor's Minutes, 1908, p. 9. In his review of 'Durban's Gala Seasons', Mayor W. Greenacre stated in 1910 that this tradition was continuing (Mayor's Minutes, 1910, p. 20).
163. Minutes of the Durban Town Council, 1/12/14.
164. Minutes of the Durban Town Council, 4/2/15.
165. Mayor's Minutes, 1910, p. 20.
166. Minutes of the Durban Town Council, 4/7/22.
167. Minutes of the Durban Town Council, 6/10/22.
168. Mayor's Minutes, 1955, p. 2.
169. Gorven, 1963, op. cit., p. 26.
170. Mayor's Minutes, 1913, p. 20.
171. Mayor's Minutes, 1915, pp. 14 - 15.
172. Letter from the General Manager of the Tramways, 3/8/19 (Minutes of the Durban Town Council, 7/10/19), (emphasis added).
173. Letter from the Manager of the Municipal Native Affairs Department to the Town Council, 12/9/19 (Minutes of the Durban Town Council, 7/10/19).
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175. Report of the Town Clerk to the Town Council, 16/9/19 (Minutes of the Durban Town Council, 7/10/19).
176. Minutes of the Durban Town Council, 7/10/19.
177. Report of the Commission Appointed to Consider and Report upon (1) the Extension of the Boundaries of the Borough of Durban or (2) the Better Government of the Local Urban Areas adjacent thereto, 18/12/30 (here after referred to as the Boundaries Commission), para. 141.

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179. McCarthy, J.J. 1988. Changing the Definition of Natal's Metropolitan Areas: The Case of Durban 1930 - 1987. Paper presented at the ISER Seminar Series, University of Durban-Westville, p. 2.
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182. ibid., para. 169.
183. McCarthy, 1988, op. cit., pp. 4-5.
184. Torr, A.L. 1985. The Social History of an African Community: Lamont c.1923-1960. Unpublished Master's dissertation, p. 23.
185. A Report upon the Municipal Finances of Durban. Town Treasurer's Department, 3 July 1915, p. 11.
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187. Mayor's Minutes, 1907, p. 14.
188. Minutes of the Durban Town Council, 11/8/39.
189. "Leasing Town Lands versus Selling in Freehold", the Town Lands Committee's Report, Annexure No. 3, Mayor's Minutes, 1897, p. 101. This point was also emphasised by Mayor J. Nicol in 1899 (Mayor's Minutes, 1899, p. 4).
190. Mayor's Minutes, 1910, p. 5.
191. A Report upon the Municipal Finances of Durban. Town Treasurer's Department, 3 July 1915, p. 5.
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197. Report of the Committee on the Incidence of Rating, 12 April 1923, paras. 30 - 31.
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199. ibid., para. 37.
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305. ibid., p. 23.
306. ibid., p. 33. This point was also emphasised by Councillor Burman (Natal Mercury, 27/11/17).
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321. McCarthy, 1991, op. cit., p. 30.

322. ibid.
323. This will be elaborated in the following chapters.
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## CHAPTER FOUR

### THE PRELUDE TO THE ACT

Historical analysis proves ... that the actual legislative model taken for group areas has been the string of legislative measures starting in the 1880's directed against 'Asiatics' (particularly Indians) in the Transvaal and later, Natal.<sup>1</sup>

#### 4.1 INTRODUCTION

An overview of the nature of the central state in South Africa, and the local state in Durban was presented in the previous chapter. This chapter is primarily concerned with the analysis of constraints imposed upon Indians by the local and central states pertaining to the ownership and occupation of land in Durban prior to the Group Areas Act (1950).

The Indian question in South Africa featured prominently on the national agenda for the greater part of this century. Politicians from diverse parties were unanimous on one issue - the Indian population in South Africa should be reduced to the minimum possible. The main mechanisms to achieve this was denial of political rights, limited employment opportunities and restrictions on their ownership and occupation of land.<sup>2</sup> More specifically, this included constraints on tenure and occupation of land; severe limitations on trading rights; restrictions on immigration and registration; and denial of the franchise.

This chapter is divided into three sections. The first section presents an historical background to the arrival of Indians in South Africa. The second and third sections, respectively, deal with pre-and-post Union measures to segregate Indians and to restrict their land rights. An understanding of the historical circumstances is essential as many aspects of the earlier legislative measures were embodied in the 1950 Act.<sup>3</sup> The chapter will reveal that the local state in Durban was at the forefront of calls for the segregation of Indians almost since their arrival in Durban. It refused to accept the findings of the first Broome Commission that Indian penetration into white areas was minimal, and that the Council had not provided Indians sites with suitable services and amenities. The local state deliberately sabotaged attempts by the central state to facilitate voluntary segregation, and ensured that legislation

was introduced to facilitate Indian ownership and occupation of property. This chapter will highlight how local contingencies influenced national processes.

## 4.2 THE INDIAN QUESTION

The origin of South African Indians can be traced back to the agricultural labour requirements of colonial Natal in the mid-nineteenth century.<sup>4</sup> During this period sugar cane had been identified as the most profitable commercial crop suited to the climate of this region. However, a major shortcoming was an unsatisfactory labour supply. Successful cultivation of sugar cane required a high labour per hectare ratio. Furthermore, the labour had to be semi-skilled, especially for harvesting and milling activities. It has been conventionally argued that the abundant indigenous Zulu labour was inadequate and unsuitable. However, on the contrary, the local Zulus comprised a proficient labour force and were "by no means disinclined to labour, or unwilling to render it to the planters, but upon their own terms and at their own times".<sup>5</sup> There is adequate evidence which reveals that while Natal was arranging for the introduction of indentured labour, the Zulus were working diligently in both the skilled and unskilled sectors of the economy.<sup>6</sup> The indentured labour system was introduced by the British as a substitute for "forced labour and slavery. The indentured 'coolies' were half slaves, bound over body and soul by a hundred and one inhuman regulations".<sup>7</sup> Indentured labourers were vital to the economy of Natal because they "could be worked up to fourteen hours a day, with pitiful wages further reduced through excessive fines for minor transgressions".<sup>8</sup>

The local state of Durban supported the local sugar planters in their motivation for indentured labour. In 1855 the Durban Corporation submitted a memorandum to Sir George Grey, High Commissioner over British territories in Southern Africa, which included the following appeal:

We believe Your Excellency will find occasion to sanction the introduction of a limited number of Coolies or other labourers from the East, in aid of the new enterprises on the coast lands, to the success of which, sufficient and reliable labourers are absolutely essential; for the fact cannot too strongly be borne in mind, that on the success or failure of these rising enterprises, depends the advancement of the colony, or its certain and rapid decline. Experimental



cultivation has abundantly demonstrated that the issue depends solely on the constant supply of labour.<sup>9</sup>

Law 14 of 1859, passed by the Natal Legislative Council sanctioned the importation of Indian labour. The first batch of Indian labourers arrived in Natal in 1860, and they continued to arrive until 1866, when immigration was temporarily halted because of the economic depression and the glut in the world sugar market. By 1866, 6445 Indian men, women and children were in Natal.<sup>10</sup> During this period Indian labourers contributed significantly to the wealth and prosperity of Natal. In 1863 sugar worth 26 000 pounds was exported, and in 1864 this increased to 100 000 pounds.<sup>11</sup> It is important to note that the first batch of Indians were engaged in all the enterprises that sustained the economy of Natal, which in addition to sugar cane, included cotton, tobacco, arrow root and hill rice. This was mainly because most estates grew more than one crop.<sup>12</sup>

The initial period of indenture in Natal was 5 years. At the end of this period they received a certificate of discharge which they had to always carry with them. They could return to India at their own expense or remain in the colony as free labourers.<sup>13</sup> However, at the end of the first five years most labourers had accumulated numerous fines for petty offenses which could only be repaid through another period of reindenture (usually another 5 years). Re-indentured labourers toiled under more arduous and formidable conditions, as employers drew up their own contracts, which offered no protection to employees.<sup>14</sup> At the end of 10 years of continuous residence in Natal the Indians were entitled to a free passage to India. In terms of Law 2 of 1870 passed by the Natal Government this could be exchanged for a free grant of Crown land valued the same as the cost of the return trip.

The first batch of repatriates arrived in India in 1871 and informed the government of the abuses and exploitation in Natal eg. flogging, inadequate medical treatment, excessive fines for minor offenses, and pay deductions for absenteeism.<sup>15</sup> The Indian Government responded by prohibiting further recruitment of indentured labour until employment conditions improved. Meanwhile, in Natal, by 1871 there was an increased demand for Indian labour. In order to allay fears of the labourers and appease the Indian Government, the Natal Government established the Coolie Commission of Inquiry, which completed its report in 1872. The Commissioners concluded that Indians

never have been subject to any systematic ill-treatment and oppression by their employers. Isolated and individual cases have doubtless occurred, but under the revised system of supervision we have recommended, even these, it is hoped will disappear ... Men of steady and industrial habits have the chance of acquiring property and accumulating wealth, and it is probable that as the prosperity of the Colony advances, so in proportion will the fair prospects of these classes.<sup>16</sup>

The report also recommended that labourers who had completed their period of indenture should be offered land grants in lieu of a free return passage to India because "the advantages of retaining in this country a race of men of individual habits and skill can scarcely be doubted".<sup>17</sup> Furthermore, a Protector of Indian Immigrants, who understood Indian languages and culture, was to be appointed. During this period Natal planters were experiencing severe labour shortages which was affecting productivity and profits, and many estates were liquidated.<sup>18</sup> In 1874 the Indian Government sanctioned the continuation of indentured labour to Natal under the new, improved working conditions. The Indian population in Natal increased from under 10 000 in 1875 to about 100 000 by the year 1900.<sup>19</sup>

The late 1870s saw the arrival of a new class of Indians - the so called 'passenger' Indians (because they paid for their own passage), who were mainly traders, and were often referred to incorrectly as Arabs. They differed in terms of caste, occupation and linguistic groups from the indentured Indians. This group was relatively homogeneous, comprising mainly Gujarathi Muslims who had similar and shared economic interests.<sup>20</sup> They made every effort to distinguish themselves politically, socially and economically from the indentured labourers. The 'passengers' viewed themselves as part of a commercial bourgeoisie rather than the working class or peasantry.<sup>21</sup> Initially, they were primarily engaged in supplying the consumer needs of the Indian community. Gradually they began to diversify, and also served white and black customers in Natal, Transvaal and Orange Free State. This resulted in competition as well as conflict with established European traders.

Another group, which was very evident by 1910, was referred to as the 'new elites'. These were the offspring of indentured or ex-indentured labourers, who were differentiated from their underclass roots in terms of their superior positions in the occupational hierarchy, made

possible by their advanced educational qualifications. They included highly trained professionals such as lawyers, accountants, teachers, bookkeepers and clerks.<sup>22</sup>

After the indentured period, the problem of the status of 'free' Indians arose. In 1875 the British government attempted to resolve the problem through a statement made by Lord Salisbury:

Above all things we must confidently expect, as an indispensable condition on the proposed arrangement, that the colonial laws and their administration will be such that Indian settlers, who have completed the terms of service to which they agreed, as the return for the expense of bringing them to the colonies, will be free men in all respects, with privileges no whit inferior to those of any other class of Her Majesty's subjects resident in the colonies.<sup>23</sup>

However, such noble intentions were never fulfilled.

By the end of the 19th century, three classes of Indians could be identified in Natal:

- i) indentured labourers;
- ii) those who had completed their indenture and worked as free Indians; and
- iii) traders, or passenger Indians, who emigrated to Natal at their own cost.<sup>24</sup>

The free Indians played an important role in the economy of Natal. Although the law permitting the exchange of the free passage to India for Crown land was cancelled in 1890, many enterprising ex-indentured Indians purchased or rented plots of land for various agricultural activities. In 1877 the Protector of Indian Immigrants reported: "All the fishing and nearly all the market gardening and hawking of fruit and vegetables are in the hands of Indians".<sup>25</sup> Little or no capital was required for engaging in such petty enterprises.<sup>26</sup> At the turn of the century they were also engaged in skilled and semi-skilled activities in industry and commerce. In fact by the time indentured labour was stopped in 1911 all sectors of the economy of Natal were dependent to some extent on Indian labour. In 1901 the Protector remarked:

There is no getting away from the fact that, if, by any reason, Indians were unhappily withdrawn from the colony, or even their introduction discontinued for a short time, the whole of the industries of the country would at once be simply paralysed. Not only would this be the case in regard to any private enterprise, but every public institution in the colony would suffer more or less.<sup>27</sup>

In July 1903, Sir Leige Hulett, former Prime Minister of Natal, paid tribute to indentured Indians:

The condition of the colony before the importation of Indian labour was one of gloom, it was one that then and there threatened to extinguish the vitality of the country, and it was only by the government assisting the importation of labour that the colony began at once to revive. They could not find in the whole of the Cape and the Transvaal what could be found on the coast of Natal - 10 000 acres of land in one plot and in one crop - and that was entirely due to the importation of Indians ... Durban was absolutely built up by the Indian population.<sup>28</sup>

The success of the 'passengers' or traders was phenomenal. This was attributed largely to their determination to work hard and succeed; business acumen; ability to identify markets, which ranged from the urban to rural trading outposts; maximum exploitation of their connections with India; and utilisation of family labour. These factors, cumulatively, contributed significantly to the ability of Indians to compete successfully against white traders.

The general economic success and prosperity of the immigrant group, and their ability to overcome almost impossible odds, generated a great deal of envy, bitterness and anti-Indian sentiments amongst whites. Whites displayed racial prejudice against Indians, feared their economic competition, and were also concerned about their rapid population expansion which was perceived as a political threat. This anti-Indian agitation began in the 1870s and surfaced in 1880. In 1876 the Natal Witness, which represented white interests in the Natal interior, argued that "Indians were not in need of protection. It is rather the European community that requires protection against the heathen coolie".<sup>29</sup>

Those in the anti-Indian camp advocated either the repatriation of all Indians to India after completion of their period of indenture, or the introduction of a poll tax for all free Indians. Both policies were devised to make Indian settlement in Natal impossible or untenable. The basic aim was to inhibit the development of an Indian bourgeoisie, and to ensure that they were confined to the level of servile, unskilled labourers. The clamour for restrictions on the trading activities of Indians should not, however, be viewed only in

racial terms because large white businesses, finding the Indian trader a good middleman (especially in the 'Kaffir' trade), had no qualms about dealing with him. The poorer classes of whites readily patronised Indian stores. The major impetus for restrictions against the Indian trader appears to have come from

small white traders in the country districts, who seem to have been hardest hit by Indian competition.<sup>30</sup>

As the anti-Indian imbroglio increased, the Government was forced to appoint a commission of inquiry in 1885 to investigate the various allegations. The Indian Immigrants Commission was chaired by Mr Justice Wragg. The overwhelming white opinion summarised by the Commission was that Indians should remain under indenture for the duration of their stay in Natal. However, the Commission acknowledged that the competition offered by Indians was legitimate, and was keen to protect the interests of agricultural and industrial capital by ensuring an abundant supply of cheap labour:

In fairness to the free Indian, we must observe that the competition is legitimate in its nature, and it certainly has been welcomed by the general community. There can be no doubt that Natal is admirably suited, whether as a temporary or permanent home, to Indian immigrants. We are impressed with the necessity, at a time when the colony is labouring under a depression of the most serious nature, of so moving that its agricultural development shall not be retained. We are anxious not to imperil the interests of those persons who have been induced, by an abundant and continuous supply of Indian labour, to invest their capital in large industries of undoubted benefit to the whole of the colony.<sup>31</sup>

The evidence presented by prominent whites to the Commission acknowledged the contributions of Indians to the economy of Natal. Sir Henry Binns (former Chairman of the Indian Immigration Trust Board and Prime Minister of Natal) stated:

Were coolie immigration to be permanently stopped ... in a very short time after such stoppage, there would cease to be as much employment for Europeans, as there is now. Tropical cultivation never has been and never will be carried on without Indian labourers.<sup>32</sup>

According to Sir J.L. Hulett the

free Indians, at present in the colony, are an immense benefit, being largely engaged in agricultural pursuits. I do not think the competition of the free Indians has interfered in the slightest degree with the development of the country by European settlers.<sup>33</sup>

In spite of the findings of the commission, the anti-Indian agitation continued in Natal and the Transvaal. Since 1885 Indians were forbidden to own land in the Transvaal, except in streets and locations specially allocated by the government. Law 15 of 1898 in the Transvaal prevented Indians from operating in gold mining areas. Indians were forbidden to work, own

or occupy property in the Orange Free State in 1891. Existing businesses were closed down, and the owners were deported without any compensation.

Anti-Indian agitation culminated in a three-fold legislative programme which was chiefly conceived to curb the economic and political force of the Indians, and ultimately to promote their repatriation to India.<sup>34</sup> The first part of the programme was an attempt to disenfranchise Indians in terms of the Franchise Act of 1896. Interestingly, only 3 Africans and 251 Indians had the vote in Natal.<sup>35</sup> Secondly, in terms of Law 17 of 1895, a poll tax of 3 pounds was imposed on all Indian heads of households who did not reindenture or return to India. Failure to pay the tax could result in deportation or imprisonment. In 1900 this tax was extended to all members of the family.<sup>36</sup> Finally, in terms of the Dealers Licences Act No. 18 of 1897 local authorities could refuse trading licences to Indians without fear of them having recourse to the courts.<sup>37</sup> This Act was the outcome of European agitation against Indian traders. The Immigration Restriction Act No. 1 of 1897 barred the entry of free Indians into Natal. The law providing for the grant of Crown land to ex-indentured labourers was repealed in 1891. The importation of Indian labour was stopped in 1913.<sup>38</sup>

Thus constraints on the economic activities of Indians in different parts of South Africa were embodied in the following measures:

- i) their freedom to trade was curtailed by licensing policies and restriction on ownership of real property;
- ii) they were denied access to the direct exploitation of the mineral wealth; and
- iii) immigration policies restricted their freedom to move in and out of South Africa and to move freely from one part to another.<sup>39</sup>

Politically, the period between 1893 and 1914 is regarded as the most turbulent in the history of Indians in South Africa.<sup>40</sup> In 1892 Gandhi, a barrister, arrived in Pretoria to represent an Indian merchant in a lawsuit. After experiencing personal racial insults, and spurred by a concern about the plight of Indians, he stayed on for 21 years, fighting for the rights of his countrymen. Gandhi was responsible for the formation of the Natal Indian Congress (NIC) on 22 August 1894 and served as its first secretary.<sup>41</sup> Gandhi was well known for his policy of passive resistance or 'Satyagraha'.



The 'Indian question' was a key political issue in the first 60 years of this decade in South Africa, and it became an international issue which was raised repeatedly in the United Nations' General Assembly.<sup>42</sup> A consistent policy of all governments during this period was the view that all Indians should ultimately be repatriated to India. On the occasion of the Smuts-Gandhi Agreement of 1914, Gandhi commented:

Compulsory repatriation is a physical and political impossibility; voluntary repatriation by way of granting free passages and similar inducements will not, as my experience teaches me, be availed of to any appreciable extent. The only effective strategy for a great State to adopt is to face responsibility fairly and squarely, to do away with the remains of the system of indenture and to level up this part of the population and make use of it for the general welfare of the Union.<sup>43</sup>

In 1925 D F Malan, the Nationalist Minister of the Interior, stated that Indians were aliens in South Africa, and "that no solution of this question will be acceptable to the country unless it results in a very considerable reduction of the Indian population in this country".<sup>44</sup> The Indian problem was a key issue in the Nationalist Party election manifesto in 1948:

The party holds the view that Indians are a foreign and outlandish element which is unassimilable. They can never become part of the country and therefore must be treated as an immigrant community. The party accepts as a basis of its policy the repatriation of as many Indians as possible.<sup>45</sup>

In 1961 the Government finally, though belatedly, accepted that Indians were a permanent part of the South African population. On 16 May 1961, the Minister of the Interior, Senator de Klerk, stated:

In the past the Asiatics were justified in feeling they were being regarded as a foreign group and do not belong here ... But gradually people came to realise ... that the Indians in this country were our permanent responsibility. They are here and the vast majority of them are going to remain here, and although the repatriation scheme is used on a very small scale the vast majority of them are South African citizens and as such they are also entitled to the necessary attention and the necessary assistance.<sup>46</sup>

During the first 6 decades of this century numerous 'anti -Indian' legislation and ordinances were passed at central and local state levels, devised to make the lives of Indians intolerable in South Africa.<sup>47</sup> Aspects of legislation promoting residential segregation and denying Indians access to land prior to 1950, will be discussed in some detail in the following sections.



### 4.3 SEGREGATION IN THE PRE-UNION PERIOD (pre - 1910)

The legal segregation of Indians in South Africa preceded that of urban Africans by more than thirty years. The whites of Durban were more concerned about the 'Asiatic menace' than the 'Native problem'. Natives were perceived as a passive threat, but Indians were regarded as a "sophisticated and active menace to their own position in colonial society, competing for space, place, trade, and political influence with the imperial authority".<sup>48</sup>

The local state of Durban, representing the white ruling class, was at the forefront of calls for segregation of Indians. In 1871 the Durban Town Council adopted a policy to create separate Indian locations. It represented the "first concerted attempt at group area segregation in Durban and one of the first in a major South African town".<sup>49</sup> The scheme failed because the Governor refused to consent to it. However, the principle of separate residential locations for different race groups was ensconced.<sup>50</sup>

Meanwhile, Indians continued to develop as an integral and permanent part of the urban community in Durban. By 1896 there were about 8 000 Indians living in the city, owning about 200 plots of land and buildings worth about 80 000 pounds. In addition, they had 134 retail, 63 hawkers' and 17 eating-house licences. Furthermore, 34 Europeans rented their houses.<sup>51</sup> The Durban Town Council attempted to control Indian residential expansion by invoking sanitary building regulations and vagrancy laws.<sup>52</sup> The Mayor expressed concern about the undesirable effects of selling or leasing property to Indians in central Durban, and in 1875 he stated that

legislation will doubtless have to be resorted to, to prevent these people thus locating themselves in our very midst, their habits and customs being, as is well known, so totally at variance with and repugnant to those of Europeans.<sup>53</sup>

In the 1880s there was great deal of European agitation against Indian traders. Indian traders represented a threat to whites because of their more efficient operations, use of family labour and lower profit margins. Whites could not tolerate Indians who rose above working class status.<sup>54</sup> Wyley notes that "[e]ditorials declared the 'Asiatic trader' a 'parasite', 'dangerous and harmful', 'the real cancer that is eating into the very vitals of the community'".<sup>55</sup>

Basically there was a conflict between white and Indian capital, and this was expressed in racial terms. During this period trade was the main economic activity of local whites, and was also a symbol of their social status. Indian merchants challenged white economic hegemony and status. Durban whites retaliated to this threat in racial terms, treating wealthy Indian merchants "in the same way as other racially distinct groupings in colonial Natal, the African and Indian labouring poor".<sup>56</sup> This conflict was aptly summarised by the central state, which argued that the European

saw the Indian merchant, with his low standard of living, cutting prices to catch the trade; he saw the Indian artisan and factory worker accepting lower wages than would enable a European to live, and he feared a gradual deterioration in the standard of white civilisation which he and his forebears had fought and laboured over two centuries to build up. The Indian was no longer working on the sugar estates. He had become a vegetable farmer on his own land, a trader in the country or a merchant in the towns; a factory owner or worker, a wholesaler, a retailer, a lawyer, a doctor, a waiter, or a launderer. He was in fact working and trading in competition with the European with the special advantage that, his standard of living being lower than that of the European, he was content with a smaller profit and a lower wage.<sup>57</sup>

In 1894 an unsuccessful attempt was made in Natal to pass a Bill which would deny Indian trading licences and regulate existing licence holders.<sup>58</sup> In 1897 the Dealers Licence Bill was passed in response to the "strong public feeling which was being expressed, both through the local press and in the form of public demonstrations, at the ease with which increasing numbers of Asiatics could obtain licences in Durban".<sup>59</sup> In terms of this legislation a town council or town board could appoint a licensing officer to issue or refuse trading licences at his discretion. His decision could not be reviewed by a court of law. This resulted in an absolute decline in the number of Indian traders. In 1897, licensed Indian traders comprised 55 percent of the total in Natal (523 out of 941). In 1900 they were 27 percent, (472 of 1 578).<sup>60</sup> The Licensing Officer for Durban was to later remark:

I use my discretion as to whether an Asiatic should trade in any particular street or area ... A European licence is granted almost as a matter of course; whereas the Indian licence is refused as a matter of course.<sup>61</sup>

By 1910, when the Union was formed, the rationale for segregation measures in Durban were mainly embodied in terms of concern for sanitary conditions. However, these measures were mainly devised to curb the trading practices of Indians, and they were not strictly enforced.

#### **4.4 POST-UNION SEGREGATION MEASURES (1910 - 1948)**

The post-Union period was characterised by the approval of more drastic legislation to enforce residential segregation in Durban. This was fuelled by the strong anti-Indian attitudes and prejudices of whites. A significant feature of the period under review was the evolution of initially isolated and regional segregation measures into all encompassing and cohesive national laws. These measures were often preceded by major investigations which were employed to justify state action. An analysis of the most significant commissions of inquiry and their associated legislation follows.

##### **4.4.1 Anti-Indian Agitation and the Asiatic Inquiry Commission**

Amidst intensified anti-Indian agitation<sup>62</sup> in the post World War I period, the Government appointed the Lange Asiatic Inquiry Commission in 1920 to investigate the two burning issues of the period - Indian trading and their acquisition of land. The Commission was chaired by Sir John H. Lange, a Judge of the Supreme Court of the Cape Province. The Commission sat in all 4 provinces to hear evidence about the position of Indians.

The major European complaints against Indians included: their unsanitary habits; they reduced the value of their dwellings and neighbourhood; they engaged in unfair trading practices and are therefore able to undersell European traders and reduce their employment opportunities; and they sent their capital out of the country.<sup>63</sup> However, not all the European evidence was anti-Indian. If Indians were denied trading rights, some white [Afrikaner] farmers asserted that they would be at the mercy of the "alien European trader [who] is generally exorbitant and exacting, and aims at eventually getting a mortgage on the land of his debtor".<sup>64</sup>

Indians arduously contested the European allegations against them. Their 'unsanitary' habits was due to the failure of municipalities to provide adequate services in Indian areas. The entire community had benefitted from their trade - farmers and natives in rural areas; they catered for the needs of poor whites; and generally kept the cost of living down through keen competition.<sup>65</sup> The Commission generally endorsed these views and concluded that anti-

Indian incitement had been orchestrated by European traders. In loco inspections confirmed that Indian locations had been neglected.<sup>66</sup> Referring to the Indian residential areas, the Commission stated that although a few upper class Indians were "occupying houses on the Berea, ... the general tendency is for Indians of the same social standing to live in the same quarter".<sup>67</sup> In spite of demands from many whites, the Commission was not in favour of compulsory segregation:

Indiscriminate segregation of Asiatics in locations and similar restrictive measures would result in eventually reducing them to helotry. Such measures, apart from their injustice and inhumanity, would degrade the Asiatic and react upon the European.<sup>68</sup>

Despite its reasonable findings and conclusions, the recommendations of the Commission were provocative, especially in terms of their political implications. While acknowledging the deplorable conditions in Indian locations, it concluded that some form of residential segregation was inevitable in the urban areas of Transvaal and Natal. It supported the retention of all the existing laws restricting Asiatic ownership and occupation of land. The Commission maintained that there should not be any compulsory segregation of Asiatics. Rather there should be a system of voluntary segregation, which, if possible, should be mutually agreed upon. This process would be facilitated if municipalities laid out suitable residential and commercial areas, with satisfactory public services and amenities to attract Indians.

The Lange Report advocated the creation of a special Board, comprising 3 or 4 capable and impartial members, appointed by the provincial administrator, to classify segregated areas.<sup>69</sup> A uniform law, applicable throughout the Union, was advocated for the issuing of trading licences. This was to be administered by local authorities. In contrast to earlier measures, reasons for refusals were to be given, and there was also a possibility of appeal.<sup>70</sup>

There was one area, however, where the Commission advocated compulsory segregation. This was to be in the agricultural sector, where many farmers expressed fears of rapid expansion of Indian land holdings, particularly in the interior. The Commission recommended that the right of Indians to acquire agricultural land should be restricted to the coastal belt and 20 to 30 miles inland. Furthermore, this measure should be supported by legislation. It did

concede that Indians would experience difficulty in obtaining freehold or leasehold land on reasonable terms.<sup>71</sup> Ironically, evidence presented to the Commission emphasised the positive, pioneering role Indians were playing in developing undeveloped territory.<sup>72</sup>

Legislation embodying the recommendations of the Lange commission were contained in the abortive Class Areas and Areas Reservation Bills. Before these are discussed, a significant development in Durban, Ordinance No. 14 of 1922 will be considered.

#### **4.4.2 The Local State and Land Alienation**

Up to this period there were no statutory restrictions on the ownership and occupation of land by Indians in Natal. The Durban Town Council owned a considerable amount of land which was offered to the general public (including Indians) at periodic auctions. In 1922 Europeans protested against Indians bidding for land. The Durban Town Council then requested the Natal Provincial Council to pass an Ordinance introducing an 'alienation' clause into the title deeds so that ownership and occupation was confined to one race group. In practice this was an anti-Indian clause.<sup>73</sup> In terms of the Durban Land Alienation Ordinance No. 14 the Town Council was empowered to

with the consent of the Administrator, make provision in the conditions of sale or lease ... for restricting the ownership or occupation thereof or both to and for prohibiting the ownership or occupation thereof or both by persons of European descent, Asiatics or Natives or persons of any one or more of such classes, and may insert in the title deeds or leases of any such property the conditions necessary to give full force and effect to such provisions and/or restrictions.<sup>74</sup>

Although the Governor approved the Ordinance, he expressed the belief that sufficient land would be available for Indian housing, although this was never honoured.<sup>75</sup> In 1923 the Ordinance was extended to apply to all towns in Natal.

The Indian community vehemently opposed the passing of the Ordinance and the NIC lodged protests with the Union Government that the local authorities had unlimited powers with regard to the sale or lease of 'unalienated' land.<sup>76</sup> The Secretary for the Interior replied with

the assurance that in introducing racial restrictions to land sales the Administrator had to ensure that Indians were given an opportunity to acquire adequate residential sites.<sup>77</sup> Local authorities paid no heed to this assurance, and the effect of this ordinance was

that hundreds of acres of Municipal owned land ... have since 1922, been sold to Europeans with conditions restricting the ownership and occupation to Europeans. And since that year only 16 lots have been sold to Indians in the Borough of Durban ... From 1920 onwards thousands of acres outside the City of Durban have been developed into modern townships for European occupation. Indians who had occupied these areas were pushed out to make way for townships.<sup>78</sup>

In 1928 the Government appointed Central Housing Committee stated that this appropriation of Indian owned land was a breach of the undertaking given to the Government on the part of the Durban Municipality.<sup>79</sup> According to the Committee, while the Corporation had made great efforts to improve the housing conditions of Europeans, little or nothing had been done for the housing of Indians. It found that Indians were living in dwellings which had been "condemned as unfit for human habitation".<sup>80</sup>

The restriction on the supply of land for Indians as a result of the 1922 Ordinance was exacerbated by the tendency of Europeans to insert anti-Asiatic clauses in their title deeds to prevent Indians from purchasing their property.<sup>81</sup> It was estimated in 1938 that with an Indian population of about 100 000 the value of Indian owned property in Durban was 4 000 000 pounds out of a total valuation of 50 000 000 pounds. The situation was likely to be bleaker in other towns in Natal.<sup>82</sup>

In Durban land for the development of the Indian community was thus limited to the older, established settlements which were already overcrowded. This led to infiltration into European areas and the outrage against 'Indian penetration'.

#### 4.4.3 The Failure of Central State Measures

##### i) The Class Areas Bill

The Class<sup>83</sup> Areas Bill (1924) was the first attempt to implement some of the recommendations of the Asiatic Inquiry Commission. It was drafted by Mr Patrick Duncan, Minister of the Interior in Smuts' cabinet. This was basically a racial Bill which dealt with the controversial issue of Indian land ownership and occupation. The main aim of the Bill was to assign separate areas in Natal towns where Indians could trade, live and obtain property without permit or obstruction. However, their trading and residential options will be controlled in other areas. The local state was to play an important role in implementing segregation. According to the Bill whenever an urban local authority shall intimate to the Minister:

- a) that any area within its limits is wholly or for the greater part occupied for residential or trading purposes or both such purposes by a particular class of persons, or that an area within those limits is available for the exclusive occupation for residential or trading purposes by a particular class of person; and
- b) that it is desirable that the provisions of this Act should be applied in respect of such area, the Minister may appoint a commission consisting of not more than three persons ... to investigate and report upon the desirability of applying to such area and to the urban area within which it is situated the provisions of this Act.<sup>84</sup>

The Governor-General could then proclaim the said area "a class residential area, or a class trading area, or a class residential and trading area within the urban area".<sup>85</sup> Once an area has been proclaimed for a particular class it would be illegal for a person belonging to another class to acquire property, lease or renew a lease, or trade within such an area.<sup>86</sup>

Indians were scathingly critical of the Bill as it would ruin them. It would deprive them of their trade, residence and land rights in Natal. Also, Indian immigration would be strictly controlled. The Bill was "marked by a desire to paralyse the existence of the Indians".<sup>87</sup>

The Durban Town Council Sub-Committee appointed to examine the implications of the Bill stated that it would not have had any impact on Durban, where it would "merely stereotype



into the law the present practice obtaining within the Borough as regards trading and residential areas".<sup>88</sup> As early as 1914 the Indian Inquiry Commission reported that in Natal Boroughs it was extremely difficult for Indians to obtain trading licences, except in those parts of the towns which were almost solely occupied by them, and could be considered as "Asiatic reserves".<sup>89</sup> This was further corroborated by the Asiatic Inquiry Commission of 1921 which established that in Durban the policy of the local Licensing Officer was to restrict Indian traders to specific locations.<sup>90</sup> The Council Sub-Committee was, however, particularly concerned that the Bill did not address the problem of the economic competition presented by Indians:

From an economic competitive point of view the Bill does not help Durban. One of the gravest aspects of the Asiatic Question is the economic competition of the lower-paid Indian with the European on a white man's wage, and the measure now before Parliament does not in any way touch this question.<sup>91</sup>

Meanwhile, there was an impending general election. The Class Areas Bill did not reach the statute book because the Smuts Government lost the election. The new Nationalist-Labour pact Government, headed by General Hertzog, revived demands for statutory segregation of Indians.

## **ii) Areas Reservation Bill (1925)<sup>92</sup>**

The Areas Reservation and Immigration and Registration (Further Provision) Bill<sup>93</sup> was introduced in 1925 by the new Minister of the Interior, Dr. D.F. Malan. In essence, it constituted a revival of the Class Areas Bill,<sup>94</sup> and attempted to apply more stringently the recommendations of the Lange Commission. Dr Malan, introducing the Bill in Parliament, stated: "We are dealing in this Bill not only with residential or commercial segregation, but also with landownership, especially in Natal".<sup>95</sup> The Bill also sought to restrict Indian immigration and encourage repatriation so that there would be a significant reduction in the Indian population of the country.<sup>96</sup>

In terms of the Bill specific areas were to be set aside for Indian trading and occupation. The Bill also legitimised the Lange recommendation that Indians should be prevented from

purchasing or leasing property more than 30 miles from the coast. About 500 to 700 business premises were to be affected as a result.<sup>97</sup> The Durban Town Council objected to this provision, fearing that it will encourage a high concentration of Indians in the coastal areas, and that this would result in an escalation of the Indian 'problem' in Natal. According to the Sub-Committee appointed by the Town Council to examine the Areas Reservation Bill, it would not present a permanent solution as there would be greater pressure on the white community in the coastal belt of Natal.<sup>98</sup> According to Councillor H.H. Kemp

the Burgesses of Durban will be under no delusion that the Bill, if passed in its present form, and the Coast Belt of Natal is treated differentially from the rest of the Union, the general ultimate result will be in the direction of a gradual drift of Indians to the Coast Belt and Durban will find itself de facto an Indian area much in the same way as Mauritius is today.<sup>99</sup>

The Indian community in South Africa and the Indian Government protested strongly against the Bill. The NIC argued that the Bill would ensure that Indians did not have security of tenure as it empowered the Governor-General to proclaim as well as deproclaim areas. To the NIC the aim of the Bill was to

oust the Indian from his present vested proprietary rights and give him practically nothing substantial in place thereof, but virtually makes him a squatter and that at the wish and will of the Minister ... [Ultimately the Bill] will cripple the whole life and trade of the Indian Community and absolutely without the shadow of a doubt crush out all Indian agricultural work, progress and prospects.<sup>100</sup>

The Indians who were to be restricted to the coastal belt were mainly subsistence farmers, squatting on European owned land. They would be forced off the land, lose the means of their livelihood, and enter the labour market as surplus, unskilled labourers.<sup>101</sup> Also, their vital contribution to the economy was being ignored:

So far as agriculture is concerned, the Indian has fulfilled his duty to the country. They ... brought into cultivation and under production land which was otherwise idle ... So far as the coast-belt is concerned here ... in Natal, they have done the same thing as the peasants have done in France ... some parts of the land which at the present time have been reclaimed from nature ... would never have been occupied by Europeans.<sup>102</sup>

On the 23 February 1926 Indians throughout the Union observed a National Day of Prayer for protection in this hour of danger. A South African Indian Congress (SAIC)<sup>103</sup> deputation was sent to India to inform the Government and the public there about the plight

of Indians in South Africa.<sup>104</sup> The Bill generated "consternation and anger throughout the whole Indian world, and for the first time the treatment of Indians became a decisive factor in Indian nationalism and British-Indian relations".<sup>105</sup>

The official opposition of the Indian Government to the Bill resulted in the second reading being dismissed, and it being referred to a Select Committee. In evidence tendered to the Select Committee the Paddison Deputation, appointed by the Government of India emphasised that Indians objected in no uncertain terms to the principle of racial segregation.<sup>106</sup>

In its evidence to the Select Committee, the Durban Town Council suggested that the problem could be amicably resolved by means of a Round Table Conference among the different interest groups.<sup>107</sup> The Council supported this conference "with a view to achieving by mutual consent a great deal more than the Bill would achieve".<sup>108</sup> The Union Government initially refused, and later reluctantly agreed to hold the Conference. The round-table conference was held in Cape Town from 17 December 1926 to 11 January 1927. The agreement emanating from this conference was referred to as the Cape Town Agreement.<sup>109</sup> The essence of the agreement was that India would support a program of voluntary repatriation to India, and there would be a concerted effort by the Union Government to improve the quality of life of Indians remaining in South Africa. An important concern of the Agreement was the 'Upliftment of the Indian Community':

The Union Government firmly believes in and adheres to the principle that it is the duty of every civilised Government to devise ways and means and to take all possible steps for the uplifting of every section of their permanent population to the full extent of their capacity and opportunities, and accept the view that, in the provision of educational and other facilities, the considerable number of Indians who will remain part of the permanent population should not be allowed to lag behind other sections of the people.<sup>110</sup>

As a result of the Cape Town Agreement the Areas Reservation Bill was withdrawn. On various occasions the Cape Town Agreement was referred to as the Magna Carta of Indians. The Durban Town Council was not entirely satisfied with the Cape Town Agreement. According to Councillor Acutt it "did not in any way provide a permanent solution of the Indian problem in Natal and will not protect the white races from unfair economic competition".<sup>111</sup> The Cape Town Agreement, however, was violated on numerous

occasions, and demands for compulsory segregation of Indians continued. The Natal Municipal Association (NMA)<sup>112</sup> resolved at its 30th Annual Conference to call upon the Government to introduce "legislation giving local authorities power to declare areas within their boundaries for the occupation of Europeans only".<sup>113</sup> The Durban General Council of the United Party urged that since the Cape Town Agreement had

failed to preserve the status quo ante regarding the penetration of Asiatics into white areas, rural and urban, steps should be taken immediately to control by legislation the further acquisition of land and property by Indians.<sup>114</sup>

Allegations of Indian penetration into white areas in Durban continued. In the early 1930s this movement was hardly noticeable, but it ultimately had a major impact on white politics as well as South Africa's international relations. Penetration referred to the "deliberate intention on the part of Indians to intrude into European areas".<sup>115</sup> This resulted in the institution of the Broome Commissions (1941 and 1943), to investigate the extent of Indian penetration and the introduction of statutory segregation.

#### **4.4.4 Indian Penetration**

Historical factors determined that 80 percent of the Indian population, which comprised only 2,5 percent of the total population of the Union, was concentrated in Natal.<sup>116</sup> This was compounded by the fact that provincial boundary restrictions prevented them from moving into other provinces.<sup>117</sup> Changing occupational patterns, particularly the shift from primary to secondary activities, resulted in half of the Indians in Natal, and 41 percent of the total population in Natal, living in and around Durban.<sup>118</sup>

The inner city or Old Borough of Durban extended for twelve and a half miles, between the Umgeni and Umbilo Rivers, and westwards from the sea shore to the Berea ridge line (figure 4.1).<sup>119</sup> This area represented the industrial and commercial heart of the city. It is evident from figure 4.1 that the Berea ridge was almost exclusively occupied by whites, while Indians lived in the hilly inland area, outside the Old Borough boundary. In 1932 Durban's municipal boundaries were extended by the consolidation of eight peri-urban areas (South



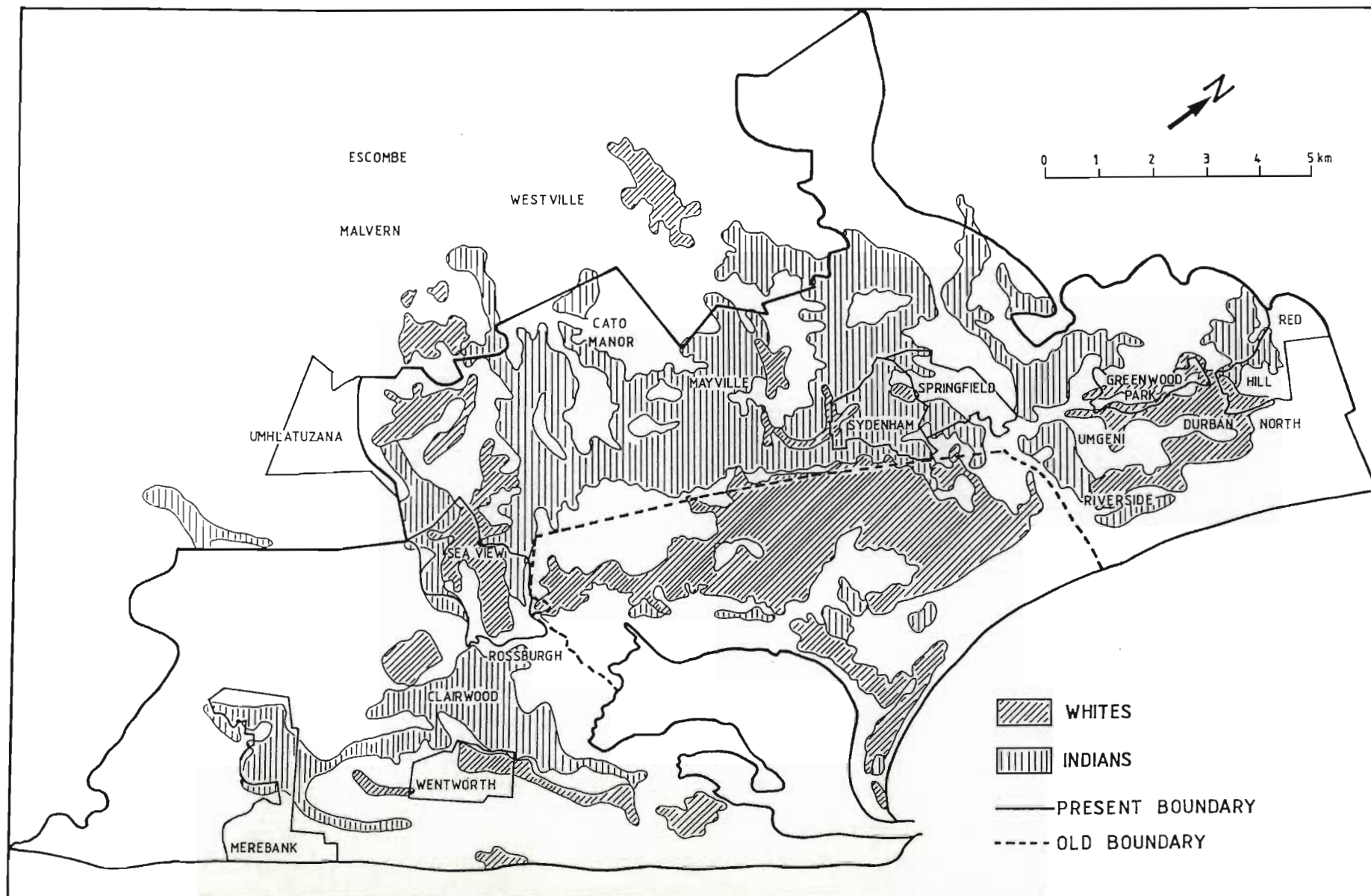


Figure 4.1 Predominantly white and Indian areas in Durban in the 1940s

Coast Junction -Clairwood and Rossburgh; Umhlatuzana; Mayville; Sydenham; Umgeni; Greenwoodpark; Red Hill; Durban North).<sup>120</sup>

It is important to note that the Durban Town Council desired to extend its boundaries since the early 1920s. One of the ostensible reasons for this was the unsanitary conditions under which the Indians were living immediately outside the Municipality's perimeter.<sup>121</sup> Concern was also expressed about the shortage of land for Indian occupation in Durban. However, the primary concern was to control and regulate Indians and their activities:

From the point of view of Greater Durban, in so far as the Asiatic population is concerned, which is as populous immediately outside the Municipal Boundary as it is within the Borough, the same principles which apply within the Borough should apply to the suburbs adjacent to the Borough.<sup>122</sup>

In the process the Council will be able to extend its avowed policy of the territorial segregation of Indian residential and trading activities to surrounding areas.

It is evident from table 4.1 that with the extension of Durban's boundaries there was a drastic change in the racial composition of Durban. In the Old Borough Indians comprised only 15 percent of the population in 1932, and whites 47 percent. In 1933, after the extension of the boundaries, whites decreased to 36 percent while Indians increased to 32 percent. There was, however, no improvement in the living conditions of Indians. Reflecting the popular white view that Indians would ultimately be repatriated, the DCC contended that it would be unreasonable "to spend money on an alien population, a large but unknown proportion of which was likely, at any time to be removed to their own country".<sup>123</sup>

There was a serious shortage of land for housing. The DCC developed thousands of acres in the newly acquired areas, (five of which were predominantly Indian), for modern European townships as well as industry. In the process thousands of Indians who had occupied these areas for decades were displaced. Many hundreds of whites living in the Old Borough of Durban, which was a former elite area in decay, sought to dispose of their deteriorated dwellings in order to procure houses in the new townships. They found ready buyers in the rapidly growing Indian population, and it was against these acquisitions that the Europeans agitated.<sup>124</sup> Furthermore:

A comparison ... of Indian and European purchases in Natal would weigh heavily against the European. Large tracts of land on the outskirts of the City of Durban, which were formerly owned by Indians, have consequently been bought off by Europeans. To-day suburbs, like Westville, Sea View, Malvern, Escombe, etc., are for the large part European areas.<sup>125</sup>

Burrows aptly summarises the residential circumstances of Indians in the 1930s:

the main characteristics of Indian localities ... are that they are low-lying or on steep slopes, often lacking in normal services and amenities, and already overcrowded ... In some areas the standard of housing and urban facilities is deplorably low; with their shacks and primitive sanitation, they are largely slums ... the natural tendency for residential differentiation to emerge from economic differentiation has been thwarted. Family units with high and low incomes are found near one another and there is an absence of the geographical distribution of families usually associated with income distribution.<sup>126</sup>

**Table 4.1 Racial Composition of Durban: 1932 - 1933<sup>127</sup>**

RACE	1932	Percent	1933	Percent
European	59 480	47	79 600	36
Coloureds	4 290	3	4 910	2
Indians	18 500	15	69 610	3
Africans	43 750	35	64 610	30
TOTAL	126 020	100	219 830	100

This was because there was no suitable housing for those in the higher income groups. Hence, those in the upper income group, mainly engaged in commerce and the professions, began to move into predominantly European areas.

It was interesting that the DCC, the Natal Provincial Council and the NMA expressed similar concern at the extent of Indian penetration, and both supported the clamour for some form of statutory intervention to curb this practice. The Union Government also colluded with the



DCC with regard to this issue. The Natal Provincial Council in 1939 considered the following resolution: "That this Council views with alarm the serious Asiatic encroachments in this Province and supports wholeheartedly any legislation that will reserve areas for Europeans".<sup>128</sup>

The NIC responded that this resolution was presumptuous and baseless, and that the penetration agitation was not sustained by the facts. Although there had been some expansion adjacent to established Indian areas this has been negligible in both degree and value.<sup>129</sup> In 1921 the Asiatic Enquiry Commission stated that although there were a few isolated cases of Indians residing in white areas, the evidence showed that "they prefer residing amongst their countrymen of the same class as themselves, instead of amongst Europeans who regard them as helots".<sup>130</sup>

An interesting observation was that Europeans should be the last group to complain about penetration:

Our whole history since the European first came to South Africa has been one of penetration. He penetrated the domain of the African with the point of the sword, either slaying his opponents or making slaves of them in the process, till he had driven them into comparatively small reserves. And yet the Europeans have picked on the word 'penetration' to make out what they consider is a good case against the Indians of South Africa.<sup>131</sup>

In September 1939, Councillor S.M. Pettersen urged the DCC to consider approaching the Government to introduce legislation to prevent Indians from purchasing properties in white areas.<sup>132</sup> The DCC adopted the following resolution with regard to Asiatic penetration in November 1939, which was submitted to the Secretary for the Interior:

That the City Council views with alarm the continued penetration of Indians into purely residential areas; the Council feels that some powers of restriction should be granted to it and to this end urges that a Government Departmental Enquiry Committee should be appointed to enquire into the extent of penetration and the best method to curtail and prevent such penetration in future.<sup>133</sup>

This period was also characterised by a shift in Indian politics. It is important to note that up to 1939 Indian politics was dominated by the trading and commercial elite. The NIC, for example, served vested commercial interests, and was controlled by the affluent merchants.

The various restrictions in Natal curbed the expansion of the bourgeoisie and threatened the very existence of the petty bourgeoisie. Therefore, although the merchants sometimes included the complaints of the working class in their political representations, they were primarily concerned with their own problems.<sup>134</sup> The working class was thus not regarded as an important constituency.<sup>135</sup> Earlier, in 1933, the Colonial Born and Settlers Association (CBSIA) was formed to oppose the elite ideology of the NIC.<sup>136</sup> In 1939 a new generation of more militant political activists began to contest leadership positions in the NIC. As a result the majority in the NIC and the CBSIA merged to form the Natal Indian Association. However, the more conservative elements continued to operate under the NIC banner, lead by A.I. Kajeer (figure 4.2).<sup>137</sup>

In response to the DCC's concern about penetration, the Secretary for the Interior replied that the Minister of the Interior had discussed the alleged penetration of Indians into predominantly European areas with the NIA. After meeting the Minister of the Interior, the NIA had resolved that although the Indian community was opposed to racial segregation, it was prepared in order to establish more congenial relations between Indians and whites "to do everything in its power to prevent the purchase of any property by any Indian in a predominantly European area".<sup>138</sup> Furthermore, the NIA accepted the Minister's suggestion to appoint a sub-committee to work in close co-operation with the Housing Sub-Committee of the DCC. This step, the NIA believed, would enable the DCC to obtain a better insight into the problems facing the Indian community, such as the housing shortage and inadequate municipal amenities. Moreover, such co-operation based on mutual goodwill, compassion and tolerance will ultimately lead to a satisfactory resolution of the alleged Indian penetration controversy.<sup>139</sup>

The DCC responded, that, based on its past experience with the NIC, it would be futile to work with the NIA. Rather, it emphasised the need for a Judicial Commission of Inquiry. On 18 January 1940, a delegation from the DCC met with the Minister of the Interior, Mr. H.G. Lawrence, in Cape Town. The Minister assured the delegation that the Government was acutely aware about European consternation pertaining to alleged Indian penetration. However, the Indian community emphatically denied such allegations. Hence, it was essential to determine beyond doubt whether there was any penetration, and if so, to what degree.

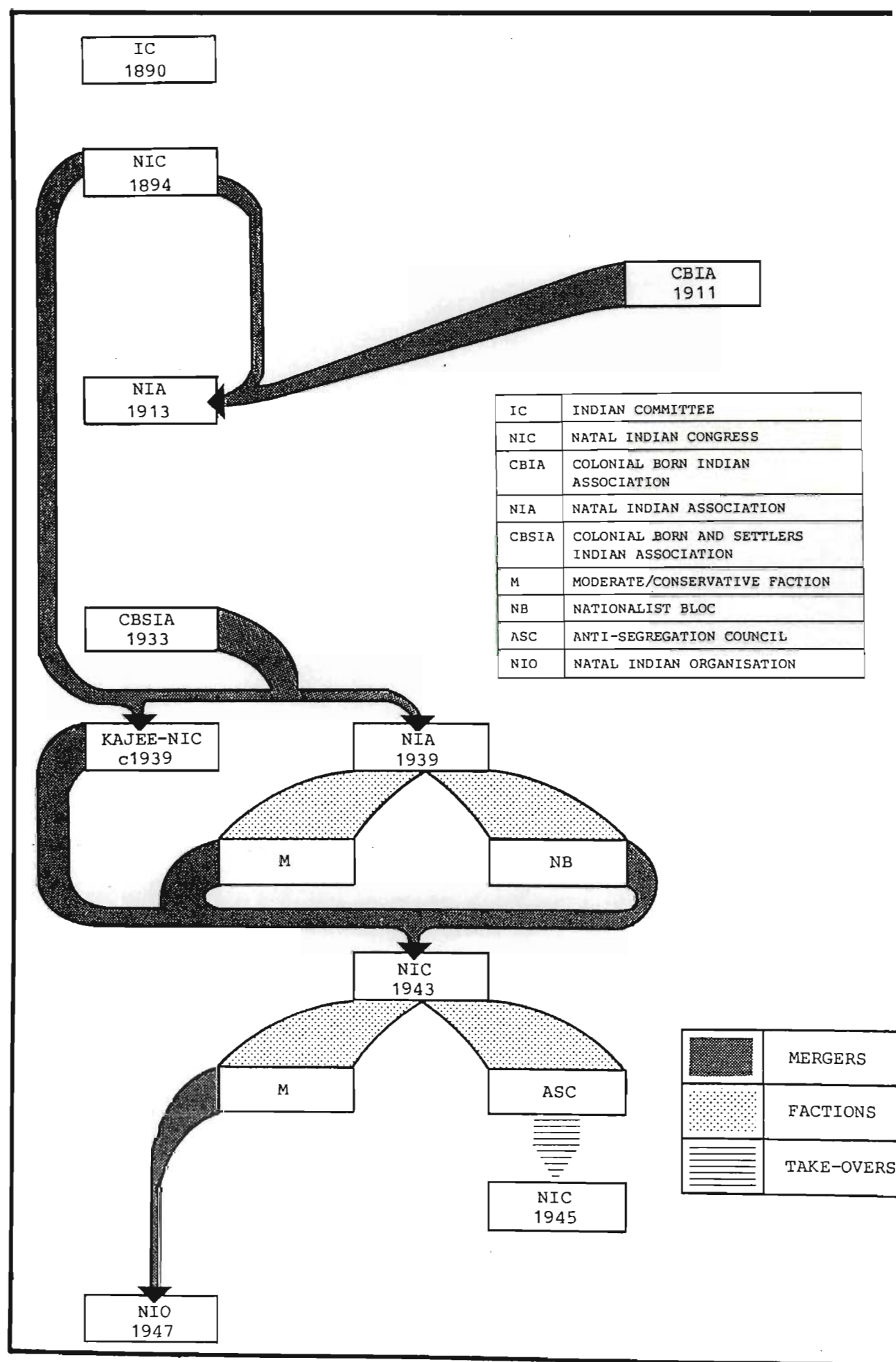


Figure 4.2 Major Natal-Based Indian Political Organisations and Factions 1890 - 1947

Therefore, as a first step, he informed the delegation of the Government's intention to appoint a Judicial Commission to examine the facts pertaining to alleged Indian penetration in white residential and trading areas.<sup>140</sup> In the interim, the Minister appealed to the delegation to establish a Joint Committee, comprising of representatives from the DCC and NIA, to monitor the penetration situation in a spirit of goodwill and co-operation. The committee was known as the Lawrence Committee.<sup>141</sup>

#### **i) Voluntary Segregation I - The Lawrence Committee**

The Lawrence Committee was formed on the 14 March 1940. It comprised of six representatives from the DCC and NIA, respectively. It was significant that the DCC team included the Mayor. The primary function of the Committee was to prevent the acquisition of property by Indians in predominantly white areas.<sup>142</sup> The terms of reference of the Committee was extended by the Minister when he stated:

I should like to make it quite clear that, in my opinion, while these joint consultations have reference primarily to alleged penetration, they will not be able to exclude from their discussions the question of housing and civic amenities for the Indian Community. The two issues are inextricably bound up and cannot be divorced.<sup>143</sup>

The NIA was severely criticised for participating in the Lawrence Committee. The NIC stated that the NIA's participation on the Lawrence Committee represented an acceptance of the principle of segregation, and was tantamount to an admission of guilt without a trial. Basically, the DCC and the Government were "attempting to have it both ways, namely the Judicial Commission and the Joint Committee which will in the meantime act as policeman and collector of evidence of penetration against their own fellows".<sup>144</sup> According to the NIC the Indian community was unequivocally opposed to segregation, and repudiated allegations of penetration. Historically, there has always been a tendency for people of the same races to live together, and the same applies to Indians in South Africa. However, in South Africa, any conflict and deviation from this rule resulted from

the uneven and artificially created economic conditions of the various groups which make up the population of this unhappy land. Added to this is the utter lack of civic amenities in the areas predominantly occupied by the Indian due

to his having no voice in the municipal administration of the cities or towns.<sup>145</sup>

Within the NIA a more radical group aligned to the South African Communist Party and the non-European United Front (NEUF) constituted themselves as the 'nationalist bloc'. The 'nationalist bloc' emphasised the need for a "militant voice of the masses that would recognise the fundamental basis of mass action".<sup>146</sup> It urged the NIA to focus "its energy in the organisation of mass struggle as the only effective weapon to combat the repressive measures in the country".<sup>147</sup> However, disillusioned with its conservative policies, the 'nationalist bloc' withdrew from the NIA, and challenged the accommodationist policies of both the NIA and NIC.<sup>148</sup> According to Singh and Vawda "the politics of the nationalist bloc signified a transition from the older accommodationist politics to a militant politics which incorporated wider sections of the population across class and race lines in the struggle for liberation".<sup>149</sup>

The newspaper Indian Opinion asserted that there was no penetration, and even if there was, it was the whites who had penetrated into Indian localities. A big issue was being made about a few Indians occupying properties in predominantly white areas, "while nothing is said about Indians being wiped out from predominantly Indian residential areas".<sup>150</sup> The Natal Mercury newspaper maintained that the NIA had taken on a difficult task. If segregation continued in spite of the Lawrence Committee, it would be difficult for the Indian community to convince the Government that there was no need for legislation to check it.<sup>151</sup>

The Lawrence Committee functioned from 14 March 1940 to 18 June 1941. It would appear that the NIA was able to fulfil its function on the Committee. The NIA representatives made numerous successful attempts to persuade their compatriots not to purchase properties in predominantly European areas. In 1940 there were only 59 such acquisitions. This, the NIA argued, proved that it was possible to dissuade Indians from acquiring properties in European areas, as long as the DCC provided suitable sites for professionals and the wealthy. The Lawrence Committee acknowledged the assistance of, and expressed its gratitude to, the Indian Representatives.<sup>152</sup>

A notable feature of all the cases brought before the Committee was that there were many Indians who wanted to acquire properties with scenic views and good amenities, which were in predominantly European areas. The NIA was able to dissuade them in anticipation that suitable alternate sites would be provided by the DCC. However, this hope was not realised. Being a disenfranchised group, Indians were not able to influence the DCC in any significant way. In a memorandum to the Lawrence Committee, the NIA representatives asserted that Indians were not offered suitable residential sites with civic amenities because of a deliberate policy of neglect by the DCC.<sup>153</sup>

A deadlock was reached which necessitated ministerial intervention. The Minister of the Interior addressed the full Lawrence Committee on 7 November 1940 and expressed his concern at the DCC's neglect in the provision of housing and suitable sites for Indians. Mr. H.G. Lawrence stated that according to its terms of reference the provision of housing was a fundamental question to be considered by the Joint Committee. It was unfair to expect the NIA representatives to prevent Indian penetration without providing alternatives. In fact this state of affairs presented a prima facie case for the Indian community. Although the Minister had virtually instructed the DCC to provide housing and alternate sites no progress was made in this regard.<sup>154</sup>

There were other problems as well, which reflected indifference and a lack of interest on the part of the DCC in the Lawrence Committee. No efforts had been made by the DCC to make available to the Lawrence Committee plans and details of Indian housing schemes, and this was a blatant disregard for the terms of reference of the Commission. Between 7 November 1940 and 22 December 1941 only two meetings were held. There were also contradictions in the policy of the DCC. On more than one occasion the Mayor had stated that sites should be made available for Indians in the Old Borough. On 4 May 1940 the Estates Manager of the DCC stated that there were 116 acres in the Umgeni Valley, and a large area in the Stella district. However, he maintained that according to Council policy "it would appear that ... there are no choice building sites available for sale to the Indian Community within the Old Borough Area."<sup>155</sup>



Furthermore, certain decisions were taken with regard to the working of the Lawrence Committee without consulting the NIA representatives. The NIA therefore inferred that the DCC was intent upon thwarting the attempts by the central government to resolve the penetration controversy on a non-statutory basis. It maintained that the DCC had treated the Government and a significant section of its population with deep contempt, and this was unprecedented in the history of the Union.<sup>156</sup>

In fact since June 1941 there were deliberate attempts on the part of the DCC to 'sabotage' the Lawrence Committee. One of the DCC representatives on the Committee addressed a meeting of Indians and stated that the continued functioning of the Lawrence Committee was futile. Towards the end of 1941 the DCC nurtured agitation against alleged penetration, although the Indian representatives were still striving to continue the work of the Lawrence Committee. Consequently, the Minister of the Interior was forced to address the full Lawrence Committee on 24 May 1942 in Durban. The Minister appealed to the Committee to continue functioning on a non-statutory basis, but the DCC demanded statutory powers. The DCC, however, was presenting an apparent excuse for its waning interest as the original purpose of the Committee was to deal with the matter by mediation and not by coercion. The Minister also emphasised that the Lawrence Committee could not view alleged penetration in isolation from the provision of housing and amenities in Indian areas. In spite of these appeals, the DCC withdrew its members in December 1941 and intentionally destroyed the Lawrence Committee.<sup>157</sup> The Government was forced to appoint a commission of enquiry into allegations of Indian penetration.

## ii) The Indian Penetration Commission

Shortly after the formation of the Lawrence Committee the Minister of the Interior appointed a Commission of Inquiry on 15 May 1940, chaired by Mr. Justice Broome, to investigate the problem of penetration. It became known as the Indian Penetration Commission. The terms of reference of the Commission were:

To enquire into and report whether, and, if so, to what extent, Indians have since the 1 January 1927, commenced occupation of or acquired sites for trading or for residential purposes in predominantly European areas in the



provinces of Natal and Transvaal ... and the reasons for such occupation or acquisition.<sup>158</sup>

The time span of 13 years which the Commission covered was criticised as being unrealistic because the Indian population was increasing as well as experiencing an improvement in its quality of life. Hence, it was impractical to expect them to be confined to the areas they occupied since 1927 without expansion or change.<sup>159</sup> The Commission itself experienced problems pertaining to the time period: "Information as to occupation fourteen years ago was difficult to obtain, and there was much conflict of testimony".<sup>160</sup> In the case of Durban the problem was compounded because the DCC refused to make any submissions or furnish any data which could establish what proportion of the so-called 'Added Areas' were predominantly European in 1927.<sup>161</sup>

There were 32 public sittings at eight centres in Natal, where 141 persons gave evidence.<sup>162</sup>

Invariably, these sittings reflected the conflict of interest between Indians and whites:

The enquiry became a sharply defined battle ground of conflicting interests, the Indian community on the one hand seeking to justify their acquisition of property in Municipal areas as legitimate and the Europeans represented by private citizens and public bodies on the other, claiming that these acquisitions were a source of needless embarrassment to the white community, socially and economically.<sup>163</sup>

In Durban the DCC claimed that 577 subdivisions of land had been acquired by Indians in European areas in the Old Borough (table 4.2). After close scrutiny of the evidence, the Commission concluded that penetration had not been proved in 65 cases. Hence, only 512 subdivisions were accepted as prima facie cases of penetration, an 11 percent reduction on the DCC's original submission. One hundred and fifty of the 512 sites were acquired and occupied by Indians, and 302 were acquired but not occupied. In contrast to the Transvaal, the number of trading sites were negligible.<sup>164</sup>

Table 4.2 does not reflect any distinct pattern with regard to acquisition of sub-divisions between 1927 and 1940. There was a significant increase between 1929 and 1931, followed by a decline in 1932 and 1934, which was attributed to the effects of the depression. Thereafter, there is a consistent increase up to 1939. There was a sharp decline in 1940 which could be ascribed to the activities of the Lawrence Committee and the appointment of

the Broome Commission. With the exception of 1932, the purchase price in all cases was significantly higher than the Borough valuation (table 4.2). Thus whites found it profitable to sell property to Indians.

Strangely, although many local authorities and individuals presented evidence on the extent of penetration, they were reluctant to advance reasons for this process, arguing that the onus should be on the Indians to explain why they had acquired properties in white areas.<sup>165</sup> One of the initial submissions tendered by the DCC was that penetration was attributed to psychological factors rather than material or economic. It maintained that social conditions in South Africa infused in people of colour a strong desire to demonstrate their equality with whites. This psychological factor was the main reason why Indians acquired property in European areas. The DCC contended that the first Indian acquisition set off a chain reaction which ultimately displaced whites:

There is, however, little room for doubt that the result of that first acquisition, when it is followed by the occupation of the property by the purchaser, is to induce the European owners to emigrate from them. Other Europeans, for the same reason, are not then amongst the potential purchasers of their properties, which in consequence can be sold only to Indians. This process ... has as its final result only the eventual change of a wholly European area into at first a predominantly and finally a wholly Indian area.<sup>166</sup>

The Commission rejected this reason, stating that it attempted to find a scapegoat, and was too simplistic an explanation.<sup>167</sup> It is ironical that having such a racially prejudiced view, the DCC attempted to emphasise its impartiality. It opined that it represented the interests of both the whites and Indians, and intended to avoid partisanship towards either of these two groups with whom the Commission was concerned.<sup>168</sup>

**Table 4.2 Penetration in Durban - 1927 to 1940<sup>169</sup>**

Year	No. of Sub-divisions	Purchase Price	Borough Valuation
1927	16	27 095	20 300
1928	11	15 355	13 080
1929	43	57 229	44 410
1930	37	50 017	36 110
1931	43	64 498	49 710
1932	13	11 845	12 760
1933	14	19 595	17 240
1934	23	25 880	23 620
1935	41	47 771	42 700
1936	50	65 109	59 390
1937	44	78 842	58 200
1938	52	79 415	60 370
1939	78	99 840	81 620
1940	47	83 810	67 060
<b>TOTAL</b>	<b>512</b>	<b>725 921</b>	<b>586 570</b>

The NIC and NIA presented a great deal of evidence to support their contention that the penetration which had occurred was insignificant, and was largely attributed to:

- i) The DCC's neglect and the inadequate provision of housing and civic amenities in Indian areas, which encouraged migration to other areas.
- ii) The failure of the DCC to provide suitable sites for wealthier Indians, which led to them acquiring the desired residential quality in European areas.
- iii) Accommodation in Indian areas had not kept pace with the increase in population, and hence the need to expand into contiguous areas.<sup>170</sup>

Given the fact that only 30 percent of the property acquired in European areas were occupied by Indians, and that acquisitions increased at a higher rate than the Indian population increase, the Commission rejected the view that the shortcomings of the DCC and the increase in the Indian population were the major causes of penetration. However, the Commission did agree with a later submission of the DCC that population increase was one of the minor causes of penetration.<sup>171</sup> The DCC conceded that it had not provided sites for wealthy Indians, but argued that this was not its responsibility.<sup>172</sup>

The Commission was significantly influenced by the evidence presented by Dr. Burrows, Head of the Department of Economics at the University of Natal. Dr. Burrows argued that penetration was a common phenomenon in urban growth and development, and its cause was economic. With changes in socio-economic circumstances, residential preferences change, with some people moving to the suburbs, and others into the city centre. This process attracts little attention in other parts of the world, but in South Africa because of colour prejudices, it had become the focus of racial antagonism.<sup>173</sup>

A similar view was expressed by Mr. Maurice Webb, Chairman of the Durban Indo-European Council,<sup>174</sup> who contended that the main causes of the present problems were the increase in Durban's white and Indian population; the expansion of Durban by the incorporation of added areas; the need for workers to live close to their place of employment; the general shortage of housing, as well as services and amenities, for Indians.<sup>175</sup> Mr. Webb also cited many examples where Indians lost ownership or tenure as a result of changes in ownership and occupation:

The present Windsor Park (European) Golf course was previously the site of Indian Barracks; the improvements at Mayville ... on land previously occupied by the Indians of the Orient Lane neighbourhood; the present exclusively European suburb of Durban North is built on land that was largely Indian owned and occupied.<sup>176</sup>

He attributed a major reason for the present problems to the lack of planning:

It may be regretted that Durban has been allowed to 'just grow' like Topsy and particularly that at the time of incorporation of the added areas the opportunity was not taken to make a full civic plan for the new enlarged Durban ... The longer the planning is delayed the more difficult it will be.<sup>177</sup>

Mr. Webb emphasised that Indians had no desire to live in European areas as long as they were provided with suitable amenities, and there was no need for compulsory segregation.

The Commission found a similar viewpoint expressed by the NIA 'illuminating'. The Commission contended that the natural factors of race, religion, and culture will always group people into certain areas. Therefore, if the principles of town planning were applied fairly, without prejudice, and with compassion, Indians will live voluntarily in their own areas. Experience in Natal and Transvaal revealed that

where Indians have been settled for 75 years, they have created areas of their own, and if there has been any overloading, it has been in the areas adjacent to and contiguous to those areas, and not in areas belonging to other groups. There will always be a few ... (exceptions which) ... in the interests of harmony and goodwill (should) be overlooked ... It is our considered opinion that the Indian opposition to compulsory segregation will never be overcome, but that de facto segregation may some day be achieved by voluntary mutual co-operation.<sup>178</sup>

The Commission concluded that the main reason for acquisition of property was a desire to obtain investments. This was supported by the fact that 362 or 70 percent of the properties were not occupied. Furthermore, the two main avenues of investment for wealthy Indians were trade and property acquisition.<sup>179</sup> Other reasons included the shortage of housing, inadequate amenities in Indian areas; the increase in the Indian population; the improvement in, and acceptance of western, standards of living, which could be attributed to the Town Agreement of 1927.<sup>180</sup>

There were some criticisms against the findings of the Broome Commission. The Commission contended that the Commission did not give adequate consideration of the serious shortage experienced by Indians, and the neglect of the DCC in not providing for the population.<sup>181</sup> In 1932 a survey of unsatisfactory dwellings in the Orange Free State that

1 700 people, most of whom were Indians, lived in streets 'added' areas revealed that about 23 percent of the population were inadequately housed. In fact 70 percent of the population were occupied by Indians. In 1936 the City Health Officer reported that 1 173 families (comprising a poor proportion) of those affected were Indians.<sup>182</sup>

In 1930 a commission appointed by the Province of Natal made a serious indictment against the DCC pertaining to the inadequate housing for Indians:

With regard to Indian housing, it is admitted that the present provision within the Borough is not satisfactory. While the Corporation has done a great deal for the better housing of Europeans, it has, apart from provision for the housing of its own Indian employees, done practically nothing in this respect for its Indian population.<sup>183</sup>

Furthermore, in October 1928 the Central Housing Board conducted an investigation into the housing and sanitary conditions of Indians in and around Durban. It reported that there was vacant land contiguous to Indian-owned land located adjacent to wards 4 and 6 which could be used for building houses for Indians. This proposal was rejected by the DCC. The Central Housing Board further recommended that the DCC should consider building houses for Indians on the higher section of the Eastern Vlei land near the Umgeni River. It made available an amount of 25 000 pounds to the DCC for this scheme.<sup>184</sup> Another 25 000 pounds was set aside for the purpose of granting loans to selected Indians with freehold land who desired to erect their own land for personal occupation. However, by 1934 the DCC had not taken advantage of this offer.<sup>185</sup>

The NIA also disagreed with the Commission's view that "while local authorities have disposed of very little of their land to Indians, it appears that Indians have made no application for such land".<sup>186</sup> In evidence submitted to the Commission the NIA had proved that all their applications for Municipal land had been consistently rejected by the DCC. The Commission, while acknowledging that the provision of civic amenities in Indian areas was deplorably low, felt that deliberate neglect by the DCC was not proven. The NIA and NIC insisted that all the evidence pointed to wilful negligence and indifference on the part of the DCC.<sup>187</sup>

Generally, the Commission's report showed that the penetration agitation was exaggerated. It also exposed the myth that Indians desired to live in white areas. Europeans were disappointed and ridiculed the Commission's findings that almost no penetration had taken place. The extremist calls for compulsory segregation were certainly deflated. After reading the Report it would be difficult to believe that Indians presented a threat to European supremacy, culture or the economy, especially as the DCC had not complained about

penetration in trading areas.<sup>188</sup> Nor would it be possible to introduce legislation to enforce segregation. However, European agitation against Indians continued. There were claims that penetration had increased significantly between 1940 and 1942. Whites clamoured for some form of state intervention, and ambitious Natal politicians as well as the DCC exploited their fears. The DCC supported the resolution adopted by the Natal Municipal Association in October 1941 calling for the Government to introduce legislation to prevent penetration.<sup>189</sup> Prime Minister Smuts was forced to appoint a second penetration commission.

### iii) The Durban Penetration Commission

The Second Penetration Commission was conducted by Mr. Justice Broome alone, was confined to Durban, and more specifically, the Old Borough. The Commission's terms of reference were as follows:

To enquire into and report whether, and if so to what extent, Indians (including companies with predominantly Indian directorates) have, since the 30 day of September, 1940, in the Municipal Area of Durban, acquired sites in those areas which the previous Commission found to be predominantly European on the first day of January, 1927.<sup>190</sup>

The Commission completed its task in a record 4 days. Mr. Broome anticipated that his main source of information would be the DCC, NIA and NIC. Before the enquiry commenced both of the Indian bodies protested against the narrow terms of reference of the Commission, especially the fact that the reasons for penetration was not being investigated. They contended that the findings of the Commission would be incomplete, unfair and biased if Indians were not given an opportunity to give reasons for their actions. As a result the NIA refused to participate in the enquiry, referring to the limited terms of reference as the "grossest violation of the rights of the Indian community".<sup>191</sup>

The NIC maintained that it would be prudent to exclude those areas which the previous Commission found to be predominantly Indian and/or mixed in 1927 and 1940. Furthermore, the NIC was also concerned about the assumption that it was wrong for Indians to acquire or occupy properties in predominantly white areas.<sup>192</sup>



**Table 4.3 Cases of Penetration - 1940 to 1943<sup>193</sup>**

Year	No. of Sites	Purchase Price	Rateable Value
1940	12	10 370	7 550
1941	77	153 045	116 560
1942	195	336 500	241 200
1943	42	101 470	64 550
TOTAL	326	601 385	429 860

The total number of Indian acquisitions in predominantly white areas between 1940 and 1943 was 326, and once again the cumulative purchase price was far higher than the rateable value (table 4.3). In the same period 16 sites were purchased by Europeans from Indians. It was interesting that the total amount paid by Indians for property for the 13 years covered by the First Commission was 725 921 pounds sterling, while that for the 29 months covered by the Second Commission was 1 327 306 pounds sterling.

The NIC asserted that Indian acquisition of property did not affect Europeans owners, since only 30 percent of the properties acquired by the former had been occupied by the latter prior to purchase. It claimed that 264 properties acquired by Indians since December 1942 had never been occupied by their owners who were speculators. Furthermore, Europeans occupied 66 percent of the properties obtained by Indians, which proved that Indian acquisitions did not interfere with individual owner occupation.<sup>194</sup>

The NIC presented evidence that the rate of Indian acquisitions in no way threatened Europeans. According to the NIC, in the interim period between the first and second Broome Commissions, the DCC spent 72 797 pounds on white housing. For 90 000 Indians the DCC erected 50 sub-economic houses which cost 36 088 pounds. Thus the rate of spending on white property by the DCC was twice that for Indians. Furthermore, between 1927 and 1942 the valuation increase for the whole Durban Borough was 18 303 990 pounds, and was shared

between the Europeans and Indians on ratio of 15 608 270 and 2 695 720 pounds, respectively. Also, Indians constituted 25 percent of the population in Durban but only owned 10 percent of the rateable value of property.<sup>195</sup>

The Commission referred to the area known as Block AL to illustrate the extent of penetration during the period under review. Block AL is situated north-west of the CBD and bounded by Hayden Road, Currie Road, Montpelier Road, Gordon Road, Windermere Road, and Mitchell Crescent (figure 4.3).<sup>196</sup> In January 1927 there were only two Indian acquisitions in the area, and it could be described as a middle-class European residential area. Between this period and 30 September 1940 there were 25 Indian acquisitions. Indians acquired 78 properties in Block AL between October 1940 and February 1943. Mr. Justice Broome felt to comment on the situation would be 'superfluous'. It was emphasised that what was happening in Block AL was not characteristic of the whole Old Borough.<sup>197</sup>

Interestingly, since May 1942 building societies in Durban had agreed not to grant loans to Indians acquiring properties in predominantly European areas. However, the NIC alleged that building societies had financed Indian acquisitions since that date. Unable to substantiate this, the Commission concluded that if this was true then building societies, as a result of recent Indian acquisitions, did not regard Block AL to be a predominantly European area.<sup>198</sup>

In its response to the Second Penetration Report, the NIA stated that some of the purchasers of properties in Block AL had previously been persuaded by the NIA representatives on the Lawrence Committee not to purchase in European areas, in anticipation that the DCC will provide them with scenic plots with all the civic amenities.<sup>199</sup> This view was further corroborated by the fact that only 3 of the 78 plots in Block AL had been purchased before the DCC sabotaged the Lawrence Committee. The fourth property was acquired on the 4 July 1941, when it became evident the DCC was bent on not providing properties for Indians from unalienated territory in the Old Borough. Hence, Indians were justified in acquiring properties in Block AL, where there were consenting sellers and buyers. The NIA asserted that it was unfortunate that the Commission was precluded from inquiring into the reasons for purchases in Block AL. If it had done so, a major portion of the blame would be attributed to the DCC for its chronic neglect.<sup>200</sup> It further charged that if the 78 properties

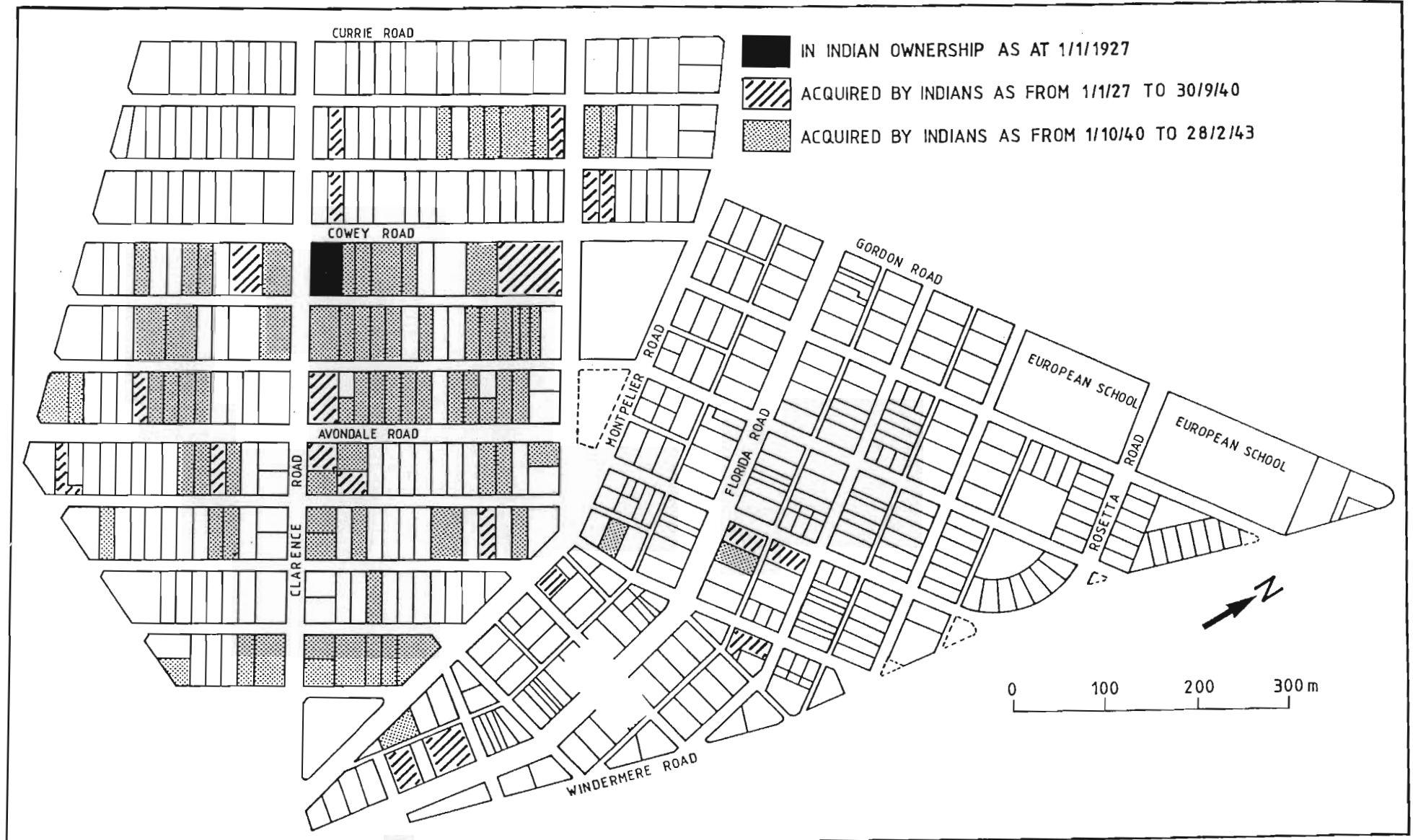


Figure 4.3 Indian Penetration in Block AL

in Block AL were omitted, any Commission of Enquiry would find that the agitation of penetration did not have any substance. Furthermore, it rejected the view that the area in question had been intentionally chosen for Indian acquisition.<sup>201</sup>

According to the NIA the total area of properties owned by Indians in Durban since November 1860 to February 1943 was about 404 acres. More specifically, the total area of acquisitions between January 1927 and February 1943 could not surpass 200 acres. To deem this small acreage as a penetration problem compared to the 5012 acres which is predominantly Europeans, epitomised to the NIA:

- i) A denial by the Durban Council of the spirit of the Cape Town Agreement, especially of the responsibility assumed by the Union Government.
- ii) A denial to discharge its civic duties to the Indian Burgesses and Ratepayers.
- iii) A contradiction of its profession that as trustees and custodians of the rights and interests of all sections of Burgesses it is impartial and fair in the discharge of its duties, obligations and responsibilities.<sup>202</sup>

The NIC stated that in the two years since the First Commission's report, many authorities and experts urged the DCC that the penetration problem could be solved by providing suitable sites with good views and amenities for Indians. Such a policy, honestly pursued, will not enforce segregation, but rather will attract Indians because the land would be cheaper, and new houses could be built according to the owner's specifications. However, the DCC was a "laggard in the provision of land and housing to Indians".<sup>203</sup> The NIC emphasised, convincingly, that most acquisitions in question were a result of natural expansion in areas contiguous to existing Indian areas.<sup>204</sup> The reasons for penetration were succinctly summarised by the NIC:

The non-provision of public housing schemes, the deliberate neglect of amenities in the localities occupied Indians both in the Old Borough and the Added Areas, a middle class growing through the improvement in educational and economic conditions ... have resulted in the natural expansion of acquisition of property by Indians in areas contiguous to those previously occupied by Indians.<sup>205</sup>

Although it was beyond its terms of reference, the Commission did advance tentative reasons for the increased Indian acquisitions. The restrictions on trade because of World War II limited the investment options of Indians to the appropriation of property. The report of the

First Commission that penetration was insignificant could have encouraged Indians to increase their land acquisitions in white areas.<sup>206</sup> The Report did not disclose that Indian expansion and development was natural, and it failed to compare this with the equally rapid expansion of other groups, especially the Europeans. In spite of the various reasons advanced by politicians for restricting Indian land acquisitions, an important factor ignored by both penetration commissions was "a desire on the part of the Government and European politicians to stem the growing economic expansion of the Indian people".<sup>207</sup>

The second penetration report was immediately followed by unprecedented calls for statutory restrictions on Indian land ownership and occupation. The Administrator of Natal asserted that neither the province nor Durban were responsible for the unsatisfactory state of affairs as the Indian question was handled by the central state.<sup>208</sup> Even prior to the release of the report, United Party M.P.s from Natal presented the Prime Minister with details of 278 cases of alleged Indian penetration in white areas. They urged the government to peg the present position, pending forthcoming legislation.<sup>209</sup>

#### **4.4.5 Central State Amelioration - The 'Pegging' Act**

Following the release of the Second Broome Commission Report, the Government was compelled to introduce legislation to 'peg' the racial pattern of land ownership as determined by the Commission for at least three years, after which the situation was to be reviewed. This was mainly in response to the mass hysteria of whites in Durban, who "threatened racial riots if Indians were not restricted from acquiring landed properties".<sup>210</sup>

The aim of the Pegging Act of March 1943 was to impose restrictions on the acquisition and ownership of land by Indians in Natal.<sup>211</sup> More specifically, Indians were allowed to retain properties purchased up to March 1943, and thereafter it was illegal to acquire or occupy premises in predominantly European areas. Europeans and Indians could not engage in any transaction relating to the acquisition or occupation of property unless a permit was issued by the Minister of the Interior. The restrictions embodied in the Act only applied to the Durban municipal area.



The Pegging Act was to operate for three years, and within this period it was envisioned that a solution to the problem would be found. The Government acknowledged that Indians in Durban had a very convincing and justifiable case for improved housing and civic amenities. According to the Minister of the Interior, Mr. Lawrence, in the interim

the DCC would be placed on its trial. The Government had the power under the Bill to remove the protection now temporarily given to the City of Durban, and the DCC should clearly understand that both sections had to be dealt with on an equitable basis.<sup>212</sup>

However, the central state warned that if the DCC did not meet its obligations to the Indian community, then the protection afforded by the Pegging Act would be withdrawn. If all sections of the community were provided with adequate housing and amenities by DCC, it would be accompanied by a process of natural segregation. The Government would then be obliged to withdraw the pegging legislation.<sup>213</sup> The Minister of the Interior also announced that a Judicial Commission of enquiry would be appointed to investigate problems experienced by the Indian community in Natal, with specific reference to housing, civic amenities, health and educational facilities. Members of the Indian community were to be invited to serve on the commission.<sup>214</sup>

It was ironical that the Government argued that the Act was in the interests of both the white and Indian communities, its provisions applied equally to both groups, and that it was therefore non-discriminatory.<sup>215</sup> On various occasions the Government emphasised that it regretted that it was forced to take this action.<sup>216</sup> This was partly because of the role of the Allies in the war effort, as well as the fact that the Act was likely to arouse the wrath of India and the international community. However, according to Prime Minister Smuts:

The country was faced with the position that in Durban - which was a European city and which the Government was determined should remain a European city - large scale penetration was going on.<sup>217</sup>

The Daily News newspaper argued that if the European character of Durban is to be preserved Indians must be prevented from purchasing or occupying property in the city area itself: "Every house purchased from a European for occupation by an Indian inevitably involves the extrusion of a European family and affects the balance of the urban population".<sup>218</sup> However, Senator Margaret Ballinger responded that Durban was not a European city:

It was a South African city, and like all South African cities its wealth and development had been built by the combined efforts of a number of racial groups. A great deal of the comfort and prosperity of Durban resulted from the services of the Indian community.<sup>219</sup>

She urged the Government to govern instead of legislating, and to consider the international implications of its actions.<sup>220</sup>

In a memorandum submitted to General Smuts, the SAIC contended that the passing of the Pegging Act hurt the national pride of Indians and seriously affected their economic well-being. It maintained that the Act was passed in response to the inflamed racial prejudices of the enfranchised European minority in Durban, and it should be repealed henceforth.<sup>221</sup> The NIC maintained that the Pegging Act was in breach of the Cape Town Agreement, entrenched racial discrimination and residential segregation in the same way as the Areas Reservation Bill of 1926, was incompatible within a democracy, and was "condemned even among those who were its sponsors as their reluctance to put it in the Statute Book proved".<sup>222</sup>

#### **4.4.6 Voluntary Segregation II - The Pretoria Agreement**

The NIC and NIA merged to form a newly constituted NIC in 1943 to unite opposition to the Pegging Act. The radicals formed the Anti-Segregation Council with support from the trade unions and the Communist Party, to oppose what were perceived to be the accommodationist policies of the NIC.<sup>223</sup> The NIC emphasised that although the Indian Community would in no way give up its intrinsic right to own and occupy property anywhere in Natal, it recognised the three fold nature of the problem:

- i) ownership and occupation in rural areas for trade, farming, and residential purposes;
- ii) ownership and acquisition of property for trade, commercial and investment purposes; and
- iii) occupation of property for residential purposes in urban areas where the question arises of Indians living in close proximity to Europeans.<sup>224</sup>

Categories (i) and (ii), above, were basically economic issues, where prohibitive restrictions were imposed by the Pegging legislation. With regard to (iii) the NIC agreed that white



prejudice presented a predicament which had to be faced. In a conciliatory proposal the NIC supported "a voluntary arrangement whereby machinery can be set up to control and regulate future juxtapositional residential occupation of Europeans and Indians".<sup>225</sup>

More specifically, the NIC suggested that the Pegging Act as applied to Durban should be annulled by proclamation. It should be replaced, temporarily, in anticipation of the Judicial Commission's enquiry, by a Board or Committee comprising of two whites and two Indians, chaired by someone with a legal background. The function of the committee was to issue residence permits in areas where there was a distinct racial pattern with regard to occupation. The committee's jurisdiction should be confined to the City of Durban. When making its decisions, the committee should consider factors of contiguity and natural population increase, as well as the relative needs of the different race groups in terms of housing, amenities, educational and recreational facilities.<sup>226</sup> The proposal of the NIC was a temporary measure, and with its implementation the Pegging Act should be revoked, or Durban should be exempted from its operation.<sup>227</sup>

The Government had considered the proposals and appointed a sub-committee which included the Minister of the Interior and the Administrator of Natal, to make further investigations.<sup>228</sup> At a meeting held in Pretoria on 18 April 1944 between the NIC representatives and the Government, the proposal advanced by the former were accepted by the latter. This became known as the Pretoria Agreement. In terms of the Agreement the operation of the Pegging Act in Natal was to be suspended. It was to be replaced by an ordinance of the Natal Provincial Council which would embody the proposals advanced by the NIC.<sup>229</sup>

The main advantage of the Pretoria Agreement was that it eliminated statutory residential segregation which was offensive to Indians. It was, however, a compromise and none of the protagonists were entirely satisfied. Europeans would no longer enjoy the protection afforded by the Pegging Act. Indians would still be subject to some control, although it would be indirect and non-statutory.<sup>230</sup>

The NIC and the Government were severely criticised for the Pretoria Agreement. The CBSIA asserted that the Agreement was an affront to the dignity and national honour of

Indians. It accused the Government of abdicating its responsibilities to its citizens by transferring the penetration issue to the Provincial Council. Furthermore, there was no difference between a permit issued by the Minister in terms of the Pegging Act and a licence issued by the Board which was envisaged by the Pretoria Agreement. According to the CBSIA the NIC's participation amounted to an acceptance of statutory race discrimination, which Indians always rejected. Ultimately, the Government promoted the interests "of the wealthy section at the sacrifice of the common well-being and potential rights of the mass of the Indian population".<sup>231</sup> The NIC's participation in the Pretoria Agreement was also criticised by its radical bloc, and was responsible for the ousting of the accommodationist leadership in 1945.

The NIC replied that its participation in the Pretoria Agreement represented, as a temporary measure, a sincere attempt to address the irrational prejudices of Durban whites against residential integration.<sup>232</sup> According to the NIC, the Pretoria Agreement achieved the following:

- i) The Pegging Act would no longer apply in Durban.
- ii) There would be no restrictions on the ownership and occupation of property by Indians in Durban and Natal.
- iii) By its participation in the Board the Indian Community would influence the control and occupation of dwellings of both Europeans and Indians.<sup>233</sup>

The DCC protested vigorously against the Government's decision to withdraw the Pegging Act from Durban, contending that it would lead to greater racial strife and disharmony. The DCC was particularly annoyed that, as the only local authority where the Pegging Act applied, it was not consulted when the Act was suspended. It stated that the removal of all restrictions on the acquisition of property by Indians in Natal was not in the best interests of the city or Natal. Ironically, it argued that the Pegging Act was doing the Indians a favour.<sup>234</sup>

The Durban Joint Wards Association declared that with the repeal of the Act Indians will have uncontrolled access to land in the province, which will lead to their dominating Natal, and ultimately the other provinces as well.<sup>235</sup> More specifically, if Indians were regarded as equal to Europeans, this would result in the subordination of Europeans and finally, their

political and economic destruction.<sup>236</sup> The Action Committee of the Combined Ratepayers (white) and Burgesses Association endorsed this view.<sup>237</sup>

The first draft ordinance to implement the Pretoria Agreement was rejected by the NIC as it did not comply with the accord. Thereafter, the Draft Occupational Ordinance was formulated and was accepted by the Union Government, the Natal Provincial Council and the NIC. However, the strong opposition to it by the DCC and other local authorities and burgess associations resulted in it being referred to a Select Committee.<sup>238</sup> The recommendations of the Select Committee resulted in the Residential Property Regulation Ordinance being passed by the Natal Provincial Council on 2 November 1944. The Property Regulation Ordinance, however, went far beyond the terms of the Pretoria Agreement, especially with regard to the following:

- i) It controlled occupation in all towns and cities of Natal, whereas the Agreement applied only to Durban.
- ii) It controlled occupation and acquisition, whereas the Agreement only controlled the former.
- iii) Its implementation was to be permanent, whereas the Agreement was of a temporary nature.<sup>239</sup>

Linked with this, the Natal Housing and Expropriation Ordinances were also passed. The former facilitated the establishment of a Natal Housing Board which could intervene in the market and purchase any property, the transfer of which may cause racial friction between whites and Indians. The latter empowered local authorities to expropriate land for housing and slum clearance.<sup>240</sup> The NIC regarded the trilogy of ordinances as dangerous weapons in the hands of local authorities which could easily be utilised to implement racial residential zoning, and it accused the Government of a breach of faith.<sup>241</sup>

To become law, the ordinances required the assent of the central state. The DCC urged the government to give its assent to the ordinances so as to remove the uncertainty arising from expiration of the Pegging Act:

This would give the new democratic machinery provided by the Ordinance a reasonable chance to quieten the present unsettled atmosphere in this province ... the City Council could proceed to execute the plans which it has made for

the improvement, inter alia, of those matters affecting the Indian population which lie within its jurisdiction.<sup>242</sup>

The NIC requested that all legislative measures emanating from the Agreement should be deleted as this would be in violation of the Pretoria Agreement.<sup>243</sup> The government refused to give its assent to the Residential Property Regulation Ordinance, as well as the other two ordinances. In a note to the NIC on 30 November 1944 the Prime Minister stated that the Pretoria Agreement was 'dead', and that the status quo reverted to the position prior to 18 April 1944. The Pegging Act would remain in force, but there was no guarantee that it would lapse with the passage of time as provided for in the Act. Attempts to resolve the problem of Indian penetration would be made via the Judicial Commission.<sup>244</sup> Two years after the legislation was passed, the Judicial Commission was convinced that the Pegging Act was unavoidable:

With all the Information now before it, and at a distance of two years from these events, the Commission deems it right to record its emphatic opinion that, in the circumstances then existing, the Pegging Act was, in so far as it related to Natal ... a wholly justifiable measure. The Commission regrets that compulsion was necessary, but it is satisfied that at the beginning of 1943, and indeed earlier, a situation had arisen in Durban which, in the interests of Indians as well as Europeans, required to be dealt with at once.<sup>245</sup>

Although both penetration commissions stated that there was a shortage of housing and amenities for Indians in Durban, and this was also acknowledged by the Government, the DCC had simultaneously engaged in a deliberate policy to expropriate Indian owned and occupied properties on an unprecedented scale in terms of the Slums Act of 1934.

#### **4.4.7 Segregation in Disguise - The Local State and Expropriation**

In South Africa the Slums Act of 1934 reduced the housing choices of blacks and contributed to their exclusion from urban areas.<sup>246</sup> Parnell has drawn attention to the importance of this Act in securing commercial and residential segregation, removing any health menace, and imposing residential segregation by controlling the location of coloured and Indian housing.<sup>247</sup> The Slums Act was a powerful tool in the hands of the local state to initiate massive removals of blacks.<sup>248</sup> In this regard, Durban was no exception.

In Durban penetration was generally regarded as Indian acquisition and ownership of property in white areas. However, there were many instances where changes in ownership and occupation resulted in Indians forfeiting occupation and tenure rights. The main perpetrator behind this was the DCC which used statutory instruments like the Slums Act (1934) and public health regulations to expropriate Indian properties. In terms of the Slums Act local authorities could evict persons from their dwellings, provided they are suitably housed elsewhere. Existing structures on the property could be destroyed, new ones erected, and it could be occupied by persons other than the original inhabitants. In fact evidence presented to the first Broome Commission suggested that when a local authority utilises the Slums Act "it engages in an act of 'Penetration' into the slum area; a form of penetration regarded as being in the public good".<sup>249</sup>

The European suburb of Durban North was developed on land that was largely owned and occupied by Indians, but which was acquired through the Slums Act. Indian barracks were previously located at the Windsor Park Golf Course. Indians living at Springfield Flats were threatened with eviction to provide a training ground for horses.<sup>250</sup> In Orient Lane, Mayville, the DCC used the Slums Act to expropriate 19 acres of Indian property, which was developed into a park for Europeans. In Bell Street, (Point) and Kirkwood Avenue, respectively, 6 acres were expropriated from Indians for European housing.<sup>251</sup>

In the first two years after the incorporation of the 'Added Areas' 1 120 dwellings occupied by Indians were destroyed by the DCC under the guise of the 'sanitation syndrome', and no alternative provisions were made for the displaced families. Many of the families were forced to seek accommodation in shack settlements in the outer boundaries.<sup>252</sup> The Indian community contended that the "Slums Act was merely a guise to forcibly remove them from certain areas at the lowest possible cost".<sup>253</sup>

On 10 November 1939 the DCC adopted a decision to expropriate 2125 acres of land in terms of section 11 of the Housing Act No. 35 of 1920, ostensibly to provide housing for the different population groups in Durban.<sup>254</sup> In terms of this Act the DCC had to show that no other land was available for this purpose. Permission was sought from the Minister of Public Health to approve the DCC's expropriation plans. The different areas affected and



their racial composition is presented in table 4.4. It is evident that a large proportion of the affected areas were owned and occupied by Indians. For example, 72 percent of Springfield Extension was owned by Indians, 59 percent in Sydenham and 54 percent in Riverside (table 4.4).

**Table 4.4 Areas and Population Affected by Expropriation Plans<sup>255</sup>**

Area	Total acres	Europeans	%	Indian	%
Riverside	603	278	46	325	54
Merebank/ Wentworth	1285	656	51	629	49
Sydenham - (Sparks Extension)	73	30	41	43	59
Springfield Extension	129	36	28	93	72
Sydenham (European)	35	30	86	5	14
TOTAL	2125	1030	49	1095	51

The NIA questioned why the DCC in its concern to provide housing for all population groups did not use the undeveloped lands owned by Europeans. In every case an attempt was being made to dislocate Indians from established, settled areas, who would find other areas unsuitable for economic and other reasons.<sup>256</sup> The DCC argued that its actions would lead to a more equitable distribution of land away from speculators and give thousands of Indians an opportunity to own property.<sup>257</sup> The NIA denied that there were any Indian land speculators owning large tracts of land within easy access to the city centre. According to the NIA the expropriation plans of the DCC was unparalleled in the history of Indians and attacked their existing rights and our vested interests.<sup>258</sup>

The affected communities protested vociferously against the plans of the DCC. The Riverside and District Indian Ratepayers Association stated that the DCC intended to dislocate Indians who were living on the North Bank of the Umgeni River for more than 50 years. It concluded that the Council's intention was to evict Indians from established locations they had occupied for many generations, and to push them further into the undeveloped periphery of the city - "a clear indication to segregate Indians without the force of law".<sup>259</sup>

A similar resolution was passed by the Sydenham Landowners Association, which declared that there was no doubt about the intentions of the DCC to eject Indians from their present localities.<sup>260</sup> The Merebank Indian Ratepayers Association asserted that the actions of the DCC were "calculated to force the degradation of segregation upon the Indian community".<sup>261</sup> A mass meeting convened by the NIA on 2 March 1941, attended by more than 3 000 Indians from the affected areas, resolved that the DCC's action was "unwarranted, repressive in its character, and a wanton piece of attempt at spoliation, disregarding the vested interests of thousands of Indian resident in these areas".<sup>262</sup>

The DCC claimed that while whites would lose 1030 acres and Indians 1095 acres, the former will receive back only 638 acres and the latter 1179 acres. While this appeared to be advantageous to Indians in theory, in practice the NIA proved that the present Indian areas were far more beneficially occupied. In Riverside, for example, there were 256 Indian and 99 European dwellings. There were 37 shops operated by Indians and none by the Europeans. There were no European schools, but there were 6 Indian schools. About 460 Europeans were affected in the area, compared to 5 300 Indians.<sup>263</sup> Furthermore, the European section was not well developed, and the land was not suitable for building. Indians would therefore be the losers.<sup>264</sup> The expropriation proposals of the DCC thus had far reaching consequences, and affected the livelihood and vested holdings of thousands of Indians. This gave credence to the view that expropriation was an "effort to introduce segregation under the guise of slum clearance".<sup>265</sup> Senator Edgar Brookes perceptively summarised the motives of the DCC:

The proposed expropriation scheme of the Durban City Council is of a sweeping character, involving many properties which are not slums and is carried out mainly on racial lines. In short, it is an effort to introduce



segregation under the guise of slum clearance. It is utterly repugnant to my conception of decency and fair play.<sup>266</sup>

An interesting development was the opposition by whites in the Mount Argus area of Riverside to Indian occupation. This was a franchised group and the DCC was compelled to consider their view. The DCC consequently rescinded its expropriation plans for Riverside. It also instructed the Medical Officer of Health to apply the Public Health Act, the Slums Act and the Housing Act to clean up the Riverside area.<sup>267</sup> However, almost a year later, expropriation plans for Riverside were revived by the DCC.<sup>268</sup>

The DCC was concerned about whether in terms of Section 11 of the Housing Act it could expropriate and sell land by public auction. Legal opinion indicated that the DCC could expropriate land for the purpose of constructing appropriate housing. However, it could not expropriate and auction sites.<sup>269</sup> The SAIC submitted that the aim of the relevant section was to safeguard the interests of landowners against indiscriminate expropriation by local authorities, as exemplified by the following clauses:

- i) the local authority must show to the Minister that it is unable to purchase the land on reasonable terms;
- ii) that no other suitable land is available; and
- iii) that the local authority is unable to purchase on reasonable terms other suitable land.<sup>270</sup>

In order to legitimise its expropriation plans the DCC submitted an amendment to Section 11 of the Housing Act, which read as follows:

... and includes also a proposal for the acquisition of land for the purpose of replanning or laying out an area for the resale to the public for building purposes of so much thereof as is not to be used for the construction of approved dwellings or set aside by the local authority for other purpose.<sup>271</sup>

This was a destructive weapon which could be used by local authorities such as the DCC to dislocate established communities at will. The amendment of the DCC was ultimately intended to achieve the "sinister objective of racial segregation".<sup>272</sup> This was supported by the fact that the DCC had adopted the Post-War Development Committee's recommendation to implement the policy of racial radial zoning.<sup>273</sup> According to the Committee

Durban is faced with the problem of housing a community made up of four distinct sections, viz. Europeans, Indians, Natives and Coloureds. It is in the

racial interests of all sections for them to be housed separately, one from the other.<sup>274</sup>

The race plan of the DCC (1943) (figure 4.4)<sup>275</sup> envisaged the uprooting of Indians from settled communities such as Riverside, Bluff, Bellair, Hillary, Mayville, within Durban's boundaries, and Malvern, Escombe and Northdene outside the boundaries.<sup>276</sup> These proposals were submitted to the Natal Provincial Post-War Works Reconstruction Commission which contended that "radial race zoning must become a fundamental consideration in all town planning".<sup>277</sup> The race zoning proposals of the Natal Post-War Works and Reconstruction Commission is illustrated in figure 4.5.<sup>278</sup> It is evident that these plans were almost identical to that submitted by the DCC (figure 4.4). Hence, the local state and the province were in agreement over the segregation of Indians in Durban. In terms of the recommendations of the Natal Post-War Works and Reconstruction Commission:

The Province will establish its own Housing Board ... Radial racial zoning must become a fundamental consideration in all town planning. The establishment of the Natal Housing Board will ensure the consideration of all housing schemes in conformity with that policy ... Once boundaries are agreed upon and laid down they must be inviolate and neither Indian nor European allowed to breach them indiscriminately ... then according to the principles of race zoning the land would at the death of a generation pass back to European ownership.<sup>279</sup>

In order to achieve its plans without delay the Province wanted the establishment of a Provincial Housing Board which will ensure the implementation of the race zoning policy. After the failure of the Pretoria Agreement, the Government was reluctant to accede to the Natal Administration's request for the establishment of a Provincial Housing Board. The Minister of Welfare stated in Parliament on 1 June 1944 that the Housing Bill would not be used as a tool to deal with other problems, and he will not allow the DCC's amendment to be inserted into the Bill.<sup>280</sup> As an interim measure the Housing (Emergency Powers) Act was passed in 1945, in terms of which the provincial and local authorities still required Ministerial consent for expropriation of land.<sup>281</sup> In Durban Indians living in the affected areas were granted a temporary reprieve.

Meanwhile, the 3 year duration of the Pegging Act was coming to an end, and the Government was looking at alternatives. On 30 March 1945 Prime Minister Smuts stated in

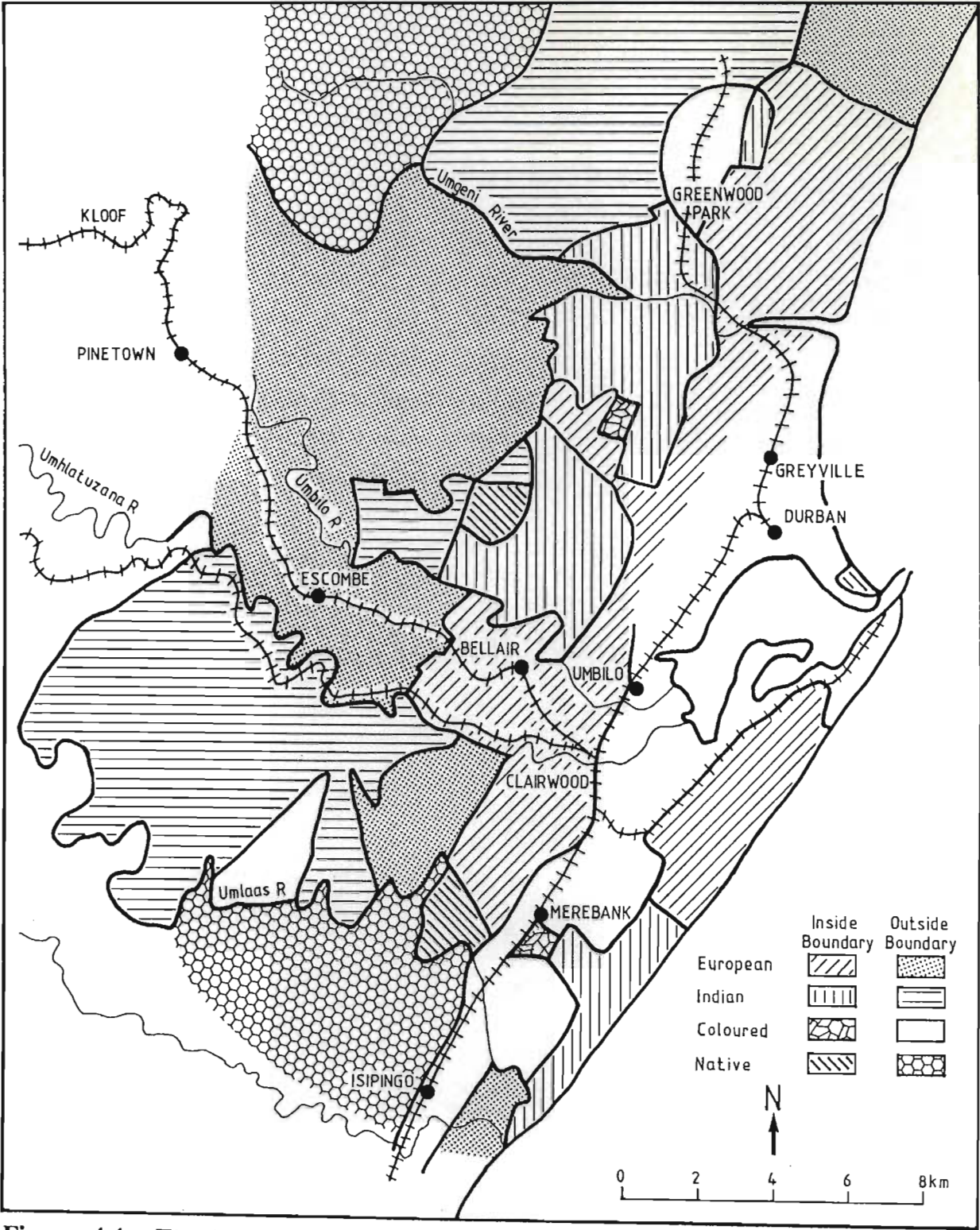
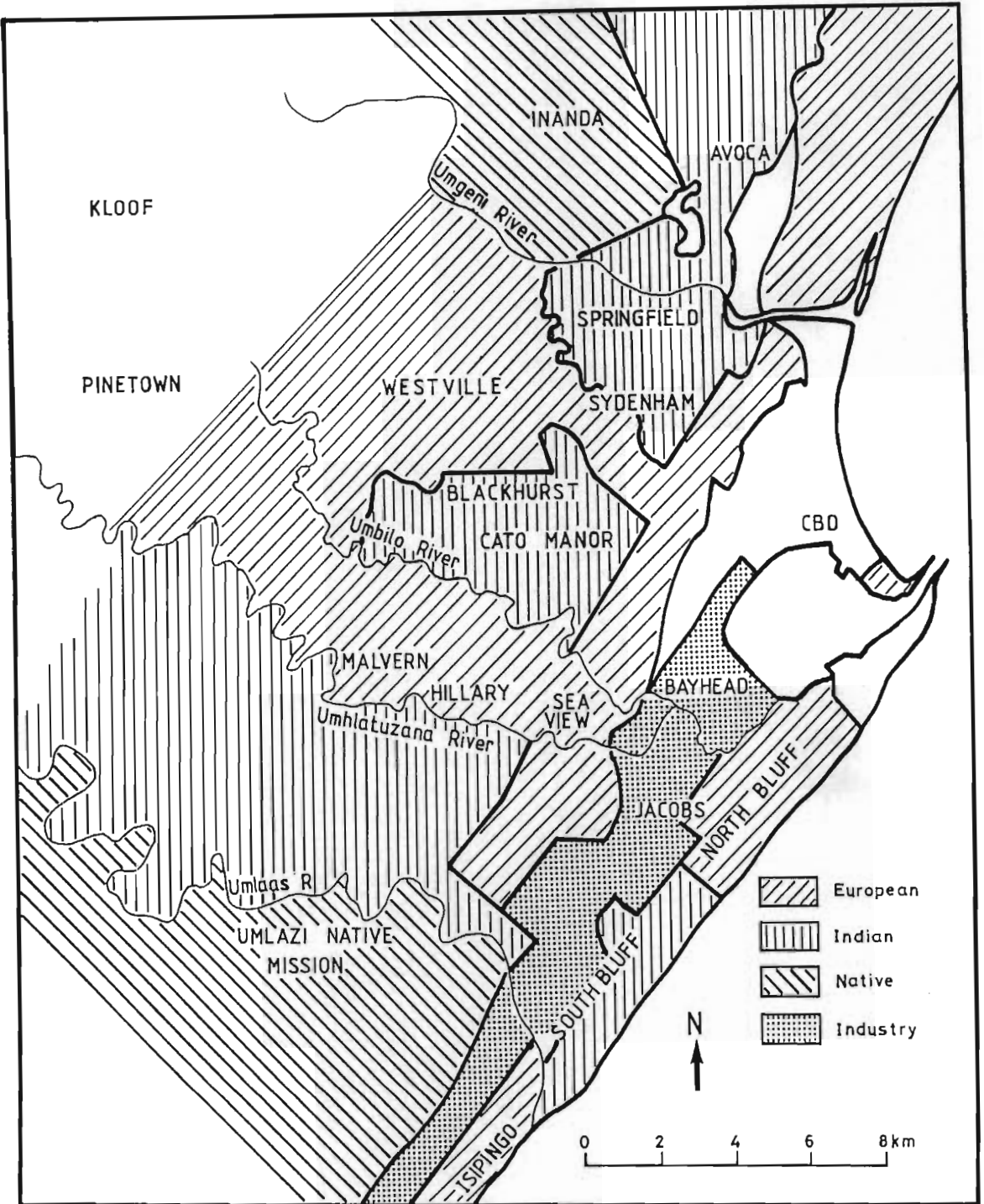


Figure 4.4 The 1943 Race Zoning Plan of the DCC



**Figure 4.5** Race Zoning Proposals of the Natal Post-War Works and Reconstruction Commission



the House of Assembly that he still preferred a voluntary rather than a mandatory solution.<sup>282</sup> Referring to the case of the Cape Province, he concluded:

Townships and residential areas are being established at the expense of the State, and there the sorting out takes place, because the plans are framed in such a way that the population is sifted and within a generation or two we shall have made good progress along these lines. Once that process of sorting out has been in operation for one or two generations, we shall have gone a long way in solving this problem without having used any compulsion, without having given offence, and without having taken away anyone's rights.<sup>283</sup>

#### **4.4.8 Local Conquest and Central Acquiescence - The 'Ghetto' Act**

The Pegging Act was due to expire on March 1946. After the abortive Pretoria Agreement the Government had stated that it would await the report of the Judicial Commission investigating problems experienced by Indians in Natal, before implementing any further measures. The Commission recommended as a matter of urgency a round table conference between the Union and Indian Governments, before any further legislation was considered.<sup>284</sup> This was supported by the NIC.<sup>285</sup> Furthermore, compulsory residential segregation should be avoided at all costs.<sup>286</sup> In spite of this, Prime Minister Smuts announced on 21 January 1946 that the Asiatic Land Tenure and Indian Representation Act will replace the Pegging Act.<sup>287</sup>

This was mainly in response to pressure from the whites in Durban. At a meeting with Prime Minister Smuts on 12 October 1945 in Pretoria, the Durban Joint Wards Committee stressed that the only practical solution to the Indian problem was compulsory residential segregation.<sup>288</sup> According to the Mayor of Durban, Councillor S.J. Smith delegations from the DCC and the Natal Municipal Association met the Prime Minister on two occasions in Pretoria and Cape Town to discuss legislation to replace the Pegging Act:

Comprehensive memoranda on the subject were presented by both deputations. The Prime Minister undertook that the representations made would receive his earnest consideration. Announcements subsequently appeared in the local press of the Government's intention to introduce legislation which would replace the "Pegging Act" ... and which would regulate the acquisition and occupation of fixed property in certain areas ... The successful outcome of the representations made by the City Council and the Natal Municipal Association

is evidenced by the promulgation on 6th June 1946, of the Asiatic Land Tenure and Representation Act ... The Act in a certain measure gives effect to the City Council's Radial Zoning proposals as contained in its Post-War Development Programme.<sup>289</sup>

Compared to the Pegging Act the new legislation was to apply to the whole of Natal and Transvaal, permanently, and was blatantly discriminatory against Indians. The Asiatic Land Tenure Act covered two main issues which affected Asians - ownership and occupation of land and the franchise.<sup>290</sup> With regard to the ownership and occupation of property, the Act embodied the general provisions of the Pegging Act and the Pretoria Agreement, and introduced controls which were far more severe than any of the previous measures.

The Act created two kinds of areas - uncontrolled and controlled or exempted areas. In the uncontrolled areas there were no restrictions on ownership and occupation of property. These areas were generally owned and occupied by Indians. The controlled areas were reserved for European ownership and occupation. Indians would not be allowed to occupy property in these areas if such property was not in Indian occupation as at 21 January 1946. In these controlled areas all inter-racial property transactions were prohibited. Also, in these areas building societies could only advance a maximum loan of 50 percent, whereas previously they lent up to 75 percent.<sup>291</sup>

Indians could occupy or acquire property in controlled areas by obtaining a permit from the Minister of the Interior. Applications for permits had to be submitted to the Land Tenure Advisory Board (LTAB) for evaluation. The Board of five which may include 2 Indians, then submitted its recommendation to the Minister, who had prerogative to grant or refuse the permit. The LTAB also investigated and advised the Minister about creating exempted areas. The Act also provided for the appointment of inspectors, with wide ranging powers, whose task was to ensure that there was no violation of the law.<sup>292</sup>

The Indian community was outraged by the Act and dubbed it the 'Ghetto Act'. The SAIC asserted that the Ghetto Act embodied the essence of segregation which had always been anathema to Indians, and denied them the franchise.<sup>293</sup> Also, the economic activities of Indians was limited by their confinement to Natal. To further contain them in the province

would accentuate their problems by restricting their opportunities to acquire and own property.<sup>294</sup>

Prime Minister Smuts replied threateningly, that

there would be considerable trouble and that the Indians would suffer if they turned down these proposals because there would be, in the end, hell for all of us. This problem had to be settled. The Europeans of Natal were very restless and there was grave disquiet. They feared that they were going to be undermined. They were afraid of the Indian's economic competition. The Government had to face the facts and therefore these proposals were going to be enacted as a matter of policy.<sup>295</sup>

The SAIC contended that the Government was bowing to the wishes of whites because they had the vote. Indians were judged to their disadvantage on the basis of findings of commissions which were initiated by baseless European agitation. The SAIC noted further that "the prima facie case accepted by the Government in 1943 as having been established against the Durban Corporation remains unanswered".<sup>296</sup> Ultimately, the President of the SAIC stated, the Act was a surrender to political expediency and was in breach of good faith.<sup>297</sup>

In an address to the Senate of the South African Parliament on 3 May 1946, Mr. M.D. Barmania, Secretary of the SAIC stated that the Indian was being punished for investing in his country and improving his quality of life:

For endeavouring to contribute towards the maintenance of Western standards of life, for investing his money in this country, for purchasing property so that he may live on a higher standard, for educating himself and his children, the cry again rose that the Indian was acquiring too much property, that he was becoming economically strong and he must therefore be restricted and confined and isolated in defined areas.<sup>298</sup>

The passing of the Ghetto Bill would give "statutory recognition to what are private prejudices of a few Europeans with vested interests".<sup>299</sup> Mr. Barmania referred to the Industrial Legislation Commission of 1935, which had concluded that restrictions on the



activities of Indians was likely to exacerbate the 'problem'. The greater the restrictions on their employment, trading, education and property owning rights

the more serious must their competition become with those spheres which are still open to them and in which they compete with Europeans. The imposition of any further restrictions, therefore, instead of leading to a solution of the problem, would only lead to intensification of the competition in the further narrowed spheres of activities which are left open to them.<sup>300</sup>

After a great deal of grassroots mobilisation of working class Indians, the radicals ousted the accommodationists and took control of the NIC in October 1945, and George Naicker was elected as President. In a memorandum to Prime Minister Smuts the NIC stated that the uprooting of established communities was repulsive to Indians, and coercive segregation would increase racial conflict.<sup>301</sup> With a more radical leadership, the NIC embarked on a massive passive resistance campaign to protest against the Ghetto Act. The campaign was launched on 13 June 1946 and suspended on 31 May 1948. Resistance took the form of occupying properties in defiance of the Act. The state responded by arresting the resisters, and many prominent Indian leaders were sent to prison. The state also auctioned the properties of passive resisters to defray fines.<sup>302</sup>

However, there was very little evidence of mass working class support for the passive resistance campaign, as this group was not immediately affected by the Ghetto Act. The Ghetto Act seriously affected "those Indians capable of purchasing land in white areas for either residential or investment purposes. It did not immediately affect the majority of less affluent Indians who had no plans for either living or investing outside existing Indian ghettos".<sup>303</sup> In fact the question of housing for the underclasses "living in shackland settlements was not raised with any force by either the NIC or NIA, since elements within the Indian merchant class were extensively involved in rack-renting to the Indian and African working class".<sup>304</sup> However, there were repercussions for the working class:

As a result of these new restrictions, property prices and rents soared in the predominantly Indian areas ... Already overcrowded slums and near-slums swiftly became overcrowded under the combined impact of natural population increase, the impossibility of movement elsewhere and ... continued migration from the countryside. Landlords charged exorbitant 'key money' or 'goodwill' for the right to rent a single dilapidated room.<sup>305</sup>

The accommodationists, under the leadership of A.I. Kaje, formed the Natal Indian Organisation (NIO) and its parent body the South African Indian Organisation (SAIO) in 1947. Its membership consisted largely of businessmen, attempting to obtain concessions from the government by 'constitutional' and 'legitimate' means.<sup>306</sup> While opposing segregation, it was also against the more militant strategies of the NIC. Although the NIO was more acceptable to, and entered into dialogue with, both the central and local states, it was unable to obtain any major concessions. The NIO argued that the Ghetto Act

seriously affected and limited the land rights, and free social and economic developments of Indians in Natal and the Transvaal, and has seriously threatened their progress and existence; the repeal of the Act will be sought with all the power at its command.<sup>307</sup>

The SAIO opposed the Act because

- i) It imposed racial discrimination and was in breach of the Cape Town Agreement and the principles of the United Nations charter.
- ii) It was an assault on a voiceless minority.
- iii) It seriously restricted the land rights and socio-economic development of Indians.
- iv) It imposed an impotent, racial franchise.<sup>308</sup>

Dr. Malan, leader of the National Party, and Opposition, supported the land tenure component of the Act in that it entrenched racial segregation in the occupation and ownership of property, which was consonant with that of his party. However, he objected to the franchise being granted to Indians.<sup>309</sup>

Predictably, the DCC welcomed, and defended, the Act. The DCC and the Durban Joint Wards Committee claimed that the Ghetto Act represented a sincere attempt to solve a perplexing and intricate endemic problem, "and to provide a means whereby two races fundamentally different in character and tradition may dwell together in peace and harmony".<sup>310</sup> They maintained that the much maligned Act conferred a status upon Indians which they did not previously possess. Indians were accepted as permanent South African citizens and granted political representation at parliamentary level. They further maintained that the

Act does not place Indians in 'ghettoes'. Though their right to penetrate into areas set aside for other races has been restricted, a substantial part of Natal has been left free of restriction in order to enable the Indians to develop to the full. These sections include some of the most valuable land in Durban ...<sup>311</sup>

In addition to viewing the Ghetto Act as a fair and sensible resolution of the conflicting land demands of whites and Indians, the DCC emphasised that the "support of these principles in their present form involves substantial concessions by the European in the City".<sup>312</sup>

The inequitable manner in which the Ghetto Act was applied is highlighted in the case of Durban (figure 4.6).<sup>313</sup> Only Cato Manor, Brickfield, and Springfield were declared uncontrolled areas. Although the Old Borough had a population of 25 000 whites and 65 000 Indians, almost the entire area was declared a controlled zone. More specifically, about 350 acres of land were allocated to Indians and 2 940 acres were already owned by whites. In addition, some 1 121 acres were earmarked by the DCC for whites and would never be sold to Indians.<sup>314</sup>

The Indian Government was enraged by the passing of the Act and the Union Government's refusal of a round table conference. It withdrew the Indian High Commissioner from the country and imposed trade sanctions against South Africa. The Indian Government placed the treatment of South African Indians on the agenda of the United Nations, maintaining that "the Union Government's discriminatory treatment of Asiatics in general and Indians in particular on the grounds of race, constitutes a denial of human rights and fundamental freedoms".<sup>315</sup>

General Smuts denied that South Africa had violated human rights. Furthermore, he claimed that the matter was an internal, domestic one, beyond the jurisdiction of the United Nations. The United Nations resolved on 9 December 1946 that the two governments should meet and discuss measures to implement the measures of the Cape Town Agreement. However, the South African Government ignored the resolution.<sup>316</sup> Smuts emphasised that the Government had no intention of revoking or moderating the Asiatic Land Tenure and Indian Representation Act, which he considered "an anchor to South Africa and to Natal in particular".<sup>317</sup>

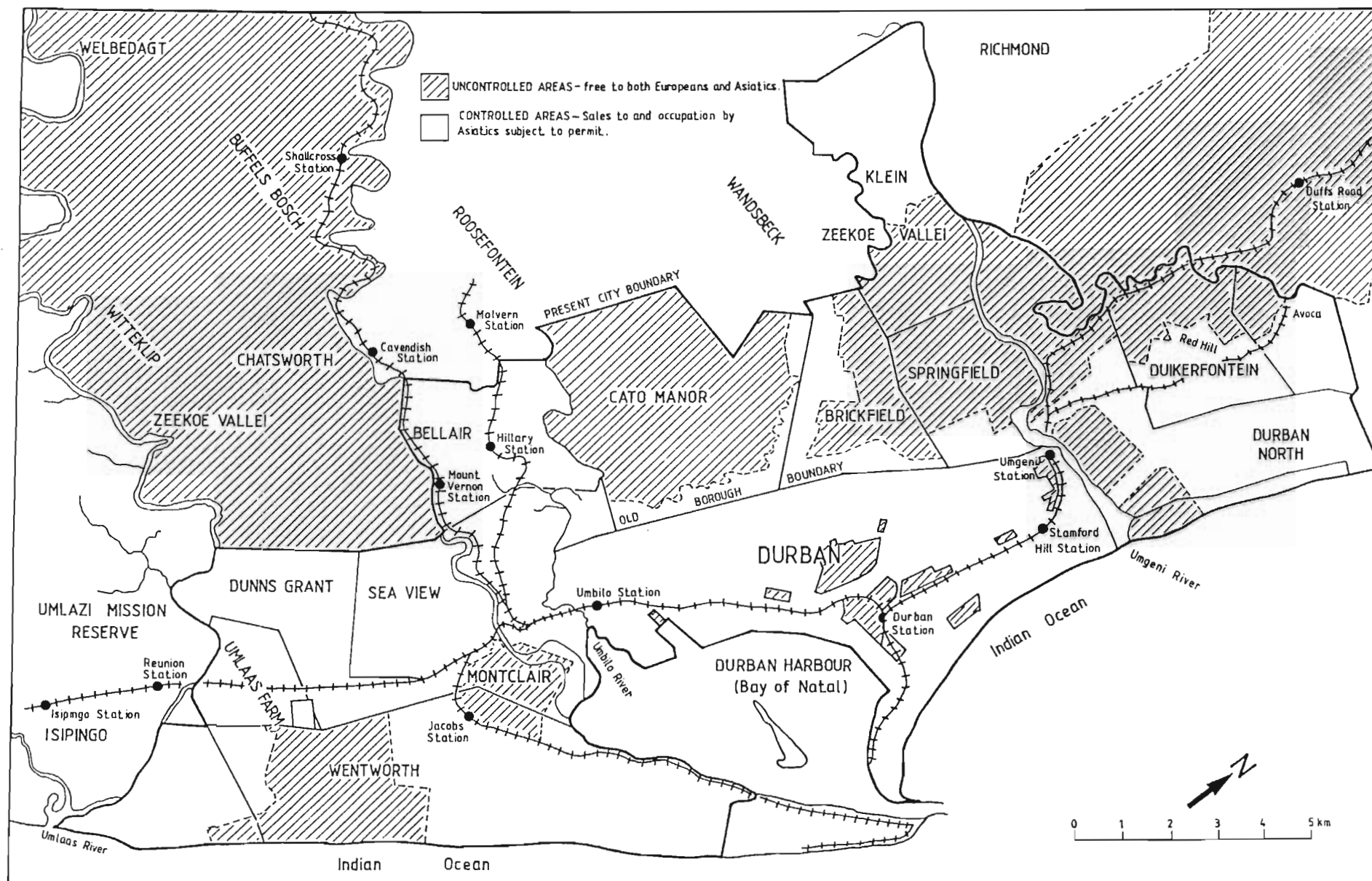


Figure 4.6 The Ghetto Act in Durban

After the passing of the United Nations resolution, South African M.P.s organised a boycott of Indian traders, which persisted for more than two years, in spite of appeals from Smuts that it should stop. European financial institutions refused to grant loans to Indians. There was a deliberate policy not to employ Indians in both the private and public sectors, and to displace them with Europeans wherever possible. Local authorities were guilty of excising areas designated for Indians in terms of the Ghetto Act and adding them to 'controlled' areas which were reserved for the exclusive ownership and occupation of whites. According to the NIO these events vindicated the community's view that

the Law is designed to segregate and economically strangle the Indian people ... It is being used as a weapon of oppression and as a means for the denial by every possible effort of the economic and social progress of the Indian community.<sup>318</sup>

On 26 May 1948 Dr. Malan's National Party came into power. The principal policy of this party was apartheid or the separation of the different race groups in all spheres. With regard to Indians the policy was to repatriate as many as possible. It repealed the Representation Section of the Asiatic Act of 1946. The essence of its Asiatic policy was repatriation, failing which there was to be compulsory segregation.

#### 4.5 CONCLUSION

An assessment of segregation measures which preceded the Group Areas Act reveals a trend from isolated, localised measures in the 1880s to progressively more systematic, comprehensive and all embracing legislation in the 1940s. Numerous commissions of inquiry were instituted by the state to justify its policies. According to Ashforth commissions served to legitimate the state's ideological discourse:

Although it is not usual to do so, a commission of inquiry can be thought of as a theatre of power. It is a theatre in which a central 'truth' of state power is ritually played out before a public audience. The truth is that the subjects of power can speak freely of their interests and will be heard; that state power is civilised, is a partner with 'society' in pursuit of the 'common good'. The attitude of the state listening is symbolised materially by the commission's published report - the materialisation of the act of hearing.<sup>319</sup>

Restrictions on Indian acquisition and occupation of land dates back almost since their arrival in South Africa. Indians were perceived to be an economic threat to the European and this was reflected in virtually pathological racial prejudices. This was aptly summarised by a correspondence of the Cape Times newspaper:

Economically the trading Indian is a 'menace' only to a section of the European trading community ... The supposed social 'menace' arising from the presence of the Indian in Natal is the subject of even greater exaggeration ... It would be difficult to get one percent of the European population of Durban to testify to specific instances of detriment, inconvenience or even annoyance caused by Indians ... the real cause of the annoyance is clearly race prejudice.<sup>320</sup>

These prejudices were transformed into policies which limited their access to land and housing, as well as trading opportunities. There is little doubt that the various restrictions on Indian land tenure were ultimately conceived to curb their economic expansion. Associated with this were the restrictions on trading licences and the refusal to grant loans to Indians. Initially, these policies were confined to the local state, but as the pressure from the white electorate mounted the central state was forced to introduce sweeping legislation which culminated in the Ghetto Act of 1946. Hence, the social and economic prejudices of whites against Indians were sanctified by legislation, and adopted as state policy.

In the process the state was going against the findings and recommendations of numerous commissions of inquiry which emphasised that the segregation of Indians and limitations on their trading practices would ultimately have an adverse impact on the whole country. The central state was reluctant to introduce statutory residential segregation because of international repercussions, particularly in its relations with India. As a disenfranchised group, Indians were forced to seek assistance from India in response to the ever increasing repressive measures of the South African state. The Cape Town Agreement provided a reprieve for Indians.

Indians stated quite categorically that they had no desire to live next to whites, and this was also conceded by the different commissions. However, the Indian community was vehemently opposed to any form of statutory segregation and measures which denied them



their rights as law abiding citizens. Coercive segregation measures promoted racial conflict and discord.

Although a disenfranchised and voiceless group, Indian aspirations were articulated at different times by the different political organisations - the NIC, NIA, NIO, SAIC and SAIO. These organisations differed in terms of their strategies, but their objective was the same to fight for the rights of the Indian community. In an atmosphere of increasing hostility and intolerance they utilised every peaceful measure to expose the injustice and violation of human rights in South Africa. This included passive resistance, recourse to the law, and appeals to India and the United Nations.

While they claimed to represent the Indian community, there was very little evidence of mobilisation of the working class. Political action mainly "consisted of constitutional protest letters, petitions and deputations" to government officials in South Africa or India.<sup>322</sup> These organisations were, however, primarily concerned with protecting trading and middle class interests:

Socially and politically they were conservative. They worked within the framework of the existing social order, and although they protested against white discrimination against Indians (hence their claim to represent the entire 'community') they protested from a class rather than a national or racial position.<sup>322</sup>

The major players in Durban, the NIC and NIA, had access to central state structures, and both adopted accommodationist strategies of negotiating with the state to protect their commercial, residential and investment interests. The NIA had served on the Lawrence Committee, and the NIC was party to the abortive Pretoria Agreement. Significantly, both attempts at voluntary segregation and co-operation were destroyed by the local state of Durban.

Up to the mid-1940s, the Indian underclass was "poorly served by organised Indian politics".<sup>323</sup> As "Indian traders and landowners were coming under increasing political pressure from the state, political mobilisation in the struggle against segregation of the Indian community subordinated Indian trade unions and workers to the defence of the Indian petty-bourgeoisie".<sup>324</sup> By 1945, political organisations "had hardly begun the task of addressing

fundamental worker grievances such as low wages, poor working conditions, inadequate housing, education and the like. Given these circumstances, to have expected any greater empathy or committed support for these political struggles from the newly proletarianised and poorly educated working class ... would surely have been unreasonable".<sup>325</sup> The main reason for this was that segregation affected the different classes of the Indian community in different ways. It reduced opportunities for investment and commercial expansion for the wealthy, and there was also a possibility of financial losses. The less affluent of the elites faced the possibility of moving into working class neighbourhoods. Segregation represented a double edged sword for the underclasses - with increasing rents and slum clearance some would become homeless, while others could possibly be housed in municipal housing schemes.<sup>326</sup>

In 1945 the NIC was taken over by the 'radical bloc' which led to the first serious, although unsuccessful<sup>327</sup> attempt at mass mobilisation in the form of the passive resistance campaign. The other example of mass mobilisation at grassroots level was opposition to the DCC's expropriation plans. It has been suggested "that there was a distinct shift in the predominantly accommodationist, merchant dominated politics of the pre-1945 NIA/NIC, to ostensibly more militant, aggressive and less accommodationist politics of the post-1945 period".<sup>328</sup> A telling indictment against the political leadership of the period was the failure to mobilise across racial barriers:

A study of the working class areas of Durban would surely reveal that even by the 1930s there was a considerable intermingling of African and Indian workers. Much of this was superficial - on the race track, in the cinema, or in the bus - but some was more durable, in terms of worker or home relationships. This urban intermingling might have become the basis for a political movement, if the Indian leaders had not remained so completely middle class, whether they were moderates or radicals in their ideology.<sup>329</sup>

The central state was reluctant to introduce statutory residential segregation because of international repercussions, particularly its relations with India. As far as was possible it preferred voluntary residential separation. This was evidenced by the establishment of the Lawrence Committee and the abortive Pretoria Agreement. Even the Pegging Act was a temporary measure for three years, during which period the state anticipated that the problem would be resolved satisfactorily. These attempts by the central state were consistently

thwarted by the local state in Durban, which represented local white interests and demanded statutory separation of Indians and whites.

In fact the major statutory measures introduced by the central state, the Pegging and Ghetto Acts, were in response to pressure from the DCC and its white citizens. Anti-Indian agitation and allegations of penetration in Durban dominated the 1940s. Conflict between Indians and whites escalated as the DCC refused to accept the fact, which was supported by ample evidence, and acknowledged by the central state, that Indians were moving into white areas because the DCC had failed to provide them with sites with suitable amenities and services. Furthermore, the DCC had in fact had gone out of its way to expropriate Indian properties in settled, established communities. This chapter how the Indian question was used by the local state in Durban to influence national political processes.

In 1948 the National Party won the general election, and given its previous support for stringent segregation policies, there was little doubt about what was in store for Indians. The Ghetto Act of 1946 had in fact laid the foundations of the Group Areas Act which followed in 1950. The legislative aspects of this legislation will be discussed in the next chapter.

## ENDNOTES:

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9. *Natal Mercury*, 25/7/1855.
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11. Joshi, 1942, *op. cit.*, p. 46. For a good analysis of the early history of the sugar industry, see Richardson, P. 1986. The Natal Sugar Industry in the Nineteenth Century. In Beinart, W. et al., (eds.), *Putting a Plough to the Ground: Accumulation and Dispossession in Rural South Africa 1850-1930*. Johannesburg: Ravan Press, pp. 129-175; Minnaar, A.V. 1989. Labour Supply Problems of the Zululand Sugar Planters, 1905-1939. *Journal of Natal and Zulu History*, 12, pp. 53-72; Dickinson, P.M. 1989. C.G. Smith and Company Limited, 1910-1939. *Journal of Natal and Zulu History*, 12, pp. 35-52.
12. Brain, 1985, *op. cit.*

13. Section 9 of Law 14 of 1859, cited by Davie, F. (n.d.). *The Indian Situation*, p. 11.
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17. ibid., p. 63. However, only 50 plots of land were granted out of 13 000 applications. See Ginwala, F.N. 1974. *Class, Consciousness and Control: Indian South Africans 1860-1946*. Unpublished Ph.D. thesis, Oxford University, p. 426.
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32. ibid.



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34. See Mesthrie, U.S. 1985. Reducing the Indian Population to a 'manageable compass': A Study of the South African Assisted Emigration Scheme. Natalia, 15: 36-56.
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36. See Bradlow, E. 1970. Indentured Indians in Natal and the 3 pound Tax. South African Historical Journal, 2, pp. 38-53.
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67. ibid., para. 218.
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69. ibid., p. 55-56.
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80. ibid., para. 10
81. A typical clause read as follows: "This transfer is passed subject to the condition that the transferee, his heirs, executors, administrators or assigns shall not sell, let, lease or allow occupation of the aforesaid property to any Asiatic or person of Asiatic descent. Source: Pather, 1938, op. cit., p. 3.
82. Pather, 1938, op. cit. p. 3.
83. Class "includes any persons having, in the opinion of the Minister, common racial characteristics, but does not include European persons, persons commonly described Cape coloured persons and natives". Source: U.G. No. 39 - 1941, Report of the Indian Penetration Commission, Government Printer, Pretoria, p. 6.
84. ibid., p.6.
85. ibid., p. 6.
86. ibid., p. 6.
87. Joshi, 1942, op. cit., p. 108.
88. Minutes of the Durban Town Council, 4/4/24.
89. U.G. No. 16-1914, Report of the Indian Enquiry Commission. Cape Town: Government Printer, p. 37.
90. U.G. No. 4 - 1921, op. cit., para. 202.
91. Minutes of the Durban Town Council, 24/4/24.
92. This Bill has been published in Andrews, 1926, op. cit.
93. This has also been referred to as the Asiatic Bill.
94. The first chapter of the Areas Reservation Bill was almost identical to the Class Areas Bill.
95. Andrews, 1926, op. cit., p. 13.
96. ibid., p. 13.
97. Statement by the NIC on the Areas Reservation and Immigration and Registration (Further Provision) Bill, 1925, p. 3.
98. Minutes of the Durban Town Council, 5/2/1926.
99. Memorandum from Councillor H.H. Kemp to the Durban Town Council, 20/4/25.
100. Statement by the NIC, 1925, op. cit., p. 3.
101. Statement presented by the Government of India Deputation to the Select Committee of the Union House of Assembly on the Areas Reservation and Immigration and Registration (Further Provision) Bill, 3 March 1926, para. 13.

102. ibid., para. 7.
103. The SAIC was formed in 1923 and comprised the NIC, Transvaal Indian Congress (TIC, established in 1927) and the Cape British Indian Council. See Mesthrie, U. 1989. Indian National Honour versus Trader Ideology: Three Unsuccessful Attempts at Passive Resistance in the Transvaal, 1932, 1939 and 1941. South African Historical Journal, 21, p. 42.
104. Palmer, 1957, op. cit., p. 96.
105. Calpin, 1949, op. cit., p. 60.
106. NIA - A refutation of the European Agitation against "Indian Penetration", Supplement to Indian Opinion, 16/4/43, para. 72.
107. Minutes of the Durban Town Council, 20/4/26.
108. ibid.
109. For an analysis of the Round-Table Conference and the Cape Town Agreement, see Joshi, 1942, op. cit., pp. 125-152, and Corbett, J.E. 1947. A Study of the Cape Town Agreement. Unpublished Master's dissertation, University of Cape Town.
110. Cited in Calpin, 1949, op. cit., p. 65.
111. Minutes of the Durban Town Council, 18/3/27.
112. The NMA was originally established to facilitate co-operation in matters of common interest. One of its primary interests was to safeguard the interests of local authorities in the 3-cornered contest between the central government, provincial government and the municipalities (See Calpin, n.d. A.I. Kaje - His work for the South African Indian Community. Durban: Iqbal Study Group, p. 49).
113. Indian Opinion, 12/10/33.
114. Indian Opinion, 9/8/35.
115. Calpin, 1949, op. cit., p. 102.
116. Webb, M. 1949. The Indian in South Africa. Durban, p. 1.
117. In terms of the Immigration Restriction Act of 1905, and the Immigration Act of 1906, Indians were prohibited from entering the Transvaal and Cape Colony, respectively without permits.
118. Webb, op. cit., p. 5.
119. The Durban Housing Survey (1952) A Study of Housing in a Multi-Racial Community. Pietermaritzburg: University of Natal Press, pp. 17; 25.
120. ibid., p. 19.
121. Report of the Sub-Committee of the Durban Town Council on the Areas Reservation and Immigration and Registration ((Further Provisions) Bill, 2/2/26.
122. ibid.
123. "The Indian in Natal - is he the victim of oppression?" pamphlet issued by the DCC and Durban Joint Wards Committee (1946).

124. Pather, n.d., *op. cit.*, p. 4. The natural increase in the Indian population of 2,7 percent between 1936 and 1946 was the highest of all the population groups in the Union. Source: The Indian Population of South Africa. A Publication of the South African Bureau of Racial Affairs, 1975, Pretoria, p. 10.
125. Singh, 1946, *op. cit.*, pp. 20-21.
126. Burrows, R. 1952. Indian Life and labour in Natal. Johannesburg: South African Institute of Race Relations, p. 54.
127. Adapted from Kuper, *et.al.*, 1958, *op. cit.*, p. 117.
128. Petition to the Provincial Council by the NIC against Resolution of Mr. A.T. Allison, on Asiatic Encroachments, 13 May 1939.
129. *ibid.*
130. U.G. No. 4 - 1921, *op. cit.*, para. 218.
131. Warmington, W. (n.d.) Asiatic Land Tenure and Indian Representation Act. Council for Human Rights, p. 4.
132. DCC Minutes, 10/11/39. As from the 1/8/35 the Durban Town Council was designated as the Durban City Council (DCC), (Mayor's Minutes, 1935, p. 7).
133. DCC Minutes, 10/11/39.
134. Ginwala, 1974, *op. cit.*, p. 183.
135. Singh, R. and Vawda, S. 1988. What's in a Name? Some Reflections on the Natal Indian Congress. Transformation, 6, p. 4.
136. Padayachee, M. *et. al.*, 1985. Indian Workers and Trade Unions in Durban 1930-1950. Durban: ISER, University of Durban-Westville, p. 142. The formation of the CBSIA resulted from the dissatisfaction arising from the NIC and SAIC participation in the "Colonisation Enquiry Commission to look into possible countries to which the masses could be despatched ... participation and support for the commission were seen as lacking in sensitivity and concern for the masses" (Bhana, S. and Mesthrie, U.S. 1984. Passive Resistance among Indian South Africans: A Historiographical Survey. South African Historical Journal, 16, p. 127).
137. Source of Figure: Padayachee, *et al.*, 1985, *op. cit.*, p. 217.
138. *ibid.*
139. *ibid.*
140. *ibid.*
141. In the 1930s the NIC and NMA were co-operating informally in persuading Indians not to purchase properties in predominantly white areas. This was related to Mr A.I. Kajee's friendship with Mr. T. Walker, Secretary of the NMA, and was known as the 'Kajee Assurance' (Calpin, n.d., *op. cit.*, p. 55).
142. U.G. 39-41, *op. cit.*, p. 70.
143. Natal Mercury, 15/3/40.

144. Penetration Assurance and Segregation - Swami Bhawani Dayal's Statement. Published by the NIC, 8 March 1940, Durban. See also "Segregation with Co-operation", compiled by Hans Maghrajh and Aboobaker Moosa, joint secretaries of the NIC, 1940.
145. ibid.
146. ibid.
147. Singh and Vawda, 1988, op. cit., p. 4.
148. ibid., pp. 142-143.
149. ibid., p. 5.
150. Indian Opinion, 26/7 40.
151. Natal Mercury, 18/1/40.
152. A Refutation of the European Agitation against "Indian Penetration" by the NIA, Supplement to Indian Opinion, 16/4/43, p. 6.
153. Memorandum by Indian Representatives on Lawrence Committee in regard to provision of Choice residential sites, 29 May 1940.
154. "A Refutation of ...", op. cit., p. 7.
155. "Memorandum by Indian ...", op. cit.
156. "A Refutation of ...", op. cit., p. 7.
157. ibid.
158. U.G. No. 39 - 1941, op. cit., p. 1.
159. Palmer, 1957, op. cit., p. 118.
160. U.G. 39 - 1941, op. cit., p. 4.
161. ibid., p. 65.
162. ibid., p. 12.
163. Indian Penetration - Labour's Plan. Published by the South African Labour Party, Durban (n.d.).
164. U.G. No. 39-1941, op. cit., pp. 67-68.
165. ibid., p. 72.
166. Memorandum of the DCC to the Chairman and Members of the Commission of Enquiry regarding possible Indian Penetration, for Trading or Residential Purposes, of predominantly European areas in Natal and Transvaal, 27 July 1940, pp. 4-5.
167. U.G. No. 39-1941, op. cit., p. 72.
168. Memorandum of the DCC ..., op. cit., 29 July 1940.

169. U.G. No. 39, op. cit., p. 68.
170. U.G. No. 39-1941, op. cit., p. 69
171. ibid., p. 74.
172. Memorandum of the DCC ..., op. cit., 27 July 1940, p. 4.
173. U.G. No. 39-1941, op. cit., p. 72.
174. The Indo-European Council was an organisation established by liberal whites to encourage Europeans and Indians to discuss matters of mutual interest (Calpin, n.d., op. cit., p. 42).
175. Evidence presented to the Penetration Commission by the Durban Indo-European Council, December 1940.
176. ibid.
177. ibid.
178. U.G. No. 39-1941, op. cit., pp. 73-74.
179. U.G. No. 39-1941, op. cit., p. 74-75.
180. ibid., p. 76.
181. A Refutation ..., op. cit., 16 April 1943, p. 3.
182. The Durban Housing Survey, op. cit., p. 297.
183. Report of the Commission Appointed to Consider and Report upon (1) the Extension of the Boundaries of the Borough of Durban or (2) the Better Government of the Local Urban Areas adjacent thereto. Published under Province Notice No. 411, 1930 in the Natal Provincial Gazette of 18 December 1930, para. 148.
184. ibid., paras. 150-1.
185. Paper delivered by Mr. S.J. Smith, M.P.C. on Housing and Slum Clearance at the First Conference of the NIC, 10-11 December 1938, paras. 5-6.
186. ibid., p. 4.
187. ibid., p. 5.
188. Calpin, 1949, op. cit., p. 168.
189. DCC Minutes, 5/12/41.
190. U.G. No. 21-1943, Report of the Second Penetration (Durban) Commission, para. 1.
191. Daily News, 16/3/43.
192. NIC Memorandum submitted to the Second Penetration Commission, 15 March 1943, para. 3.
193. U.G. 21-1943, op. cit., para. 16.



194. Daily News, 19/3/43.
195. Natal Mercury, 20/3/43.
196. Source: Maasdorp, G. and Pillay, N. 1977. Urban relocation and racial segregation - the case of South African Indians. Durban: University of Natal, p. 89.
197. U.G. 21-1943, op. cit., para. 20.
198. ibid., para. 22.
199. "A Refutation ... ", op. cit., para. 45.
200. ibid., para. 47.
201. ibid., para. 46.
202. "A Refutation ... ", op. cit., para. 53-54.
203. NIC Memorandum ..., op. cit., 15 March 1943, para. 35.
204. ibid., para. 23-25.
205. ibid., para. 16.
206. "A Refutation ... ", op. cit., para. 25-26.
207. Singh, 1946, op. cit.
208. Mr. G. Heaton Nicholls, Natal Mercury, 30/4/43.
209. Natal Mercury, 3/3/43.
210. Choudree and Pather, 1946, op. cit.
211. Statement on the alleged question of Indian Penetration to the Hon. The Minister of the Interior by the NIC with a copy of the Trading and Occupation of Land Restriction Bill, 10/4/43.
212. Daily News, 14/4/43.
213. Mr. H.G. Lawrence, Minister of the Interior, Daily News, 26/4/43.
214. Natal Mercury, 14/4/43.
215. Daily News, 14/4/43.
216. Prime Minister Smuts stated in parliament: "We regret that we have been compelled to take this action. We had hoped that it would not be necessary at this stage to come forward with a measure of this kind" (Natal Mercury, 15/4/43).
217. Natal Mercury, 15/4/43.
218. Daily News, 1/6/44.
219. Mrs. V.M.L. Ballinger, Natal Mercury, 17/4/43.

220. ibid.
221. Memorandum submitted by the SAIC to the Prime Minister of the Union of South Africa, 29/3/44, para. 1-2.
222. Daily News, 4/12/43. See also, Presidential Speech of Mr. M.A. Motala ..., op. cit., 13 April 1943.
223. Padayachee, M. et. al., 1985, op. cit., p. 142. It appeared that the CBSIA also continued to function independently for a short period.
224. Memorandum submitted by the NIC to the Prime Minister of South Africa, 18/4/44, para. 2.
225. ibid., para. 3.
226. ibid., para. 4-5.
227. ibid., paras. 9, 11.
228. Memorandum submitted by the NIC ... 18/4/44, op. cit., para. 1.
229. Daily News, 20/4/44.
230. U.G. No. 22-45, op. cit., para. 24.
231. Resolutions adopted at a meeting of the Colonial Born and Settlers Indian Association held on 23 April 1944 in Durban.
232. Memorandum submitted by the NIC to the Hon. the Deputy Prime Minister on the Indian Question, 29/3/45, para. 3.
233. Explanatory note to notice convening meeting of the NIC to be held on 7 May 1944, para. 7.
234. DCC Minutes, 24/4/44; Daily News, 24/4/44.
235. Daily News, 25/4/44.
236. Pamphlet issued by the Durban Joint Wards Committee, 9/8/45.
237. Pamphlet issued by the Action Committee of the Combined Ratepayers Association, Durban.
238. Provincial Council of Natal - Report of the Select Committee to examine the Occupation Control Draft Ordinance (No. 20, 1944), Pietermaritzburg.
239. U.G. No. 22-1945, Interim Report of Commission of Enquiry into Matters Affecting the Indian Population in the Province of Natal, para. 31.
240. Daily News, 3/11/44.
241. Daily News, 5/12/44.
242. Daily News, 19/12/44.
243. Further Observation and Submission of the NIC on the Note of the Prime Minister dated 30 November 1944, 10/01/45, para. 5.
244. ibid., para.4.

245. U.G. No. 22-1945, op. cit., para. 20.
246. Parnell, S. 1988. Racial segregation in Johannesburg: The Slums Act, 1934-1939. South African Geographical Journal, 70, p. 113.
247. ibid., pp. 123-4.
248. ibid., p. 124.
249. Evidence ... Durban Indo-European Council, December 1940, op. cit.
250. ibid.
251. Memorandum of the NIA submitted to the Secretary for Public Health setting forth its objections to the Expropriation Proposals of the DCC, 22/12/41, para. 33.
252. Durban Housing Survey ... , op. cit., pp. 297-298.
253. Paper delivered by S.J. Smith, op. cit., para. 9.
254. DCC Minutes, 10/1/41.
255. Source: Memorandum of NIA ... 22/12/41, op. cit., para. 1.
256. ibid., para. 31.
257. ibid., para. 31.
258. Speech delivered by the President of the NIA at a Mass Meeting held at the Durban City Hall, to protest against the expropriation of Indian owned lands in Durban, 2/3/44.
259. ibid., para. 4. See also Memorandum presented by the Joint Council of Action to the Minister of the Interior and Public Health, 15 July 1942.
260. ibid.
261. ibid.
262. ibid.
263. Memorandum of NIA ... , op. cit., 22/12/41, paras. 7; 14.
264. The Leader, 1/8/42.
265. The Leader, 22/8/42.
266. ibid.
267. DCC Minutes, 30/9/42.
268. DCC Minutes, 25/6/43.
269. Bagwandeem, D.R. 1983. The Question of 'Indian Penetration' in the Durban Area and Indian Politics: 1940-1946. Unpublished Ph.D. thesis, University of Natal, Durban, pp. 153-154.

270. Memorandum of the SAIC on the Subject of the Proposed Amendment to Section 11 of the Housing Act for Powers of Expropriation, March 1944, para. 4, para. 2.
271. ibid.
272. Memorandum of the NIC to the Minister of Welfare and Demobilisation on the Subject of the Proposed amendment to Section 11 of the Housing Act for Powers of Expropriation, 25/5/44, para. 6.
273. City of Durban (1943) Programme of Post-War Development, paras. 121-129.
274. ibid., para. 121.
275. Source: ibid.
276. ibid., para. 122.
277. Memorandum of the NIC ... 25 May 1944, op. cit., para. 6.
278. Source: Natal Mercury, 21/10/44.
279. Memorandum submitted by NIC ..., 29/4/45, op. cit., para. 4.
280. Memorandum submitted by NIC ... 14/3/45, op. cit., para. 4 (c).
281. Bagwandeem, D.R. 1983. The Question of 'Indian Penetration' in the Durban Area and Indian Politics: 1940-1946.:156-157. Unpublished Ph.D thesis, University of Natal, Durban.
282. Petition submitted by the SAIC to the Honourable the Speaker and Members of the House of Assembly of the Union of South Africa, 26/3/46, para. 19.
283. Memorandum of the NIC ..., 29/4/45, op. cit., para. 9.
284. U.G. No. 22-1945, op. cit., para. 74.
285. Memorandum submitted ... by NIC, 9/11/45, op. cit., paras. 15-17.
286. ibid., para. 7.
287. Singh, 1946, op. cit., p. 27.
288. "The South African Indian Problem and its Solution", pamphlet issued by the Durban Joint Wards Committee, 12/11/45.
289. Mayor's Minutes, 1945, p. 31.
290. The Act conferred a form of communal franchise to Indians in terms of which they could elect 2 Europeans to represent them in the Senate, and 3 Europeans in the House of Assembly. For more information, see Pachai, 1971, op. cit., pp. 188-189.
291. Singh, 1946, op. cit., pp. 30-32; Choudree and Pather, 1946, op. cit., p. 7-8.
292. ibid.
293. Petition submitted by SAIC ..., 26/3/46, op. cit., para. 5.
294. Report of the SAIC deputation that waited on the Honourable General Smuts on 11/2/46, para. 7.

295. ibid., para. 19.
296. ibid., para. 20.
297. Press Statement issued by the President of the SAIC, 28/3/46, Cape Town.
298. Congress addresses the Union Parliament. Document No. 64. In Bhana and Pachai, op. cit., pp. 176-177.
299. ibid., p. 183.
300. ibid., p. 181.
301. Memorandum from the NIC to Prime Minister Smuts, 9/11/45, paras. 10-11.
302. Report of the Passive Resistance Council. Source: NIC Agenda Book, 1947. See also Kuper, L. 1957. Passive Resistance in South Africa. New Haven: Yale University Press.
303. Johnson, R.E. 1973. Indians and Apartheid: The Failure of Resistance. Unpublished Ph.D. thesis, University of Massachusetts.
304. Bailey, D.E. 1987. The Origins of Phoenix, 1957-1976: The Durban City Council and the Indian Housing Question. Unpublished Master's dissertation, University of Natal, Durban, p. 48.
305. Swan, M. 1987. Ideology in organised Indian politics, 1891-1948. In S. Marks and S. Trapido (eds.), The Politics of Race, Class and Nationalism in Twentieth Century South Africa. London: Longman, p. 191.
306. Johnson, 1973, op. cit., p. 68.
307. Memorandum of the NIO to members of United Nations on the Treatment of Indians in South Africa, 10/10/47, para. 1.
308. Address by the President of the SAIO, 1/9/48.
309. Hansard, 26/3/46, cols. 4185-4187.
310. "The Indian in Natal - is he the victim of oppression?" Pamphlet issued by the DCC and the Durban Joint Wards Committee, 1946.
311. "The Indian in South Africa", Pamphlet No. 2 issued under the joint auspices of the DCC and the Durban Joint Wards Committee, 1946 (original emphasis).
312. DCC Minutes, 25/2/46.
313. Source: Durban City Council.
314. Choudree and Pather, 1946, op. cit., p. 7.
315. Webb, M. 1949. Indian Land Legislation. In E. Hellmann (ed.), Handbook on Race Relations in South Africa. Cape Town: Oxford University Press, p. 211.
316. Treatment of Indians in the Union of South Africa - Report by the Government of India on the Resolution passed by the United Nations General Assembly on 8/12/46. Published by the South African Passive Resistance Council, 1947.
317. ibid., p. 4.

318. Memorandum of the NIO to members of the United Nations on the Treatment of Indians in South Africa, 10/10/47.
319. Ashforth, A. 1990. The Politics of Official Discourse in Twentieth Century South Africa. Oxford: Oxford University Press, p. 7.
320. Cape Times, 14/1/26.
321. Swan, 1987, op. cit., p. 192.
322. ibid., p. 193.
323. ibid., p. 188.
324. Hemson, D. 1977. Dockworkers, Labour Circulation and Class Struggles in Durban, 1940-59. Journal of Southern African Studies, 4, pp. 102-103.
325. Padayachee, M. et. al., 1985, op. cit., p. 156 (original emphasis).
326. Swan, 1987, op. cit., p. 192.
327. For reasons for the failure of passive resistance, see Johnson, 1973, op. cit., pp. 74-82; Swan, 1987, op. cit., p. 204.
328. Padayachee, M. et al., 1985, op. cit., p. 156. For more information on this debate see Johnson, 1973, op. cit., Ginwala, 1974, op. cit.
329. Tinker, H. 1973. The Politics of Racism: South African Indians. Journal of African History, 14, p. 525.



## CHAPTER FIVE

### THE GROUP AREAS ACT

Although disguised to apply to all races in general, the Group Areas Bill was particularly directed against the Indian people. It was a pernicious effort to segregate the Indians *en masse* into special kraals, locations and townships where only they could live or die. It was a wicked measure to annihilate them economically. It provided the effective means to accelerate the long cherished scheme of repatriation. The seventy-year-old anti-Indianism of a powerful and influential section of the European people was enshrined in it, and the voiceless and voteless Indians were to be sacrificed at the altar of race.<sup>1</sup>

#### 5.1 INTRODUCTION

The ascent to power of the National Party (NP) in 1948 with its apartheid policy set the tone for the race legislation which followed. The party was particularly obsessed with the policy of racial segregation of the different groups in all spheres - social, economic and political. However, as was evident from the last chapter, the policy of racial stratification was not unique to the NP. In fact the different white political parties in South Africa shared at least one common policy - the territorial separation of the race groups. The different aspects of segregation which were espoused were finally embodied in the Group Areas Act (GAA). The GAA has been regarded as one of the most controversial statutes in South African history and embodied the essence of apartheid. In this chapter the Group Areas Act, and its sister legislation, the Community Development Act, will be analysed. The parliamentary debate on the Group Areas Bill will be briefly discussed in order to assess the viewpoints of the different white political parties towards, as well as identify the underlying reasons for, the legislation. The reactions of the other major interest groups, viz., the Indian community and the DCC towards the legislation will also be considered. This chapter will exemplify the nature of central-local relations, particularly the influence of the local state on the central state. It will also elucidate the influence of law in structuring socio-spatial relations. The chapter will be prefaced by a brief analysis of the National Party's policy of racial separation.

## 5.2 THE CENTRAL STATE AND RACIAL SEPARATION

The policy of the NP towards Indians is "crucial for any consideration and analysis of the thinking behind the Group Areas Act".<sup>2</sup> The NP's apartheid policy was formulated by the Sauer Commission. This Commission also focused specifically on the 'Indian problem'. The policy of repatriation of as many Indians as possible was recommended by the Commission:

The Party holds the view that Indians are a foreign and outlandish element which is unassimilable. They can never become part of the country and must therefore be treated as an immigrant community.<sup>3</sup>

If necessary, great financial sacrifices would be made in order to achieve this objective.<sup>4</sup> Moreover, as long as there were Indians in the Union the NP intended to pursue a policy of separation between Indians and Europeans in all spheres, as well as between Indians and Africans.<sup>5</sup> The essence of this policy was embodied in the Group Areas legislation.

More specifically, in terms of the recommendations of the Sauer Commission, the NP adopted the following policies which were incorporated in its election manifesto:

- i) Denying Indians parliamentary representation.
- ii) Revising the Ghetto Act so that Indians would be located in separate areas and would not be allowed to live, or have fixed assets in European areas, and vice versa.
- iii) There would also be separation between Indians and the indigenous population.
- vi) There would be adequate compensation for properties expropriated in Indian and white areas.
- v) Trading opportunities for Indians outside their own areas, especially in white areas, would be drastically reduced. Gradually, Indian traders in native areas would also disappear.
- vi) Indians would be prevented from moving inter-provincially, and the protection enjoyed by the Orange Free State would be maintained.<sup>6</sup>

As soon as it came into power the NP set its machinery into motion to amend the land tenure component and repeal the franchise aspect of the Asiatic Land Tenure and Indian Representation Act (1946). On 26 November 1948 the Government appointed two

Committees (for the Transvaal and Natal, respectively), to consider "proposals for the amendment of the laws relating to the ownership and occupation of land by Asiatics".<sup>7</sup>

### 5.3 MANDATORY SEGREGATION - THE JOINT COMMITTEES' REPORT

The Committees presented their report on 24 March 1950. The general nature of evidence presented to the Committees was unanimously in support of mandatory segregation of the different racial groups with regard to the ownership and occupation of fixed property as well as trade and industry.<sup>8</sup> Evidence from European groups in Natal emphasised that the Asiatic problem was a national one. Therefore, a national policy was required to solve the problem, "in fact the traditional policy of separatism of South Africa".<sup>9</sup>

The Committees contended that there was no reason to reject this evidence, and concluded that the Asiatic Land Tenure Act of 1946 should be "replaced by a more comprehensive measure introducing compulsory segregation of the racial groups".<sup>10</sup> Most significantly, these measures were to apply throughout the country. The Committees were aware that this had far reaching implications, especially for the Indians. It was decided to investigate European attitudes towards compulsory segregation. Significantly, the groups to be affected by these measures, particularly the Indians, were not consulted.

After a historical analysis of the Indian question in South Africa the Committees concluded that the overwhelming white opinion had always been that the Indians should be repatriated, failing which there should be compulsory segregation, which was necessary to avoid the civil disorder that could emanate from racial tensions:

... there is no doubt that the best solution of the Asiatic problem is repatriation. Failing or pending repatriation of the Asiatic, however, the present situation has to be dealt with incisively if civil commotions arising from racial tension and strife are to be avoided. We can see no way of attaining this end except to legislate for total territorial segregation of the different racial groups, so that in the course of time homogeneous racial group areas are brought about.<sup>11</sup>

Five areas were identified where the presence of Indians was most acutely felt, and hence should accordingly be reduced: ownership of land; residential juxtaposition with Europeans;

the exercise of the franchise; trade competition; and the influence of the Asiatic upon the Native races of the country.<sup>12</sup> With regard to the last point the real fear was that co-operation between Natives and Indians would create a serious challenge to white supremacy.

There were two points of view regarding total segregation. On the one hand, there was the view that the Union should be divided into racially homogeneous units or states under the sovereignty of the Union. On the other hand there was the belief that there should be total segregation on a smaller scale, particularly at the urban level, which would solve the critical problem of penetration. The Committees viewed these viewpoints as mutually reinforcing:

... what is urgently needed is a series of numerous but comparatively small non-European group areas, there will have to be legislation to clean up the penetrated areas. If the inhabitants of these small racial group areas are subsequently removed to larger racial group areas it will be a further step towards the realisation of the point of view that there should be fewer but larger racial group areas.<sup>13</sup>

The Committees then made a number of recommendations about how racial group areas could be developed, and the different factors which must be considered. These factors included ownership, occupation, permits, exemptions, compensation and trading.<sup>14</sup> The recommendations of these Committees formed the basis of the GAA.

The Committees made a number of recommendations to reduce the number of Indian traders. The large number of Asiatic traders in rural areas carrying a large Native population, were causing much concern to Europeans. There was consensus that the number of traders should be reduced. The only way in which this aim could be achieved was to declare a group area in the region in which the number of 'undesirable' traders were to be reduced. According to the Committees the group area should be defined in such a manner that after a fixed period of time a permit would be required for trading purposes.<sup>15</sup>

The accuracy of the Joint Committee's report, and whether it had in fact kept to the terms of reference as stated, was questionable. The report stated, for example, that Indians had come to South Africa against the wishes of the European colonists.<sup>16</sup> The evidence upon which this conclusion was deduced was, however, not released. There were also indications that it had been tampered with by the Minister of the Interior. Dr. E.H. Brookes summarised the

Report in the following terms:

This report is an extraordinarily misleading document ... produced under extraordinary auspices and put before Parliament in an extraordinary way. It is the first parliamentary Blue Book which has been edited by a Minister before its publication ... It was put in the other place, so near to the time of the (Group Areas) Bill that there was not time to study it properly by the members there. This report is full of inaccuracies. It is a completely one-sided document.<sup>17</sup>

It appeared that the Joint Committees, in addition to their terms of reference, were working according to some hidden agenda. When organisations which submitted evidence were questioned, their attitudes towards a more radical scheme, which was subsequently embodied in the GAA, was canvassed.<sup>18</sup> Furthermore, the report was shrouded in secrecy, with only two chapters being released. The bias of the Committees, and the fact that their findings were pre-determined, is aptly summarised by Joshi:

When the appointment of these departmental Committees was announced in November 1948, Dr. Donges had expressed the positive hope that they would also come to the same conclusions as he had on 'penetration'. And indeed they did so. The Joint Report was a true reproduction of their Master's voice. It could not have been otherwise when the Committee depended upon the representations of openly anti-Asiatic organisations for drawing their conclusions.<sup>19</sup>

A similar view was expressed by the Indian Views:

This report does no credit to those individuals who constituted the membership of the committees. Their opinions are the arbiter dicta that might have been expected from the NP caucus and not from a group of impartial men. The Committees in the main have merely endorsed that section of the Nationalist Party's Black Manifesto which seeks to implement the Afrikaner racist's slogan 'koelie uit die land'.<sup>20</sup>

The formulation of group areas legislation followed the Joint Committee's report. In this process the state was significantly influenced by the Joint Committee's report. This was acknowledged almost three decades later by a Commission appointed by the state.<sup>21</sup>



#### 5.4 GROUP AREAS - RESIDENTIAL SEGREGATION AND CENTRAL STATE CONTROL

The essence of the NP's policy was presented by the Minister of the Interior, Dr. T.E. Donges, who in his introduction of the Bill to the South African Senate emphasised that there should be no misunderstanding about the aim of the legislation:

the underlying principle of this Bill is to make provision for the establishment of Group Areas, that is, separate areas for the different racial groups, by compulsion if necessary ... The setting aside of areas for non-Europeans is not novel in our legislative history ... This Bill is an extension of the principle to all the racial groups in any part of South Africa.<sup>22</sup>

The NP's racial policies were further elucidated in its Memorandum on the Group Areas Bill.<sup>23</sup> The NP argued that the creation of group areas had a two-fold purpose:

- i) to bring persons of the racial origin together for purposes of ownership and occupation, and so to reduce to a minimum racial points of contact and therefore possible racial friction;
- ii) to permit each racial group to develop along its own lines, according to its language, culture and religion, and to give members of the Native and Coloured groups an opportunity under proper guidance ultimately to assume responsibility for their own local government.<sup>24</sup>

The above points were further elaborated in an official summary of the GAA. The central state argued that three factors influenced the development of the legislation:

- i) There were major cultural differences between the various races in the Union, which had a potential for conflict, especially in the political arena. Hence it was impossible to treat all groups alike.
- ii) Western standards had to be maintained in the country, and this would be in the best interests of both European and non-European groups. This would best be achieved by a policy of racial separation rather than assimilation.
- iii) Racial juxta-positioning leads to tension and conflict. Therefore, for racial harmony, all points of racial contact should be eliminated, as far as possible.<sup>25</sup>

The state referred to Durban, where racial residential integration had produced a potential for conflict and strife. It referred to the 1949 Durban riots between Indians and Africans as an

example.<sup>26</sup> Therefore, the state argued that an all embracing legislation espousing racial separation was necessary, and this was embodied in the GAA. This view was also echoed by the Prime Minister, Dr. D.F. Malan, who maintained that the GAA embodied the essence of the apartheid policy:

On the basis of apartheid we can remove the friction between the races and we can have racial peace in South Africa. By such a healthy condition ... we shall create the opportunity for every race group to live its own life, and that is the basis of apartheid.<sup>27</sup>

Although the Durban riots were used to justify the need for racial separation, the SAIRR maintained that the facts did not support this view. The rioters had lived in single native quarters or shacks in Cato Manor. People living under stable conditions in places like Chesterville and Lamontville, as well as in mixed residential areas like Clare Estate and Sydenham, were not affected.<sup>28</sup>

Dr. Donges acknowledged that the objectives of the GAA could not be achieved without difficulty and sacrifice. He referred to restrictions on the prerogative to purchase and occupy property, which will apply to all groups. The inconvenience should be regarded as a sacrifice for the attainment of harmonious inter-racial relationships.<sup>29</sup> Furthermore, the implementation of the GAA would be based on justice. The Minister stressed that group areas would be created in "a fair, equitable and judicial manner".<sup>30</sup>

The ultimate aim of the GAA was to entrench white supremacy and domination, and it was emphasised at various points in the debate that the Bill was imperative for the preservation of white South Africa, and it would "be the corner-stone of racial peace in South Africa".<sup>31</sup> This was emphasised by the Minister of the Interior:

We believe that this Bill will be one of the cornerstones for preserving a White South Africa, while doing justice to the non-European elements and allowing them to develop each within his own area to the fullest extent of their capabilities.<sup>32</sup>

The paramountcy of the white man and of western civilisation in South Africa must be ensured in the interests of the material, cultural and spiritual development of all races.<sup>33</sup>

The NP further argued, rather ironically, that the legislation would be more beneficial for non-



Europeans

because this Bill grants to them the possibility of a more settled life so that they will be able to express their own national spirit. This Bill is important to South Africa because it approaches our racial problem in a very objective manner and because it lays the foundation for effective planning and judicious attunement.<sup>34</sup>

## **5.5 KEY ASPECTS OF THE GROUP AREAS ACT (1950)<sup>35</sup>**

The GAA was an intricate, lengthy piece of legislation, couched in technical and legal terminology which was often difficult to understand. The 'definitions' alone comprised 5 pages. The Group Areas Act (1950) comprised of 39 clauses which were extensively amended. The amendments, which were consolidated by Act No. 77 of 1957 and Act No. 3 of 1966, did not affect the principles of the 1950 Act. A judge of the Supreme Court of South Africa commented:

It is a pity that this opportunity was not taken to cast the Act in a final, properly understandable and workable form. The principles applied by the Act are difficult enough, without having to struggle with inept expressions and clouded thinking.<sup>36</sup>

The GAA was a powerful tool for state intervention in controlling the use, occupation, and ownership of land and buildings on a racial basis. The state also controlled all interracial property transactions. Analysis of the GAA will reveal that control of occupation was more important than ownership. Complex machinery was set up for the establishment of group areas. According to the state, the major features of the GAA were:

- i) The realisation of one of the main objectives of apartheid - the provision of separate areas for the different races.
- ii) This will be achieved without discrimination between the races because all groups would be subjected to the same restrictions.
- iii) Control of the ownership and occupation of property in the different areas.
- iv) The terms upon which individuals and companies could occupy property in such areas.
- v) The granting of permits for exemption from the restrictions, and penalties for

any contraventions.

- vi) People living in black group areas would be provided with an opportunity to experience the principles of democracy and self-government.
- vii) The resettlement envisaged with the implementation of the GAA would be with minimum disruption.<sup>37</sup>

The maxim underlying the GAA was the division of land among the different race groups. The GAA provided for three groups, viz. whites, natives and coloureds. Significantly, there was no direct reference to Indians. This was possibly due to the state's policy of regarding the Indian as an alien, and the anticipation that its repatriation scheme would be successful. In terms of Proclamation 73 issued on the 30 March 1951 Indians were regarded as a subdivision of the coloured group, "perhaps to emphasise the immigrant status given by the Nationalist Government to the Indian people".<sup>38</sup>

### 5.5.1 Occupation and Ownership

The acme of the GAA was the establishment of group areas for the different race groups. The GAA determined that from a date designated by proclamation a specific area would be set aside for occupation and/or ownership by a specified race group.<sup>39</sup> Other race groups would then be disqualified from owning or occupying property in the said area. The GAA itself did not make the necessary delimitation for the various group areas. It created the mandatory machinery for the demarcation of group areas over a number of years.<sup>40</sup>

The immediate implication of the Act was making those parts of the country to which it was applied 'controlled areas'. In these areas changes in the racial character of ownership and occupation of land and premises was controlled. Thereafter, group areas for ownership and/or occupation would be proclaimed for the different race groups.<sup>41</sup> The fairness of the measure must be evaluated against the amount of residential space available for the different groups. If the existing distribution was stabilised, then the Europeans would benefit immensely. In the delimitation of group areas, adequate provisions could be made for the needs of blacks. However, the legislation does not impose any obligation upon the state to take this into

consideration.<sup>42</sup>

Within a controlled area a "disqualified person" refers to an individual who is not of the same race group as the owner of the property. A "disqualified company" refers to a company in which a controlling interest is held by a disqualified person.<sup>43</sup> Disqualified persons cannot acquire property in the 'wrong' group area without a permit. The Minister of the Interior will only issue a permit if he is convinced that a refusal will result in considerable difficulty.<sup>44</sup>

Thus, a disqualified person who owned property may not lose it in his life time, but may not necessarily be able to occupy it without a permit. Upon his death the property must be transferred to a person of the group for which the area was designated. However, the GAA allowed

persons such as bona fide servants or employees of the State, domestic servants, patients, visitors, guests and recruited Native labourers in transit may lawfully occupy land or premises in a controlled area.<sup>45</sup>

The legislation also provided for future group areas. A future group area is one which has been explored and verified suitable and essential for proclamation as a group area. Upon proclamation, use and development of a future group area is controlled. This facilitated its eventual proclamation as a group area.<sup>46</sup> The purpose of proclaiming future group areas was to remove the uncertainty of the racial designation of area not yet ready for proclamation. It envisaged encouraging members of the appropriate group to move in and those disqualified to move out - "a voluntary migration that fits into the group areas pattern".<sup>47</sup>

The GAA deemed it necessary that there should be a border strip which would form a buffer zone between the different group areas. A border strip was only effective a year after proclamation, after which period it could not be occupied without a permit.<sup>48</sup> Border strips were not intended to be barren and unused and could be developed into parks, sports fields and even for light industry.<sup>49</sup>

Given the restrictive controls discussed above, it was ironical that the state argued that the GAA would be beneficial for the respective races

in such a manner as to provide for not only the present, but also for the future

needs of each with a view to parallel development in the cultural, educational, social and economic fields. Within the areas proclaimed in terms of the Group Areas Act, the limitations in regard to the acquisition and occupation of immovable property are removed, as also the limitations upon trade and other activities.<sup>50</sup>

Despite the various provisions, there was effectively no security of tenure in any of the different areas. The Minister or the Governor General could withdraw or amend previous proclamations, and hence specify any area for any group. According to the NIC "all areas always remain at the complete mercy of the Minister and can change hue according to the political tide in the country".<sup>51</sup>

### **5.5.2 Central State Bureaucracy - The Group Areas Board**

The Group Areas Board played a key role in the actual determination of group areas. In Section 24 of the 1950 Act provision was made for appointment of a Land Tenure Advisory Board (LTAB), which was responsible for the administration of the GAA. The LTAB was renamed the Group Areas Board (GAB) in 1955. The GAB consisted of not more than 12 members appointed by the Minister of the Interior.<sup>52</sup> The main function of the GAB was to advise the Minister with regard to the implementation of the GAA. The GAB acted mainly in an advisory capacity and did not possess any of the executive and administrative powers often assigned to other boards.<sup>53</sup> The board was referred to as "the king-pin in the machinery set up by the Bill for carrying its objects into effect".<sup>54</sup> No proclamation could be made without an investigation and recommendation by the GAB to the Minister. More specifically, the function of the GAB was to inquire into and advise the Minister in regard to:

- i) the issue of proclamations to define sub-groups, to establish group areas, open areas, specified areas and defined areas, and to restrict the exemption of occupation by disqualified persons...;
- ii) the making of determinations;
- iii) the issue of permits for the acquisition, holding or occupation of property; and
- iv) any other matter relating to the administration of the Act which the Minister may refer to it.<sup>55</sup>



Before advising the Minister with regard to the establishment of group areas or the issuing of permits, the GAB must advertise the matter to be considered in a newspaper in the district concerned so that interested parties could make representations to the GAB. Provision was made for oral evidence to be presented at a public hearing of the GAB. Hence, the "board or committee ... sits as a quasi-judicial body and hears evidence and argument and thereafter decides upon its recommendations to the Minister".<sup>56</sup> The GAB had to determine whether suitable accommodation was available for persons displaced by the Act before making any proclamation.<sup>57</sup>

However, in view of the serious consequences emanating from forced segregation, especially the large population affected, the South African Institute of Race Relations (SAIRR) noted that the machinery for the implementation and administration of the Act was inadequate:

Neither the Minister nor the board is instructed as to what factors should be considered in demarcating group areas; the Minister is not bound to follow the board's recommendations, nor even, in important matters, to consider its reports; and the board is free to refuse a hearing to persons whose interests might be vitally involved.<sup>58</sup>

Although the GAB determined the future of non-European communities, it was comprised solely of whites. Its recommendations were contained in secret reports. The powers of the GAB were far reaching and it could, for example, summon any person who in its belief may be able to give evidence concerning the subject of an enquiry "to appear before it at a time and place specified in the summons".<sup>59</sup> Provisions were also made for the appointment of inspectors to assist the GAB.

### **5.5.3 State Bureaucratic Agents - Powers of Inspectors**

Contingent to the laws governing the public service, the Minister could appoint inspectors to ascertain facts as may be required by him, the GAB or the deeds officer. The inspectors were to also establish whether the provisions of the GAA with regard to the ownership and occupation of property were being complied with.<sup>60</sup> The power vested in the inspectors were very broad. They could enter any property without any previous notice, at any time of the day or night, to make any investigation which was necessary.<sup>61</sup> The power of the right of

entry was wider than that available to policemen.<sup>62</sup> The inspectors had the authority to seize any document or other evidence as proof of any contravention of the Act. They could also question anyone found on the premises.<sup>63</sup>

#### **5.5.4 Penalties and Sanctions - State Recourse to Law**

The GAA provided for two categories of penalties for those who contravened its provisions. In the first category there were sentences of fines and imprisonment imposed by criminal courts. In the second category the property involved in any contravention could be forfeited to the state. Administrative procedures for this were set out in the Act, and recourse to the courts was invoked only in civil cases.<sup>64</sup>

Criminal transgressions of the GAA carried a maximum punishment of 200 pounds or two years' jail punishment or both. Some of the contraventions of the GAA which carried maximum penalties included:

- i) Entering into an agreement whereby a disqualified person or company would acquire immovable property in the controlled area.
- ii) Illegally occupying premises, or allowing such occupation, in a group area for occupation.
- iii) Illegally acquiring immovable property in a group area for ownership.
- iv) The acquisition or holding of immovable property on behalf of a disqualified person by a nominee.
- v) The contravention of or failure to comply with any condition of a permit.
- vi) The commission of perjury at a group areas inquiry.<sup>65</sup>

The forfeiture provisions applied when any property was acquired or held in contravention of the Act. Such property would be sold out of hand or by public tender, as determined by the Minister. Before such action was contemplated, the Minister had to give the party concerned at least 3 months' notice. The revenue from such a transaction was firstly used to defray the costs of such a sale, and the balance was forfeited to the state. Under certain circumstances, however, any balance could be paid to the person or company concerned, at the discretion of the Minister.<sup>66</sup> Group areas legislation also provided for the segregation of business and commercial activities.



### 5.5.5 Trading Controls and Licence Restrictions

The group areas strategy was concerned mainly with racial segregation, and therefore with individuals. Companies could not be 'members of groups'. They presented disqualified persons with an opportunity to acquire land which would not otherwise have been possible on an individual basis. The GAA obviated this loophole by introducing the concept of 'controlling interest'. Controlling interest was determined by a number of factors, ranging from majority shareholders to an interest emanating from the grant of a loan.<sup>67</sup>

Segregation of commercial activities was enacted by a provision that companies were regarded to be members of the race group which had a controlling interest. If a company was controlled by a disqualified group, it was compelled to dispose of it, or apply for a permit to trade in the same area.<sup>68</sup> A proclamation could determine that buildings in a defined area could be only occupied for specific purposes, e.g., trading. A person residing in his place of trade must then move his residence to his own group area. Furthermore, the general principle applied was that a trader should operate in his own group area.<sup>69</sup>

Section 23 of the GAA attempted to ensure that no person would be granted a licence to conduct any business or trade on premises occupied illegally. This "had its remote origins in efforts to control and restrict trading by Indians in the Transvaal".<sup>70</sup> No authority would grant a trade licence unless accompanied by a certificate from the GAB, determining:

- i) the title deed description and extent of the land, and the nature of the business that is to be conducted;
- ii) the race group of the applicant;
- iii) the race group of the person or persons who would control the business;
- iv) that the persons referred to in (iii) above could legally occupy the said premises; and
- v) any restrictions on the legal occupation of the property.<sup>71</sup>

Unsuccessful applicants for licences have recourse to appeal to the district magistrate and the provincial division of the supreme court.<sup>72</sup> If any person engages in trade or business illegally "any licence issued or renewed in respect of that business, trade or occupation, shall

be invalid".<sup>73</sup>

## 5.6 REACTIONS TO THE GROUP AREAS ACT

Reactions to the GAA was influenced by the political and ideological orientation of the organisation or institution concerned. In this section criticisms of the GAA will be discussed, including the Indian reaction and the role of the local state in Durban.

### 5.6.1 General Criticisms

Contrary to the protestations of the NP, the GAA was grossly discriminatory. In spite of its complexity, the machinery for the fair implementation of the legislation was inadequate and the criteria for the demarcation of group areas was not specified. If there was a clash of interests between racial groups, decisions would invariably be made in favour of the enfranchised white group, especially given the all white nature of the GAB. If the 'separate but equal' maxim was to be realised, the principle of providing equal facilities for all groups should have been embodied into the Bill in order to direct those responsible for the implementation of the GAA. The most serious flaws in the Bill were the omission of such direction, the non-specification of the criteria by which segregation was going to be imposed, and the consequent vesting of arbitrary powers in the central state. Furthermore, the legislation did not provide for alternative accommodation or compensation for those who would be uprooted.

The widespread criticisms of, and objections to, the GAA can be summarised as follows:

- i) The Act was based on race discrimination, and was undemocratic and tyrannical, and would intensify conflict between white and black.
- ii) The application of the Act denied all citizens the basic rights of domicile. It represented a violation of vested property rights. The Act was likely to have

a negative effect on property values, and in the process seriously undermine the rights of mortgagees. There was also strong objection to the wholesale uprooting and relocation of families of all races.<sup>74</sup> Since there was no provision for compensation, it was inevitable that individuals and communities would suffer serious financial losses.<sup>75</sup>

- iii) The GAA interfered with the individual's basic human right to engage in the occupation of his choice. It dispossessed individuals of their means of livelihood, without providing equitable alternatives.<sup>76</sup> The GAA would provoke industrial discord as it could be used as an instrument of labour exploitation and discrimination.<sup>77</sup> In terms of the Act all European employers of black labour required Ministerial permits. In the process the black labour force would be transformed into an unskilled and highly exploitable pool which would be unable to compete with Europeans in the employment market. The quality of life of workers would also be affected as they would incur higher journey to work transport costs because of relocation in the distant peripheries, far away from their places of employment. There would also be an increase in housing costs.<sup>78</sup>
- iv) The economy of the country was also undermined by the GAA, and it increased South Africa's international isolation.<sup>79</sup> The government was accused of not being interested in the welfare of South Africa but rather being concerned about the interests and progress of the Nationalist Party.<sup>80</sup>
- v) The autonomy of local authorities was also undermined. Clause 7 of the GAA determined that if in the opinion of the Minister of the Interior a local authority was not performing its functions efficiently with regard to the implementation of the GAA, the central state could intervene via the provincial administrator to implement the necessary corrective action. Any expenditure incurred by such action would be borne by the local authority.<sup>81</sup>
- vi) The "unbridled and unlimited powers of the Minister and the Executive" in

terms of the Act also came under attack.<sup>82</sup> Furthermore, it was suggested that the power to declare group areas should have been vested in parliament rather than with the Minister of the Interior.<sup>83</sup>

- vii) The application of the Act to the coloured people was not justified. There had been no previous warning that segregation measures would be applied against them. Compared to the Indians, the coloureds had not heard any evidence against themselves, and they did not have an opportunity to defend themselves.<sup>84</sup> However, as early as 1939, Hertzog had committed the National Party to social and residential segregation of all races, including coloureds.<sup>85</sup>
- vii) The 'separate but equal' principle needed to be embodied more explicitly in the Bill. In fact it was imperative that the Government and local authorities be compelled to provide suitable housing and amenities for people of colour, which would go a long way in diffusing 'racial conflict'.<sup>86</sup> Although the core of the Bill rested on racial zoning, no provision was made for an equitable distribution of land and resources between the various groups:

There is no system of elasticity whereby the group areas can adjust themselves automatically to the pressure of increased population, and increased social needs; nor does the Bill make any specific provision to provide such indispensable amenities as housing. This Bill does not impose on the administration the duty to meet the need of living space and the need of social space and the need of social amenities as a principal basis of apartheid.<sup>87</sup>

The application of the GAA was ruthlessly rigid and inflexible. It prevented those reasonable adjustments and concessions which were integral for harmony in a heterogeneous society. The Act was characterised by a perverse contempt for human feelings and reflected pathological racial prejudices of whites. It assumed that the whites would feel protected when the other groups were secluded away in their ghettos and segregated territories. However, it was impervious to the fact that a new sense of insecurity and futility would be imposed upon millions of Africans, Indians, coloureds.<sup>88</sup>

The SAIRR questioned whether the GAA could attain its professed aim of peace and harmony by imposing rigid, racial separation. It was possible that the negative consequences associated with the displacement of settled communities would offset any conceivable advantage gained. The SAIRR drew attention to the material disabilities and losses suffered by affected persons, which included disruption of educational services for children as well as "the restriction of credit to traders, curtailing of bank overdrafts, calling up of bonds, reduction in the volume of trade, restrictions on alterations to or improvements of property and the right of bequeathing property to heirs".<sup>89</sup> Furthermore, according to the SAIRR, it was debatable

whether by assuming so large a measure of control of the property rights, residence and occupation of people the government has not struck at the roots of those rights to property on which civilised man rests, whether in fact it does not by a reversion to economic tribalism de-civilise in the name of civilisation.<sup>90</sup>

After the adoption of the Group Areas Bill in spite of its objections, the Council of the SAIRR stated that it must continue to voice its concern over the uncertainty, fear and hostility that the GAA would generate.<sup>91</sup>

While the principle of social and residential segregation was accepted by all parties in Parliament, it was stressed that "it must be applied harmoniously and it must be applied with the co-operation of all sections in the country".<sup>92</sup> Racial segregation was only possible if it was accompanied by an equitable distribution of services and amenities. It was also suggested that it was not necessary for such a stringent measure to be applied throughout the Union when suitable amendments to close existing loopholes could be made to the Asiatic Land Tenure Act of 1946.<sup>93</sup> The Opposition United Party supported the policy of residential segregation with adequate compensation. If the party was returned to power, it intended to "appoint a commission to investigate the GAA, and introduce such amendments as are considered necessary to make it function properly".<sup>94</sup>

Dr. Donges was taken to task for stating that group areas would be set aside, by force, if necessary. The Group Areas Bill in fact sought to enforce segregation. According to one Senator, "[i]t is not a measure where compulsion will be used if necessary. It is a measure where compulsion is used throughout".<sup>95</sup> The GAA represented a confession by the NP of its inability to govern 'non-Europeans' according to the accepted and established principles

of democracy. Opposition Senators argued that it denied these groups the benefits of western civilisation, and was an affront to justice and morality, and violated the sanctity of home and family life.<sup>96</sup>

The Opposition in Parliament described the GAA as

a massive, ill-digested, complicated piece of contentious legislation with 38 involved clauses, the meaning of which the ordinary person is quite unable to understand, and under this Bill there are all sorts of extremely difficult and complicated ramifications, the result of which, for good or evil, nobody is able to predict.<sup>97</sup>

This was supported by the fact that the Bill had 39 clauses and more than 60 amendments appeared on the Order Paper.<sup>98</sup> In the light of this, and given the fact that the legislation was never investigated or discussed at a public enquiry where interested parties could give evidence and make representations, the Opposition refused to support the second reading of the Bill. It argued that there was need for a commission, presided over by a judge of the Supreme Court, to investigate the necessity for such legislation as well as the financial implications and practical implementation.<sup>99</sup> Such an investigation would also give those whose lives would be drastically affected by the Act the opportunity to express their views and remonstrations.<sup>100</sup>

A similar call was made by the Association of Chambers of Commerce, which asserted that the consequences of the GAA could not be adequately assessed without a thorough investigation.<sup>101</sup> The Natal Mercury argued that the legislation should not be steamrolled through Parliament before its intricate, and far reaching ramifications are understood by the public. This was especially as "the Bill intimately affects the livelihood and social habits of tens of thousands of people. If it is to be properly and fairly implemented the cost to the country will ultimately be enormous".<sup>102</sup>

In spite of Dr. Donges' exhortations that there would be justice and fair play for all groups, in the final analysis the Group Areas Bill entrenched white domination, and determined that one race would be the prosecutor and judge in its own cause. Senator E.H. Brookes contended:

This is a Bill in which the white man is to divide up the land between himself



and the others and he is going to decide which part each shall have ... This is the nature of the Bill: compulsory segregation administered by one race. And I do not trust the Honourable Minister to hold the scales equally between the races; I do not trust him the least, to do so. All his administration of Indian affairs in the last two years has shown that in that respect he is a partisan.<sup>103</sup>

In its reaction the Indian Government stated that the Group Areas Act was inimical to equity and justice, and represented a violation of

the principles of the Declaration of Human Rights<sup>104</sup> as well as the Charter of the United Nations from which these rights flow. The Act will humiliate and injure the dignity of the so-called non-white races, promote animosity instead of friendship between people of different races and perpetuate injustice. It will have the gravest repercussions on the world from which it springs.<sup>105</sup>

In a hard hitting response, the Rand Daily Mail stated that the Minister of the Interior's introduction to, and defence of, the Group Areas Bill was deceptive and fraudulent:

Neither the Government nor Dr. Dinges would lose prestige if they said quite honestly that they propose to keep the Coloured races in their proper place and to ensure that Indians, and others, do not compete with the European in business or lower property values in city areas. These airy phrases about opportunities for 'local self-government' and the 'right to live as a community' would scarcely deceive a half-wit. The Bill introduces the caste system in a Western community, interferes with local government, and makes mince meat of known laws of property.<sup>106</sup>

Ultimately, the state's assertion that separation was conducive to racial harmony was seriously questionable, and in reality was likely to lead to greater conflict. In fact, it was doubtful whether the state really desired racial harmony as its nationalist designs were based on conflict and group exclusiveness. Since they monopolised political power, the implementation of the GAA could only result in the takeover of lucrative residences and businesses of blacks by whites. Indians were likely to be particularly vulnerable. In the final analysis the SAIRR argued:

Justice is an essential element in racial harmony, particularly in the administration of Group Areas which was imposed by Europeans upon a reluctant non-European population, and which affects the attachment of men to their homes and businesses. The injustices of Group Areas can only result in a profound deterioration of race relations ... Group Areas belong in the same category as the actions of an army occupying enemy territory - the substitution of force for equity.<sup>107</sup>

These criticisms, it must be emphasised, were not against the principle of racial residential separation, but rather reflected a debate within the white power bloc about the manner in which this was to be implemented. It must be borne in mind that the foundation for the GAA had been laid by the Ghetto Act of 1946 by the United Party. The Group Areas Bill was introduced towards the end of the Parliamentary sitting in June 1950, and the controversial 'guillotine' procedure was used to limit the debate to 52 hours. Notwithstanding the very pertinent and thought provoking criticisms the Group Areas Bill was passed by the Senate, (where the President had to use his casting vote), and there was a majority of 8 votes in the House of Assembly. It became law on 24 June 1950.

The next section will reveal the hidden motives for the legislation which was not explicitly embodied in the Act - the entrenchment of white supremacy and the destruction of the Indian community.

### **5.6.2 The Indian Outrage**

The general reaction of the Indian community to the GAA was one of shock, dismay and anger. The GAA was the most far reaching apartheid proposal to sustain separation of the races, and served as an instrument of oppression. The different political and civic organisations were unanimous in their rejection and condemnation of the legislation, as well as in their analysis of its impact. There was also agreement that the legislation was intended to ruin the Indians economically and force them into ghettos.

In fact, the main reason for the anti-Indian agitation was the European envy of the success of the Asiatic in trade and commerce. Since the turn of this century the ruling white class had made attempts to stifle Indian enterprise in this field by resorting to statutory legislation. The GAA represented the climax of these attempts, whereby the Minister of the Interior decided whether new licences should be granted or existing ones renewed.<sup>108</sup> Indians would be devastated by the GAA because they were the only non-European group who had made appreciable progress in the commercial field. As the NIC argued:

By dint of their energy and initiative they have acquired some measure of

landed interest in the country. In the commercial field they have also progressed and in recent times they have embarked upon industrial projects such as the manufacture of furniture, printing, etc.<sup>109</sup>

In spite of the rhetoric that the GAA would apply equally to all races, the Indian was singularly attacked in the parliamentary debate as an economic threat to the whites by both the NP and the Opposition. This was reflected in the expression of numerous anti-Indian sentiments, references to Indian 'penetration' into white neighbourhoods, and the need to protect white supremacy. There was little doubt about who were going to be the main victims of the GAA. Indians were principally affected by the GAA, as it was basically an extension of the Asiatic Land Tenure Act.<sup>110</sup> One of the objectives of the GAA was to encourage or force the repatriation of Indians and this was alluded to by the Minister of the Interior:

Another Bill was introduced and that Bill was held back to see whether we could not find a better solution to the problem than to segregate the Indians, that was whether we could not get them out of the country altogether. That effort failed and that is why we are back again in the position where we were, except that this time we want to make it a general matter.<sup>111</sup>

The leader of the NP in Natal, Mr. W.A. Maree, M.P., emphasised that "the Indians would be only too pleased to get out of South Africa after the effects of the Group Areas Act had been felt".<sup>112</sup> Furthermore, Mr. Theo Gerderner, MPC, and leader of the NP in the Natal Provincial Council, asserted that ultimately the GAA "will break the commercial stranglehold Indians seem to have on some towns and districts". He acknowledged that if Indians were restricted to trading amongst themselves only, about 90 percent of the traders would have to find other sources of income.<sup>113</sup>

The livelihood of Indians depended on working and trading with all groups in the Union. Therefore, to force them out from their midst and relocate them into "separate 'group areas' of their own was like plucking fishes out of the sea and expecting them to survive on land".<sup>114</sup> According to the NIC there would be no opportunity for commercial or economic expansion. Indians would have to choose between becoming part of the reservoir of cheap labour or acquiescing to the NP's repatriation policy.<sup>115</sup> The Indian Government perceptively summarised the NP's intentions:

The Government of the Union of South Africa has no legal means by which it could forcibly deport all South African Indians ... But how will it then

achieve its oft-repeated object of liquidating the Indian community from South Africa? Physical extermination of the Indian population is obviously not regarded as a suitable course. It has therefore invented the instrument of the Group Areas Act to accomplish indirectly what genocide will do directly.<sup>116</sup>

There were no illusions amongst white opposition MPs that the aim of the GAA with regard to Indians, who numbered only 250 000, was economic strangulation:

The whole purpose of this Bill is to kill the Indian community ...When this Bill is applied, it will simply turn on the screw in regard to everything done under the 1946 Act, and that merely means that the Indians will be wiped out in the European trading community. It destroys the basis of their existence.<sup>117</sup>

The obvious intention ... is to crush the Indian trader, to crush the non-European trader and the non-European industrialist where ever he is to be found. It is a form of plunder which is being legalised by statute, it is in order to spoilate and to rob them of their factories, of the means which they have built up, and it is nothing but larceny sanctioned by law.<sup>118</sup>

Alan Paton questioned whether Indians had a commercial stranglehold, maintaining that if equal opportunities had been available to them, they would have entered all trades and professions. Also, if the GAA had been intended to be applied with justice and fairness, then the following facts should have been mentioned: that whites owned 80 percent of the land in the country; dominated industry and monopolised the civil service, as well as occupations such as train-drivers, engineers and land surveying; and legally they controlled all jobs above a certain low level in the mining industry.<sup>119</sup>

The Star argued that the Union Government claims that the GAA's regulations would apply equally to all groups was sheer 'verbal jugglery':

In its economic aspects the Bill will clearly discriminate against the Indians and it is likely to do so severely; for if it is applied as is apparently intended, it will seek to remove them from normal business life of the country into a vacuum where they can hardly hope to survive.<sup>120</sup>

This point was also emphasised by the Indian Views:

For social segregation to be fairly applied there would be consultation and agreement between the leaders of all race groups, a manifest equality of sacrifice and a guarantee that segregation would not carry with it (as it has always done in the past) inferior treatment as regards municipal and social

services. Furthermore, for the Indian community in particular, it must be residential segregation only - and not commercial suppression under the guise of social segregation, as was intended in the Asiatic Land Tenure Act of 1946 and the long record of trade licensing regulations.<sup>121</sup>

The Chairman of the Group Areas Board conceded that

one of its duties in the administration of the Group Areas Act is to seek to curtail the number of Indian traders on the grounds that Indians have at present 'too large a share of the trade'. The selection of remote areas for Indians in many recent proclamations is not unconnected with this policy and many of the Indian traders and their Indian employees will be fated to find themselves entirely without opportunity for earning a livelihood.<sup>122</sup>

It was significant that the Association of Chambers of Commerce (Assocom) was against the displacement of established traders to areas distant from their existing sites, as well as state interference in the free enterprise system, because this was contrary to the capitalist ethic. It was also concerned about the violation of property rights:

Assocom's attitude is dictated by its fundamental belief that the competitive capitalist system offers far more scope for the future welfare and development of the Union than any other system. Basic to this system is respect by Government and people alike for rights of ownership - whether ownership of fixed property or ownership of established businesses, with its attendant goodwill and trading rights. Quite contrary to the competitive capitalist system is an indication that entrepreneurs should confront the risk that ownership rights should be interfered with, alienated or transferred by Government action.<sup>123</sup>

Ironically, , as one Senator pointed out, the GAA was also directed against the very group which was conservative and likely to have a conciliatory attitude towards the Government:

It is just those who are property owners who naturally have a stake in law and good government who are going to be irritated, and who will be flung into opposition together with those who held more extreme views in the past ... It is precisely those forces in the three different non-European groups which were most inclined in the past to co-operation with the Government of the country and with the European population, who will be roused by this Bill.<sup>124</sup>

The Government presented lengthy 'evidence' of Indian property acquisitions in white areas and concluded that "in practically every street and road in Durban you can think of, you have Indians living in between the Europeans".<sup>125</sup> Indians were accused of forcing Europeans out of Durban to live in areas like Hillcrest and Kloof. In addition:



The Indians own more land round about Durban than any European does. They hold commercial properties, approximately 2 000 acres of land. The Inanda Hills are owned by the Indians, hundreds and hundreds of acres of land, and there is nothing to stop them going on to that land which belongs to them. But they do not want to do that. They want to penetrate to the European areas as much as they can.<sup>126</sup>

The NIC accused the NP of presenting selective information about Indian penetration, which was misleading. Those who had acquired properties in European areas belonged to the minority merchant class. The large majority of Indians in Durban and Natal were poor, with very little material wealth. There was also a tendency for Indians in the merchant class to move to suburbs outside Durban, which would solve problems the Minister of the Interior was attempting to resolve with the GAA.<sup>127</sup>

In terms of the GAA, the central and local state had the backing of the law to uproot settled Indian communities, disrupt their commercial and economic activities, and force them to the undeveloped periphery of the urban complex, to start afresh. The process represented a vicious cycle, for as urban expansion occurs, Indian property will once again be expropriated for European benefit. Ultimately, it was envisaged that, through oppression and persecution, the Indian will be forced out of South Africa.<sup>128</sup>

The NIC rejected the fallacious contention of the proponents of the GAA that it would lead to racial harmony. Ironically, an attempt was being made to bring the two white groups (English and Afrikaner) closer to ensure greater concord and harmony. The NIC, therefore, questioned the wisdom that separation in every possible sphere of life would promote cordial relations between whites and non-whites. Racial zoning would inevitably produce friction and bitterness.<sup>129</sup>

Referring to the ostensible 'fairness' of the GAA, the NIC pointed out that there had not been a single protest from any Europeans in the country on the grounds that racial zoning would affect their residential, commercial or industrial activities, and their ownership or occupation of land. The reason for this was clear - the interests of Europeans were secured by their municipal and parliamentary franchise. They were fully aware that no attempt would be made to interfere with their vested rights and economic interests.<sup>130</sup> A European, Mr. C.W. Cell,



condemned his group for their silence and apathy:

And so by our silence, apathy, indifference, our fears of offending officialdom or standing out against the canons of social conformity, we condemn ourselves - in the eyes of our non-white fellow citizens, the world and God - for having passively condoned or actively connived at the monstrous injustices now being proposed under the Act. In the ultimate judgement we shall be held guilty of having failed to mobilise the opinion of South Africa and the free world against one of apartheid's most vulnerable aspects; guilty of betraying by default those civilised, Christian ideals by which alone 'white civilisation' makes any valid claim on the loyalty of non-whites and by which alone ... our children and grandchildren may preserve a heritage for themselves on this continent.<sup>131</sup>

The NIC maintained that the aim of the GAA was to ruin the Indian economically, and to make their lives so unbearable and unpleasant that they would be forced to return to India.<sup>132</sup> More specifically, the intention of the state was to:

- i) deprive the Indian people of their long established ownership and occupation of land and homes;
- ii) facilitate the uprooting and expatriation of South African citizens of Indian origin;
- iii) ruin the Indian people economically; and
- iv) confine them to ghettos as a source of cheap labour.<sup>133</sup>

The SAIO maintained that segregation brought with it the attendant evils of inadequate civic amenities and services; development of slum conditions; interfered with free market principles; and restricted employment opportunities. Indians were denied the right to own land, or to engage in manufacturing activities, in industrial areas. Thousands of Indian business establishments would be destroyed because they fall in white or controlled group areas. Further financial losses would be incurred as building societies would refuse to renew mortgage bonds on properties which fall outside Indian group areas.<sup>134</sup>

At a conference held to discuss the GAA in April 1951, the SAIO recorded its unanimous rejection of the GAA because it

- i) was a violation of democratic principles;
- ii) attacked fundamental human rights;
- iii) was racially, economically and socially unsound;
- iv) embittered race relations.<sup>135</sup>

The NIO contended that the GAA was "the most devastating legislation that human ingenuity

could have conceived and its administration would bring complete ruin to Indian and non-European people".<sup>136</sup> At numerous protest meetings the NIO resolved that the GAA was sinister in its design because:

- i) it imposed compulsory segregation on Indians throughout the country, which would result in the sequestration of all properties owned by Indians outside their group areas;
- ii) it would destroy Indian businesses and agricultural activities outside their group areas as the issuing of licences will be controlled;
- iii) the arbitrary powers of the inspectors and police would turn South Africa into a police state;
- iv) the natural development of the Indian community in South Africa would be stultified, who would become helots within the Commonwealth of Nations;
- v) it represented a violation of human rights.

As a strategy to oppose the implementation of the GAA the Indian Congress movement decided not to co-operate with the GAB, and pledged not to present alternative race zoning plans for the different areas. Ultimately, "no just plan can emanate from an unjust law".<sup>137</sup>

The NIC adopted the following resolutions at its Annual Conference in 1951:

This conference ... resolves that in common with the other non-European sections of the community, it will resist at every stage all attempts at expulsion and displacement, direct or indirect, of its people from the presently settled areas of residence and business and will continue with ever-increasing determination its struggle against the Group Areas Act.

This conference calls upon the Indian people not to co-operate with any authority in the setting aside or creation of Group Areas under the Group Areas Act, and instructs every Congress member and Branch to work vigilantly in its area to expose any such co-operation, which will result in the implementation of the Group Areas Act with the consent of the Indian people.<sup>138</sup>

However, at a National Conference, the SAIO and its affiliates adopted a resolution which was regarded as more 'accommodating':

This Conference while pledging to use every constitutional means in its power to bring about the eventual repeal of the Act is of the opinion that its constituent provincial bodies should watch every act in the administration of the legislation and to make under duress all representations necessary to Central and Local Authorities and to all bodies to ensure that the interests of

Indians and the meagre rights held by them shall be safeguarded and protected.<sup>139</sup>

The conflict between those in the Congress and Organisation camps, which was one of strategy rather than principle, was apparent for the greater part of the 1950s, and marred united opposition to the implementation of the GAA.

It is evident from the foregoing analysis that although the GAA purported to apply equally to all groups, Indians were going to be the main victims. They had the most to lose from residential and trading restrictions. The GAA was intended to annihilate the Indians economically and force them into ghettos so that the NP could achieve its avowed doctrine of racial purity and white supremacy.

The GAA represented the culmination of the European anti-Indian agitation. More specifically, the English-speaking people of Natal and of Durban in particular, were at the forefront of the agitation for the GAA, and they were institutionally represented by the DCC.

### **5.6.3 The Role of the Local State**

The City Council of Durban, as the representative of the white minority of the city, historically played a significant role in the development and promulgation of Group Areas legislation.<sup>140</sup> Indeed, the DCC was ahead of the NP, "agitating for the very purpose of expropriating the Indian community".<sup>141</sup> In the view of the President of the NIC, the DCC was more anti-Indian than the Nationalist Government, and was responsible for motivating a series of amendments to the GAA in order to expedite the rapid impoverishment of the Indian community.<sup>142</sup> In practice there was collusion and close collaboration between the NP and the DCC with regard to the planning of the group areas legislation. Key agents of the DCC in this process were Councillor Leo Boyd, a former Mayor of Durban, who was also a MPC (Member of Provincial Council), and the Mayor, Percy Osborn. One view is that the genesis of the Group Areas Bill was presented in a secret "memorandum submitted by the City Council to the Asiatic Land Laws Amendments Committee and the Land Tenure Act Amendments Committee".<sup>143</sup> This is corroborated by the fact that a Durban City

Councillor, Mr. Robinson stated that "Durban had asked for the legislation".<sup>144</sup> Senator Brooks stated: "More than anything else, more than even the Government, the City of Durban is responsible for the GAA".<sup>145</sup>

The DCC accepted the Group Areas Bill in advance of the Parliamentary debate, and sent three representatives by air to Cape Town to assure Dr. Dinges of the Council's support. A number of suggestions to 'improve' the measures embodied in the Bill were advanced by the DCC and were to be discussed at the meeting. Councillor Leo Boyd was the leader of the Council's deputation.<sup>146</sup> The delegation's function was to assure Dr. Dinges of the DCC's support for the legislation, and to request him to "ensure that Durban gets the protection under the Group Areas Bill that it enjoys now under the Asiatic Land Tenure Act".<sup>147</sup> As a result of this meeting the Deputy Town Clerk of Durban had to proceed to Cape Town for further consultations with Government representatives in connection with the Bill.<sup>148</sup>

It is significant to note that the DCC discussed most matters pertaining to the GAA at Council-in-Committee meetings. At one such meeting held on 25 May 1950, the provisions of the Group Areas Bill as it applied to Durban was discussed, and the Committee recommended:

that in the light of the explanation of the Group Areas Bill given by the Deputy Town Clerk and having regard to the extent to which the representations made by the City Council to the Government Commission which dealt with the need for the amendment of the Land Tenure Act are met with the Bill ... the City Council approves of the broad principles of the Group Areas Bill in so far as they affect the city and to urge the Government to proceed with the measure.<sup>149</sup>

The DCC, thus, made a major input into the formulation of the group areas Bill. Further evidence of the close working relationship between the Government and the DCC, and particularly the influence of the latter in the formulation of the GAA, is evident from the following extracts of a letter written by the Minister of the Interior to the Town Clerk of Durban:

I write to acknowledge the receipt of your letter of June 21 regarding the Group Areas Bill and to thank you for allowing Mr. W.L. Howes to remain in Cape Town during the discussion of the Bill in the House of Assembly. In particular, I would like to record my sincere appreciation of Mr. Howes' useful assistance to the officials who advised me on the Bill, and his

reasonableness in making representations on behalf of your City Council. In conclusion, I welcome your promise of co-operation in the administration of the Act in the interests of all the groups concerned.<sup>150</sup>

There were several references in Parliament that the DCC was the prime motivator for the GAA. It was noted in Senate that the Bill was largely promoted by the Durban City Council.<sup>151</sup> The Opposition contended that if the Cape Town Agreement had been honoured to the letter, and the Durban City Council had provided Indians with adequate land and amenities, there would be no need for the GAA.<sup>152</sup> According to the SAIRR it "was precisely the attitudes of the people of Durban and the ensuing legislation that both set a pattern and paved the way for the subsequent nation-wide notorious Group Areas Act".<sup>153</sup> The NP claimed that the GAA was a response to the calls from Durban, Pietermaritzburg and practically the whole of Natal to act against Indian penetration and expansion.<sup>154</sup> It contended that the GAA was not new to the people of Natal as they had been requesting it for the past 54 years.<sup>155</sup> Therefore, the NP concluded, South Africa and especially Natal, would be very grateful to the Government for the introduction of the GAA. The Prime Minister, Dr. Malan emphasised the importance and relevance of the GAA to Natal in his address to the National Party Congress in Durban in September 1950. He praised Natal for being at the forefront of the parliamentary and municipal disenfranchisement of Indians:

And now, whatever may be said to the contrary, I venture to declare tonight that English speaking Natal rejoiced in her heart when the present Government repealed the Act granting representation to Indians in Parliament and in her Provincial Council, and that English-speaking South Africans generally - to a very large extent - are, together with Natal, in favour of at least that most vital part of the Government's apartheid policy, the Group Areas Act of last session.<sup>156</sup>

The Liberal Party maintained that the DCC had given the "Nationalists a foundation upon which to build" the GAA.<sup>157</sup> Replying to criticisms of the Bill from Opposition MPs in Natal, Dr. Donges stated that they did not correctly represent popular opinion in their constituencies, and that he would be "much more prepared to rely on the opinion of the Durban City Council". He also stated that the DCC had publicly supported the Group Areas Bill even before they had discussed the matter with him.<sup>158</sup> Furthermore, most of the amendments put forward by him had been submitted by the DCC.<sup>159</sup>

In his response, the Mayor of Durban, Percy Osborn, stated:

The Act is the life-line whereby the European City of Durban will be saved - and the implementation of the Act is one of the most momentous jobs ever tackled by the City Council. The Council must handle the task with courage, if it shrinks from its responsibility now, there will not be a second chance.<sup>160</sup>

To Mayor Osborn the implementation of racial zoning in terms of the GAA was necessary to entrench white interests:

Our racial zoning will see to it that the residential land set aside for Europeans will be for Europeans only; my intention is that it should be as close to their places of employment as possible ... We need land for Europeans close to town if we are to give our young people the opportunity they need to own a home, however modest, and bring up a family. It is no use providing them with land that is surrounded by non-Europeans ... The remedy for overcrowding is clearly to plan Indian areas in places where they will have room for expansion outwards into the countryside and not inwards into European areas.<sup>161</sup>

Furthermore, the Mayor maintained that a remarkable change had occurred in Durban since the passing of the GAA. Between July 1950 and November 1951 there were 154 applications for permits from Indians to sell their properties in the Old Borough to Europeans. During the same period there was no application from Europeans to sanction land sales to Indians.<sup>162</sup>

He contended that if the Indian community co-operated with regard to race zoning they would find a very sympathetic City Council and Government. Mr. Osborn stated that race zoning in Durban would allay the insecurity which had been experienced by all groups in Durban. He did not anticipate strong opposition to race zoning and anticipated a future "in which all the race groups will live in peace next to each other ... There will naturally be residential barriers to prevent frictions, but people are not going to be walled in".<sup>163</sup>

Leo Boyd argued that the DCC's decision to support the Bill was reinforced by the manner in which the Asiatic Land Tenure Act had been administered, in spite of the loopholes in the 1946 legislation. The DCC maintained that the GAA was a major improvement on the previous legislation and it would close many of the loopholes.<sup>164</sup> Councillor Boyd presented a stirring defence of the Group Areas Act which could have matched the eloquence of the Minister of the Interior. He contended that the GAA provided opportunities for blacks to develop on a parallel basis to Europeans, as well as create economic opportunities which were not previously available to them. It was a harbinger of an era of much more harmonious



relations between the different groups. He believed that those opposing the Act were merely "doing harm to the cause which we seek to serve - the upliftment of the non-European".<sup>165</sup> Responding to criticisms that the Act takes away the rights of non-Europeans, he stated:

It only takes away the rights that have been abused - the right exercised mainly by wealthy Indians to push themselves into someone else's area irrespective of the feelings of the other people. This principle of penetration only gave rise to racial friction and it was vitally necessary for the government to step in and stop it because it was widening the gulf between Europeans and non-Europeans.<sup>166</sup>

Mr. Boyd stated that people had a natural inclination to live among their own groups, and this would be facilitated by the GAA. The GAA compelled local authorities to develop suitable areas for the different groups. He contended:

As a European I am ready to meet the legitimate requirements of the non-Europeans for residential areas as our own. As a ratepayer I am prepared to pay the price of eliminating those racial islands in European ... residential areas where my fellow-citizens have been compelled, against their will, to live alongside Indians. I concede the Indian's right to the provision of equal amenities in his own areas provided he withdraws from mine.<sup>167</sup>

In a rejoinder, the Indian Opinion stated that a similar argument was used to justify the Asiatic Land Tenure Act of 1946, and if any proposal was introduced to completely dispossess the "Indians of the meagre land rights they have left, Mr. Boyd and his likes would accept it whole heartedly".<sup>168</sup>

Given the almost unanimous acceptance of the GAA by its Councillors, the DCC immediately set machinery into motion to implement the Act. A Technical Sub-Committee (TSC) was appointed by the DCC on 20 November 1950, which drew up detailed race zoning plans for Durban.<sup>169</sup> As a result of the recommendations of the TSC, the DCC submitted a number of amendments to the GAA for consideration by the Government in order

to facilitate implementation of the Group Areas Act with minimum disturbance of existing personal occupation ... and to facilitate the gearing of racial changes to the availability of alternative accommodation and the demand for property existing from time to time...<sup>170</sup>

The recommendations of the DCC could be summarised under the following categories:

#### **a) Amendment of Group Areas Act**

- i) In a Group Area for occupation, persons who qualify for acquisition could take occupation from those disqualified without a permit.
- ii) Proclamation of Group Areas for occupation without immediately determining the effective date.
- iii) Proclamation of a Group Area for Ownership without decreeing that the new occupant be of the same race as the owner.
- iv) In a group area for ownership, a person not of the decreed group who was not in occupation at the time of the proclamation, must be prohibited from residing in the said area.<sup>171</sup>

#### **b) Measures to Facilitate Conversion**

- i) Any application of the GAA must take cognisance of the property market, and those disqualified should receive equitable prices for their properties.
- ii) This could be achieved by a system of public acquisition of property adversely affected as a result of proclamation in terms of the GAA, at a fair price. A public authority should be vested with the power to make such acquisitions.
- iii) Such an authority could also acquire other properties for resale in order to control the rate of conversion of any area.
- iv) Industrial and commercial activities displaced as a result of the GAA must be given priority in the allocation of licences and premises in new areas.<sup>172</sup>

#### **c) Alternative Accommodation**

- i) The Government should be approached to provide funds for housing loans for persons likely to be displaced by the GAA.
- ii) Loans should also be provided by the Government to facilitate the purchase of dwellings in areas which will undergo a change in racial character.
- iii) In order to ensure the availability of alternative accommodation the DCC suggested a policy of developing building sites for allocation to persons likely to be displaced by the GAA.
- iv) The Government should introduce the necessary legislation to confer the necessary powers upon the DCC to effect the above policy.<sup>173</sup>

#### **d) Non-European Participation**

- i) The establishment of Indian and coloured committees to liaise between their respective committees and the DCC with regard to the implementation of race zoning.
- ii) The Government should determine as soon as possible the powers and functions of non-European Group Area Governing Bodies in Durban.
- iii) There was a need to train non-Europeans in social welfare, health and administration so that they will be able to conduct these functions in their own group areas.<sup>174</sup>

The DCC's intentions in submitting the recommendations was aptly summarised by Mr. A. Moolla, President of the SAIO:

The main reason underlying the concern of the Council was that without state machinery the Council would find it absolutely impossible to carry out the immense task of moving some 70 000 Indians from their established residential areas to undeveloped land mostly lying far away from the boundaries of the city. There are many who feel convinced that, even with this state machinery to compensate displaced people, the Council will eventually have to abandon the idea.<sup>175</sup>

Most of the DCC's amendments and recommendations were accepted by the Government. They were subsequently incorporated as amendments to the GAA in Act No. 68 of 1955, and consolidated as Act No. 77 of 1957,<sup>176</sup> and formed the basis for community development legislation.

### **5.7 COMMUNITY DEVELOPMENT**

The GAA basically provided for the demarcation and allocation of land for the various race groups. The implementation of the legislation resulted in the displacement and resettlement of hundreds of thousands of people. Consequently, there was a need for community development in both the areas evacuated, as well as the resettled area. The application of the GAA had interfered with property values, leading to speculation as well as appreciation and depreciation. The state was coerced to intervene in order to reduce speculation, and to protect

buyers and sellers.<sup>177</sup>

Machinery for the implementation of group area plans was provided by the Community Development Act No. 3 of 1966, and this has been referred to as the sister act to the GAA.<sup>178</sup> The Community Development Act was preceded by the Group Areas Development Act of 1955, (promulgated largely at the insistence of Durban), which aimed to

provide for the control and disposal and for the acquisition of immovable property in group areas and other areas defined under the Group Areas Act, 1950, and for the proper development of such areas, and for such purposes to establish a board and to define the functions, and to provide for matters incidental thereto.<sup>179</sup>

This led to the establishment of the Group Areas Development Board, (GADB), which in contrast to the GAB was not merely advisory, but played a fundamental role in the creation and development of group areas. Its primary functions included:

- i) Assisting disqualified people to dispose their property and resettle them in their own group areas. The Board could develop townships for those displaced by the GAA. The Board could carry out its functions with or without the co-operation of the relevant local authority.
- ii) Determining the 'basic values' of affected properties. 'Basic value' refers to the market value of the property at the time of proclamation plus the approximate cost of constructing the buildings when the valuation was done, minus the depreciation.
- iii) The board had a 30-day pre-emptive right to buy the affected property at an agreed price. If the Board did not exert this right, then the owner could sell it to anyone who qualified in terms of the GAA. If the owner received an amount which exceeded the basic value, 50 percent of the difference had to be paid to the Board. If the amount received was less than the basic value, the Board would pay 80 percent of the difference.<sup>180</sup> The Community Development Amendment Act No. 42 of 1967 altered this provision. It determined that if a property was sold within five years of the date of proclamation, the owner need not pay any appreciation contribution. After five years appreciation had to be paid on a sliding scale not exceeding 50 percent.<sup>181</sup>

- iv) The Board could expropriate any property. In the case of expropriation, appreciation or depreciation contributions discussed above also applied. Any dispute between the GADB and the owner would be mediated by three arbitrators nominated by the Board.<sup>182</sup> In terms of the Community Development Amendment Act, No. 44 of 1965, the Board could, with Ministerial approval, compensate for any goodwill value lost by a business or profession as a result of a group area proclamation. This compensation would not exceed the net profit of the activity concerned for the first twelve months preceding proclamation.<sup>183</sup>

The Group Areas Development Act basically gave effect to the earlier representations made by the DCC in order to facilitate the acquisition of property and the provision of alternate accommodation. The DCC viewed the GADB to be "essential for the successful implementation of [the GAA] especially regarding residential segregation which it will greatly facilitate".<sup>184</sup> It urged that the GADB start functioning as soon as possible so that group areas could be proclaimed. The uncertainty prevailing among blacks could then be eliminated.<sup>185</sup>

Numerous criticisms were levelled at the operation of the GADB. The GADB imposed state control over the sale of properties affected by the GAA and dispossessed victims:

Having deprived the fundamental right of the individual to live where he pleases, and sell what land he pleases, under the Group Areas Act, the Government now by an amendment to this Act seeks to dispossess him of his land and his wealth.<sup>186</sup>

The operation of the GADB was likely to have serious repercussions on the operation of the property market in mixed residential areas. A critical issue was the value which would be placed on properties owned by Indians, as this group would be most affected by the GAA. As a result of the restricted supply of land Indians had paid inflated prices for their properties. It was unlikely that valuers would consider this in their assessment of affected properties. Hence, the basic values of such properties would be unrelated to their market values.<sup>187</sup> According to Paton:

As soon as an area becomes 'affected', (as when a mixed area is proclaimed a white area), there is no market value at all. In the first place, no white

person knows when the area will finally be evacuated. In the second place, many evacuated buildings have no market value whatever for white buyers.<sup>188</sup>

The GADB would thus complete "the process of dispossessing the Indians of properties owned by them in areas which will become white areas".<sup>189</sup> The lower the valuation of affected property, the more remote the possibility of a loss to the GADB, and the greater the possibility of it making a profit. Indian owned property would pass on to European buyers at a fraction of their true value, and the victims of the GAA were to pay for their own execution.<sup>190</sup> This vindicated Indian bitterness

that it is they who are paying for the Group Areas Act, that it is they who will make the sacrifices, that it is they who will foot the bill for the demolitions and the removals, that it is even they who will pay the compensation under the Group Areas Development Act.<sup>191</sup>

In view of the above, the DCC's insistence that the amendments were necessary to reduce the losses suffered by people displaced by the GAA seemed hollow. In reality the machinery of the GADB would be used by the DCC to speed up the acquisition of Indian owned property by Europeans in Durban. This would help the DCC to attain its avowed aim to make the entire Old Borough of Durban a white group area. With the power of the Group Areas Development Act the Minister of the Interior could proclaim the whole Old Borough a white group area. If this appeared to be too drastic a measure, then he could proceed to do so on a piecemeal basis.<sup>192</sup>

The SAIRR suggested that the function of the GABD should extend beyond the stabilisation of property values and should serve to mitigate hardships arising from the establishment of group areas and the ensuing pressure on victims to dispose of their property. It proposed that owners of affected properties should be protected from financial losses and should receive at least the basic value of their property. Therefore the contributions of the Board should compensate fully for any deficits.<sup>193</sup>

The Group Areas Development Act was amended by Acts No. 81 of 1959, No. 44 of 1965, and No. 42 of 1967. The amendments extended the application of the Act; granted the Board greater powers over property falling within its domain; and reduced its dependence on the



GAA.<sup>194</sup> The GADB was renamed the Community Development Board in 1965, and the Group Areas Development Act was changed to Community Development Act.<sup>195</sup> The Community Development Act also provided for the establishment of a Community Development Board (CDB) and a community development fund.<sup>196</sup> The Act's main concern was the development and control of property affected by the GAA.<sup>197</sup> In addition to its group area functions, the powers of the CDB were widened to enable it to undertake slum clearance and urban renewal schemes, as well as the provision of housing. It also had the capacity to

enter into contracts with the government and statutory bodies, to compensate businesses for goodwill likely to be lost in consequence of steps taken under the act or under the group areas act and to compensate lessees who have to vacate properties.<sup>198</sup>

The wide powers of the CDB enabled it to operate at central, provincial and local government levels.<sup>199</sup> The state's perception of the function of the CDB was expressed by Dr. H.F. Verwoerd:

It must ensure that all population groups are properly settled and housed, that healthy communities develop and that poor conditions that hinder such community development are removed - for example, by slum clearance and urban renewal.<sup>200</sup>

More specifically, according to the Department of Community Development the aims of the Group Areas policy were to:

- i) establish and preserve the rights of occupation and ownership of land for particular race groups;
- ii) provide the necessary facilities and amenities required for individual and community development;
- iii) create avenues for full realisation and new ventures in commerce, industry, the professions and trades, the public service and other spheres;
- iv) provide for eventual control and administration by the inhabitants themselves.<sup>201</sup>

There was little evidence that the Department of Community Development attempted to achieve these objectives. In terms of the Community Development Act of 1966 any immovable property owned by the Board was exempted from rates as long as such property had not been leased or sold.<sup>202</sup> When this legislation was discussed in Parliament, no one had foreseen that the property holdings of the Department would reach such colossal

proportions that it would inflate land values. The property holdings of the Department between 1965 and 1970 exceeded one billion rands. The resulting loss of rates to local authorities was mind boggling:

In Durban, where the Department's holdings have jumped from R5 309 777 in 1965 to R15 703 538 in 1969, a figure based on purchase prices rather than on current values, it is estimated that the City Council has lost as much as eight million rands in rates alone since the Department went on its property grabbing spree.<sup>203</sup>

The ordinary ratepayer was thus forced to make up for the shortfall. Hence the Department was responsible for inflating the costs for the home owner and tenant. In this manner all South Africans were forced to subsidise the activities of the Department.<sup>204</sup>

In most cases houses owned by the Department of Community Development were allowed to deteriorate. They were previously owned by Indians and coloureds, and were generally in a satisfactory condition when their occupants were affected by the GAA. Over the months the empty dwellings degenerated to the extent that they represented a health hazard:

Disease knows nothing of Group Areas, and while the Department of Community Development is allowed to enjoy a type of diplomatic immunity from normal health regulations, it will continue to hold the health of every resident in the surrounding areas to ransom.<sup>205</sup>

Senator Winchester referred to numerous cases where the victims of the GAA lost, and the Department of Community Development, and whites, profited. For example:

An Indian in Queensburgh stated that his family bought 44 hectares of land in 1920. The Department paid about R2 000 a hectare and has now placed it on the market for R87 500 a hectare. A classic example of how to make a profit without really trying.

A site sold by an Indian to a white person in Durban because of the Group Areas Act for R11 000 was resold a little later for R67 000. And it is now back on the market for R95 000.

In a press report, Indian farmers, who were forced off their farms under the Act became angry when two white officials of the Department reaped the banana crop. This followed a question I raised in Parliament, which drew the reply that 'the land is not being cultivated'.<sup>206</sup>

Generally people have a natural tendency to live among their own groups. However, there

will always be opposition to force segregation, and the economic and social deprivation which results from uprooting and relocation in sterile environments. In spite of its optimistic and hopeful connotations, there was very little 'community development' for those affected by the GAA.

## 5.8 CONCLUSION

Recently, Dear argued that "way laws are conceived, enacted and implemented should be of major concern to spatial analysts".<sup>207</sup> This was very evident in the analysis of the group areas legislation. The analysis of the GAA confirmed Blomley's observation that "it is evident that there is an ideology associated with law which is both supported and expounded by individuals within the central and legal sub-apparatus".<sup>208</sup> Law represents part of the state apparatus, and serves a legitimating function. Smith has emphasised the importance of legislation in legitimating the state's policy agenda:

Although political constructions of social problems are sensitive to a variety of economic, bureaucratic, and pragmatic constraints, the fine tuning of the legislative agenda is responsive to ... the proximate determinants of policy (political style, ideological debate, and so on).<sup>209</sup>

Thus, the law functions as a powerful institution which conditions socio-spatial relations, and also determines the terms according to which these relations are negotiated. The law also serves as a "control mechanism used to perpetuate the notion of 'race' in its geographical and cultural context".<sup>210</sup>

It was evident from this chapter that the group areas legislation was the principal measure used by the state to control the use, occupation and ownership of land and buildings on a racial basis, and was regarded as the cornerstone of apartheid. In terms of the GAA, the central state, through its various agents, effectively controlled all inter-racial property transactions, as well as the location of traders. The NP maintained that the GAA was not discriminatory, and would be applied to all groups, with justice and equity, and minimal disruption in order to reduce racial friction. Ironically, the NP admitted that the GAA was essential to preserve and entrench white supremacy.

Although the principal of social and racial segregation was accepted by all parties in parliament, there was strong opposition to the GAA as it was discriminatory, undemocratic, tyrannical, and would serve to intensify racial conflicts. It violated property rights, and did not provide for compensation, which would result in the affected individuals and communities suffering severe financial losses. The GAA undermined the autonomy of the local state, and would result in the wholesale uprooting and relocation of families of all races. The machinery for the equitable implementation of the GAA was inadequate, and the 'separate but equal' maxim needed to be embodied more explicitly in the Bill. By not specifying the criteria by which group areas were to be delimited, arbitrary powers were vested in the central state. There was an ominous warning that the restrictions embodied in the GAA, especially those applying to trade and commerce, was against the spirit of free enterprise and the capitalist ethic.

The genesis of the NP's group areas policy emerged from the Sauer Commission and the Joint Report of the Asiatic land Laws Amendments Committee and the Land Tenure Act Amendments Committee. This was a biased, inaccurate report, which was described as an 'extraordinarily misleading document'. The NP viewed Indians as aliens in the South African social hierarchy, and espoused a policy of repatriation, failing which there was to be compulsory segregation. Furthermore, Indians would be denied the franchise, and their access to land and trading opportunities would be reduced. Also, the possibility of an alliance developing between Africans and Indians had to be avoided at all costs.

Although the GAA was to apply 'equally' to all groups, the Indian was identified as an economic threat to whites by both the NP and the Opposition. The supporters of the GAA were aware that it would result in the economic strangulation of Indians, and reduce them to a servile status, the only form in which they were acceptable in South Africa. The GAA was a culmination of the anti-Indian measures, restricting access to land and trade, which had pervaded the Union, as well as the colonies and the republics, for almost a century. Indian political organisations were vociferous in their condemnation of, and opposition to, the GAA, which was intended to ruin the community economically, and force them into ghettos. They resolved to mobilise their resources, and to use every available avenue of protest to oppose the implementation of the GAA, and to defy the unprecedented assault on basic rights and

privileges. However, the NIC and NIO differed in strategy rather than principle in opposing the Act.

The NP and Indian political organisations agreed on one issue - that the DCC was at the forefront of the agitation for the GAA. The former argued that it was responding to calls from Durban and Natal to act against Indian residential penetration and commercial expansion. The former maintained that the DCC was more anti-Indian than the NP. There was substantial evidence of close collaboration and complicity between the DCC and the NP with regard to the drawing up of the group areas legislation.

The DCC regarded the GAA as a life line by which Durban could be preserved as a European city. City Councillors almost equalled the rhetoric of the NP in their defence of the GAA, arguing that it provided opportunities for blacks to develop on a parallel basis to Europeans, as well as offering them new economic openings. The DCC submitted a number of amendments to the GAA which were ostensibly intended to facilitate racial zoning with a minimum of disturbance, as well as considering the availability of alternative accommodation, and protecting property values.

The Government accepted these amendments and established the GADB which was to be concerned with community development. It became increasingly apparent that these measures were proposed to hasten the dispossession of Indians. The GADB provided the machinery for the DCC to accelerate the European acquisition of Indian properties in order to realise its aim of making the Old Borough a white group area. There were many examples in Durban of Europeans and the Department of Community Development purchasing Indian properties at a fraction of their worth, and reselling them at exorbitant profits. This was a cynical way of making the victims of the GAA pay for the 'cost of its execution, and their own'. The various race zoning plans of the DCC will be discussed in the next chapter.

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## CHAPTER SIX

### THE LOCAL STATE AND RACE ZONING: THE GROUP AREAS ACT IN DURBAN

The Group Areas Act gathers the vultures together for the day of pogrom - sanctimonious Cabinet Ministers preaching medieval concepts of race purity; bigoted public servants and sycophants, turning those concepts into grinding, body-and-soul-destroying schemes of zones and buffer strips and barriers; pinch-penny speculators and grave robbers, scratching in the foulest muck of Nationalism for the slimiest of pennies. An unholy alliance of the most depraved and inhuman forces of the land, for the most depraved and degrading act in our history - armed robbery in the name of the law - the Group Areas Act.<sup>1</sup>

#### 6.1 INTRODUCTION

The legislative aspects of the GAA was evaluated in chapter five. In this chapter the different group area proposals for Durban, which culminated in the 1958 proclamations, will be discussed. The reactions of the different interest groups will also be considered, particularly the interaction between the central and local state, as well as the responses of popular organisations. The racial zoning of Durban was controversial, with various proposals being considered. The DCC had a vested interest in the implementation of the GAA. The foundations of the race zoning plans of the DCC were determined by the Technical Sub-Committee (TSC). The proposals of the TSC of the DCC will be discussed in some detail because it elaborated quite significantly on the criteria for the demarcation of group areas, (a crucial matter on which the Act was curiously silent) which were subsequently adopted through the country. This will elucidate the role of the local state in socio-spatial structuring.

The chapter will reveal that there was a significant level of consensus between the central and local states with regard to race zoning in Durban. The local state bureaucracy, represented by the TSC, had numerous consultations with the LTAB, which represented the central state bureaucracy. This is further highlighted by the analysis of the LTAB's hearing in Durban in 1953, where both the central and local states supported almost identical plans. The objections

to the TSC's race zoning proposals, the subsequent amendments made by the DCC will reveal that the local state was ultimately accountable to its white voters. Liberal whites in Durban, largely represented by the SAIRR and a few academics, supported the minimum displacement of settled communities, but they were in the minority. Indian protest and resistance to the various proposals to uproot the community, and reasons for its failure, will also be analysed. The chapter concludes with an analysis of the June 1958 group area proclamations in Durban.

## **6.2 DURBAN - PHYSICAL CONFIGURATION AND POPULATION DISTRIBUTION<sup>2</sup>**

The racial distribution of the population in Durban was influenced mainly by topography. Durban developed around a bay, the southern appendage of which was formed by two parallel crests called the Bluff. The industrial and business belt extends broadly around the bay, as well as to the north and south, along the railway line. The coastal plain leads inland to the Berea Ridge. The region has four rivers running almost parallel to each other - in the north the Umgeni; the Umbilo and Umhlatuzana (which merge), at the centre; and in the south the Umlaas (figure 6.1).<sup>3</sup>

The seaward slopes of the Berea, Durban North, Montclair, Woodlands, and the Bluff were almost exclusively occupied by Europeans. Indians occupied the less pleasant valley areas in the Borough. They also settled in the peri-urban areas, which were incorporated into the Borough of Durban in 1932 with the extension of boundaries in 1932. Consequently, Indian occupied land surrounded the Berea on three sides - beginning on the northern bank of the Umgeni River, proceeding on the leeward side of the Berea Ridge, and extending inland and towards the bay, along the Umhlatuzana and Umgeni Rivers (figure 6.1).

The main Indian areas to the north of Durban were beyond the Umgeni River, in Riverside, Prospect Hall, and further inland, in Duikerfontein and Sea Cow Lake, where Indians had lived for over seventy years. Between the Umgeni and Umbilo Rivers, Indians lived in Sydenham, Springfield and Cato Manor. Indians also occupied the valleys in the residentially mixed areas of Hillary, Bellair, Sea View and Malvern, while whites lived on the upper slopes. Other Indian areas included Clairwood and Merebank (figure 6.1).

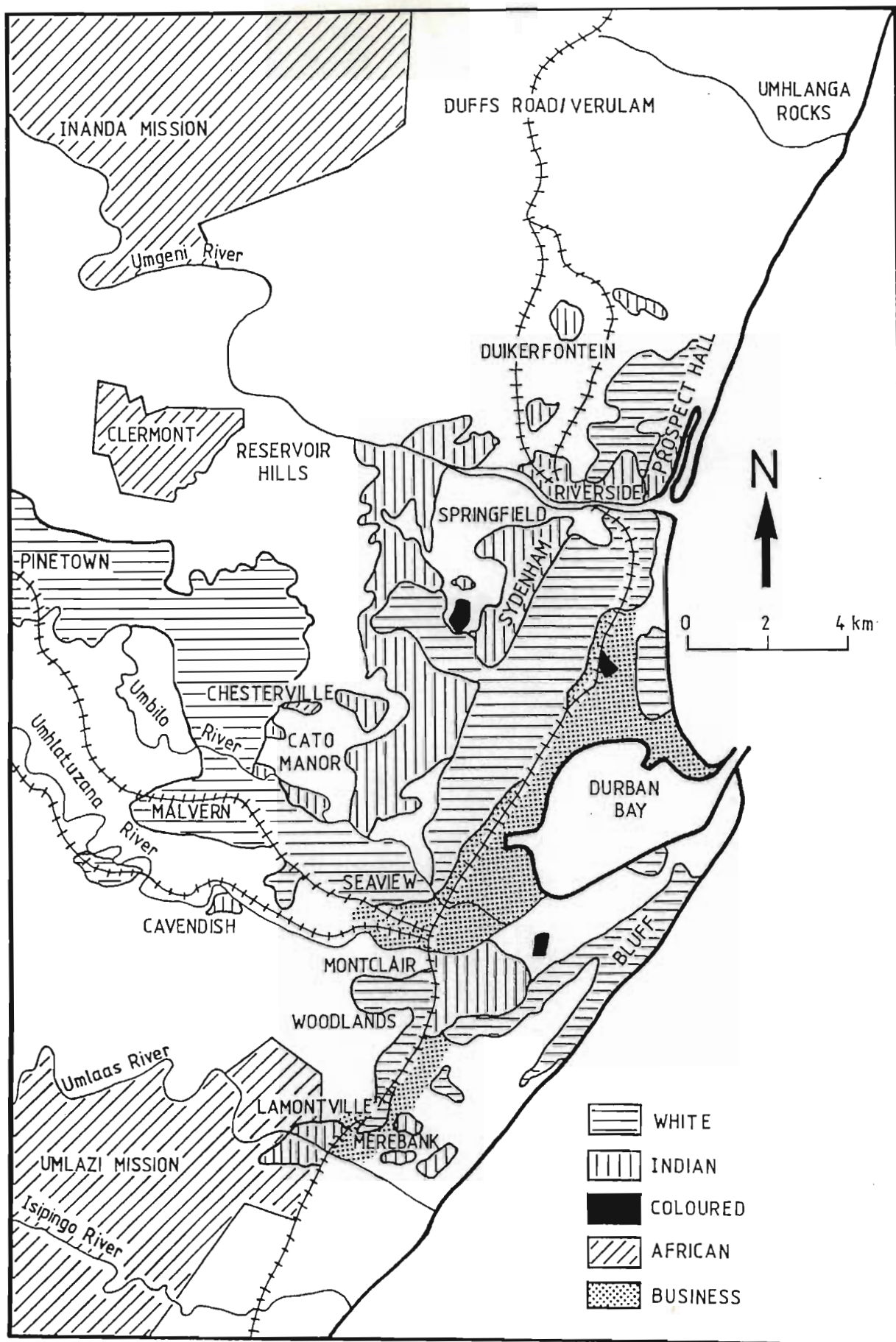


Figure 6.1 Physical Configurations and Population Distribution in Durban

Africans lived in locations in Lamontville, Chesterville, and the western edges of Cato Manor. Two African townships were planned, Umlazi to the south, and Kwa Mashu in the north (near Duffs Road). Coloureds were found in Sparks Estate, Greenwood Park, Red Hill, Clairwood and Merebank.

In the opinion of the Town Clerk, Mr. Howes, the racial population distribution prior to Group Areas presented

a picture of mixed society consisting of widely differing components, in a state of maldistribution and confusion, arranged in a general pattern of concentric rings in which each group in turn is virtually or largely encircled by another, and in which no group has adequate prospects of expansion except at the cost of animosity and friction with another group ... in which there are a large number of little islands of one racial group in the middle of another ... a classic example of the state of affairs which the GAA was designed to remedy. It is my submission that the proper objective of any proposals for the implementation of the GAA in these circumstances is plain. It is clear that the objective should be to ensure as far as possible that the GAA is applied to this City and its environs in a way which will eliminate from this community the seeds of racial friction and disharmony which are so plentifully in it at the present time, in a way which will entail the minimum of hardship to those who are affected ...<sup>4</sup>

### 6.3 PRINCIPLES INFLUENCING RACE ZONING

The TSC comprised of municipal heads of department of the City of Durban. They were Mr. E.A.V. Havemann, (Manager of the Native Affairs Department); Dr. G.H. Gunn, ( City Medical Officer of Health); Mr. R. Comrie (Senior Engineer, Planning, City and Water Engineers Department); and Mr. R. McGilvray, (Principal Clerk, City Estates Department).<sup>5</sup> Mayor Osborn regarded the appointment of the TSC as the "most important step taken in the past 20 years in the planning and development of Durban".<sup>6</sup> The members of the TSC were apparently "selected for their administrative ability, their local knowledge, their impartiality and professional qualifications of a high nature".<sup>7</sup> However, its methods and composition were undemocratic. No members of the public were invited to tender evidence. Although it did hear some evidence, this was not from the communities most affected by the changes. This was not surprising since the GAA did not provide for adequate consultation with affected communities.<sup>8</sup>



The terms of reference of the TSC were to examine and report upon:

- i) The areas into which the City of Durban should or is likely to extend.
- ii) The uses to which the various parts of the City and the areas mentioned in (a) should be put, bearing in mind the needs of industry and commerce, and the residential, transport and other requirements of the various races.
- iii) Such land, within or without the present City Boundaries as it considers the City Council should acquire and for what purposes.
- iv) The legislation or other instruments by which the areas mentioned in (a)-(c) above should be earmarked, acquired or otherwise dealt with in order to achieve objectives desired; the probable cost of such action as far as it is ascertainable; and the sources from which the necessary finance should be obtained.<sup>9</sup>

The terms of reference of the TSC were wide and was tantamount to an investigation and consideration of every landuse activity in the municipality. However, the TSC viewed the question of race zoning as urgent, and focused on this issue from the beginning of its work.<sup>10</sup> The TSC went beyond its brief and pontificated at length on the need for, and the advantages of, racial residential segregation. It emphasised the need to reduce all points of racial contact to a minimum. The principles advanced by the TSC for the demarcation of group areas were subsequently adopted throughout the country.

The first report of the TSC dealt with the principles upon which race zoning should be based. Residential segregation, according to the TSC, arises from the preference of people of the same race to live in the same neighbourhood, voluntarily. However, mixed residential areas developed on an ad hoc or piecemeal basis, where there was no strict control. Residential mixing could take the following forms:

- i) sharing individual dwellings, e.g. poor Europeans hire rooms in Indian houses;
- ii) two or more races occupying separate but contiguous dwellings, e.g. Indians occupy a large number of houses in certain areas such as Block AL; or
- iii) an island of one race in the area of one or more other races, e.g. Chesterville is a Native island surrounded by European and Indian properties.<sup>11</sup>

According to the TSC the juxtaposition of races could produce conflict, as one group may unwittingly offend another. Consequently, residential neighbourhoods should not only be

clearly racially defined, but spillovers into another group area, or casual crossings of borders, must be reduced. The TSC emphasised that borders must be clearly delimited:

It is not sufficient merely to draw a line on a map demarcating race zones if two races are to face each other across a street or in other ways share the facilities of a residential area. Effective segregation demands effective boundaries - real boundaries and not merely hypothetical ones. The boundaries must in fact be barriers.<sup>12</sup>

It appeared that the TSC was echoing the views of the Chairman of the Land Tenure Advisory Board (LTAB), who contended:

Eventually there should be effective boundaries separating the areas for the various groups. This point could also be elaborated as there is a large diversity of possible boundaries each with its own advantages and disadvantages.<sup>13</sup>

The TSC specified what it considered to be effective boundaries. Natural features such as rivers, steep valleys, cliffs and hill tops were excellent barriers. The most effective artificial barrier was a belt of industrial or commercial development. Although racial interaction occurs in these areas, it was different from mixing in residential areas. A railway line was also a good barrier.<sup>14</sup> Vacant land of considerable extent would be effective. Narrow green belts were unsuitable as they became communal parks which would encourage contact. Mr. Havemann of the TSC made the following comment at a conference of the South African Bureau of Racial Affairs:

It is interesting to note how often an unoccupied belt of land occurs (frequently without deliberate planning) around Native urban areas. Such a relatively vacant belt is found around Chesterville and the Cato Manor shack area in Durban, and around Alexandra Township in Johannesburg. Buffer belts of this sort fulfil the purposes described, but usually at the cost of sterilising large tracts of valuable land, because unused vacant land is not an effective barrier unless it is of considerable extent. If it is narrow it tends to develop into a communal open space, which readily becomes a source of friction.<sup>15</sup>

The TSC maintained not only that the points of residential contact between races should be as few as possible, but also that "one race should not travel through the residential areas of another", as this was also likely to lead to conflict.<sup>16</sup> Once again, this was in keeping with the views of the Chairman of the LTAB who stated that group areas should be "so planned that it will not be necessary for members of one group travelling to or from their places of work to traverse the area of another group".<sup>17</sup> The TSC referred to Durban, where

considerable resentment - and some alarm - exists amongst Europeans in the Stella area, through which numbers of Native pedestrians proceed on their way from their homes at Cato Manor to their work at Umbilo and Congella. Large scale pedestrian traffic is perhaps the most obvious source of complaint, but vehicular traffic may be equally resented; a case in point is that protests from Europeans led to the discontinuance of the non-European bus route to Overport via Essenwood Road.<sup>18</sup>

Therefore, the TSC concluded that each race should have access to their places of employment, without traversing residential space of another group, in their journey to work. The Committee was aware that this would require additional roads and incur inconvenience and expense. However, this according to Senator Brooks, this was a ridiculous approach:

Since every European in Durban has at least one non-European servant; since the railway, carrying both classes of traffic, runs through the city; since the business centre attracts thousands of sellers and buyers of all races, it does seem like midsummer madness to attack large vested interests simply to prevent Europeans being inconvenienced by the spectacle of non-European buses.<sup>19</sup>

In making these recommendations the TSC went beyond the legal requirements and was acting from conviction rather than from compulsion:

Power to proclaim Border Strips, in the absence of natural or other barriers between Group Areas, was only conferred on the Governor-General in 1955, and the Group Areas Act to this day does not prohibit the passage of members of one race through the residential area of another.<sup>20</sup>

Although the GAA envisaged a degree of administrative autonomy for non-European group areas, the TSC argued that this would not be possible for small, isolated racial pockets. Hence, any group area must be large enough to function as an independent local authority. Ultimately, the idea was to have as few zones for each race as possible. The TSC stressed that group area allocations must not only consider present, but also future needs. Expansion opportunities would be determined by reasonable access to the workplace by existing means of transport.<sup>21</sup> The economic position of the race group would determine their residential location. The TSC concluded that

- i) the superior economic position of the European community puts it in a far better position than the non-European races to use land somewhat remote from public transport.
- ii) residential areas provided for industrial workers should extend for as long as possible along the working area.<sup>22</sup>

In planning for group areas, consideration must be given not only to the number of people involved, but provision should also be made for social class stratification. As far as possible group areas should be planned as self-contained communities, with the provision of all the facilities and services this would entail.<sup>23</sup>

Although the TSC conceded that the allocation of land in Durban was not proportional to needs, it did not appear to adhere to the principles of justice and equity which the central state maintained were vital to implementation of the GAA. For example, although natives comprised one third of the city's population, they only had access to a fraction of the city's area. The TSC stated that it was not suggesting "that a third of the available land should be allocated for native use ...".<sup>24</sup>

The TSC acknowledged that the GAA would result in the displacement of Indian traders, and there was a suggestion that Indian commercial interests would be removed from the CBD to proclaimed group areas. Ironically, Indian investors were expected to develop Indian group areas:

This process will involve the detachment of considerable Indian capital from the places in which it is now invested. The most desirable and obvious alternative investment is in Indian areas, and we suggest that it is not unreasonable to expect the Indian investor to play his part in building up the balanced civic unit to which one looks forward in the Indian zones.<sup>25</sup>

The TSC was uncertain whether segregation would be desirable or practical in areas designated for commerce or industry, without destroying the economy of the city. However, local capital was opposed to the idea. In a memorandum to the TSC the Natal Employers' Association and the Natal Chamber of Industries maintained that such racial zoning

would result in unnecessary inconvenience, and expense, unsuitable siting of factories, a further complication of the transport problem and a retardation of industrial development as a whole. It is, therefore, recommended that all industrial areas should be specified as permanent 'open areas'.<sup>26</sup>

The Durban Chamber of Commerce, similarly contended that in the CBD there should be flexibility, as rigid demarcation "is bound to produce immense difficulties, and, in the long period, anomalies many of which will not be foreseen at the present time".<sup>27</sup> On the basis of these recommendations the TSC concluded, that "the greatest possible flexibility should

be retained, and that the formulation of rigid rules would be unwise" with regard to the racial zoning of commercial and industrial areas.<sup>28</sup> Furthermore

all races must under a flexible system be given adequate opportunity for industrial investment or operation in the areas most suited to the industry concerned, and for major commerce and the professions in the central business area.<sup>29</sup>

To summarise, according to the race zoning principles of the TSC, a residential group area should:

- i) have boundaries which serve as barriers to prevent or reduce racial contact;
- ii) have direct access to places of employment and amenities so that there would be no need to traverse areas of other race groups;
- iii) be large enough to have some level of local government autonomy;
- iv) cater for different classes;
- v) be located so that the group has access to the most suitable means of transport; and
- vi) as far as possible racially homogeneous communities should not be disturbed.<sup>30</sup>

The TSC derived great assistance from previous investigations which had also considered planning and race zoning in Durban, particularly the Ninth Interim Report of the Provincial Post-War Works and Reconstruction Commission and the Report of the DCC's Post-War Development Committee. The difference between these reports and the TSC's was that the latter was planning "in a framework of considerably greater legislative power".<sup>31</sup>

The TSC had a very clear understanding of central state policy, and in fact complemented it. A member of the TSC believed that residential segregation was a means to avoid race conflict:

Now it is commonplace in South Africa that racial antagonism tends to be most acute at the points where the residential area of one race group abuts the residential area of another ... It follows that as a step towards preventing this particular source of friction the division between the race zones should be clearly marked and should be such as to discourage casual 'spilling over' the race boundary.<sup>32</sup>

It is important to note that in presenting the principles that should govern residential segregation, the TSC was reflecting, with confidence, the views of both the local and central state:

It had ... the benefit of close and frequent consultation with His Worship the Mayor and of the attendance of some of its members at meetings between the Mayor and the Ministers of Interior and Native Affairs, whose advice upon matters of general principle made it possible to proceed with greater confidence.<sup>33</sup>

Thus the TSC had functioned in consultation with members of the National Party and the DCC who were in complete agreement with each other on the Indian question and especially the GAA.<sup>34</sup> In the light of the fact that the TSC had received guidance from NP cabinet Ministers themselves, its plans justifying theoretically the principles of racial segregation would influence local authorities throughout the Union as they prepared to implement the GAA.<sup>35</sup>

The TSC had also consulted the LTAB. Significantly, the LTAB was impressed with the work of the TSC and the active steps the DCC was taking with regard to the implementation of the GAA.<sup>36</sup> The Committee had also received advice from the Chairman of the LTAB. In reply to a question from the TSC, the Chairman of the LTAB had stated that the Committee was in no way bound by the areas delimited in terms of the Asiatic Land Tenure Act. The effect of the GAA was to scrap existing delimitations and to give powers to start de novo. The Chairman of the LTAB stated that in planning for race zoning priority should be given to the delimitation of white group areas:

... the presupposition was that the first move would be to recommend predominantly European areas as European Group Areas, eliminating penetrated areas. The next step would be to map out the Non-European areas. Recommendations could be made regarding the periods for implementation of the Act in the various areas.<sup>37</sup>

In formulating its race zoning proposals, the TSC had followed the above guidelines closely. However, it did acknowledge that

the success of any scheme of positive segregation must depend very largely on the sincerity of purpose of the European group and its preparedness to spend money on providing non-Europeans with housing, civic services and amenities ... Expenditure of this kind is not the price of segregation; it is the price of



elementary humanity and honesty in our relationship with non-European groups.<sup>38</sup>

#### 6.4 RACE ZONING AND GROUP AREA PROPOSALS OF THE TSC<sup>39</sup>

In planning for residential segregation the TSC identified two clearly defined extremes. The first was that each group should remain in their settled areas, and the borders where racial mixing had taken place should be made homogeneous. The second was that all residential areas in the municipal area should be reserved for Europeans.<sup>40</sup> The first approach would be acceptable if it could be achieved 'without violence to a sound plan for Durban's future'. However, it was impracticable because there were numerous 'racial islands' whose inhabitants had to traverse residential areas of other race groups for accessibility to work and amenities. Also, these areas were not separated by any effective boundaries. Furthermore, existing residential locations were not always related to areas of employment. Although whites were principally employed in the central city, many were living outside the old Borough. Blacks living in the city also had to travel longer distances as industries expanded to the south of the CBD.<sup>41</sup>

Reserving the municipal area exclusively for whites would mean that blacks would be deprived of land that was most suitable for housing industrial workers, who would not have convenient access to employment areas. The provision of alternative accommodation would also present a problem. The removal of Africans from Cato Manor was not a problem since shackdwellers would have to be rehoused. Removal of Indians from the municipal area would require new houses to be built at a rate

- i) permitting the rehousing of Indians who are at present housed;
- ii) providing for the normal population increase; and
- iii) meeting the requirements of Indians who are not at present adequately housed.<sup>42</sup>

Such a building programme would not be feasible, especially in view of the demand for African housing. The TSC concluded that considerations of justice and fairness would result in most Indians remaining in their present location, and that the "plan for their resettlement elsewhere may forever remain a paper plan. Proposals to 'Europeanise' the whole area of

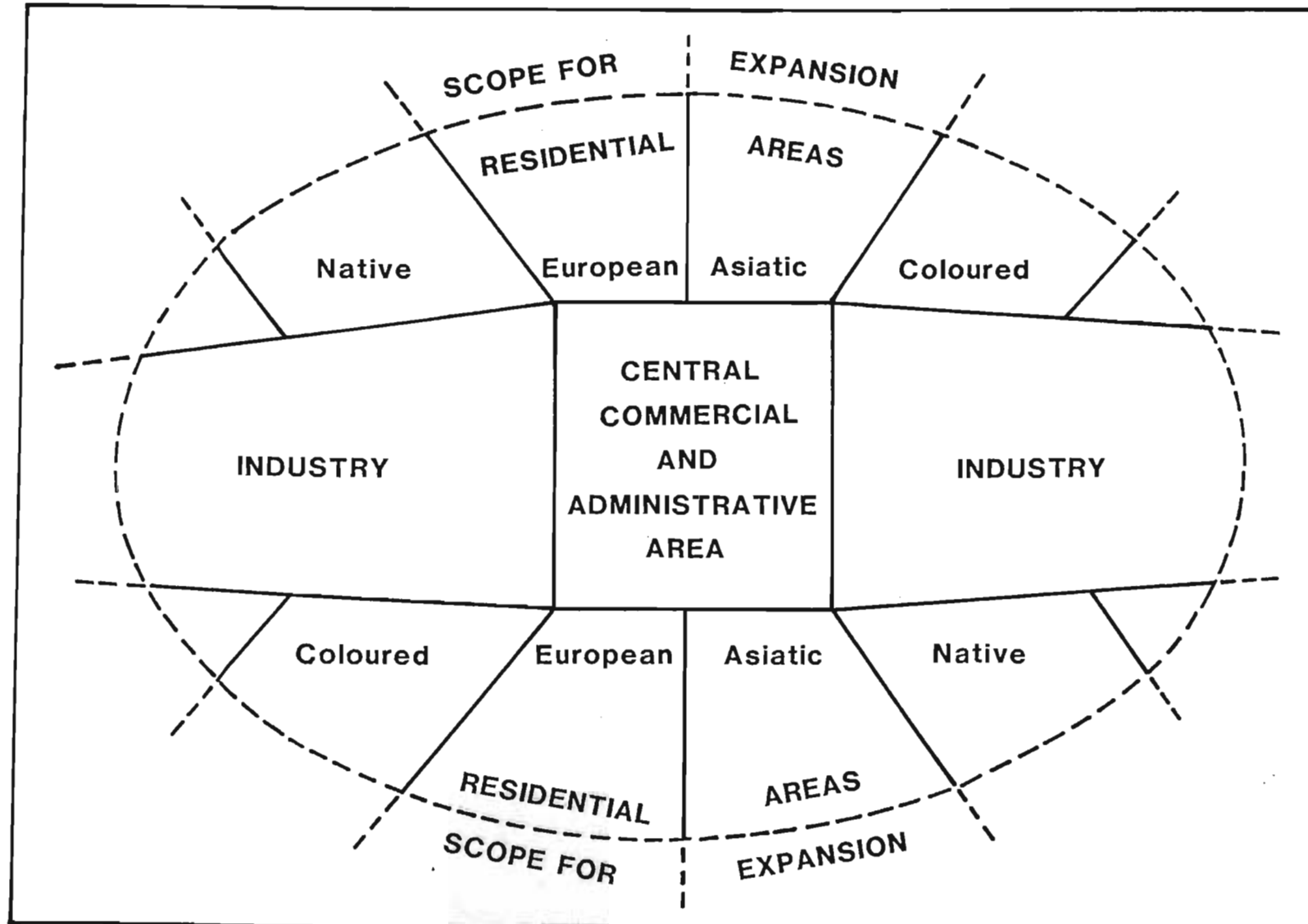


Figure 6.2 The TSC's Ideal Race Zoning Plan

Durban can in practice serve only to entrench the present maldistribution of races".<sup>43</sup>

There was a middle course which was favoured by the TSC - that of locating each race group as conveniently as possible in terms of its relation to other groups and access to places of employment. This involved asking the following questions:

What kind of plan will be favoured in 20 to 30 years time, regardless of present reactions? ... If given on the one hand merely the land comprising the region for which you are planning, containing all existing development - railways, roads, factories, shops, houses, etc., and given on the other hand the present population and estimated future population of Durban, how would you canalise voluntary movement to accord with the principles of segregation?<sup>44</sup>

The TSC argued that this approach would utilise as far as possible existing natural topographical boundaries, as well as considering the type of development which had occurred in each area, the needs of each group in terms of employment, transport, etc.<sup>45</sup> Planning in this context would lead to racial residential ribs or radii, extending from a spinal working area.<sup>46</sup> The TSC noted that, generally, the structure of South African towns comprised of a CBD, from which industrial and minor commercial districts emanated, in the form of a spine flanked by residential areas (figure 6.2)<sup>47</sup>. The residential areas for different races can be divided into zones by natural or artificial boundaries. An important advantage of this plan was that it allowed for the future expansion of each race group within its own zone. This would lead to an ideal race zoning scheme, as envisaged by the TSC (figure 6.2). In Durban the main boundaries identified by the TSC were the major rivers: Umbogintwini, Umlaas, Umhlathuzana, Umbilo, Umgeni, and Umhlanga; the South and North Coast railway lines; and the existing and future working areas.<sup>48</sup> The principles discussed above could then be used to allocate each race to a zone.

With regard to mixed areas e.g. Block AL, the TSC advocated the implementation of the GAA in stages, which would ultimately lead to homogeneity.<sup>49</sup> The TSC was not averse to recommending that if need be, force should be used to bring about racial exclusivity:

Where the changeover must be accelerated in order to clear up undesirable social conditions, or where it is found that the method of taking advantage of normal changes of ownership or tenancy is not achieving the objective, it may be necessary to resort to the more compulsory means provided in the Group Areas Act as it stands. The sheer fact that machinery exists for enforcing

change in cases where the more flexible method fails should, however, act as a powerful deterrent against obstructionism.<sup>50</sup>

In attempting to apply the principles discussed in the previous section to the City of Durban, the TSC attempted to determine those features which could be modified, and those which could not. The following were in the latter category:

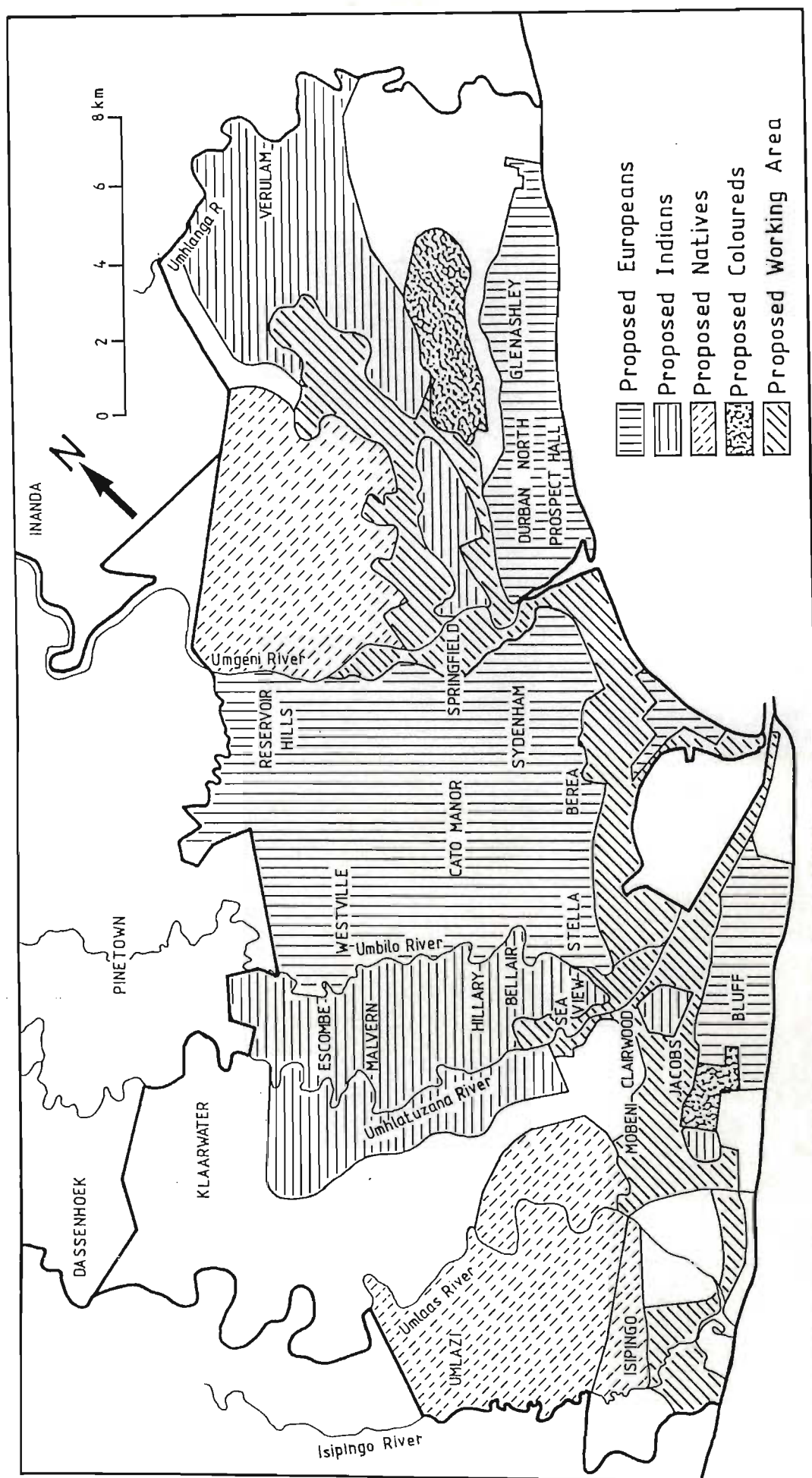
The relative shortage of flat land; the high capital investment in existing buildings; and the location of the railway immediately place the central business area and the industrial belt in the category of features not readily modifiable. The location of the existing and potential working area is thus more or less fixed.<sup>51</sup>

According to the TSC, the principal features of a race zoning scheme for Durban would comprise (figure 6.3)<sup>52</sup>:

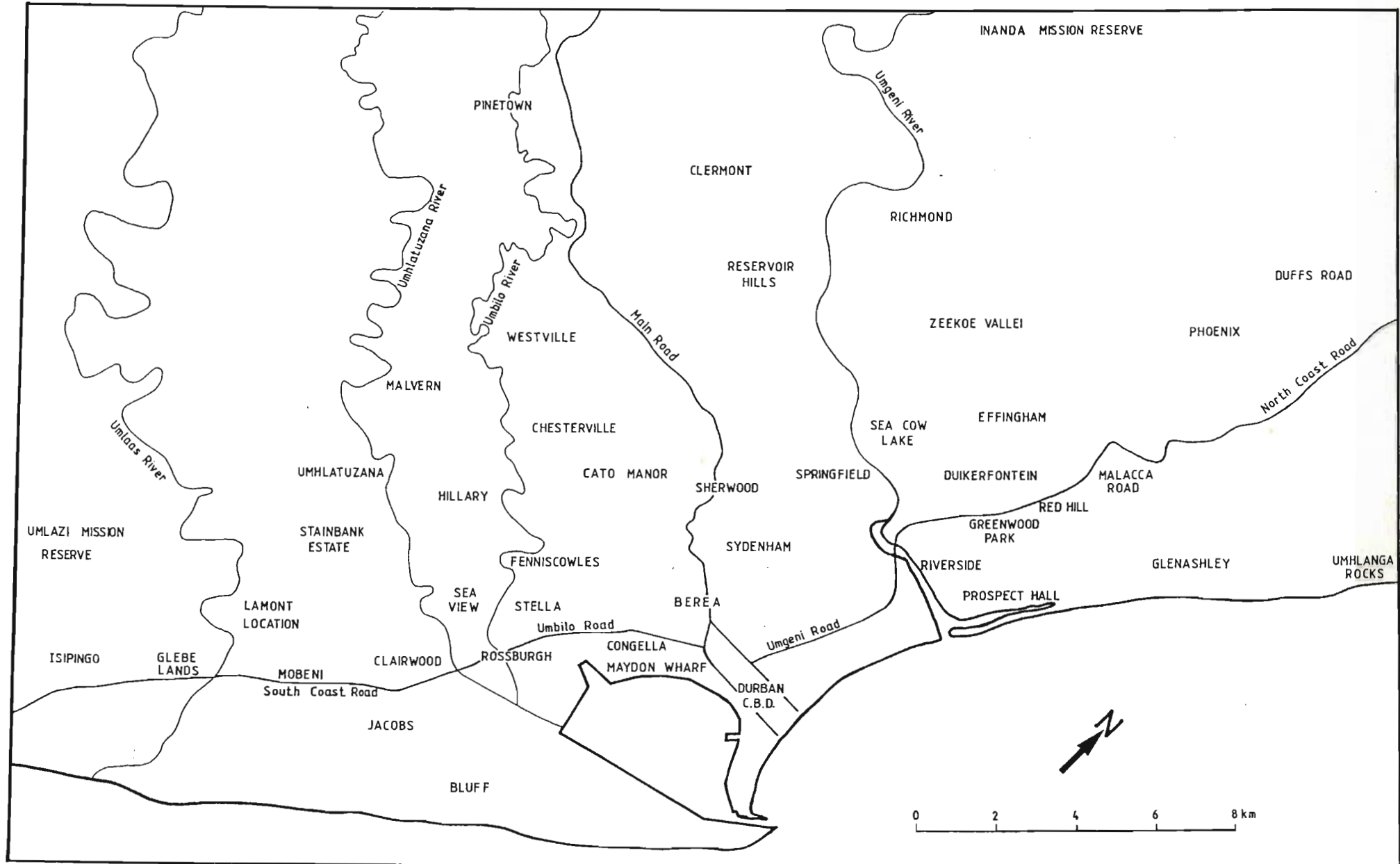
- i) A working area along the Railway line from Isipingo to Duffs Road.
- ii) The situation of the Native reserves and of urban Native zones at Lamont and between the North Coast railway line and the Inanda Native areas.
- iii) The allocation of the Berea and the present Beach front to Europeans.
- iv) The establishment of a large Indian area extending northwards from Duffs Road.
- v) Leaving the way open for Native and Indian radial zones to extend from Pinetown and to link up with similar zones from Durban.<sup>53</sup>

#### **6.4.1 White Residential Areas**

The area between the Umbilo and Umgeni Rivers was allocated to Europeans. This comprised of the Berea which was predominantly white, as well as the land beyond in Cato Manor, Sydenham and Springfield. This would form a homogeneous block from the eastern slopes of the Berea to inland Westville. The TSC maintained that the bulk of the European population, which could increase by about 150 000 in the next twenty years, would be employed between the Umbilo and Umgeni Rivers, i.e. in the CBD and the adjacent industrial areas along the bayside. The Old Borough was densely settled. The only suitable residential location for Europeans in terms of access to employment were Fenniscowles, Cato Manor, Sydenham and Springfield (figures 6.3; 6.4).<sup>54</sup>







**Figure 6.4** Suburbs in the Durban Region (1951)



These areas had no direct access to the working areas, hence non-Europeans living there would be forced to cross European areas in their journey to work. There were about 60 000 Indians living in these areas, and this could increase to 200 000 in the next twenty years. This would proliferate the non-European traffic through the Berea, a situation which would "aggravate race tensions and stultify one of the most important objectives of racial segregation".<sup>55</sup>

On the north, Durban North and its immediate neighbourhoods, Prospect Hall, Glenashley, Red Hill, Briardene, Rosehill, Upper Riverside, and Greenwood Park east of the Briardene-Avoca railway line, were to be zoned for Europeans. The rationale for this was because the superior housing quality in the area was beyond the reach of the non-Europeans. This was also in keeping with the character of the adjacent neighbourhood.<sup>56</sup> In the south, the main white residential area was the Bluff.

The TSC recommended that the following areas be immediately proclaimed Group Areas for white ownership and occupation, as this would merely consolidate the de facto situation (figures 6.3; 6.4):

- i) The Berea and the Beach Front i.e. the Old Borough, excluding mixed residential areas and Working Areas.
- ii) European-occupied land on the western slopes of the Berea Ridge.
- iii) Sherwood and Wyndene
- iv) Reservoir Hills
- v) Lowes Property (at 45th Avenue)
- vi) Gweekie's Property (abutting Stella)
- vii) Durban North up to Umhlanga Rocks, excluding mixed or non-residential areas.
- viii) The Bluff north of Quality Street, excluding mixed or non-European residential areas.<sup>57</sup>

Fenniscowles and the land acquired for the Springfield Extension Housing Scheme should be declared Group Areas for European Ownership. Non-European tenants living there need not be disturbed. However, if there are any vacancies, a non-European tenant would require a permit.<sup>58</sup>

## 6.4.2 Indian Residential Areas

Indian and African employment occurred principally in

- i) the central business areas and the Point;
- ii) the working belt stretching from the commercial centre along the North Coast Railway line;
- iii) the Maydon Wharf - Congella area;
- iv) the Rosburgh - Mobeni area.<sup>59</sup>

In the north, the Duikerfontein area, including Kenville and part of Greenwood Park, lying between the Briardene-Avoca railway line and the Temple Halt - Effingham railway line, was zoned for Indians. The area was predominantly Indian in character, and it had a considerable amount of Indian building development.<sup>60</sup>

The TSC recognised that the non-European labour force dominated in the south, and their needs were the greatest in these areas:

South of the Umbilo there are approximately 2 000 Europeans employed, while the non-European labour force south of the business area comprises some 34 000 workers - 22 500 natives, 9 500 Indians, and 2 100 coloureds. These workers, their families and the future increase in the industrial labour force must be found in the southern residential districts.<sup>61</sup>

In the South, the Main Line suburbs, lying between the Umbilo and the Umhlatuzana Rivers, (Rosburgh, Sea View, Bellair and Hillary), were zoned Indian. The Main Line suburbs would link up with the new Umhlatuzana Indian Township, the Stainbank Estate and the northern part of rural Umhlatuzana. This zone would serve as a dormitory for industry in both Durban and Pinetown. The ratio of Europeans to Indians in the area was approximately 3:2.<sup>62</sup> It was possible that Montclair and Woodlands would ultimately be incorporated into this unit (figures 6.3; 6.4).

The following Group Areas were recommended for Indian Ownership and Occupation:

- i) The purely Indian residential areas of Duikerfontein.
- ii) The purely Indian residential land in Rosburgh, Sea View, Bellair and Hillary.
- iii) The rural Indian area south of the Umhlatuzana River.
- iv) Umhlatuzana.<sup>63</sup>

**Table 6.1 Population Distribution in the Group Area Zones<sup>64</sup>**

DISTRICT	RACE ZONE	EXISTING POPULATION				
		WHITES	INDIANS	COLOURED	NATIVES	TOTAL
Umlazi-Lamont	Natives	47	6	6	9 828	9 887
Isipingo Rail, S.						
Stainbank, Rural						
Umhlathuzana	Natives	236	3 581	92	649	4 558
Bluff	Whites	7 253	2 253	179	3 101	12 786
Jacobs	Coloureds	1 755	1 099	77	958	3 909
Sea View, Hillary,						
Bellair	Indians	7 394	6 298	488	3 359	17 499
N. Stainbank,						
Umhlathuzana	Indians	45	4 337	25	4 110	8 517
Beach and Berea	Whites	69 591	3 620	1 457	21 845	96 513
Cato Manor, Springfield,						
Sydenham, Reservoir						
Hills	Whites	6 551	57 261	5 481	39 478	108 771
Westville	Whites	1 592	2 457	104	1 800	5 953
Prospect Hall,						
Riverside, Durban						
North	Whites	11 857	6 052	461	5 636	24 006
Glenashley-Umhlanga	Whites	300	225	10	80	615
Malacca Road	Coloureds	19	2 195	15	556	2 785
Glen Anil	Coloureds	38	619	11	638	1 306
Duikerfontein	Indians	2 178	6 495	504	1 719	10 896
Duffs Road-Phoenix	Indians	73	1 783	29	1 005	2 896
Sea Cow Lake	Natives	1	1 983	22	133	2 139
Zeekoe Valley	Natives	65	3 508	22	3 205	6 800
TOTAL			109 015	103 772	98 100	319 830

### **6.4.3 Native Residential Areas**

Native residential areas were to be determined by the situation of Native Reserves. As far as possible, urban native areas would be contiguous to the Reserves. In the north, the Sea Cow Lake-Zeekoe Valley, (used mainly for agricultural purposes), extending west from the Temple Halt - Effingham railway line to Richmond and the Inanda Reserve was zoned for natives. The area had a numerical predominance of Africans (23 000) over Indians (9 500) who were employed in the central area of the city.<sup>65</sup> In the south the Umlazi Glebe, Isipingo Rail strip, Umlazi Mission Reserve and Lamont was zoned native (figures 6.3; 6.4).<sup>66</sup>

### **6.4.4 Coloured Residential Areas**

The eastern side of the North Coast Road between Avoca and Mount Edgecombe was zoned coloured.<sup>67</sup> In the south, a coloured zone was set aside on the inner Bluff ridge south of the Wentworth Hospital, extending into Happy Valley.<sup>68</sup>

The population figures in the different areas are presented in table 6.1. It is evident from table 6.1 that with the exception of Sea View, Hillary and Bellair, tens of thousands of blacks would be forced to move as a result of the TSC's proposals.

## **6.5 THE LOCAL STATE RESPONSE TO GROUP AREA PROPOSALS**

Initially, the DCC supported the general group area proposals of the TSC. The principle behind the plan entailed neither evictions nor compulsory movement of population. The Mayor stated that racial zoning was intended to allay irrevocably the fears of insecurity which had existed among the different race groups in Durban for many years.<sup>69</sup> The TSC was commended for adhering to the principles of foresightedness, justice and fairplay in the course of its work by the Mayor, and he expressed the hope that the Council would follow likewise.<sup>70</sup> According to Mayor Percy Osborn:

The group areas recommended by the Technical Sub-Committee for ownership and occupation are all areas in which one race alone is resident to the virtual exclusion of other races. There are, in fact, fewer than 20 houses in the recommended group areas that are occupied by disqualified persons.<sup>71</sup>

At a Council-in-Committee Meeting held on 28 June 1951, Councillor Boyd stated that the TSC was working along sound lines. However, he did not see any purpose in uprooting settled communities. He felt that the Indian areas should extend across the Umgeni River, down to the sea (Riverside), and northwards for some distance along the seaward side of Durban North. This would give Indians access to the working areas as well as the sea.<sup>72</sup> Mayor Osborn pointed out that it was expected that the majority of Indians would flow towards the Indian areas. Councillor Boyd's suggestion implied that between 100 000 and 150 000 Indians would have to be accommodated in the Springfield and Sydenham areas in the future. The Mayor stated that this would create added difficulties without resolving the race zoning problem.<sup>73</sup> He contended that the rapid population increase would spill over into white areas. It was possible that Indians would displace whites economically and demand the municipal franchise:

The Indian population of the city now 145 741 will increase to nearly 500 000 in twenty years time, if the present rate of increase continues. That is a conservative estimate ... They will walk and drive through the Berea, Glenwood and Stellawood in their thousands everyday to reach their work in the industrial areas. These areas will simply be Indian thoroughfares and Durban will be a second Mombasa ... Unless they are given an area of their own they will push the white man from many types of employment, and there will be a demand for powerful representation which will perhaps become impossible to resist.<sup>74</sup>

The solution preferred by the Mayor was to "plan Indian areas in places where they will have room for expansion outwards into the countryside and not inwards into European areas".<sup>75</sup> The Mayor believed that the proposal to convert Woodlands and Montclair into Indian areas had some merit. The white residents of these areas would be as near to their place of employment if they were relocated in Virginia in the north.<sup>76</sup>

Significantly, the Mayor's views on race zoning were fully endorsed by local capital. The President of the Durban Chamber of Commerce, Mr. K. Butcher, stated that all citizens of Durban, who cared about the preservation of the city must thank the Mayor "who has grasped



the vital importance of the opportunity placed in our hands by the Group Areas Act".<sup>77</sup> He maintained that if there was no control, Durban would be dominated by Indians:

This raises the question of whether it is possible to preserve the European character of Durban, or whether it is inevitable that there should be a steady degeneration of Durban to the level of an Asiatic town. To commerce there can be but one answer. Our forebears were responsible for the creation and growth of this town, and there is a genuine determination that Durban shall remain a European city, and we should take any necessary steps to preserve that character.<sup>78</sup>

Councillor Major Raftery enquired whether it was possible to accommodate all the Indians in the Duffs Road area, in light of the availability of railway services. Mr. Comrie of the TSC replied that this would result in moving the lowest paid workers the greatest distance away from their places of employment. This would increase both the cost and time spent on the journey to work.<sup>79</sup> The zoning of Sea View, Bellair and Hillary for Indians was opposed by Councillor Spanier Marson. He stated that an important entry into Durban passed through this area, and it should not be handed over to Indians, especially if the possibility of a war was considered.<sup>80</sup> Councillor A.L. Barnes Chairman of the 1943 special City Council Post-War Development committee for the planning of Durban stated at a meeting of ratepayers in Parkhill that he was opposed to the TSC's proposals because of the forced removal of whites.<sup>81</sup>

The zoning of the central Indian commercial area was questioned by Councillor Barnes. Mr. Havemann of the TSC replied that a great deal of time had been spent considering this matter. The TSC felt that the matter should be deferred until more experience in race zoning had been gained. Councillor Barnes enquired how the TSC intended to deal with the combination of Indian residential occupation with commercial occupation. Mr. Havemann stated that a change in race character of trading in the Grey Street complex would be accompanied by a residential change. The Mayor added that the Land Tenure Advisory Board did not expect the whole City of Durban to be zoned at once. The priority was residential areas. Mayor Osborn believed that once Indian residential areas were developed, Indian commercial activities would move into these areas. As it was difficult to anticipate what would happen fifteen to twenty years ahead, commercial activities should be zoned after the evaluation of residential segregation.<sup>82</sup>



Concern was also expressed about the ability of the local state to bear the costs of massive relocations. Councillors Carte and Bolton stated that the TSC had dealt with a problem which the Government had refused to handle. Councillor Carte would have preferred the TSC to divide Durban into a number of group areas, and the Government be given the responsibility for implementation. He also contended that the TSC report implied that the GAA could not be implemented successfully. For example, the TSC reserved large areas for Europeans, but it was unlikely that they could afford it. The DCC might be left with a large number of unsuitable properties if it sanctioned a policy of acquisition for resale. Councillor Carte asserted that it was uncertain whether the Government would finance such a policy, but the ratepayers of Durban would certainly not do so.<sup>83</sup> Councillor Bolton asserted Durban was not bound, and should not volunteer, to bear the colossal responsibility of effecting the Act. He said:

I have nothing against segregation applied fairly in consultation with all races but it is absurd to even consider uprooting 40 000 people and moving them somewhere else. All the plans we have seen are absurd. People of all races have been thrown, unnecessarily, into a state of uncertainty. The Racial Zoning Committee's plan is bad enough, but it is frightening even to start counting the cost of the alternative plans we have heard. Even spread over twenty years it might run into millions of pounds.<sup>84</sup>

Replying to both Councillors, the Mayor said that local authorities had certain obligations with regard to the implementation of the GAA. He was convinced that the government would provide the necessary financial assistance. The DCC had to facilitate the development of group areas and any expenditure would be spread over a long period, and would be beneficial as it would clear up the existing chaotic conditions.<sup>85</sup>

The first complete group area proposals of the TSC was submitted to the DCC on 26 November 1951. According to the TSC plan about 119 249 out of a total Indian population of 145 744 would be dispossessed, and the future of the remainder was uncertain. Indians would be evicted from the mixed areas of the Old Borough of Durban, as well as well as in Sydenham, Springfield and Cato Manor, areas they established as pioneers almost a century ago. In comparison, the TSC plan envisaged the removal of between 7 000 and 12 000 Europeans. At a Council-in-Committee meeting held on 23 January 1952, the DCC received

objections to the TSC race zoning proposals from 15 individuals and organisations, the majority of whom represented European interests.

## 6.6 THE WHITE REACTION TO THE TSC'S PROPOSALS

There was a great deal of opposition from whites to the group area proposals of the TSC. Europeans generally were opposed to moving in terms of the GAA, and believed that Indians should be forced to do so. The most vociferous opposition to the TSC's proposals came from whites in Sea View, Bellair, Hillary and their adjacent districts.

The Umhlatuzana Civic Association, representing Rossburgh, Sea View, Bellair and Hillary, maintained that the area was one of the oldest predominantly whites districts in Natal, and all legitimate means would be used to resist the TSC's recommendations. If need be, a protest would be lodged with the highest authority in the land. The Association maintained that the unwise publication of the TSC's report had caused property values to drop, and residents had suffered great losses. It demanded that the DCC immediately scrap any plan for an Indian group area in the region in order to restore the confidence of the European public in the area.<sup>86</sup> It objected strongly to a DCC recommendation to the LTAB that whites be discouraged from purchasing properties in the area. The Association requested the LTAB to ignore the recommendations of the DCC, and that the constituency it represented should be regarded as an established white group area.<sup>87</sup>

A similar objection was launched by the Hillary District Association. Although the residents of Hillary, Bellair, and Mount Vernon supported the principle of Group Areas, they objected to the TSC's proposal to transfer the area between the Umhlatuzana and Umbilo rivers to Indians. A mass meeting convened by the Association on 30 December 1951, resolved that all legitimate means would be used to oppose the TSC's proposals because Hillary, Bellair and Mount Vernon were predominantly European areas and there was no justification for the TSC's plan.<sup>88</sup>

While it accepted the broad principles of the report, the Durban Joint Wards Association was concerned that the TSC had not considered the possibility of an increase in the white population in Durban. It objected to the zoning of the Main Line suburbs for Indians and argued that "it is in the best interests of the city that, in the long run, all the land between the Umbilo and Umgeni Rivers should be reserved for white occupation."<sup>89</sup>

The Ward 8 District Burgesses Association maintained that the TSC's plan would have been beneficial to Durban and the various races if it had been formulated 50 years ago. However, in contemporary Durban

the proposed wholesale movement of people will be well nigh impossible and would entail considerable hardship, ill-feeling and enmity between all the races concerned ... in many instances it would cause that very mixing which the Group Areas Act seeks to rectify. In view of these remarks, it is felt that Radial Zoning will have to remain an 'Idealists' dream and other less drastic measures to achieve segregation will have to be considered.<sup>90</sup>

In spite of this it submitted that Duikerfontein should be declared a white group area for ownership and occupation because the value of European owned property in the area far exceeded that of Indians. The area was also suitable for future European expansion, whereas it would be flooded by Indians in a short period of time because of its small size and their rapid population increase. Furthermore, Duikerfontein adjoined the Durban North European residential area, which would be traversed by hordes of Indians if the TSC's proposals were accepted.<sup>91</sup>

The retention of the Springfield-Sydenham area for Indians was strongly advocated by the Association as this would result in minimum uprooting and displacement. The area could also be linked with the proposed Duffs Road area by means of a bridge over the Umgeni River, which would eliminate any traversing of European areas.<sup>92</sup> The Ward 8 Association asserted that although Indians would be willing to move into white areas, the latter would be reluctant to move into former Indian areas. This was primarily because of the stigma attached to Indian areas.<sup>93</sup> However, the City Treasurer of Durban Mr. Ernest Green, contended that because of the shortage of housing the stigma of previous Indian occupation would not remain for long.<sup>94</sup>

The Kenville Burgesses' Association objected to the plan to zone Kenville as an Indian area. It pointed out that whites had purchased their properties which were subject to an anti-Indian clause in their title deeds which read as follows: "The land hereby transferred or any part thereof shall never be sold to, or leased by any Indian, Asiatic or person of similar designation, nor shall it be owned by any person other than an European".<sup>95</sup> The Burgesses' Association maintained that Kenville residents would be ruined if they were forced to move:

What hope have we to sell at a reasonable price, it being known that we are compelled to sell, furthermore, if we do sell, and have paid the balance due on the property, what will we have left to start afresh, especially in view of the fact that we have several elderly people here, how are they expected to make a new start when they only have their pensions at their disposal.<sup>96</sup>

The Chairman of the NP in Durban, Mr. C.A. Haupt objected to the TSC's plans because it did not clear the city of blacks:

Everyone had the idea that the Group Areas Act would clear up the Durban areas of black spots and place them outside the European areas altogether. They seem very disappointed that the Corporation plan does not provide for this.<sup>97</sup>

Local capital was generally opposed to the TSC's plan because of forced relocations and the resulting increased transport costs. The Natal Employers Association and the Natal Chamber of Industries emphasised that all employees needed adequate and affordable housing in proximity to their workplaces. If this was not possible, suitable economic transport would have to be provided. In this regard it drew attention "to the present deplorable shortage of transport, particularly for non-Europeans, which position it is thought is likely to deteriorate still more if these races are to be required to reside even further outside of the City area".<sup>98</sup> Although there were areas in Durban which were predominantly occupied by one group, both organisations maintained that there were many mixed neighbourhoods in Durban, and referred to the lower Berea-Greyville. The main reason for people living in these areas was proximity to employment and the availability of affordable housing. While residential segregation was desirable in some areas, it would be impractical in areas with a heterogeneous population. Therefore, "a certain number of 'open areas' will have to be preserved within the proclaimed areas of Durban".<sup>99</sup>

The Durban Chamber of Commerce maintained that there could be no vindication of the TSC's proposals unless all groups were treated equally and justly. "The standard of European civilisation will be on trial. It remains to be judged whether we can be trusted to deal fairly with the unfranchised races who are dependent upon us".<sup>100</sup>

It was ironical that whites who were opposed to their areas being zoned for Indians, were the strongest supporters of the GAA. It was interesting to see how whites reacted when the table was turned on them. The NIC maintained whites were alarmed when faced with even the remotest possibility of being affected by the GAA. Yet, without any scruples, they supported the uprooting of Indians from established communities. The whites also condemned the NIC for opposing mass relocations, and for not co-operating with the local state.<sup>101</sup>

The Indian Views perceptively summarised the white reaction:

The proposals of the TSC of the DCC resulted in racialism running wild in Durban, with Europeans holding responsible positions in the administration of the City making comments calculated to rouse further anti-Indian feeling among Europeans ... European ratepayers are calling for drastic amendments to the plans and the Councillors who have to rely on the white electorate to return them to power, are hastily joining the hue and cry against the Indian people and assuring the European public that they will do everything possible to prevent even a single European being displaced ...

It seems clear that the vast majority of Durban's English-speaking people have lost all sense of reason and justice. There is hardly any European opposition to the plans on the grounds that they visualise the almost entire removal of non-European population from the boundaries of the city to open veld. The one or two European comments condemning the plans as being unjust to the non-European people have only helped to emphasise that such viewpoints can have no organised backing from Durban's white population.<sup>102</sup>

In an editorial comment the Natal Mercury contended that the 'chickens had come home to roost':

Any scheme for compulsory movement of population - even if such compulsion is only implied or consequential and not direct - invariably stimulates the most vigorous opposition. Nothing is more certain to arouse the anger of the ordinary citizen than an attempt by officialdom to deprive or even interfere with his freedom to choose his own place of residence. Yet parliament through the Group Areas Act has given local authorities precisely this legal power. What is more it is a power which was requested by the voters of the country. The chickens have indeed, come home to roost! When



applied to the other man, the man with a different coloured skin, the Group Areas Act was a wise and sensible piece of legislation, but now when the Act is found to apply to all races there is sudden awakening to the hardships that its impartial application will cause and to its manifest faults.<sup>103</sup>

The Indian response to the TSC's recommendations will be discussed in the next section.

## 6.7 THE INDIAN RESPONSE TO THE TSC'S PROPOSALS

Indian political and community organisations argued that the TSC was not concerned with making modifications with regard to residential occupation, or sorting out mixed areas. The implications of its plans were far reaching in that it envisaged the ultimate exclusion of all Indians from the City. The TSC's ideal to have as few zones as possible for each group would lead to the obliteration of 'defined' and 'specified' areas. Consequently, Durban would become a white group area, with the other race groups being located outside its boundaries. This was in keeping with the DCC's obsession to protect white interests, which was also reflected in the proposals of the TSC. Concern was expressed that the DCC, in taking the lead with regard to the implementation of the GAA, would influence other town councils with their unjust ideas.

The NIC contended that in terms of the TSC's plan no area within the city was exempt from annihilation.<sup>104</sup> The TSC did not even make any charade at objective planning in response to the needs of the different groups. Its proposals were regarded as a calculated effort to seize Indian homes, properties, businesses and other economic interests in Durban. Millions of pounds worth of property acquired over ninety years of hard labour would be forfeited under the guise of racial zoning.<sup>105</sup> In a letter to the Mayor protesting against the TSC's plans, the NIC contended that if the GAA was applied justly then the land in Durban would have been divided proportionately among the different race groups in the city

taking into account that the population of Durban consists of 131 430 Europeans, 145 744 Asians, 132 841 Africans and 15 459 Coloureds. On the contrary what is now being attempted is to remove practically the entire non-European population from the built area to open veld outside the boundaries of the city and hand over Durban to Europeans who form less than one-third



of the city's total population. We ask 'Is there another example of greater injustice in the history of any country?'<sup>106</sup>

According to the NIC the TSC's report would lead to the displacement of Indians from Durban, and this was to be done in stages. The first phase was to evict all Indians living in the city. The second step was to dispossess them of their businesses and their economic interests in the city. Indians were to be relocated in the undeveloped areas to the north of the Durban.<sup>107</sup> To the NIC the 'Master Plan' was in operation:

'The Operation Indian' of the Durban City Council reinforced by the 'repatriation' plan of the Nationalist Government for the complete destruction of the economic and social life of the Indian community in South Africa is now in operation. The question is not one of separate areas. It is a major attack upon the life centre of the Indian.<sup>108</sup>

The NIC was also critical of the TSC's suggestion that blacks should participate in the implementation of race zoning. The TSC had advocated the following mode of participation:

This could be done by setting up informal committees of leading Coloureds and Indians, hearing their views, and asking them to serve as liaison between the authorities and the Coloured and Indian residents of various areas. From consultation should grow also administrative responsibility and the arrangement might thus serve as the starting point for the Coloured and Indian Group Area authorities contemplated by the Act.<sup>109</sup>

The NIC viewed this as inviting the Indian to participate in his own destruction.<sup>110</sup>

The NIO argued that an evaluation of the TSC report revealed that its primary objective was to serve and entrench the white interests in Durban at the expense of Indians. The white protest to the zoning of Sea View, Hillary, Bellair and Malvern for Indians would ultimately be heard because they had the vote. To the NIO the primary aim of the DCC was the uprooting and displacement of settled Indian communities like Springfield Extension and Riverside, and represented a breach of faith on the part of the DCC.<sup>111</sup> The vociferous resistance of whites to the zoning proposals of the TSC, the NIO maintained, emphasised an important factor neglected by the Committee - "the deep-rooted attachment which human beings have for their homes and established areas, in this case the Europeans who live in the Main Line suburbs".<sup>112</sup>

The Mayor's statement that the implementation of the GAA by the DCC would be scrupulously fair to all the population groups, and this would mean an equal apportionment of residential land among the three major groups in Durban, was questioned by the SAIO. The principle of fairness, the SAIO maintained, must also apply to the Old Borough of Durban, which was predominantly occupied by Europeans. Such an impartial approach would result in a large number of whites being relocated. However, no white would ever agree to this, and any City Council supporting such action would not survive the next election. Hence, any 'fair' race zoning plan would result in the uprooting of two groups i.e. Indian and Africans.<sup>113</sup> The SAIO also castigated the DCC for not consulting Indian residents or businessmen with regard to its zoning plans. White opinion did not represent the views of all the city's population. Ultimately, such "ill-considered projects, conceived in grandiose fashion without due consideration of their effects, can only result in grievous harm".<sup>114</sup>

The Durban Combined Indian Ratepayers' Association (DCIRA), representing 12 organisations,<sup>115</sup> protested emphatically against the zoning proposals of the TSC, maintaining that it envisaged the uprooting of the majority of Indians in Durban which was "considered to be iniquitous and unwarranted".<sup>116</sup> The Riverside-Briardene and District Indian Ratepayers' Association objected to the zoning of Prospect Hall, Riverside and Briardene for Europeans. It also drew attention to previous attempts by the DCC to expropriate Indian owned property in these areas under the guise of the Slum and Housing Acts.<sup>117</sup> At a meeting held on 16 December 1951, the Malacca Road and Ryde Place Ratepayers' Association pledged to use every means at its disposal to protect homes, and to support all organisations opposing the TSC's plans and the GAA.<sup>118</sup> A similar resolution was passed at an Emergency Conference of political, religious and sporting organisations in Sydenham and Overport.<sup>119</sup>

Interestingly, the Briardene (Umgeni Heights) Indian Property Owners' Association had a meeting with the Chairman of the TSC, Mr. Comrie, on 11 January 1952, where their delegates "suggested alternate plans which created a favourable impression". According to Mr. Comrie the area was zoned for whites because it was too small for 'self government'. The Association pointed out that under the Land Tenure Act of 1946 the area formed part of a larger block known as Scheduled Area No. 13, comprising Briardene, Riverside and

Prospect Hall. The DCC subsequently divided the area into smaller sections. The Association suggested that the original position should be restored. Mr. Comrie said the TSC had considered this proposal but was against it because Indians living in Riverside might pass through the adjoining white area on their way to work in Redhill or Greenwood Park. The Association replied that the TSC was making a mountain out of a molehill.<sup>120</sup>

The TSC had acknowledged that implementation of the GAA would entail the detachment of a great deal of Indian capital from their existing places of investment. It maintained that this capital would be reinvested in Indian group areas. Furthermore, the Indian investor was expected "to play his part in building up the balanced civic unit to which one looks forward in the Indian zones".<sup>121</sup> This was supported by the DCC at its meeting held on 28 September 1951.<sup>122</sup> The Mayor subsequently stated that wealthy Indians had not done anything for the development of the housing needs of the poorer sections of their community.<sup>123</sup> He contended:

Although Indians own more than 40 percent of the land in Durban and a great deal more outside the borough boundary, I have been unable to find a single example of a large township laid out and developed with roads and so forth by Indians ... The result has been that Indians have turned to European owned lands when seeking a home, and large tracts of land in Indian ownership are vacant as far as private township is concerned.<sup>124</sup>

Mr. P.R. Pather, Secretary of the NIO, replied that it appeared that the provision of European housing was the responsibility of the DCC, but wealthy Indians were responsible for the housing of poorer Indians. He presented some interesting figures to highlight the white bias in the provision of housing by the DCC:

Some 2000 sites in the Stellawood, Morningside, Berea and other parts of the old Borough of Durban were sold to Europeans not by wealthy Europeans but by the Durban City Council. The acquisition of the Virginia Estate by the Durban City Council is for the housing of Europeans. Some 700 economic houses and flats under the Loan Schemes are the contribution of the Council towards European housing. Against these staggering figures the mayor can only show the 650 sub-economic houses at Springfield and 75 sub-economic houses at Cato Manor. I do not know whether the European public of Durban know that the houses at Springfield have no interleading doors nor electric lighting. There are no playing fields nor schools for the hundreds of children.<sup>125</sup>

Mr. Pather refuted the allegations against the wealthy Indians. Indian capital and initiative had been used to develop areas like Merebank, Wentworth, Cato Manor, Clare Estate, Sydenham, Sea Cow Lake and Umgeni Heights (Durban North). Clairwood, with an Indian population of 28 000 was planned and developed by Indians. In addition to helping his own community, the Indian had also helped whites by erecting flats and acquiring houses for their occupation.<sup>126</sup> In spite of this, many areas developed by Indian capital were being threatened by the TSC's group area proposals:

The many areas developed by Indian sweat, tears and labour and money will ... fall within the areas demarcated for the white group. Cato Manor has been earmarked for the white group. Sydenham and Merebank are under expropriation. Clairwood is in the balance. The Indian plight in the City of Durban is not so rosy as it is being painted by the City Council. The Mayor's solicitude for the poorer Indians will therefore not work the miracle of getting the Indian people to support the Group Areas Act.<sup>127</sup>

In an attempt to justify its proposals the TSC argued that it had taken existing developments as well as the socio-economic characteristics of the different groups into consideration. For example, a change in the racial occupation would be undesirable in view of the existing developments:

Even where there is relatively little housing, the layout and nature of roads and the layout and dimensions of other services such as sanitation and water supply, may have a material bearing on the usefulness of that area for any race group. An area that has been laid out as a superior European suburb would not readily lend itself to use as a sub-economic Indian or Native housing scheme, since the higher densities involved in such a scheme would normally require a different type of development.<sup>128</sup>

The TSC maintained that this was more likely to be so in the case of developed properties, as very few Indians would be able to purchase expensive European houses.<sup>129</sup>

It is evident from the past two sections that the DCC received objections to the TSC's zoning proposals from Europeans as well as Indians, and that there would have to be substantial modifications. The difference was that only one group had the vote. The local state in Durban succumbed to pressure from white voters and instructed the TSC to revise its zoning plans in favour of the electorate.

## 6.8 THE LOCAL STATE'S CAPITULATION TO WHITE VOTERS

The recommendations of the TSC were discussed at numerous informal meetings of Councillors, a meeting of the Council-in-Committee on 23 January 1952, and at special meetings of the General Purposes Committee on 1 and 20 February 1952.<sup>130</sup> At its meeting on 20th February 1952, to which all Councillors were invited, the General Purposes Committee directed the TSC to make the following major amendments to the plan submitted to the DCC on 26 November 1951:

- i) The Mainline Suburbs (Rossburgh, Sea View, Bellair and Hillary), the northern section of Stainbank, and the portion of Duikerfontein occupied by whites, be zoned for Europeans.
- ii) The corridor between Woodlands and Lamontville, extending to the industrial area, and the Merebank/Wentworth area be allocated to Indians.
- iii) A section of southern Cato Manor be set aside for Coloureds, the existing Native areas be retained, and the rest of the area be zoned for whites.
- iv) A European corridor be established between the Berea and Westville, consisting of a broad band on both sides of the Main Road, between Blinkbonnie and Sparks Road.
- v) Springfield, Reservoir Hills and Sydenham north of Sparks Road be set aside for Indians.
- vi) Sections of Zeekoe Valley and Temple Halt, north of the Umgeni River be allocated to Indians.
- vii) The Malacca Road complex be zoned for whites.
- viii) To examine alternative means of dealing with the racial zoning of Riverside and Prospect Hall.<sup>131</sup>

The amendments were in response to objections lodged by white residents to being displaced by the GAA. These proposals were generally accepted by the TSC, although it expressed concern that in some cases boundaries could not be effectively determined. For example, it noted that there was no barrier between Reservoir Hills and Westville. The Palmiet River could serve as a barrier, but this would result in about 1620 acres of land in Westville being

transferred to Indians.<sup>132</sup> Significantly, the objections raised by Indians were totally disregarded by the General Purposes Committee of the DCC.

In terms of the amended proposals, European zones within the Borough comprised 20 100 acres. Malvern, the European section of Stainbank, Westville and the Malacca Road - Mount Edgecombe - Umhlanga Rocks complex covered 17 000 acres. Hence European areas comprised 37 100 acres in total, and could sustain a population of 415 000 persons.<sup>133</sup> The Greenwood Park - Red Hill district, zoned for Coloured occupation, extended over 400 acres, and could accommodate 8 000 people. Southern Cato Manor and Jacobs zoned for Coloureds comprised of 2 500 acres, and could house 45 000 persons.<sup>134</sup> Within the Borough of Durban the Indian zones comprised of 6 500 acres. Outside the City, the Indian section of rural Umhlatuzana, and to the north, the area encompassing the Fosa Settlement and Duffs Road, totalled 9 000 acres. Indians were thus allocated a total of 15 500 acres, which could accommodate 330 000 persons. This area could be increased if a portion of Westville was included in the Reservoir Hills Indian zone, and by the northward development of the Duff's Road area.<sup>135</sup> Native zones outside the Released and Scheduled areas totalled 11 500 acres, with a carrying capacity of 340 000 persons.

The General Purposes Committee was undecided about the zoning of the following districts: Prospect Hall (200 acres); Riverside (300 acres); western Duikerfontein (1 470 acres); and the area between Duranta Road and Bluff Marine Drive (520 acres).<sup>136</sup>



**Table 6.2 Population to be Displaced as a Result of Amended Zoning Proposals<sup>137</sup>**

Race	Number	Percentage
Europeans	2 700	1,7
Coloureds	8 200	5,2
Indians	62 900	40,1
Natives	82 500	52,6
TOTAL	156 300	99,6

It is evident from table 6.2 that Indians and Natives faced massive dislocation. Indians would suffer the greatest financial losses. About 8 750 000 pounds of Indian property would fall into European hands. Europeans would lose property valued about 750 000 pounds to Indians. The bulk of the property in the unzoned areas was owned by Indians, and was worth about 1 250 000 pounds. There would be no alternative accommodation for about 63 000 Indians. Ironically, the TSC contended that it had proposed group areas where consequential displacement would be negligible.<sup>138</sup> This was, however, only true in the European context.

The revised plan submitted by the TSC to the DCC was accepted on 5 May 1952, with the following amendments:

- i) The proposed Coloured and European zone in southern Cato Manor to be changed to a European area.
- ii) Prospect Hall be zoned as European.
- iii) The Duikerfontein area, west of the North Coast Road, including Kenville, but excluding the European areas of Red Hill and Greenwood Park, be zoned Indian.
- iv) The Merebank area in the south be zoned Indian.
- v) A Coloured zone be created in the Sparks Estate area.<sup>139</sup>

The DCC viewed the race zoning plan as approved on 5 May 1952 (figure 6.5),<sup>140</sup> "as the most desirable ultimate distribution of races in the residential areas" in terms of the GAA.<sup>141</sup> As evident from figure 6.6.4, it was most desirable because it reserved the most suitable areas for, and envisaged negligible uprooting of, Europeans. In terms of this scheme, whites were able to expand their landholdings within the city, chiefly at the expense of the Indians. Residential areas of Africans were confined to undeveloped territories, outside the city. Councillor Bolton criticised the DCC for not even considering the objections lodged by non-Europeans. Under the circumstances attempts to implement the GAA was likely to exacerbate racial friction. He believed that while "Councillors are not dependent for election on the non-European vote, they still have a responsibility to the non-European, and an even bigger one because he cannot express his views through the ballot box".<sup>142</sup> The zoning plan of the DCC, to Councillor Bolton, was immoral, financially impracticable and would lead to an increase in rates.<sup>143</sup>

Councillor C.A.C. Williamson supported Councillor Bolton, asserting the GAA was based on compulsion. More specifically, he objected to the zoning of Cato Manor and Chesterville for Europeans. A situation would arise in Cato Manor, where whites would not be prepared to purchase properties from Indians. Hence, Indians would be forced to move out, but would be unable to sell their properties. He maintained that the DCC's race zoning plans would not satisfy any group, and it was quite possible that the LTAB would ultimately adopt the TSC's original plan.<sup>144</sup>

Councillor Leighton Black maintained that the original plan of the TSC provided for alternative housing, while the present scheme gave the non-Europeans 'open spaces'. Although the plan could take up to 30 years to implement, the annual housing potential in Durban was only 1 500 units. Accordingly, there would never be sufficient dwellings to accommodate the displaced masses. He described the zoning plan as "tragic travesty, a hotch-potch of amateurs", which endeavoured to safeguard white interests, and totally disregarded those of blacks.<sup>145</sup>

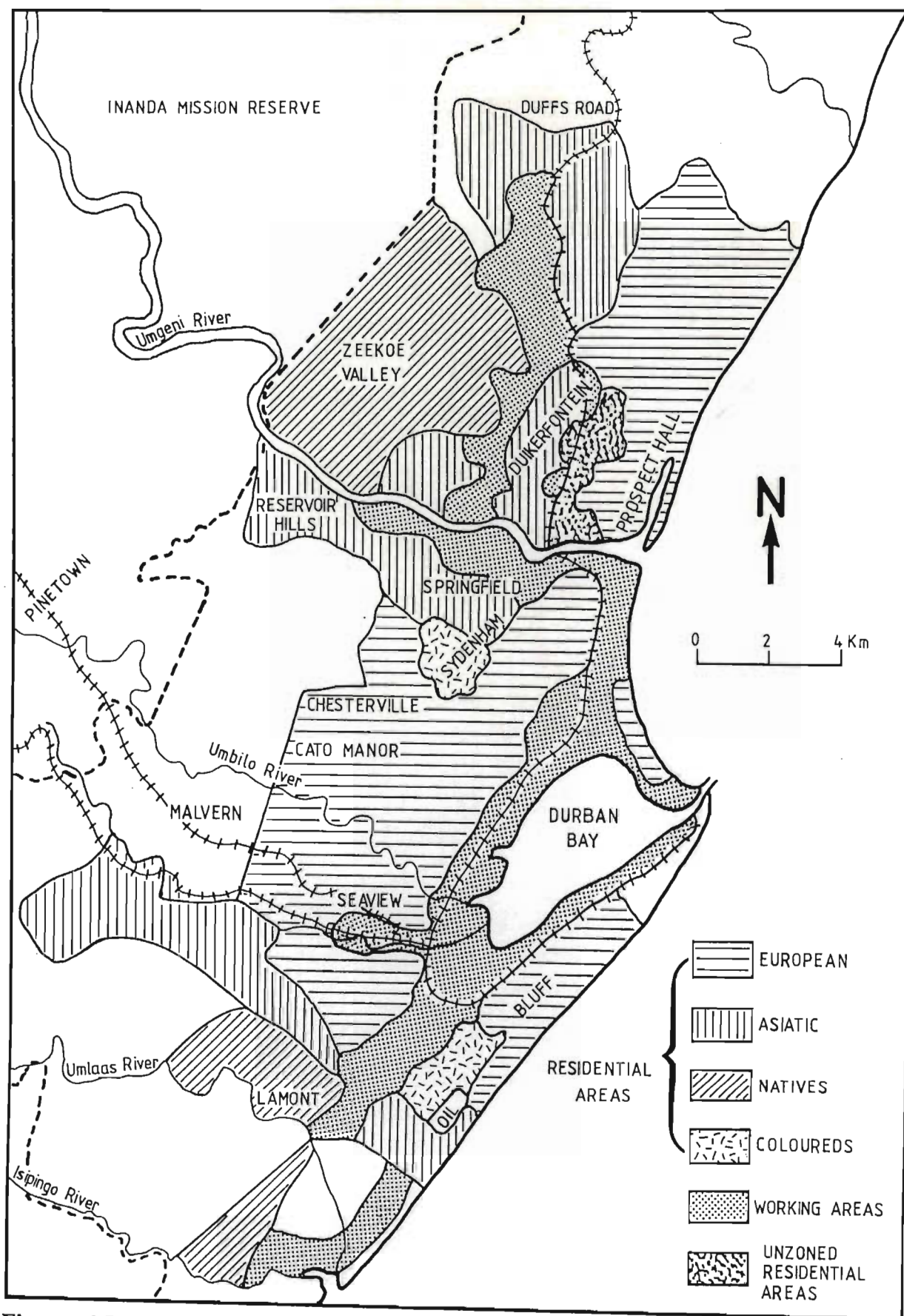


Figure 6.5 The DCC's Zoning Plans

The DCC's race zoning proposals were accepted by a narrow majority of 12 votes to 8, on 5 May 1952. In view of this Councillor J.C. Bolton moved that no further action be taken with regard to the implementation of the GAA until the proposals were subjected "to a referendum of the electors of the City of Durban with a view to ascertaining whether or not such proposals are acceptable to the electorate".<sup>146</sup> Councillor Bolton's motion was not discussed as there was no quorum. An attempt by Councillor Bolton to have his motion of the 2 June 1952 discussed was defeated by 8 to 6 votes on 7 July 1952.<sup>147</sup> Significantly, in a letter to the Mayor, the NIC had earlier also requested the DCC to hold a referendum of all of Durban's citizens to determine democratically whether the GAA should be implemented.<sup>148</sup> Predictably, the NIC's proposal was never considered by the DCC.

The NIC condemned the DCC's race zoning scheme accepted in May 1952 as a "sinister plan to uproot thousands of non-European people from areas occupied by them for generations".<sup>149</sup> It represented the culmination of the attempts of the DCC to dispossess the Indians and expel them from the city. It would also displace thousands of Africans. The NIC emphasised united opposition to the plans:

The non-European people of Durban have categorically rejected the move of the Durban City Council to implement the Nationalist apartheid policy embodied in the Group Areas Act and unitedly every move of the authorities to impose the Act will be resisted by them.<sup>150</sup>

According to the NIO, proposals to implement the GAA were futile as no plan could be impartial and equitable. This was because the fundamental intention of the local state was to protect and reinforce white interests, especially with reference to group areas. According to the NIO the best areas of the city would be allocated to whites who made up 30 percent of the population, and the remainder would be grudgingly allocated to blacks.<sup>151</sup>

Commenting on the DCC's proposals, the SAIRR stated:

- i) It would displace one-fortieth of the total white population of Durban, but half of the blacks would be displaced.
- ii) Indians would lose about 9 million pounds worth of property to whites, who would lose property valued 900 000 pounds to Indians.



- iii) Displaced Europeans would not need housing, but the 152 000 uprooted blacks would require housing.<sup>152</sup>

Defending the DCC's proposals, Councillors Leo Boyd and Vernon Essery, Chairman of the General Purposes Committee which had framed the final plan, asserted that critics misunderstood the financial implications of the city's race zoning scheme. Leo Boyd stated that the DCC's plans did not envisage any form of coercion, but rather gradual changes which had often taken place in the past. Furthermore, the implementation of the GAA in Durban was dependent upon the acceptance by the Government of amendments to the legislation recommended by the DCC to ensure compensation and the provision of alternative accommodation.<sup>153</sup>

It is important to note that in 1952 the Government had accepted certain amendments recommended by the DCC, which enabled the "Governor-General to define an area which in the future he proposes to declare a group area for occupation or ownership of any one group".<sup>154</sup> According to the DCC this would facilitate movement out of an area of disqualified people, as well as indicate in advance to property buyers the anticipated race grouping of an area. In the process use of land would be controlled, and developments which could be in conflict with the anticipated group area would be avoided.<sup>155</sup>

However, in a report to the DCC, dated 25 April 1952, the TSC pointed out that the Group Areas Amendment Bill which was introduced in the House of Assembly in March 1952, did not embody all the recommendations of the Council. According to the TSC the practical value of the amendment discussed above would be insignificant if it was not accompanied by measures to provide for compensation and alternative accommodation. Therefore, the TSC was concerned that "the Government had given no intimation as to whether it accepted DCC's recommendations with regard to public acquisition of land for alternative accommodation and loans to persons affected by action under the Group Areas Act".<sup>156</sup> In view of this, the DCC accepted the proposal of the TSC not to commit itself to a specific time scale for the implementation of race zoning in the city. It also agreed not to make any recommendations to the LTAB until finality was reached with regard to the issues of public acquisition and compensation.<sup>157</sup> The TSC urged the DCC to request the Government to give serious

consideration to the amendments it had recommended to the GAA. It suggested that the Town Clerk and other officials as he may require, travel to Cape Town to interview Government officials and Ministers in this regard. This was accepted by the DCC.<sup>158</sup> The Town Clerk subsequently reported that most of the DCC's amendments had been accepted in principle by the Government.<sup>159</sup>

In a comprehensive report tabled at a meeting of the General Purposes Committee on the 31 July 1952, the TSC re-considered its position on deferring the submission of race zoning proposals to the LTAB until the government had responded to the issue of public acquisition of property. This was because it was concerned that the uncertainty and insecurity arising from the delay in finalising Durban's race zoning plans was having a negative impact on the stability of the property market. Building societies, for example, were reluctant to grant loans in some areas, and the mere announcement of race zoning proposals had led to a cessation of property transactions in other areas. The TSC felt that such uncertainty should be dispelled as soon as possible. Although the DCC did not have the power to finalise zoning plans, "the mere fact of the Council's sending forward formal proposals to the Land Tenure Advisory Board will in itself be a most important step towards reaching finality and dispelling the current uncertainty".<sup>160</sup>

More significantly, the TSC was concerned that the local state should remain at the helm with regard to initiatives for the determination of group areas. It was concerned that this would not always be possible, and drew attention to the procedure whereby the LTAB would consider proposals for the race zoning of Durban, which indicated that the central state will have the final say:

It will open to any person or body to submit proposals. The various schemes received will be referred to a Government Committee set up for the purpose which will examine the inter-relationship of the schemes submitted (e.g. the extent to which schemes covering Durban conflict or harmonise with schemes covering areas outside Durban). That Committee's report will then be referred to the Land Tenure Advisory Board, which will publish certain proposals and invite representations concerning them. The Board will hold public hearings of evidence and argument for and against the published proposals before reporting to the Minister, who makes the final decision regarding action under the Group Areas Act.<sup>161</sup>



The DCC accepted the desirability of reaching finality with regard to the race zoning of the city. In view of the Government's delay in responding to the issue of public acquisitions, the DCC resolved to submit to the LTAB the race zoning scheme it had accepted on 5 May 1952 (figure 6.5), subject to the following provisos, that

- i) no LTAB hearings would be held in Durban until the central state had responded to the issue of public acquisition of affected property; and
- ii) if the DCC disagreed with the Government's decision, it would review its zoning proposals and defer LTAB hearings in the city.<sup>162</sup>

On 14 July 1953 the DCC received a letter from the Chairman of the LTAB, intimating that legislation to facilitate the public acquisition of property was in preparation. This was the first indication by the central state that it was prepared to shoulder part of the financial burden of implementing the GAA. This was considered a major achievement for the local state bureaucracy:

The Government move is a major triumph for senior officials of the DCC, who have pioneered the practical application of race zoning in South Africa. Soon after the Act in 1950, they concluded that no system of race zoning was possible without protection for [white] property owners, and all Council proposals since have been made on that basis.<sup>163</sup>

On the 20 July 1953, the DCC agreed that the LTAB could go ahead with group areas hearings for Durban.<sup>164</sup> However, the DCC was not the only organisation to submit race zoning proposals to the LTAB. Before the hearings of the LTAB in Durban is analysed, the submissions of other interest groups to the Board, are discussed, which included the NP, SAIRR, and NIC and NIO.

## **6.9 ALTERNATE SUBMISSIONS TO THE LTAB**

### **6.9.1 Natal Indian Congress - Repeal the Act**

In a memorandum to the LTAB, the NIC stated that if the race zoning proposals of the DCC were implemented, the entire Indian population in the city would be moved to the undeveloped periphery, where the Council would perpetuate its policy of neglect. The NIC

argued that as the GAA did not make provisions for alternative accommodation, and municipalities were not obliged to provide civic amenities and services in the relocation zones, the disenfranchised Indians would be at the mercy of white local authorities. The location of the proposed Indian zones would increase transport costs, and add to the burden of a community where over 70 percent of the population lived below the bread-line. According to the NIC the DCC was "notorious for its criminal neglect of Indian housing needs".<sup>165</sup>

A conservative estimate by the NIC indicated that about 72 869 Indians would be uprooted from their homes (table 6.3). This would exceed 100 000 if accurate population figures were available. If Clairwood and Rosburgh were included, the total would exceed 130 000.<sup>166</sup> It was evident from table 6.3 that more than half of the displaced population (54 percent) was from the Cato Manor-Mayville-Sydenham complex. Large proportions were also displaced from the Sea View-Bellair (9 percent), and Prospect Hall-Riverside (8 percent), areas. The NIC concluded that:

Only a callous central or local authority can contemplate the shifting of 100 000 people from their homes in the interests of race discrimination. A large number of African are to be displaced by these plans. If the Act can cause the displacement of non-Europeans on such a large scale in one municipal area alone, how grim a picture will the country as a whole present?<sup>167</sup>

In terms of the DCC's plans, Indian would lose 7 741 dwellings valued 7 778 640 pounds (table 6.4). Also, Indians would lose 9 737 acres of land valued 15 683 765 pounds (table 6.5). The NIC estimated that to provide for the homeless and natural population increase, (excluding the displaced), would require 8 000 houses for the 5 year period ending 1956. This figure excluded thousands of Indians who were living in slums. Therefore, the NIC concluded that the basic problem facing Durban was to provide more housing, rather than reducing this commodity by the creation of racial zones which would cause chaos and suffering.<sup>168</sup>

It was evident that the group area proposals would lead to serious suffering and losses. The NIC objected to the uprooting of any group, white or black, and it therefore opposed any plan for group areas. It urged the LTAB to advise the Minister of the Interior to reject the group area proposals for Durban and to repeal the GAA.<sup>169</sup>

**Table 6.3 Estimated number of Indians Displaced from the different Areas<sup>170</sup>**

AREA	NUMBER	PERCENT
Bluff-Jacobs	3 352	5
Sea View-Bellair	6 298	9
Stainbank Estate	2 000	3
Beach and Berea	3 620	5
Cato Manor-Mayville-Sydenham	40 000	54
Prospect Hall-Riverside,		
Durban North	6 052	8
Glenashley, Umhlanga, Mt. Edgecombe	844	1
Malacca Road	195	3
Red Hill-Temple Halt	4 000	6
Sea Cow Lake	1 000	1
Zeekoe Valley-Richmond	3 508	5
TOTAL	72 869	100

**Table 6.4 Estimated Number and Value of Houses to be Evacuated by Indians<sup>171</sup>**

AREA	NUMBER	VALUE (Pounds)
Bluff	213	174 000
Berea	740	1 364 000
Cato Manor, Mayville, Sydenham	4 000	3 000 000
Prospect Hall, Riverside,		
Durban North	396	38 880
Rossburgh, Bellair, Hillary	1 442	2 201 760
Red Hill, Temple Halt	950	1 000 000
TOTAL	7 741	7 778 640

**Table 6.5 Size and Value of Indian Owned Properties in Affected Areas<sup>172</sup>**

AREA	ACRES	VALUE (Pounds)
Bluff	582	413 540
Berea	127	2 628 940
Cato Manor, Mayville, Sydenham	2 791	3 500 000
Westville	2 493	250 995
Prospect Hall, Riverside,		
Durban North	365	808 960
Rosburgh	899	655 240
Sea View, Bellair, Hillary	1 539	426 090
Red Hill, Temple Halt	750	500 000
Old Borough	191	6 500 000
TOTAL	9 737	15 683 765

The DCC's response was that it would achieve its objectives with regard to the GAA with, or without, the co-operation of the NIC. In a letter to the NIC, the Town Clerk stated that the General Purposes Committee of the DCC "notes your Congress' resolve not to co-operate with the City Council in securing the most advantageous application of the GAA to this City ... The Committee has no doubt that the City Council will achieve its objective nevertheless".<sup>173</sup>

### 6.9.2 Natal Indian Organisation - The 'Situational' Approach

According to the NIO if the GAA was to be implemented in Durban it would ruin the Indian community, and this burden would have to be borne by the Government and the public exchequer.<sup>174</sup> The DCC's zoning proposals merely considered European interests, and inconvenienced blacks. Voluntary segregation existed to a large extent in Durban, with little racial intermingling, or large scale racial friction. In fact there were many long established areas, where housing and amenities were provided, and where different groups lived in peace

and harmony.<sup>175</sup> The NIO therefore concluded that if the Government was concerned with harmonising race relations, then this would be best achieved by leaving "established areas to their present racial groups, and to develop in them such housing and living conditions as will make them a worthy part of the city".<sup>176</sup> According to the NIO the DCC had the financial and technical capacity to adopt a plan based on this principle, and would have the general support of the citizens of Durban, especially when the astronomical cost and disruption embodied in the DCC's group area plans became apparent.<sup>177</sup>

The NIO asserted that it was opposed to the GAA in principle, and its ultimate aim was to achieve the repeal of the GAA by legitimate and constitutional means. In the interim it had no option but to submit, under duress, its criticisms and observations of the various race zoning proposals for Durban.<sup>178</sup> The plan advocated by the NIO envisaged

the maintenance of the status quo in long-established areas, and coupled with it the provision for the future needs by the allocation of land large enough for immediate occupation and development and for expansion.<sup>179</sup>

It argued that these twin principles could be applied to, and realised in, Durban fairly rapidly because there would be no forced removals, no insurmountable demands upon the public exchequer, and no pressure upon the present administrative resources of the city.<sup>180</sup>

More specifically, the NIO made the following recommendations in opposition to the DCC's proposals:

- i) The DCC proposed to move 12 000 Indians from Sydenham in favour of the coloured community. This could be avoided without loss to either groups if coloureds were allowed to expand westwards from their present location in Sparks Estate into an area largely owned by Europeans and a few Indians. This area was generally undeveloped and sparsely populated.
- ii) North of the Umgeni, the Indian area should expand west of the main road, including Riverside, as well as into Prospect Hall and the sea front.
- iii) The existing population distribution in Cato Manor should not be disturbed in any way.

- iv) The portion of Merebank-Wentworth which the DCC had earmarked for coloureds, was largely occupied by Indians, and should therefore be zoned for the latter.<sup>181</sup>

The NIO believed that its recommendations would save 30 000 Indians from being displaced.<sup>182</sup>

The difference in strategies adopted by the NIC and NIO increased the tensions between these organisations. Dr. Donges had stated in Parliament that a section of the Indian community was prepared to make the GAA work. This was taken to refer to the alternate zoning proposals submitted by the NIO.<sup>183</sup> To the Congress movement, the NIO was attempting to safeguard the vested interests of the commercial elite. Dr. G.M. Naicker, acting President of the SAIC stated:

We must not live in a fool's paradise and believe that with this danger facing the entire community a few will be able to save themselves. We must expose those in our community who are thinking in terms of saving their own commercial interests at the expense of the rest ...<sup>184</sup>

However, the Congress was also representing middle class interests. According to Dr. Naicker, "[e]very property owner, big and small, is seriously affected" by the GAA.<sup>185</sup>

The NIC concluded that the NIO's actions were harmful to the community as this implied that it had accepted the principle of racial segregation. Consequently, the difference between the NIO and the Government was one of degree only, as the former had submitted plans which would also uproot people, regardless of how few.<sup>186</sup>

The NIO responded that its policy was crystal clear. It opposed the Group Areas Act as well as the creation of Group Areas. The submission of counter proposals under duress could hardly be regarded as assenting to the creation of Group Areas.<sup>187</sup> According to Mr. P.R. Pather it was necessary for the Indian to fight to protect his property and commercial interests, and his case had to be presented to the LTAB under duress. Under these circumstances no one can be "accused of working the Act."<sup>188</sup> He contended that the plans of the DCC had to be opposed not only

in principle, but in material fact. The Board will not listen merely to a list of protests based upon human rights. The Chairman has repeated that the Board is there to advise on plans not on whether the Act is right or wrong. It is for



these reasons that the NIO based its policy on a 'situational' approach. We study each proposal, and make factual recommendations ... in the absence of concrete recommendations by Indians on the Durban plans, the Board will and must accept in toto the plans of the Europeans.<sup>189</sup>

Mr. P.R. Pather referred to this as a 'situational' approach:

The NIO will continue to oppose the whole conception of the Group Areas Act for its violation of every principle of a democratic order. At the same time the NIO is convinced that in the best interests of the Indian people it must meet the Land Tenure Board in order to contest the proposals of the Government and the local authority on a 'situational' basis. In other words, to seek ways in which something can be saved from the wholesale schemes designed to dispossess Indians of their ownership and occupation.<sup>190</sup>

The NIO summarised the NIC's policy as "we shall object to any zoning proposals, we shall accept no areas, but if areas are forced upon us and if we are compelled to shift, we shall do so'. Such a stand means that the interests of the people must be sacrificed at the alter of vaunted principles".<sup>191</sup> In contrast:

The NIO is, however, realistic enough to appreciate that these submissions alone are not enough but where the plans of the Local Authority and/of the Planning and Reference Committee offend the property rights of the Indian people it must, of necessity, not only criticise the plans but also submit counter-proposals to safeguard and protect the vested interests of the Indian people. No person with a sense of responsibility can deny that this policy is in the best interests of the Indian people.<sup>192</sup>

In an editorial comment, The Graphic maintained that there were dangers in the strategies of both the NIO and the NIC:

The NIO policy maybe interpreted by the authorities as an indication of willing co-operation in an Act that is fundamentally alien to Indian interests, and they have been so accused by their opponents. On the other hand, the NIC policy is such as to alienate any sympathy for the Indian case. We cannot afford either.<sup>193</sup>

### **6.9.3 Riverside-Briardene and District Indian Ratepayers' Association - Secure Tenure**

The Riverside and District Indian Ratepayers' Association objected to the DCC's group area proposals for Riverside, Prospect Hall, Briardene and Umgeni North area, arguing that they were "unjust, unethical and iniquitous, since the basis of these proposals is to oust a very long

established and settled community of Indians".<sup>194</sup> The Association asserted that Indians had originally owned and occupied properties in Briardene, Umgeni, Virginia Estate, Prospect Hall and Durban North since the 1870s.<sup>195</sup> The indentured labourers and their descendants, spanning five generations, had developed the area on their own initiative, and had occupied it for about eight decades. They established religious institutions, schools, businesses and market gardening to meet the "religious, social, educational and economic needs of a people, who chose and established a new and permanent home, as pioneers in a land, to which they were originally brought at the express request of the Government of this country".<sup>196</sup>

According to the Association further efforts to improve the area had been impeded on numerous occasions by the local state which had introduced measures to undermine tenure. Also, numerous official investigations had agreed that the area was predominantly Indian. More specifically:

- i) In 1932 the areas in question were incorporated into the Borough of Durban.
- ii) Between 1940 and 1941 the DCC attempted to expropriate Indian owned lands for European housing, but failed to obtain the Minister's consent for this purpose.
- iii) In 1944 the Provincial Post War Works and Reconstruction Commission, after extensive investigation, decided to leave the area as 'indeterminate' as far as racial zoning was concerned.<sup>197</sup>

The Association contended that the DCC's proposals for the area would lead to the wholesale disruption of settled communities, without sentiment or human considerations. It maintained that no "state or Government imbued with a sense of responsibility administering justice should think of such unfair measures bringing chaotic conditions and human misery and unhappiness".<sup>198</sup> Finally, the Association submitted that:

- i) the population of the area was homogenous, with no juxtaposition or racial conflict;
- ii) previous investigations as well as the TSC all agreed that the area was wholly Indian owned and occupied; and
- iii) Indians should therefore be guaranteed security of tenure with regard to ownership and occupation of land in the area.<sup>199</sup>

#### 6.9.4 South African Institute of Race Relations - Retain Status Quo

The SAIRR was concerned about whether the racial stratification of the city as prepared by the DCC would help or harm race relations in Durban.<sup>200</sup> It concluded that an analysis of the DCC's plans revealed that it would significantly increase racial tensions in the city as it would displace 3 196 Europeans, 62 900 Indians, 82 500 Africans, and 6 523 coloureds.<sup>201</sup> This was against the DCC's policy that group areas for occupation would only be proposed where proclamation would merely affirm the status quo, or when only a few isolated properties would be subject to compulsory occupational changes.<sup>202</sup> The SAIRR emphasised the attachment of people to place:

Human beings form attachments to the places in which they live, sometimes these are rooted in emotional association with the buildings, relations with neighbours, with accessible places of worship and burial grounds, with means of livelihood ( e.g. market gardening). To be compelled to move would cause bitter resentment even if in a large number of cases it could be assured that available alternative accommodation was available.<sup>203</sup>

It maintained that in Durban this problem was compounded because of blatant discrimination, whereby the majority of the non-European population would be forced to move. The massive dispossession of property this entailed would lead to considerable ill-feelings, even if there was compensation.

The SAIRR questioned the extent to which alternative accommodation would be available for the people who would be displaced over the next 20 years, and referred to the loss of housing, as a result of the DCC's plan:

Is it practicable for the City Council or any other authority to provide housing within the required time for the 155 000 displaced by this plan, and to extend even the minimum essential services for civilised living - sewerage, water, roads, street lighting, transport, let alone the other civic amenities for a settled community, in addition to the other pressing housing needs of Durban population? ... Most buildings in the non-European areas of the city which are scheduled for Europeans would not be occupied by Europeans. This housing would therefore be added to the loss and wastage which would have to be replaced.<sup>204</sup>

The SAIRR reminded the LTAB that legislation determined that it must consider the question of alternative accommodation before making group area recommendations.<sup>205</sup> If adequate

provision was not available, it would cause serious hardship as well as public health problems. The SAIRR drew attention to the views of Durban's Acting Medical Officer of Health:

Human beings, of whatever race, cannot be regarded as so many articles of merchandise whose removal from one area to another can be undertaken on the same basis as a commercial transaction without concern for their own health interests and those of society as a whole. It should be laid down that no section of the population should be displaced and removed to fresh areas until basic services are available at the new site.<sup>206</sup>

According to the SAIRR, regardless of how well intentioned it maybe, any scheme imposed by one group on another, would experience serious difficulties in an established city like Durban, especially if the groups affected did not have the franchise.<sup>207</sup> This point was illustrated by the DCC's decision to rezone the main line suburbs as a result of European protest.

The SAIRR submitted the following recommendations to the LTAB:

- i) The status quo should be maintained in established areas like the main line suburbs, Sparks Estate, Riverside, Prospect Hall as well other comparable areas.
- ii) Chesterville and Lamontville be retained and extended as African areas.
- iii) In recommending Group Areas consideration should be taken of established communities, property rights, business interests, as well as religious and educational institutions which could not be easily transferred. Every effort should be made to keep displacements to an absolute minimum.
- iv) In order to reduce the anxiety and give a measure of security, proclaimed Group Areas or 'Undated' Group Areas, should only become effective after 20 years.
- v) All proclamations must consider the availability of alternative accommodation for those displaced.<sup>208</sup>

### 6.9.5 The National Party and the Planning and Reference Committee - Durban for the Europeans

The Durban branch of the NP submitted a comprehensive plan for the implementation of total apartheid - both residential and industrial - in Durban and surrounding areas. The plan was researched for almost a year, and had been discussed at the highest levels within the Nationalist Party. The plan was drawn by Mr. C.A. Haupt, Chairman of the NP in Durban, and member of the Natal Supreme Council of the party; Mr. T. Teichert, Durban vice-Chairman and member of the Natal Supreme Council; and Lieut.-Colonel Pienaar, former Chairman and Secretary of the Dutch Reformed Church in Durban.<sup>209</sup>

Basically, the NP plan allocated Durban to the Europeans, with the exception of a coloured area at Springfield. Indians and Africans were each allocated a large area, to the north of the Umgeni and the south of the Umhlatuzana, respectively (figure 6.6).<sup>210</sup> The effect would be that all Indians living within the municipal boundary would be uprooted and relocated 20 miles north of the city. The Nationalists envisaged that the disqualified races would be moved as soon as land and housing was available. The plan emphasised that there should be no displacement without the availability of alternative accommodation. Sydenham and Sirdar Road, which had a dense Indian population, would be cleared last. An ingenious financial plan was advanced for compensation, which envisaged victims also contributing:

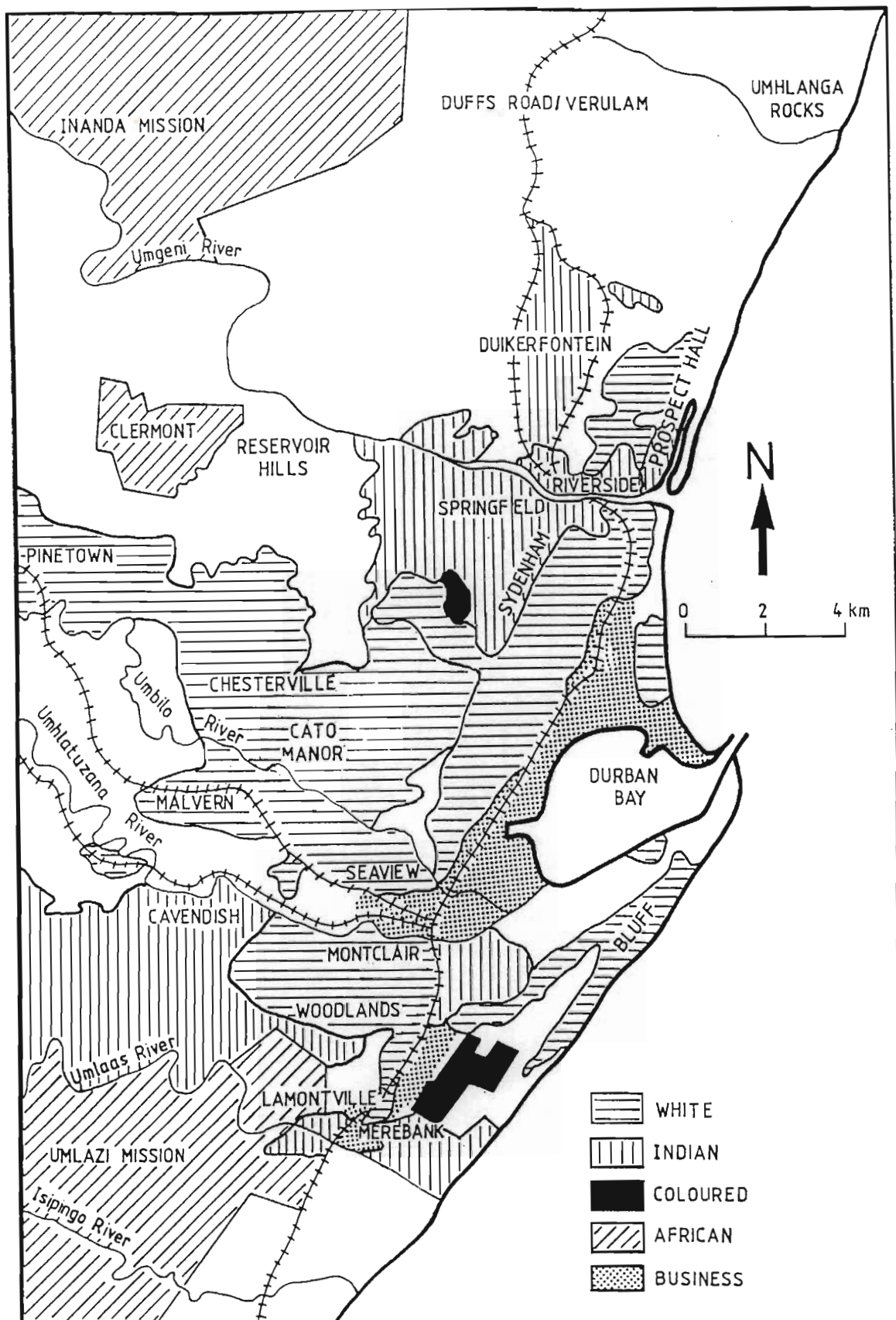
To finance any compensation, purchase and building schemes, the party urges the government to set up a fund to which employers, employees, local authorities and provincial authorities would pay equal monthly amounts.<sup>211</sup>

The major justification for the plan was the strategic importance of Durban harbour and the vulnerability of the city to attack from the sea. Therefore the NP advocated that:

- i) Heavy industry should be discouraged from Durban and sited further inland;
- ii) All main road and rail communications as well as the sources of the city's water supply should be in areas occupied by Europeans;
- iii) A belt three miles deep from the coast should be occupied exclusively by Europeans.<sup>212</sup>

The NIC stated that the NP wanted to make Durban a white city, and their plans proved that an unjust law like the GAA could not be applied justly. Also, the NP's proposals ensured





**Figure 6.6 Race Zoning Proposals of the National Party and the Planning and Reference Committee**



that Europeans would suffer no hardships. The scheme, according to the NIO, represented the height of absurdity as Durban had always been an integrated city, and no amount of planning was likely to change the status quo.<sup>213</sup>

The Nationalist Government, however, had made it very clear that the GAA would be implemented as visualized by them, and that their plan must be adopted at all times. An example of this was when the central state asked the DCC for an assurance that Cato Manor would be zoned as a white area. The machinery created under the GAA was not allowed to determine the racial character of Cato Manor. The Government had argued that financial assistance for clearing up Cato Manor would only be forthcoming if the DCC declared Cato Manor a white area.<sup>214</sup>

The NP was aware of the possibility that some local authorities would be reluctant to draw up plans for racial zoning. In order to circumvent this problem, it created an inter-departmental committee, known as the Planning and Reference Committee, which served to initiate plans for the implementation of the GAA. More specifically, the Planning and Reference Committee examined GAA proposals prepared by local authorities and other interested groups, and prepared a submission to the LTAB. The members of the Committee visited numerous local authorities in order to canvass their support for the implementation of the GAA. Importantly, the Planning and Reference Committee used the same offices as the LTAB, and worked in close collaboration with the Board. In fact on various occasions the officials of the LTAB acted as members of the Planning and Reference Committee.<sup>215</sup>

The Transvaal Indian Congress (TIC) representatives challenged this procedure at hearings of the LTAB. In 1952 the GAA was amended to give statutory recognition to the Planning and Reference Committee. The TIC asserted:

It is apparent that this committee together with members of the Board interviewed and corresponded with various municipalities in order to influence these bodies to step up the implementation of the Act. In such circumstances the public enquiries of the Board become nothing but judicial farces.<sup>216</sup>

In August 1952, the Minister of the Interior announced the appointment of a Planning and Reference Committee to draw up plans for group area proposals along the Natal coastal belt

between the Umbogintwini and Tongaat Rivers. This was interpreted as being "motivated by the Government's desire to impose their will before the race zoning recommendations come up for consideration by the Land Tenure Advisory Board".<sup>217</sup> Indians viewed this development with suspicion as the area in question had the vast majority of this group in the country. According to the NIC the function of the Committee was to spur local authorities into action, and in the final analysis to ensure that the proposals which were submitted to the LTAB were in keeping with the NP ideology of apartheid.<sup>218</sup> The close working relationship between the DCC and the Planning and Reference Committee of the central government became evident during the public hearings of the LTAB in Durban in August 1953. The DCC and the Planning and Reference Committee had lengthy discussions, and reached substantial agreement with regard to the racial zoning of Durban, and this is evident from a comparison of figures 6.5 and 6.6.<sup>219</sup>

#### **6.10 THE LTAB's 1953 DURBAN HEARING - JUDGE, JURY, EXECUTIONER**

The LTAB was basically a quasi-judicial body established to ensure that the GAA was implemented 'fairly and equitably'. However, the aim of the Board was to implement apartheid ideology. The SAIC challenged the LTAB, maintaining that the GAA did not state that group areas must be established. It quoted Section 27 of the Act, which stated that the Boards function was to "inquire into and by means of a written report, advise the Minister in regard to the desirability or otherwise of" approving group areas, to support its contention. The LTAB reacted by branding the opposition of the SAIC and its affiliates to the establishment of group areas as 'obstructionist', and in 1953 attempted to ban them from hearings. The SAIC successfully appealed to the Supreme Court to over rule this decision:

In his judgment Mr. Justice de Wet quoted the established precedent that when a statute empowers a public official to give a decision prejudicially affecting the property or liberty of an individual, that individual has a right to be heard before action is taken against him. In the course of its application the Land Tenure Board maintained (flatly contradicting Dr. Donges) that it was not a quasi-judicial body, and that it did not have to follow the principles of natural justice in conducting its inquiries.<sup>220</sup>

The first amending Bill to the GAA in 1953 determined that the above principle of South African law be excluded from the workings of the GAA. In terms of this amendment, the LTAB was empowered to determine which representatives would be heard, and which race zoning schemes would be considered. There was little doubt, given the Board's past record, bona fide representatives of the Indian community would be denied a voice.

Numerous hearings of the LTAB were held throughout Transvaal and Natal, which revealed a predictable pattern: "in every instance the proposed group areas demanded the expulsion of long established Non-European populations from their homes and business sites and their resettlement in far-off ghettos".<sup>221</sup> Evidence tendered to the Board revealed the true aims of the GAA:

All plans for segregation, particularly those affecting the Indians, showed a callous desire on the part of the upholders of apartheid to rob the Indians of their property rights and other economic interests. In all cases the plans involved uprooting of the settled population and the destruction of their means of livelihood.<sup>222</sup>

This was especially evident at the Durban hearings of the LTAB for the racial zoning of the city took place in August 1953. The LTAB comprised of Messrs. G.F. de Hugo (Chairman), A.J. Pretorious and W. Nel. The procedure followed by the LTAB was to listen to the presentation of the DCC's group area proposals,<sup>223</sup> and then to request the various interest groups to present their views with regard to the racial zoning of the city. The following organisations were among those represented at the hearings: the DCC; Planning and Reference Committee; TSC; NP; NIC; NIO; Greenwood Park Ratepayers Association; Montclair Ratepayers Association; Natal Chamber of Industries and Natal Employers Association; Durban North Ratepayers; Riverside and Briardene District Indian Ratepayers; and the SAIRR.

In his cross examination of Mr. V.A. Comrie, Senior Planning Engineer and member of the TSC, Mr. J.N. Singh, Secretary of the NIC, proved that the DCC's proposals were not based on equity, and did not deal justly with the non-European people in the city. Mr. Comrie agreed with Mr. Singh that

residential grouping was not due only to a desire of persons of the same racial group to live together but had an economic and historical basis. People of the

same economic level tended to live in similar areas and that homogeneous settlements of people from a country of common origin were broken down by economic factors of industrialisation and development of commerce.<sup>224</sup>

When requested to quote examples where mixed residential areas had given rise to conflict, Mr. Comrie admitted that there were no tangible instances of conflict between Indians and Europeans.<sup>225</sup> He conceded that there was no harm in the races living together in the central and working areas. In fact the DCC's proposals allowed 34 000 Indians, 21 000 whites and 44 000 Africans to live together in the working areas. Mr. Singh deduced: "If one third of the city's population can live together, why disturb the position at all with race zones". When questioned why the different races could not live together in the residential areas, he replied that "there were other reasons". Mr. Comrie admitted that the central working areas would be zoned 'controlled', and would eventually be white.<sup>226</sup>

Mr. Comrie acknowledged that settled homogeneous areas should not be disrupted. However, he argued that Cato Manor, Mayville, Sydenham and Overport, (predominantly Indian areas), impeded European expansion from the Berea into the hinterlands of Westville, Malvern and Pinetown, and were therefore zoned for whites. He did concede that the DCC's plan emanated from a Council elected by whites, and that blacks had no say in its formulation. Protests from the former group were responsible for the rezoning of the main line suburbs from Indian to white. Mr. Comrie agreed that zoning Mayville and Cato Manor would displace 25 800 Indians and 28 300 Africans, in favour of 6 300 whites. In the process Indians would lose 2 414 acres of land valued at over 6 000 000 pounds.<sup>227</sup>

In his defence of the DCC's proposals, Mr. W.L. Howes, Town Clerk, stated that the NIC contention that group areas should not be established at all should be rejected by the LTAB. In suggesting this, the NIC was implying that the Board should not do its duty. The argument by various bodies that the DCC's plans would cause hardships failed to consider that the GAA would be applied gradually, as well as the Government's intention to allow for the acquisition of property as well as to provide for compensation. The Town Clerk contended that the feeling of insecurity which the Indians complained about since the revelation of the DCC's plans, had been in existence many years prior to the introduction of the GAA. He maintained that security would be guaranteed in the new group areas.<sup>228</sup>

He rejected the view that the housing backlog would be exacerbated by the DCC's plans as the number of Indians who would be displaced would be very small. Furthermore, proponents of this argument failed to take into account that provision was made for future group areas. In such areas, voluntary evacuation would mean that ultimately there would be no people to displace. Therefore, he perceived this argument to be premature and of doubtful relevance to the hearing. In his opinion the establishment of group areas would improve the housing situation of Indians.<sup>229</sup>

Mr. Howes repudiated the evidence led by the NIO that the DCC's proposals would jeopardise the economic future of Indians, as the working areas were not affected by the Council's plans, which had focused on residential segregation. The plan proposed by the NIO only examined the present situation, without considering the future. The Town Clerk appealed to the Board to look to the future when making its recommendations to the Minister of the Interior. He emphasised that the DCC had the support of the Reference and Planning Committee. Significantly, he viewed this Committee to be independent and unbiased, with no links to the DCC and local politics.<sup>230</sup>

Mr. Barker, who appeared on behalf of the Planning and Reference Committee, admitted under cross examination, that:

- i) The Committee's plans for Durban had been completed within three weeks, without any statistics or other data.
- ii) No provisions were made for displaced families, and "they were to fend for themselves".
- iii) Compensation for those displaced had not been considered.
- iv) The area north of the Umgeni could be set up as a non-European area.<sup>231</sup>

Mr. Barker acknowledged that his Committee's group area proposals were based primarily on the principle of racial segregation, encompassing a regional radial pattern. He further conceded that the proposals would "eventually have very drastic effects on the Indian population". More specifically, more than two-thirds of the Indian and African population in Durban would be displaced, numbering over 200 000, while only 5 000 Europeans would be affected.<sup>232</sup> Mr. Barker agreed that the coloured area in Sydenham would be an island



in a densely settled Indian area. Furthermore, it could be zoned for this group without causing any hardships, as it contained over 12 000 Indians, and only 2 000 coloureds and 1 200 whites.<sup>233</sup>

In its evidence, the NIC, represented by Vice-President, Mr. A. Choudree, referred to the DCC's proposals in the following terms: "It is partial, unfair, and conceived in the interests of the Europeans at the expense of the non-Europeans. It seeks to relegate Indians mainly to the northern and southern areas beyond the boundaries of the city".<sup>234</sup> Quoting figures from the TSC's report, the NIC proved that much of the area proposed for Indians was rural and undeveloped land, and Indians would lose thousands of acres, valued at millions of pounds, in the built-up part of the city.<sup>235</sup> Mr. Choudree stated that the facts associated with the DCC's proposals demonstrated that tremendous disruption and uprooting would result, and that it would be fatal if the Board supported this scheme. Referring to the proposals of the Planning and Reference Committee, he said: "Their hasty and unseemly agreement with the City Council makes them partners in this colossal crime perpetuated upon the non-Europeans in this city".<sup>236</sup> In an appeal to the Board, Mr. J.N. Singh of the NIC, argued "that the Board was not there to perpetuate existing inequalities but had to consider the removal of iniquities in regard to the non-Europeans resulting from a policy of discrimination against them in the past".<sup>237</sup>

The NIO, represented by Mr. Goldberg, argued that the city was being parcelled out in the interests of the DCC and private individuals. However, Durban did not belong to the City Council, but rather to all the people who have lived there, invested capital and served it loyally. According to the NIO, the DCC's plan had three main shortcomings:

- i) The TSC had recognised the formidable nature of planning for race zoning. However, in amending the TSC's proposals the DCC tried to oversimplify a complex issue. While the TSC had worked for two years on its proposals, the Reference and Planning Committee had developed its scheme in three weeks. The latter had worked from a map, and used natural boundaries, ridges, roads, and railways, without considering the human implications of its plans. Ironically, the Reference and Planning Committee's plan was very similar to that of the DCC's which had taken two years. This implied very strongly that



the DCC had also omitted the human element in its proposals. The question to be asked was: 'Who influenced whom?'.

- ii) The DCC's planners were constrained by a lack of freedom in going about their task. This was largely because of pressure from the white electorate as well as the central state. The rezoning of the Main Line suburbs, against the TSC's recommendations, was a good example of the former, and the setting aside of Cato Manor for Europeans at the insistence of the Minister of Native Affairs, represented the latter.
- iii) The DCC had misconceived the nature of the problem at hand which it had interpreted as purely a technical exercise in town planning. The TSC certainly had no experience in moving masses of humanity between areas. The problem rather was that of race relations. The function of the LTAB was therefore to ensure better race relations, which according to the Minister of the Interior was the chief aim of the GAA. The proposals of the DCC and the Planning and Reference Committee would lead to a deterioration in race relations.<sup>238</sup>

The NIO concluded that if the Government intended to apply the GAA in spite of objections from Indians, then residential segregation could be achieved economically and realistically by accepting the existing well defined racial zones. Smaller pockets where Indians were concentrated could be removed and provision must be made for them in the future housing estates of the city.<sup>239</sup>

Mr. T.M. Naicker, representing the Riverside-Briardene and District Indian Ratepayers' Association, argued that the DCC's proposals were "based purely on racial discrimination, the soundness of which became questionable, for it did not take into account the human aspects and considerations as it was governed by natural boundaries and artificial barriers".<sup>240</sup> He emphasised that the Riverside, Prospect Hall and Briardene areas were homogeneous in that they were wholly Indian owned and occupied. Business and property investments valued about 2 000 000 pounds would be affected if there was any uprooting. Mr. Naicker

concluded: "The board, in carrying out its duties, will undoubtedly consider all these implications and deal with the problem in a humanistic way".<sup>241</sup>

The various detailed submissions to the LTAB, as well as the 1953 hearings in Durban proved without a shadow of doubt the havoc which the group areas scheme of the DCC would wreak in Durban. Indian organisations, in spite of strategic differences, more than adequately supported their contention with facts and figures provided by the DCC that its proposals were manifestly unjust and harsh. The DCC representatives agreed that there was no harm in different groups working and living together, conceded that settled homogeneous areas should not be disturbed, and were unable to quote a single instance of conflict between whites and Indians. An impartial assessment of the various submissions as well as evidence presented at the hearing would have resulted in a substantial revision of the DCC's proposals. However, both the central and local states wanted to make Durban a European city, and the Indian community was to be the sacrificial lamb. This was evident from the LTAB recommendations to the Government.

#### **6.11 CENTRAL-LOCAL CONSENSUS: LTAB RECOMMENDATIONS TO THE CENTRAL STATE**

Except for minor changes, the LTAB's recommendations to the Minister of the Interior announced in July 1954, revealed that it had basically accepted the DCC's proposals (figure 6.7).<sup>242</sup> The entire area between the Umgeni and Umbilo Rivers, and Berea was zoned for white ownership and occupation. More specifically, Cato Manor, Montclair, the Mainline Suburbs, Sherwood, Durban North, Beach Front and Bluff were zoned for white occupation. Reservoir Hills, Clare Estate and Merebank was zoned for Indian ownership and occupation. Wentworth was zoned for coloureds (figure 6.7). The Duffs Road area was set aside for Africans. Decisions pertaining to the areas north of the Umgeni (Riverside, Prospect Hall and Briardene); Sparks Estate; Sydenham; the land between Oil Refinery and the sea; the Isipingo Rail strip; Lamontville; Duikerfontein and the Zeekoe Valley were deferred.<sup>243</sup> The working areas (industrial), and the CBD remained unzoned.

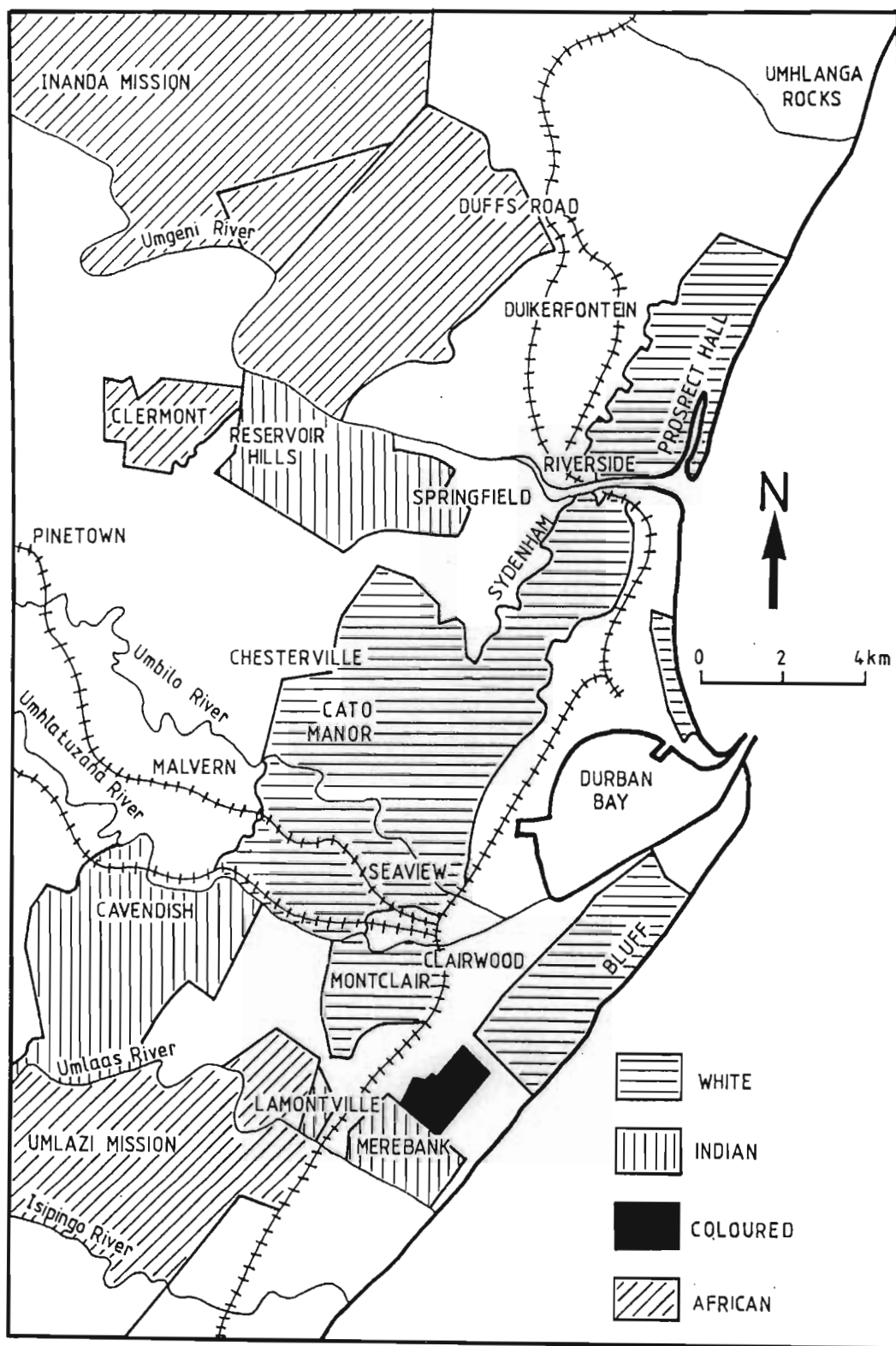


Figure 6.7 The LTAB's 1954 Recommendations

The recommendations of the LTAB had no legal standing, and were referred to as announced areas. However, the mere publication of its recommendations had negative effects, as was acknowledged by the City Engineer of Durban, who appeared to be more concerned about the loss of revenue for the city, rather than the losses suffered by the victims. He referred to the sharp drop in property values in some areas which seriously prejudiced the prospects of the "Group Areas Development Board (or its agents) receiving appreciation contributions to help finance the operation of the Development Act after proclamation of the various Group Areas".<sup>244</sup>

In terms of the recommendations which emanated from it, the 1953 hearings of the LTAB appeared to be farcical. It was evident that the representations of the Indian organisations were not considered in the least. In fact there was no evidence that the Boards recommendations were influenced in any way by the public hearings and "the whole paraphernalia of quasi-judicial process. The decisions of the Board could have been reached, substantially if not in full detail, by discussion between its representatives and the City Council".<sup>245</sup>

The NIC maintained that the Board's recommendations were not unexpected as it was appointed by the Government, and was part of the central state apparatus. Therefore, it was not expected to be impartial in considering "the case of those unjustly treated and to come to a decision based on factual evidence and justice".<sup>246</sup> The NIC maintained that this vindicated its position of non-co-operation, in contrast to that of the NIO:

It is in this light that we urge that no good purpose can be served if we listen to those who say that we can save something if we co-operate with the Board and present some alternative plan more equitable and just than those presented by Nationalists and local authorities bent on removing the Indian and other non-Europeans from the built-up urban centres ... Despite the alternative proposals submitted by a group of misguided individuals in our community, in Durban the recommendations made by the Board do not vary one iota from the proposals put forward by the DCC and backed by the Planning and Reference Committee, a body representing the Minister of the Interior.<sup>247</sup>

In 1955 the Government advanced numerous amendments to the GAA to ensure that the Act operated more effectively in the interest of the state, and to close the loopholes which had been exploited by its victims. The Group Areas Development Act of 1955 was passed in

response to the DCC's demand for a system of public acquisition of property to prevent speculation.<sup>248</sup> The local state bureaucracy urged the DCC to work within the premises of this Act.<sup>249</sup> The Group Areas Further Amendment Bill of 1955 changed the name of the LTAB to Group Areas Board (GAB), and empowered it to decide whether public hearings would be held or not. If the GAB and a local authority agreed on a race zoning scheme, the Board could recommend it to the Minister of the Interior without a public hearing.<sup>250</sup> The Government also wanted to limit the duration of public hearings, as well as to restrict the organisations and individuals who could be represented. In terms of the Group Areas Amendment Act of 1955

the Board at any inquiry need only hear those persons whom it wishes to hear, with the exception of the persons appearing on behalf of the State or to whose application the enquiry relates. The principle that requires both parties to a dispute to be given a hearing will no longer apply and the Board when it makes its recommendations to the Minister need not even appear to have considered any but official evidence on the problem before it.<sup>251</sup>

This, once again, proved that public hearings were farcical. The Government was seeking to enforce the GAA without any charade of allowing the affected parties an opportunity to air their views. According to the NIC these amendments further diminished the

already meagre rights by persons attending or presenting a case before a quasi-judicial body such as the Group Areas Board ... (and) ... completely nullify the original sections of the Act dealing with the powers, functions and sittings of the Board, have made the whole public sittings of the Board a farce.<sup>252</sup>

Indian political organisations, particularly the NIC and the SAIC, were concerned that the community did not become apathetic with regard to the implementation of the GAA. Dr. Monty Naicker, President of the NIC, in November 1955, called for an urgent 'All-in-Conference' so that the entire Indian community could discuss the far reaching implications of the GAA, and its various amendments since 1950. There was an evident need to mobilise the community, and Dr. Naicker urged that an alliance of

Congress branches, trade unions, traders' organisations, ratepayers' associations, sport and religious societies and all other Indian bodies should meet together to formulate plans to oppose the Group Areas Act, which is being implemented to strangle the Indian people economically.<sup>253</sup>

In May 1956 the NIC convened such a conference to discuss the different aspects and implications of the GAA. NIC branches, the ANC, the Labour Party, the Liberal Party, trade



unions, trader organisations, and ratepayers' associations were represented at the conference. The most important resolution of the Conference was the need for all organisations to rally blacks to oppose the GAA at all levels. In order to do this vigilance committees were to be formed in all provinces.

Although an invitation was extended to the NIO, it was not represented.<sup>254</sup> In an obvious reference to the NIO, Dr Naicker stated:

We must not live in a fool's paradise and believe that with this danger facing the entire community a few will be able to save themselves. We must expose those in our community who are thinking in terms of saving their own commercial interests at the expense of the rest ... Grave danger faces the whole Indian community.<sup>255</sup>

While the Conference was successful in the sense that it was educational and informative, the Indian Opinion criticised it for not discussing a mode of action - "That is to say what action were those victims of the obnoxious Group Areas Act were to take if they were asked to move out?" It pointed out, ominously, the views of the layman:

Today the general opinion of the layman is that if the Government gives them a nice new home at a nominal sum why shouldn't they move. On the other hand they are told that they should not identify themselves with the Government's plans but should fight for freedom. They reply: 'Why should we join the Congress? What have they to offer us when our life possessions are in jeopardy? While we stand to gain by doing as the Government wants us to do.' That is the trend in which the ordinary laymen thinks.<sup>256</sup>

This state of affairs was largely due, according to the Indian Opinion, to the shortage of sincere leaders in the community.<sup>257</sup> The class divisions in the Indian community were once again being highlighted. The failure of mass mobilisation against the GAA at grassroots level was due to the fact that the landowners faced greatest losses as a result of the legislation. It was possible that low income groups would benefit by moving into public housing in the relocated areas, in contrast to their present slums. In the mid-1950s about 33 percent of Indian families lived in one room, and 42 percent in overcrowded houses.<sup>258</sup>

Furthermore, there was also a high level of unemployment among Indians. It was estimated that 70 percent of Indians lived below the poverty datum line. According to the Social and Economic Planning Council the income of 50 percent of Indian households was too low to



enable them to purchase low cost diets.<sup>259</sup> Councillor J.J. Higginson, Chairman of the DCC's Housing Committee, drew attention to the "unemployment, poverty and shocking living conditions" which was the plight of over 125 000 Indians living in and around Durban. He estimated that 25 percent of Indians were unemployed.<sup>260</sup> Moreover, Indian activists in political organisations were under constant surveillance by the security apparatus of the state.<sup>261</sup> Under these circumstances, Indians were less likely to support militant mass action, which with the possibility of police arrests and imprisonment, would jeopardise their already precarious positions.

Emanating from the resolution of the Group Areas conference, the Natal Provincial Vigilance Committee was formed in June 1956. It comprised of representatives of the NIC; ANC; Liberal Party; Congress of Democrats; Liberal Party; Durban Combined Ratepayers' Association; and the South African Congress of Trade Unions.<sup>262</sup> The function of the Committee was to "safeguard the existing rights of the people and dissemination of propaganda written and spoken particularly to acquaint the European public with the inequities of the Group Areas Laws".<sup>263</sup> Successful meetings were held in various parts of Natal. Mr. Archie Gumede, ANC representative on the Committee urged the Indian community not to be apathetic, or "all that they worked for over generations" will be lost.<sup>264</sup> However, the effectiveness of the Vigilance Committee was impeded when its Chairman, Mr. G. Hurbans (NIC), and Joint Secretaries Mr. N.T. Naicker (NIC) and Mr. P.H. Simelane (ANC) were arrested to face trial for High Treason.<sup>265</sup>

Meanwhile, in May 1957 the Natal Committee of the GAB held a hearing to determine the race zoning of the areas which were deferred in 1953. The DCC's proposals for these areas were the same as in 1953, with the exception of Duikerfontein. According to the 1952 plan this area was zoned for Indians. In 1957 the area was unzoned because of the possibility that it might be used for industrial purposes.<sup>266</sup>

The DCC was becoming impatient that although it was seven years since the GAA was passed, no proclamations were announced for Durban. The Mayor, Mr. Percy Osborn complained that the delay was adversely affecting development and expansion plans in the city.<sup>267</sup> The Daily News contended that the Government was less enthusiastic about the

implementation of the GAA because of the huge costs which would have to be borne by the state. It suggested that since the DCC had advanced a solution to their dilemma, in return the uncertainty in the city should be terminated:

Meanwhile, the Government which started with so much enthusiasm has shown increasing reluctance to translate its theories into the black and white of group areas promulgations ... ministers have been forced to digest the truth that people cannot be moved from one area unless there are houses for them in another, and that they cannot be moved on a considerable scale without involving the state in heavy expenditure.

It was indeed the DCC which provided a partial solution to the Government's dilemma by proposing a system of compensation and by pioneering the idea of creating 'undated group areas where separation would be achieved by natural movement without compulsion. It has a right to expect in return an early end to the uncertainty which has hampered the city and its inhabitants for so long; and in terms which will do justice to the reasonable aspirations of all sections of the community.<sup>268</sup>

The impact of the uncertainty on the Indian community was germanely summarised by Palmer:

Business cannot expand or new business be started. Much needed houses cannot be built and young couples badly needing houses of their own must continue to live under the parental roof. Shop licences are refused, because of the uncertainty of the future of the district in which the licence is required. The building of schools has also suffered a set-back through interminable delays caused by applications for permits to build and occupy being with held, owing to the uncertainties of future Group Areas proclamations. For the time being the Indians are immobilised. And perhaps the conditions under which movement and growth are restored to them may be worse than the present state of uncertainty and insecurity.<sup>269</sup>

While the DCC was concerned about the delay in the proclamation of group areas, the GAB was experiencing its own problems. The board argued that established urban residential patterns could not be changed overnight. Also, policies and principles must be established to ensure that group areas were established on a sound basis as mistakes would be very costly.<sup>270</sup> Furthermore, the GAB argued that

the control measures in terms of the GAA, namely the requests for permits, determinations, trading, licences-certificates and the defining of areas ... keeps the board so busy and pins board members to their offices that the setting up of group areas is truly thereby delayed.<sup>271</sup>

Furthermore, as Meshthrie notes, the board members were neither experienced in dealing with land tenure matters, nor were they qualified in town planning:

They operated as amateurs feeling their way. The GAA of 1950 simply entrusted the board with responsibility for declaring group areas and little thought was given by its architects to the details of actually having to implement it. The procedure for declaring group areas was thus a system in the process of evolution and this involved constant reassessment as circumstances and differences arose.<sup>272</sup>

The group area proclamations for Durban were announced on 6 June 1958.

## **6.12 THE 1958 GROUP AREA PROCLAMATIONS IN DURBAN**

The 1958 group area proclamations in Durban basically confirmed the recommendations of the LTAB in 1954. The proclamations distinguished between group areas for immediate ownership and occupation, and for ownership and future (undated) occupation (figure 6.8).

The areas for immediate (within a year) white ownership and occupation were: the Beachfront; Berea; Sherwood; Woodlands; Montclair; the upper white sections of Rossburgh, Hillary and Sea View; Durban North and the Bluff. The SAIRR estimated that displacement in these areas would be minimal - not more than 40 families would be affected.<sup>273</sup> The following areas were intended for ownership and future occupation by whites: Fenniscowles; the low-lying areas of Rossburgh, Sea View and Bellair; Cato Manor; Mayville; Sydenham (Overport); Riverside; and Prospect Hall (figure 6.8). It is from these areas that the largest number of blacks would be displaced.

Indian areas for immediate ownership and occupation were the Springfield Housing Scheme; Reservoir Hills; and Umhlatuzana Township. Merebank; Clare Estate and the area between the Umhlatuzana and Umlaas Rivers (Chatsworth) were proclaimed for future Indian ownership and occupation (figure 6.8). The only coloured area for ownership and future occupation was Wentworth. The largest proportion of the residentially developed area of Durban was proclaimed for whites. However, it is evident from figure 6.9<sup>274</sup> that in many of the proclaimed group areas for whites, Indians made up more than 50 percent of the population.

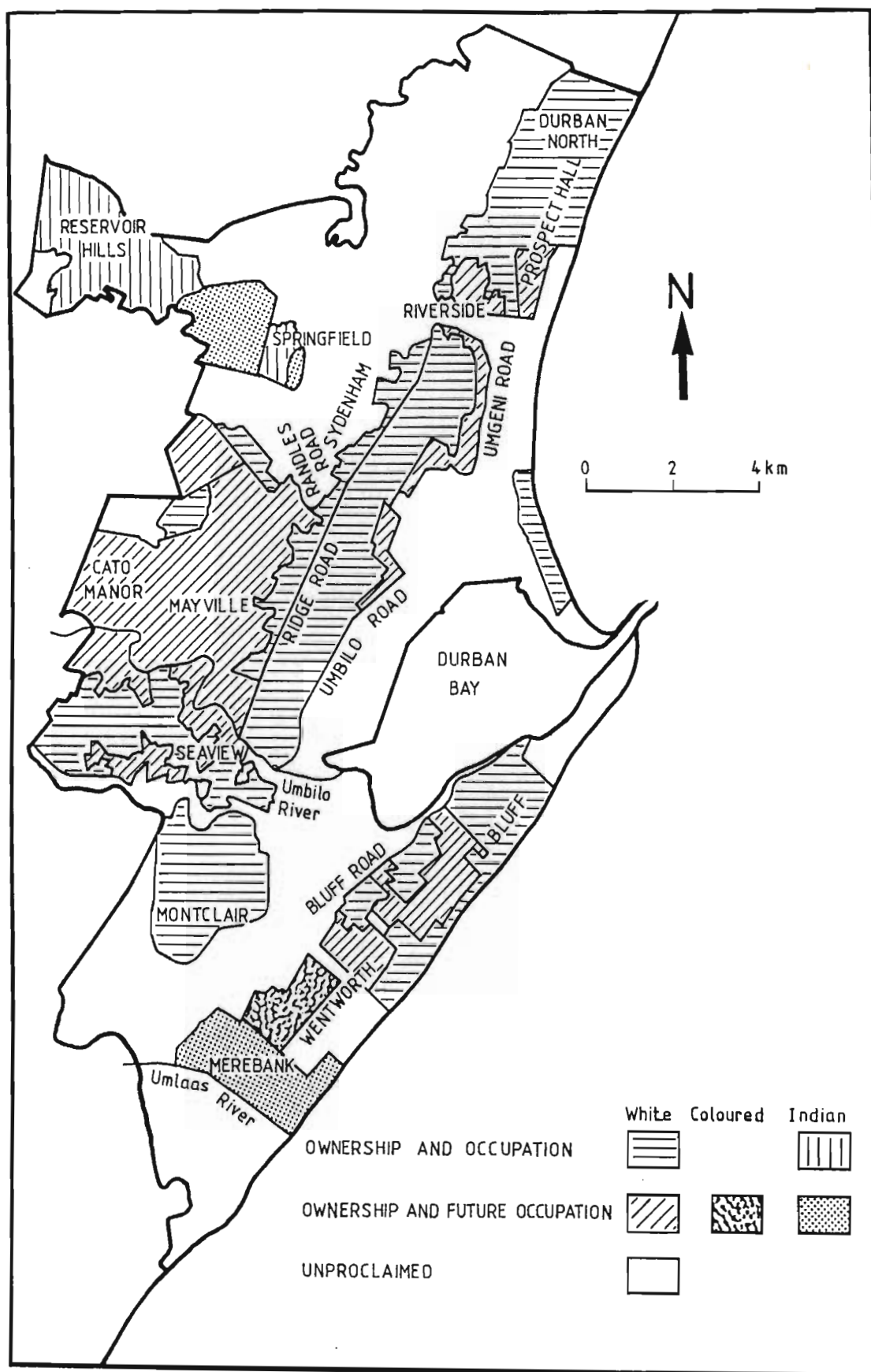
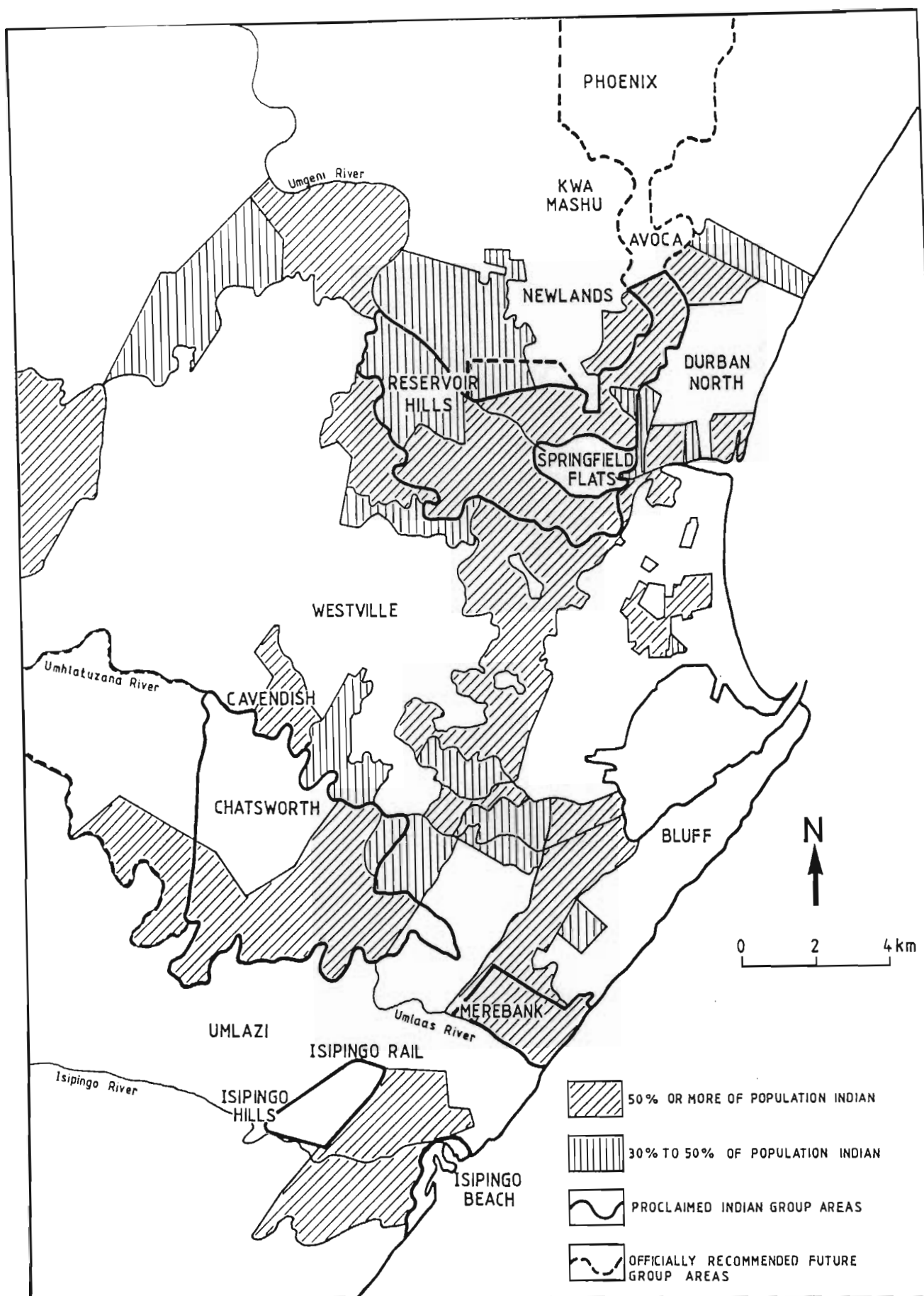


Figure 6.8 The 1958 Proclamations



**Figure 6.9 Indian Population Concentrations in the Proclaimed Areas**

The GAB had estimated that about 25 000 properties would be affected by the proclamations. According to the Minister of the Interior, estimates based on the 1951 census revealed that 1 000 whites, 75 000 Indians, 8 500 coloureds and 81 000 Africans would have to move as a result of the proclamations.<sup>275</sup> In 1958 the figures would obviously be higher.

The Indian community was devastated by the proclamations. They would lose property valued millions of pounds. According to the NIC blacks would be forced to move out of the following areas:

The Beach area - more than 120 Indians, 120 coloureds and 2 700 Africans were affected.

Berea - Indians would lose 127 acres of land and 705 dwellings valued 1 134 450 pounds.

Woodlands and Montclair - more than 1 600 Africans and 175 Indians would be displaced.

Wentworth - Indians would lose 241 acres of land valued at 82 140 pounds. Over 2 000 Indians and 1 100 Africans were affected.

Bluff - about 1 800 Indians, 3 359 Africans and 181 coloureds had to move. Indians would lose 552 acres of land and 175 dwellings, valued 266 520 pounds.

Rosburgh, Sea View, Hillary - more than 6 000 Indians, 493 coloureds, and 3 306 Africans would be displaced. Indians would lose 400 dwellings and 755 acres of land, valued at 266 520 pounds.

Cato Manor - 25 798 Indians, 2 107 coloureds, and 28 298 Africans would be displaced. Indians would lose 2 891 acres of land and 2 444 dwellings valued at 1 685 350 pounds. Coloureds and Africans would lose more than 70 acres of land and 133 dwellings valued at 25 940 pounds.

Briardene, Riverside, Prospect Hall - more than 6 000 Indians and 5 000 Africans would be displaced. Indians would lose 400 dwellings and 480 acres of land, with a market value of over a million pounds.<sup>276</sup>

The facts and figures presented above, the NIC argued, drew attention to:

- i) the immense human suffering involved;



- ii) the magnitude of the economic loss; and
- iii) the impossible tasks facing the authorities of providing sufficient, suitable accommodation for those to be displaced.<sup>277</sup>

According to the NIC, the mass dispossession envisaged in these proclamations exemplified a flagrant infringement of human freedom, and represented "a heartless attack in the name of racialism, on a voteless people. Its aim is to render the Indian people economically impotent".<sup>278</sup>

The proclamations galvanised the various political and community organisations into recognising the need for a united front, transcending class barriers, in opposing the GAA. This move was initiated by the President of the NIC, Dr. G.M. Naicker, who said:

In the face of the grave dangers which face our people, I call upon all Indians, in all walks of life, to come together as never before in the history of our people, to meet the challenge unitedly and with one voice. Now is the time for the Indian people to declare to the authorities and to the world, in the clearest possible language that they are totally opposed to the Group Areas Act.<sup>279</sup>

The major bodies involved in the unity move were the NIC, NIO, and the DCIRA. In a joint statement, they urged the community to participate in the mass protest action and emphasised the need for unity:

The crisis facing the Indian people under the GAA is unprecedented in the history of our people. In this grave hour let us in a dignified way speak with a united voice condemning the GAA and the injustice it seeks to perpetuate in its implementation. With calm and dignity we want the country and the world to know the plight of our people. We ask every Indian to participate in this protest against the recent Group Area Proclamations in Durban.<sup>280</sup>

Three mass protest meetings were held in Durban within three weeks of the proclamations. A protest meeting convened by the Riverside-Briardene District Indian Ratepayers' Association on 15 June 1958 was attended by about 2 000 residents. The meeting unanimously resolved to call upon the DCC to request the Minister of the Interior to deproclaim Riverside, Prospect Hall and Briardene, where Indians had settled and owned property for over 90 years. The DCC was also urged to allow Indians to develop their properties, as this would help meet some of the housing needs of the community. The

meeting emphasised the need for unity in protest action against the GAA and its proclamations.<sup>281</sup>

On 22 June 1958 a mass protest meeting was held in Mayville. At the meeting Dr. Alam Baboolal stated that the DCC was responsible for the proclamations as they had earlier recommended that the affected areas be zoned for whites. Also at the meeting, Advocate H.E. Mall stated that the GAA was being applied undemocratically, and in a manner unfit for decent humanity. The meeting endorsed the call for united protest and opposition to the proclamations.<sup>282</sup>

The call for mass protest action culminated in a rally held at the Curries Fountain ground on 26 June 1958, convened jointly by the NIC, NIO, and DCIRA (which was referred to as the Sponsors' Committee), and attended by over 20 000 people. Thousands heeded the call to stayaway from work and school, and Indian businesses and shops closed for the afternoon. The meeting was addressed by representatives from the 3 main conveners, as well as priests from the different religions. The meeting declared:

We would like to make it clear that we who have had no say in the making of this barbaric law and are totally opposed to the Act and the principles and aims of its originators, will not at any stage, acquiesce in its implementation. Our stand is based on fundamental principles and truths. We believe in the right of every man to choose his abode according to his means without any racial restriction. We believe in the sanctity of our homes and cannot tolerate any interference from authorities who have not the slightest regard for our feelings. Nowhere in the world would thinking people permit their Government to stampede thousands of its settled communities from their hearths and homes, and allow them to build in the bare veld.<sup>283</sup>

A significant feature of the protest meeting was the involvement of Europeans who also opposed the proclamations. Professor Hansi Pollak, Chairperson of the Natal Coastal Region of the SAIRR, stated that many Europeans were also shocked at the proclamations. Mr. Alan Paton of the Liberal Party, questioned whether those who created such evil laws, or those who protested against them, were responsible for racial conflict.<sup>284</sup> At the meeting an impassioned appeal was made to Europeans to become more aware of the havoc inflicted by the proclamations. An extract from the appeal read as follows:

It was 93 years ago that we founded such settlements as Prospect Hall and Riverside. In other places we have been living for 50, 60 or 70 years. The

vast majority of us have put all our savings into our homes. Now under the GAA, 60 000 of us are to be removed. Our properties, so valuable to us, have nothing like the same value for white purchasers. We expect to suffer grievous losses, much heavier than most of us will be able to bear. Most of us are humble working people and to buy land and build houses in the new areas will be beyond our means. Those who are in business in these proclaimed areas will receive no compensation at all.<sup>285</sup>

A group of 36 prominent, concerned European citizens, including members of parliament, churchmen and academics, signed a statement which declared that they shared the distress of those who would be uprooted by the GAA:

We the undersigned, have read and have been deeply moved by the appeal of the Indian community to the white citizens of Durban. We are confident that many will share their distress at the present Group Areas proclamations, which will ultimately uproot 100 000 of Durban's citizens from their homes and settled communities. Sympathy must be extended to all affected persons, whether they be European or non-European. We are sure that the community's sense of justice and humanity will be shocked by the inequality of the sacrifice falling upon the Non-European citizens of Durban. We respond to the Indian appeal and commend it to our fellow citizens.<sup>286</sup>

The mass meeting adopted the following resolutions, to:

- i) Call upon the Government 'in the name of human decency and justice' to withdraw the proclamation of June 6 so that tens of thousands of people would be saved from uprooting.
- ii) Request the DCC to make a similar call to the government for deproclamation.
- iii) Appeal to all South Africans who believed in justice and human dignity to support the clamour for the repeal of the GAA.
- iv) Call upon the international community for moral support.
- v) Emphasise the need for the Indian community to be united in their opposition to the proclamations.
- vi) Embark on a mass petition campaign to draw the attention of Parliament to the implications of the proclamations, and to request immediate redress.<sup>287</sup>

Commenting on the meeting, The Graphic stated that although "there was no challenge to authority, no resistance advocated, the meeting itself was the greatest possible challenge to the conscience of the White citizens of Durban and elsewhere".<sup>288</sup> However, the period

after the mass protest meetings of June were characterised by a general lull. Concern was expressed about the ageing leadership, lack of direction and poor organisation. According to

#### The Leader:

Now, the man-in-the-street quite rightly wants to know 'Where do we go from here? And to this most vital question, neither the NIC, nor the NIO nor the very much smaller Liberal Party, appear to have given any thought whatever. It is all very well to talk about standing united against the Government onslaught, but this unity is merely negative. And none of the parties mentioned has given any positive lead to the people. Militant, moderate and liberal opinion are all together on the same platform denouncing the Government plans. But beyond that we have no lead whatever from any party.<sup>289</sup>

#### The Graphic questioned whether the Indian leadership was bankrupt, and called for new blood:

It is apparent that the men who claim leadership of the community have more than served their purpose, and must make way for new blood. Their failure to inspire confidence in the organisation which they attempt to lead clearly indicates that they are out of cue with the wishes and aspirations of the Indian people.

Two distinct challenges are presented. The one is to those who have been at the helm of Indian affairs all these years to show a broad outlook and acknowledge that they have served their purpose and retire gracefully. The other challenge is to the younger men in the community to come forward and establish their claim to take over the reins of the community with an awareness of the responsibilities which this entails.<sup>290</sup>

The Leader called for greater action and militancy. It maintained that "the militants [NIC] appear to have sold out to the moderates, [NIO] and in the name of unity have completely forgotten their militancy".<sup>291</sup> The NIC attempted to justify the apparent ambiguity in its position at its 11th Annual Provincial Conference in November 1958:

A distinction must be drawn between the principled opposition to the Group Areas Legislations ... and the broader united front formed for the specific purpose of opposing the Proclamation of June 6th ... In respect of the Proclamations of June 6th (the) primary function was to demonstrate to the Union Government and to the world the unanimous rejection of the devastating Proclamations. Besides this primary function Congress has another vital function to fulfil in respect of its policy and programme and that is to take its independent policy of total opposition to the people as a whole. There should be no room for confusion in regard to these dual functions of working within the united front and yet boldly putting forth to the people our independent line of action.<sup>292</sup>



There was an evident need to capitalise on the awareness associated with the mass mobilisation following the proclamations of 6 June 1958. The main form of protest supported by the NIC, and emanating from a resolution of its Annual Conference on 26 June, was a door to door campaign to petition Parliament about the injustices of the GAA and its proclamations. The effectiveness of this action was, however, very limited:

In fact public petitions, except when part of a carefully organised parliamentary campaign, appear to be little but a waste of money and energy on the part of the petitioners. The House itself will not, in fact cannot, do anything about them, and their only useful purpose is to serve as an indication of public opinion.<sup>293</sup>

It appeared that the NIC had "reverted to opposition tactics that would have been approved by its NIO rival".<sup>294</sup> The NIC did not consider using passive resistance to oppose group area proclamations. According to Johnson the NIC's restrained response to the Durban proclamations was related to the inability to maintain a sense of urgency among Indians:

This had been cited as a problem by NIC organiser George Singh in 1946, and the situation had not changed by 1958. Only thirty-five Indian property owners were required to immediately vacate their homes by the 1958 proclamation, and even these were permitted to retain ownership. An immediate resistance effort would therefore have been impractical, even if the NIC had been prepared to wage one.<sup>295</sup>

Ironically, the president of the NIC, Dr. Naicker, inadvertently acknowledged the ineffectiveness of previous protest, which therefore implied the need for alternative action:

In the past we took numerous resolutions, made our voices heard at public meetings, protested at Group Areas Board sittings and submitted memoranda showing the injustices that flow from this Act. Notwithstanding all this we are now face to face with the grave situation underlying which are graver and greater economic and social factors.<sup>296</sup>

It is pertinent to note that many in the hierarchy of the main body, the NIC, including its President, Dr. G.M. Naicker, were facing trial for High Treason during this period, and they were pre-occupied with this issue, rather than the GAA. There was also a decline in the active membership of the NIC. The branches considered active by the general secretary of the NIC was reduced by more than half from 28 in 1947 to 12 in 1959.<sup>297</sup> 'Lethargy' and 'inactivity' appeared to characterise the attitude of most members.<sup>298</sup> The main problem

experienced by the NIC was poor organisation, inherited from the pre-1945 period, and ultimately it was dominated by an elite group:

The NIC failed to become a mass political organisation in part because it had no organisation, even for a minimum cadre of branch activists. The potential for organisation had existed in 1945, but little had been done to take advantage of it ... the NIC remained what it had always been: an elite group. Leaders knew that thousands supported them, but this support was evident through attendance at rallies and demonstrations announced by the press, not through branch reports citing increased membership registration. Only the politics of the elite group had changed. Confrontationists had displaced accommodationists without significantly improving the NIC's organisational status.<sup>299</sup>

Local capital was also opposed to the proclamations. The Durban Chamber of Commerce, an all white body, called for the proclamations to be suspended. It maintained that the race zoning proposal was impractical, because its implementation would be a financial burden to the ratepayers of Durban. It supported the zoning of Cato Manor for Indians, and maintained that relocation of a large proportion of the labour force outside the cities boundaries would increase the cost of living, and affect the efficiency of workers. The President of the Chamber, Mr. Crofton Hopkins, criticised the manner in which group areas were being introduced in Durban

with apparent disregard for the far reaching effects on the population. It is clear in the first place that there is not enough land available to accommodate the large number of persons who will be displaced by the recent proclamations, and this fact alone will render the implementation of group areas impracticable. Land at Cato Manor, eminently suitable by all standards for Asian occupation ... has been proclaimed a white area, in spite of the extreme improbability that Europeans will ever voluntarily occupy this area.<sup>300</sup>

The major European opposition to the proclamations was represented by the SAIRR, and it reaffirmed its denunciation of the principle and application of the GAA, which had exacerbated inter-racial conflicts. According to the Institute the major losses in Durban would be borne by Indians. The destruction of settled communities would "deprive them of cherished community amenities developed by them over generations - schools, temples, churches, halls, sports fields, burial grounds, etc". Many of the losses were tangible and could be assessed materially. However, there could be "no monetary evaluation of the attachments most human beings place upon their homes and no compensation for the effects



of the entire disruption of family and community life". The SAIRR pointed out, significantly, that the proclamations were not forcibly imposed upon the local state:

The Government has largely 'rubber stamped' the City Council's proposals of 1953 for the areas now proclaimed. These virtually allocated to Europeans all areas demanded by them - irrespective of whether or not it entailed the removal of non-Europeans from the few racially mixed areas or from totally segregated non-White areas. The original proposals went to the extreme in inequality of sacrifice.<sup>301</sup>

This view was also emphasised by the different Indian organisations. Most significantly, the DCC itself was beginning to have second thoughts about the group area proposals it had submitted to the LTAB.

### 6.13 CONCLUSION

The exceedingly complex nature of the interactions between the central and local states in the structuring of urban social space has not been exhaustively analysed. States are always immersed in the nebulous and arduous task of exerting power across space, and the local state is an essential element of the 'territorial state apparatus'. According to Ogborn:

It is only by highlighting its contested geography that administrative power can illuminate processes of state formation, and it is only through understanding the difficulties of governing across space that the restructuring of the local state can be situated within an understanding of state relations as a whole.<sup>302</sup>

This chapter highlighted the role of the local state in planning for racial segregation in terms of the GAA, and the nature of its relationship with the central state. Central and local bureaucracies played an important role in the implementation of apartheid. At the central level the GAB was very influential. In Durban the local state bureaucracy played an important role in planning for group areas. The DCC appointed the TSC in order to develop its plans for the race zoning of Durban.

The TSC's views on the implementation of the GAA had far reaching implications for the implementation of the GAA throughout the country. This was because neither the central state bureaucracy nor the executive had given thought the GAA will actually be effected. The

TSC had a close working relationship with the Minister of the Interior as well as the Chairman of the GAB. Hence, it was singularly influenced by the central state executive and bureaucracy. It was evident that there were significant continuities between the NP and a 'liberal' local authority. The TSC believed that each group area must have effective boundaries, and each race group must have access to its place of employment without traversing the area of another group. The first race plan of the TSC envisaged the Central area, Lower Berea, Durban North, Riverside, Prospect Hall, Cato Manor being allocated to whites. The Main Line suburbs was zoned for Indians.

Initially, the DCC accepted the TSC's plans. However, the whites of Durban objected to the plan particularly the zoning of the Main Line suburbs for whites. Indians reacted equally vociferously to the plan, and argued that the TSC's proposals represented a calculated effort to entrench white interests, at the expense of displacing settled Indian communities. Consequently, Durban would become a white group area. As a result of pressure from white voters the DCC was forced to request the TSC to make amendments to its plans. Thus, local constituencies played an important role in influencing local state policies. The major change was the zoning of the Main Line suburbs (Rossburgh, Sea View, Bellair and Hillary) for whites. Although whites were alarmed by the slightest possibility of being displaced, they approved of the GAA and supported the uprooting of established Indian communities. Thus the local state acted in the interests of those it represented.<sup>303</sup>

The LTAB hearings in Durban 1953 proved that the DCC's proposals would wreak havoc in Durban. The hearings revealed the close working relationship between the DCC and the NP, who had almost identical plans. In spite of spirited objections to the Council's plans by Indian political and civic organisations, as well as the SAIRR, the Board's recommendations to the Minister revealed that it had basically accepted the DCC's plans. Indian objections and recommendations were not considered at all. This questioned the impartiality of the LTAB, as well as Ministerial assurances that the Act would be applied with justice and equity. The 1958 proclamations in Durban basically confirmed the LTAB's recommendations of 1954.

Posel argued that the "policies and administrative practices of the state cannot be understood fully without identifying the impact of 'struggles from below' ... state power is contested in

organised and unorganised ways".<sup>304</sup> The Indian community was devastated by the proclamations and they would lose property valued at millions of pounds. In spite of strategic differences, the proclamations galvanised the various Indian political and civic bodies into recognising the need for a united front in opposing the GAA. Opposition took the form of futile mass protest meetings and rhetorical outbursts. There was an obvious lack of effective leadership to mobilise opposition to the proclamations. Also the coercive apparatus of the apartheid state, as represented by the army and the security branch police force, was very strong. Indians struggling to eke out a living were unlikely to court arrest and imprisonment. The central state was keen on consolidating its power, and was "constantly on the defensive against the threat of destabilisation through popular unrest".<sup>305</sup> While Indian organisations such as the NIC have been viewed as political formations, they can also be regarded as urban social movements. The NIC, for example, in addition to demanding for political rights for Indians, also focused on social consumption issues like housing, rents and transport.<sup>306</sup>

Significantly, there was a stirring of white conscience in Durban. Many prominent Europeans also supported the protest against the proclamations. Most importantly, the DCC itself was beginning to have second thoughts about group area proposals it had submitted to the LTAB in 1953. The next chapter will examine the shifts in the local state's group area policies, and will focus on the struggle to save Cato Manor for Indian ownership and occupation.

## ENDNOTES:

1. Bernstein, L., Fighting Talk, September 1956, p. 3.
2. A detailed area by area description is available in the Report of the TSC, pp. 29-50. A good summary is presented by Horrell, M. 1956. The Group Areas Act - Its Effects on Human Beings. SAIRR: Johannesburg, pp. 120-127.
3. Source: Adapted from Horrell, M. 1956. The Group Areas Act: Its Effects on Human Beings. Johannesburg: SAIRR.
4. Extract from the Town Clerk's Opening Address to the LTAB Group Areas Public Hearing in Durban (1953).
5. DCC Minutes, 20/11/50.
6. Mayor's Minutes, 1951, p. 2.
7. Natal Mercury, 30/11/51.
8. Brookes, E.H. 1952. Racial Separation in South Africa - Anomalies and Injustices of the Group Areas Act. African World, (June), p. 9.
9. DCC Minutes, 20/11/50.
10. TSC Report on Race Zoning, Part One, "The Background to Race Zoning", para. 2.
11. ibid., para. 7.
12. ibid., para. 11.
13. Extract from Town Clerk's Opening Address to Land Tenure Board on Group Areas Public Hearings in Durban (1953).
14. Part One of TSC Report, op. cit., paras. 12-13.
15. Havemann, E.A.E. 1952. Planning for Residential Segregation. Paper presented at the Third Annual Conference of South African Bureau of Racial Affairs - Group Areas And Residential Separation. Stellenbosch, p. 63.
16. Part One of TSC Report, para. 20. The TSC was basically echoing the views of the Chairman of the LTAB. In an address to the Institute of Administrators of non-European Affairs, he said: "The [group] area should in the first place be so planned that it will not be necessary for members of one group travelling to or from their places of work to traverse the area of another group". Source: Extract from the Town Clerk's Opening Address to the Land Tenure Board on Group Areas Public Hearings in Durban (1953).
17. Extract from Town Clerk's Opening Address to the LTAB's Group Area Hearings in Durban (1953).
18. Part One of TSC Report, op. cit., para. 15.
19. Brookes, 1952, op. cit., p. 9.
20. Kuper, L. et al. 1958. Durban: A Study in Racial Ecology. London: Cape, p. 184.

21. Part One of TSC Report, op. cit., paras. 22-26.
22. ibid., para. 27.
23. ibid., paras. 29-31.
24. ibid., para. 38.
25. ibid., para. 55.
26. Memorandum by the Natal Employers' Association and the Natal Chambers of Industries to the Inter-Departmental Zoning Committee of the Corporation of the City of Durban (n.d.).
27. Part One of the TSC Report, op. cit., para. 61.
28. ibid., para. 59.
29. ibid., para. 63 (d).
30. ibid., para. 64.
31. ibid., para. 4. The TSC's thinking was very much the legislative application of concepts developed by earlier groups.
32. ibid., p. 63.
33. ibid., para. 5.
34. Indian Views, 27/6/51.
35. Indian Views, 19/9/51. In fact a member of the TSC, Mr. E.A.E. Havemann, Manager, Natives Affairs Department, served as an advisor to the Bellville Municipality on matters arising from the GAA (DCC Minutes, 8/4/52).
36. Daily News, 30/11/51.
37. Notes taken at a meeting of the TSC with the Land Tenure Advisory Board in Pietermaritzburg, 30/1/51.
38. Havemann, 1952, op. cit., p. 72.
39. The TSC's zoning proposals were long term plans, which would take twenty to thirty years to implement. In order to initiate the process, group area proposals had to be submitted to the LTAB.
40. TSC Report on Race Zoning, Part II, June 1951, para. 258.
41. ibid., para. 259.
42. ibid., para. 263.
43. ibid., paras. 265-266.
44. ibid., para. 267.
45. ibid., para. 269.

46. ibid., para. 270.
47. Source of figure: ibid., p. 144; Havemann, 1952, op. cit., p. 69.
48. Report of the TSC on Race Zoning, Part II, para. 272.
49. ibid., para. 144.
50. TSC Report on Race Zoning, Part II, "Methods of Implementing Race Zoning", p. 93.
51. ibid., para. 227.
52. Source: ibid., Map No. 4.
53. ibid., para. 254.
54. ibid., paras. 273, 276. Source of figure 6.4: Adapted from Map No. 8, TSC Report, Part II, November 1951.
55. ibid., para. 274.
56. ibid., para. 282.
57. ibid., para. 437.
58. ibid., para. 440.
59. ibid., para. 279.
60. ibid., para. 284.
61. ibid., para. 291.
62. ibid., para. 299-300.
63. ibid., para. 437.
64. Source: Natal Mercury, 27/11/51.
65. TSC Report on Race Zoning, op. cit., paras. 285-6.
66. ibid., paras. 293-5.
67. ibid., para. 288.
68. ibid., para. 304.
69. Indian Opinion, 12/10/51,
70. Minutes of Council-in-Committee meeting of the DCC held on 15/8/51.
71. Natal Mercury, 21/11/51.
72. Minutes of Council-in-Committee of the DCC held with the TSC, 28 June 1951.
73. ibid.



74. Natal Mercury, 27/11/51.
75. Indian Views, 19/9/51.
76. Minutes of Council-in-Committee meeting of the DCC with the TSC, 15/8/51.
77. Indian Views, 14/12/51.
78. ibid.
79. ibid.
80. ibid.
81. Indian Views, 30/11/51.
82. ibid.
83. Minutes of Council-in-Committee meeting of the DCC with the TSC, 15/8/51.
84. Indian Views, 30/11/51.
85. ibid.
86. Letter from the Umhlatuzana Civic Association to the DCC, 29/11/51.
87. Letter from the Umhlatuzana Civic Association to the DCC, 5/12/51.
88. Letter from the Hillary District Association to the DCC, 1/12/51.
89. Report of the Joint Wards Association on Race and Radial Zoning in Connection with the Technical Sub-Committee's Report for the Zoning of the City of Durban under the Group Areas Act submitted to the DCC (5 January 1952).
90. Memorandum by the Ward 8 District Burgesses Association on the recommendations proposed by the Technical Sub-Committee submitted to the DCC, 17 January 1952.
91. ibid.
92. ibid.
93. ibid.
94. TSC interview with Mr. Ernest Green, the City Treasurer of Durban, 25/1/51.
95. Letter from the Kenville Burgesses' Association to the DCC, 8/12/51.
96. ibid.
97. Indian Views, 30/11/51.
98. Memorandum by the Natal Employers' Association and the Natal Chamber of Industries, op. cit.
99. ibid.
100. Indian Views, 14/12/51.

101. Indian Views, 28/11/51.
102. Indian Views, 28/11/51.
103. Quoted in Indian Views, 28/11/51.
104. NIC Agenda Book, Fifth Annual Provincial Conference, 29-30 September - 1 October 1951, Durban.
105. Resolution adopted at the 5th Annual Provincial Conference of the NIC, 29-30 September - 1 October 1951, Durban.
106. Indian Views, 28/11/51.
107. ibid.
108. ibid.
109. The TSC Report, Part II, para. 223.
110. NIC Agenda Book, op. cit., 1951.
111. Indian Views, 28/11/51.
112. NIO Memorandum to the LTAB, 19/2/53.
113. Letter from the President of the SAIO, Mr. A.M. Moolla, to the DCC, 7/12/51.
114. ibid.
115. The following Ratepayers' Associations were represented: Riverside-Briardene and District; Ward VI; Mayville; Cato Manor; Cato Manor Economic Housing Scheme; Sea Cow Lake; Briardene (Umgeni Heights); South Coast Junction Area; Umhlathuzana; Greenwood Park; Stella Hill; Malacca Road and Ryde Place.
116. Letter from the Durban Combined Indian Ratepayers' Association to the DCC, 15/1/52.
117. Letter from the Riverside-Briardene and District Indian Ratepayers' Association to the DCC, 6/11/51.
118. Letter from the Malacca Road and Ryde Place Ratepayers' Association to the DCC, 18/12/51.
119. Indian Views, 30/11/51.
120. Letter from the Briardene (Umgeni Heights) Indian Property Owners' Association to the DCC, 15/1/52.
121. The TSC Report, Part One, op. cit., para. 55.
122. DCC Minutes, 28/9/51.
123. Indian Views, 14/11/51.
124. Quoted in letter from the SAIO to the DCC, 7/12/51.
125. ibid.
126. ibid.

127. ibid.
128. The TSC Report, Part I, op. cit., para. 45.
129. ibid.
130. DCC Minutes, 5/5/52.
131. ibid.
132. Factual Report on Alternative Race Zoning Proposals by the TSC submitted to the General Purposes Committee, 24/3/52.
133. ibid.
134. ibid.
135. ibid.
136. ibid.
137. Source: ibid.
138. ibid.
139. DCC Minutes, 5/5/52.
140. Source: Map No. 11, Durban Housing Survey. 1952. A Study in a Multi-Racial Community. Pietermaritzburg: University of Natal Press.
141. ibid.
142. Indian Views, 9/5/52.
143. ibid.
144. ibid.
145. ibid.
146. DCC Minutes, 2/6/52.
147. DCC Minutes, 7/7/52.
148. Indian Opinion, 30/11/51.
149. Indian Opinion, 16/5/52.
150. Indian Opinion, 16/5/52.
151. NIO Memorandum to the LTAB, 19/2/53.
152. Horrell, M. 1952. A Survey of Race Relations: 1951-52. SAIRR: Johannesburg, 34.
153. ibid.

154. Indian Opinion, 11/4/52.
155. ibid.
156. DCC Minutes, 5/5/52.
157. DCC Minutes, 5/5/52. Based on the recommendations of the TSC, the DCC had submitted a number of amendments to the GAA for consideration by the Government. This was discussed in section 5.4.4.
158. ibid.
159. DCC Minutes, 5/8/52.
160. DCC Minutes, 5/8/52.
161. ibid. The advertisement explaining the procedure by which the LTAB would operate appeared in the Natal Mercury, 15/7/52.
162. Natal Mercury, 15/7/52.
163. Daily News, 20/7/53.
164. Mayor's Minutes, 1953-54, para. 51.
165. Memorandum submitted by the NIC to the LTAB on the Proposed Proclamation of Group Areas in Durban, 18/2/53.
166. ibid., paras. 20-21.
167. ibid., para. 22.
168. ibid., para. 23.
169. ibid., para. 37.
170. Source: adapted from ibid., para. 20.
171. Source: ibid., para. 24
172. Source: ibid., para. 26.
173. Cited in Southworth, H. 1991. Strangling South Africa's Cities: Resistance to Group Areas in Durban during the 1950s. The International Journal of African Historical Studies, 24, p. 12.
174. Memorandum submitted by the NIO to the LTAB, 19 February 1953, para. 34.
175. ibid., para. 37.
176. ibid., para. 36.
177. ibid., para. 36.
178. ibid., paras. 1-2.
179. ibid., para. 37.

180. ibid., para. 37.
181. ibid.
182. ibid.
183. The Leader, 4/6/54.
184. New Age, 24/11/55.
185. ibid.
186. ibid. Statement by Mr. Debi Singh, Secretary General of the NIC.
187. ibid. Mr. P.R. Pather, President of the NIO.
188. The Leader, 7/5/54.
189. The Graphic, 8/8/53.
190. ibid.
191. The Leader, 5/3/54.
192. The Leader, 5/3/54. Statement made by Mr. S.R. Naidoo, President of the Pietermaritzburg branch of the NIO.
193. The Graphic, 22/8/53.
194. Memorandum from the Riverside-Briardene and District Indian Ratepayers Association to the LTAB, 19/3/53, para. 3.
195. ibid., para. 4.
196. ibid., para. 13.
197. For examples, see ibid., paras. 23-30.
198. ibid., para. 35.
199. ibid., para. 35.
200. Memorandum submitted by the SAIRR to the LTAB, 30 September 1952, para. 7.
201. ibid., para. 15.
202. Letter from SAIRR to LTAB, 18 February 1953.
203. Memorandum from SAIRR, op. cit., para. 16.
204. Letter from SAIRR to LTAB, 18 February 1953.
205. Memorandum from SAIRR, op. cit., para. 35.
206. ibid., para. 38.

207. ibid.
208. ibid., para. 48.
209. Daily News, 30/8/52.
210. Source: Adapted from Horrell, 1956, op. cit.
211. ibid.
212. ibid.
213. The Leader, 5/9/52.
214. Indian Views, 23/7/52.
215. Extracts from Memorandum submitted by the TIC to the ALL-IN Group Areas Conference held at Johannesburg, 25-26 August 1956.
216. ibid.
217. Indian Views, 23/7/52.
218. Paper presented by the NIC at the ALL-IN Group Areas Conference in Johannesburg, 1957.
219. Horrell, 1956, op. cit.
220. Fighting Talk, May 1955, p. 10.
221. Fighting Talk, May 1955, p. 10.
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227. The Leader, 14/9/53.
228. SAIRR recording of the proceedings of the LTAB, 4 August-5 September 1953.
229. ibid.
230. ibid.
231. ibid.
232. Indian Opinion, 21/8/53.
233. The Leader, 14/8/53.
234. The Leader, 21/8/53.



235. ibid. These figures were referred to in section 6.10.1.
236. ibid.
237. The Leader, 14/8/53.
238. SAIRR recording of the proceedings of the LTAB, op. cit.
239. The Graphic, 22/8/53. See also Address by Mr T.M. Naicker, Chairman, Riverside-Briardene and District Indian Ratepayers' Association in argument before the LTAB in Durban, 5/9/53.
240. The Leader, 11/9/53.
241. The Leader, 11/9/53.
242. Source: Horrell, 1956, op. cit., p. 20. According to the Minister of the Interior, Dr. Donges, the reports of the LTAB were for his information only, and were never made public (The Leader, 27/1/61).
243. Letter from A. Kinmont, City Engineer, to the Durban Town Clerk, 22 May 1958; Horrell, 1956, op. cit., p. 130.
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## CHAPTER SEVEN

### THE STRUGGLE FOR CATO MANOR

To many thousands of blacks the name Cato Manor has a special emotive ring - for over fifty years, to the African, Indian and coloured families living side by side as a community, this was home. Yet Cato Manors are not unique in our society. Daily, all over South Africa, settled communities, urban and rural, are forcefully removed from areas of their choice ... In the wake of this phenomenon, community life is being destroyed and wholesale dispossession of land is taking place ... Compensation is always hopelessly inadequate, and resettlement a thoroughly traumatic and costly exercise ... the communities throughout South Africa are continually struggling against removal and resettlement ... And the struggle at Cato Manor is precisely that.<sup>1</sup>

#### 7.1 INTRODUCTION

The race zoning of the local state which culminated in the 1958 proclamations was discussed in chapter six. As the reality of the 1958 proclamations hit home, even the chief protagonist of the GAA, the DCC, began to have second thoughts about the fairness and consequences of the legislation. In this chapter shifts in the DCC's policy towards the GAA, and more specifically, the 1958 proclamations, which revolved around the struggle to save Cato Manor (a predominantly Indian area) from being proclaimed for whites by the central state, will be discussed. The focus is on the increasing tension and conflict between the central and local state, as well as the failure of compromise and negotiation. The role of agency as reflected in the protest and resistance organised by Indians to save Cato Manor will also be examined. Furthermore, recourse to law (the 1960 Court Action) will also be examined.

As the financial implications of the 1958 proclamations became apparent, the local state was forced to review its support for the plan. However, the central state was adamant that its version of race zoning would be implemented, with or without the support of the local state. The fledgling apartheid state of 1948 was firmly in control by the late 1950s. The local state's compromise proposal that a portion of Cato Manor be zoned for Indians was also rejected by the central state. Tensions between the central and local states increased. Indian

opposition to the central state's proposals consisted of rhetorical protests and petitions, which were ignored. A recourse to law by Indians was successful in the Supreme Court, but was overruled by the Appellate Division. In desperation the DCC, Indian civic and ratepayer organisations and local capital appealed to the central state to call for a new hearing of the GAB to review the 1958 proclamations. In March 1962 the GAB announced that it would be enquiring into the desirability of proclaiming Cato Manor for immediate white ownership and occupation. In spite of receiving more than 10 000 objections to the zoning of Cato Manor for whites, the GAB merely re-affirmed the central state's decision of June 1958.

Specific localities are often symbolic representations of conflicts in the wider society. Harvey emphasised the importance of particular neighbourhoods as indicators of social tensions at local and central levels. In Consciousness and the Urban Experience, for example, Harvey identifies the Basilica of the Sacred Heart in Paris as a symbolic representation of the conflict between the working class and the bourgeois, and between the central and local state in France.<sup>2</sup> To Harvey, the Basilica represented "a product and a symbol of class struggle".<sup>3</sup> In South Africa attention has been drawn to the destruction of Sophiatown<sup>4</sup> in Johannesburg, and the razing of District Six in Cape Town,<sup>5</sup> and the role of the local and central state in this process, as well as the failure of protest and resistance. In Durban, Cato Manor, similarly reflected at the micro-level the conflicts and tensions which were evident in the broader society. This is why the struggle for Cato Manor comprises the penultimate chapter of this thesis.

This chapter will contribute towards an understanding of the community experience of the dispossessed classes in South Africa by focusing on the historical struggle to save Cato Manor.<sup>6</sup> As Bozzoli notes, 'community' suggests a spatial component in which "the group is formed and reproduced".<sup>7</sup> She suggests that the "spatial dimension ... lends the term 'community' its timelessness, its sense of coherence and its claims to specificity".<sup>8</sup> Cato Manor has been referred to as a 'complexity in place' - "one of those places about which, and around which, controversy has always appeared to rage".<sup>9</sup> Butler-Adam and Venter emphasise that the "complexity of Cato Manor is not static. It reflects the interwoven processes of society as it has operated in the past, and is a complexity sustained and created

afresh out of present processes".<sup>10</sup> The next section presents a brief historical background to Cato Manor.

## 7.2 CATO MANOR - A POLITICAL FOOTBALL?

The great movement for shelter and housing at the end of the Second World War gave birth to Shantytowns in Orlando and Moroka, Johannesburg. Cato Manor was the Durban equivalent. Industrial development demanded labour and still more labour. To this day it is still true that most of the people living in Cato Manor are providing the labour power that keeps South Africa's holiday resort running. In those war days the authorities alleged they were too busy to attend to the housing needs of the people. Virtually overnight, the huge sprawling planlessness called Cato Manor sprang up.<sup>11</sup>

Cato Manor, an evocative name in Natal, has powerful connotations with the history of the dispossessed in South Africa, and represents "a living monument to the heartbreak and destruction wrecked by the Group Areas Act".<sup>12</sup> It is located within 5km from the CBD and is also very close to the industrial areas of Durban (figure 7.1). Cato Manor has traditionally been a mixed area, occupied mainly by Indian and Africans. The history of Cato Manor is inextricably interwoven with the history of Durban. The area was originally owned by George Cato, the first mayor of Durban, and comprised of about 4 500 hectares.<sup>13</sup> It consisted partly of a marshy, animal-infested jungle, although the land was variable in quality. After completing their period of indenture, many pioneering Indians settled here and built simple houses from their modest earnings and savings, facilitated by pooled incomes from the joint family system. They had purchased or leased their land from wealthy white farmers who had made lucrative profits from transactions with Indians.

The conversion of undeveloped Cato Manor into a thriving, productive agricultural area resulted from the "effort of the Indian through industry, resourcefulness and thrift".<sup>14</sup> The Indians were mainly fruit farmers and market gardeners who ensured that Durban was adequately supplied with fresh fruit and vegetables at reasonable prices. With the passage of time more Indians were attracted to Cato Manor and the area grew by leaps and bounds. This was not unrelated to the fact that being located outside the jurisdiction of the DCC, they



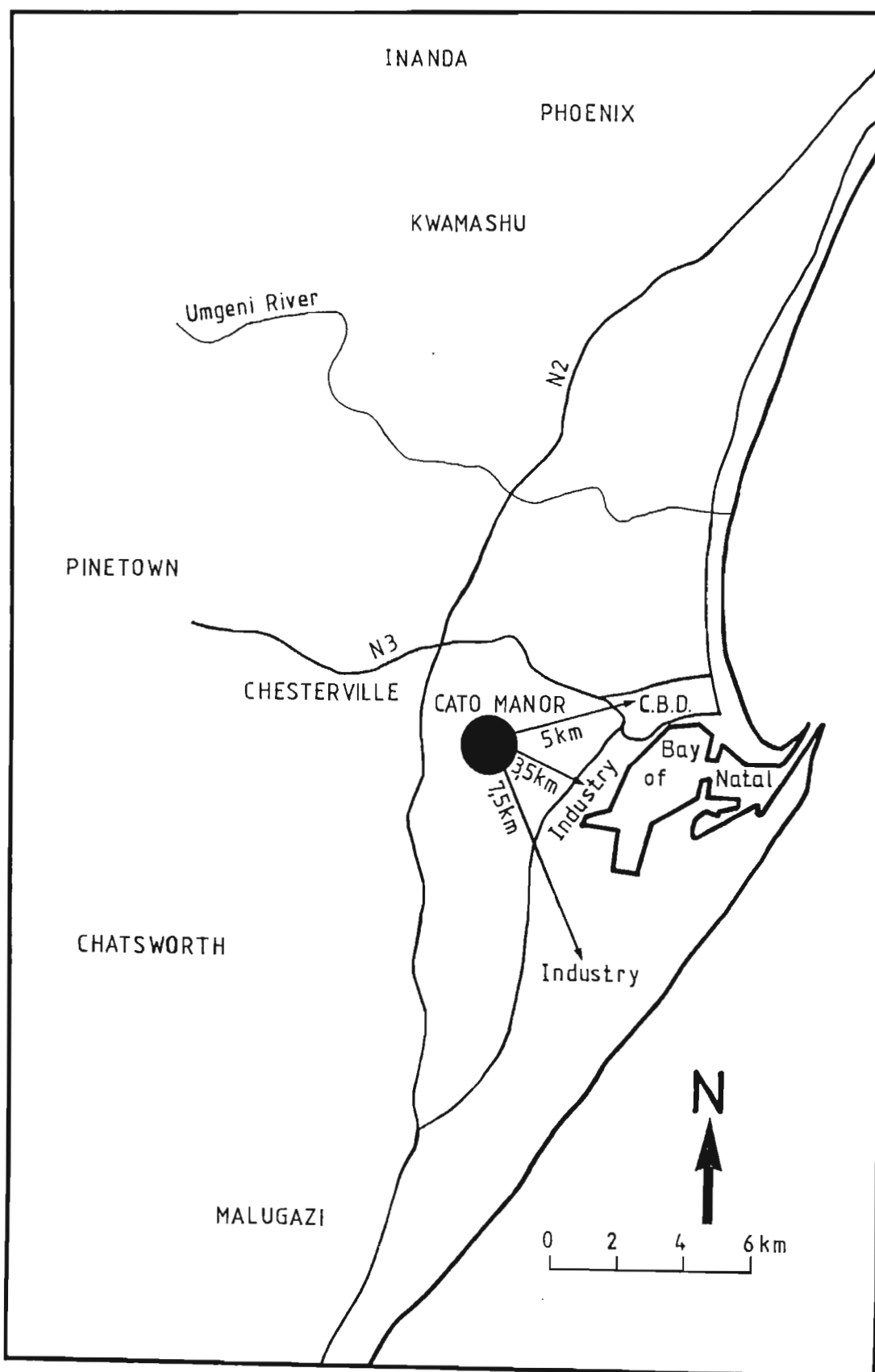


Figure 7.1 Location of Cato Manor in Relation to the Greater Durban Region

were able to erect substandard dwellings at low cost. Schools, temples, mosques and halls were built and sustained through community initiatives, without any assistance whatsoever from the state.<sup>15</sup> With the extension of the city's boundaries in 1932, Cato Manor was incorporated into the Borough of Durban. However, it remained a chronically neglected area in terms of services and facilities for some years after incorporation.

In addition to Indians, the area had a large African population. Africans began to move into Cato Manor in the early 1940s as they were ejected from areas like Overport and Puntans Hill by the DCC. Many Indian farmers realised that they could make more profits by allowing Africans to build shacks on their lands, and many of them became 'shacklords'.<sup>16</sup> This arrangement was accepted "without a demur by the City Council or their white employers"<sup>17</sup> mainly because the DCC was unable to provide alternative accommodation.<sup>18</sup> Often Indians would let a huge plot of land to an African for a nominal site rent. The tenant would then sub-lease to hundreds of others who would build shacks and pay rent.<sup>19</sup> As a result a large class of African 'tenant-landlords' came into being, who had a vested interest in the continued existence of Cato Manor. This group also operated 'shackshops' in Cato Manor, and experienced a great deal of insecurity and competition. Fighting Talk wrote in 1959 that

[t]hey lead an insecure, harassed existence squeezed by the authorities on one side and by competition with Indian traders on the other. These illegal traders and 'tenant-landlords' form the social soil for the anti-Indian attitudes that one finds in the area.<sup>20</sup>

Hemson points out that while the interaction between African workers and the Indian petty bourgeois was primarily exploitive, Indian businesses in Cato Manor provided opportunities for African workers and their families to escape from the austerities of direct local state control:

Indian traders provided the basic infrastructure of the squatters' slums: the bus services and retail outlets - the services which could be provided because of the particular position of Indian people as a 'buffer group' in the racial hierarchy of urban segregation.<sup>21</sup>

The incipient conflict between Africans and Indians in Cato Manor, however, had burst into the open with the 1949 riots.<sup>22</sup> The state viewed the violence as a racial conflict between Indians and Africans.<sup>23</sup> However, while there was Indian-African tension, the riot was a

"complex phenomenon, fed by white prejudice and Government policy as well as by the aspirations of an embryonic African bourgeoisie".<sup>24</sup> The riots were also attributed in the media to the poor socio-economic and housing circumstances of Africans in Durban:

When people are ill-housed, packed into congested areas, deprived of proper transport, denied recreational facilities, subjected to political frustration and some degree of economic exploitation, then the ground has been well prepared for terrorist outbreaks.<sup>25</sup>

Living conditions in Cato Manor were far from satisfactory. As Edwards points out, there was overcrowding, inadequate health and sanitation services, and disease was rampant.<sup>26</sup> The crime rate in the area was also high. The police were particularly concerned about the brewing of illicit liquor and shebeens, important components of the informal economy of Cato Manor.<sup>27</sup> In spite of the problems, Cato Manor was home to its residents. As Fighting Talk wrote in 1959:

People must live! And in the face of the apparent unwillingness or inability to provide decent housing and amenities the people made the best of things. Everything was done to make the shanties habitable and even comfortable as the years went by. Surprisingly elaborate decorations and furniture are to be found in many of the homes at Cato Manor. Hard work had gone into all this and people began to love their homes.<sup>28</sup>

Notwithstanding the poverty and despair of the Cato Manor environment, the Durban Housing Survey noted that

there are many attempts to maintain pride and self-respect, which cannot fail to move deeply, and even hurt, a visitor to these homes. Some dried mud or tin walls are painted and decorated with pictures cut from newspapers. In more than one case the earth floor is covered with linoleum and the household linen unbelievable in its whiteness. Actually, many interiors of shacks are remarkably clean and tidy, and seem to be out of tune with their environment.<sup>29</sup>

A major advantage of Cato Manor was that Africans were spared the controls which were imposed upon them in the locations.<sup>30</sup> The terrain occupied by Africans in Cato Manor was, however,

contested space in which various parties claimed authority. Apart from the area being Indian-owned and within the municipal boundaries, it was also an area which became ever more central within the state's plans to allow the

spatial and social features of Durban. It was within this very area that African shack dwellers had created their own society.<sup>31</sup>

Attempts to improve the quality of life and built environment in Cato Manor was inevitably delayed and sometimes derailed by the bureaucratic state apparatus. This was emphasised by the Durban Housing Survey:

Unfortunately, the problem grows while relays of deputations travel between Durban, Pietermaritzburg, Pretoria and Cape Town. Slow moving Council machinery is further retarded by higher controls and sanctioning authorities causing protracted negotiations and exasperating delays. No doubt democracy must work slowly. Yet all the time the danger to public health and security grows through the spread of disease, unrest, crime and wasted lives.<sup>32</sup>

The Durban Housing Survey concluded that trade and industries had developed in the city without any consideration being given to the social and human consequences. The conflict between "economic and welfare interests which result in overcrowded hostels and thousands of shacks and which will be further swollen by the annual increase of some five or six thousand more Natives".<sup>33</sup> The contradictions embodied in Cato Manor, especially with regard to its value to capital, and the responsibility of the DCC, is aptly conveyed by the following Sunday Tribune editorial:

Cato Manor, with all its burden of pain and misery, its sick and dying children and its insanitary shacks, is Durban's responsibility.

A modern city, exemplifying all the highest standards of western civilisation, cannot disassociate itself from its gloomy satellite.

Durban also needs Cato Manor, or it needs the 100 000 people who live there, journeying into the city every day to contribute their labour to the general prosperity.<sup>34</sup>

In terms of the Asiatic Land Tenure Act (Ghetto Act) of 1946, Cato Manor was zoned for Indian ownership and occupation. By 1950 some City Councillors and the Native Administration Department expressed concern about the future of Africans in Cato Manor. While recognising that the area was primarily owned and occupied by Indians, the Native Administration Committee of the DCC suggested that separate zones for Indians and Africans should be set aside in Cato Manor.<sup>35</sup> However, the Committee recognised that "Cato Manor is ultimately to become an Indian area, and that permanent accommodation will have to be found for the Natives put there under a temporary controlled shack scheme".<sup>36</sup> This

recommendation was accepted by the DCC, although there were objections from the Westville Town Board and the NIO. The DCC subsequently obtained central state consent to expropriate 450 acres of land in Cato Manor, as well as a loan of 153 000 pounds towards the costs.<sup>37</sup> The main purpose of this gesture was to ensure that the shacklands of Cato Manor were cleared. However, the Minister of Native Affairs, Dr. Verwoerd, emphasised that the central state would never support permanent African housing in Cato Manor as the area would be zoned white in terms of the Group Areas Act.<sup>38</sup> The struggle to save Cato Manor for Indian ownership and occupation dominated Indian politics for almost thirty years.

### 7.3 THE DCC - A CHANGE OF HEART?

As early as 1955 Durban City Councillors, in their individual capacities, voiced serious doubts about the Council's group area proposals. In May 1955, the Mayor, Councillor R.A. Carte stated: "The Group Areas just cannot work. I may probably be treading on dangerous ground, but, however, this is my personal view".<sup>39</sup> In 1957, the DCC's Planning and Development Control Committee, Chaired by former mayor, Councillor R. Carte, investigated the possibility of rezoning Cato Manor for Indians. Councillor Carte maintained that there are 170 000 Indians in Durban and 150 000 Europeans. Indians constituted the biggest section of the city's population, and the DCC could not act as if they did not exist. "In fact Durban would not be the same flourishing place without them".<sup>40</sup> He emphasised that the zoning of Cato Manor for Indians would not affect European interests in any way whatsoever. Indians had limited expansion possibilities, and with the shortage of land, Cato Manor was the logical choice.<sup>41</sup>

According to the City Valuator and Estates Manager, Mr. A.E. Mallinson, the allocation of Cato Manor to Indians would contribute significantly to the solution of their housing problem in the city.<sup>42</sup> Councillor Williamson contended that the Cato Manor problem had arisen because the DCC had "worked hand-in-glove with the Government in the implementation of the GAA, while cities like Cape Town had fought valiantly".<sup>43</sup> However, Percy Osborn, who was Mayor in 1957, replied that a review was a waste of time as the DCC had given the Government an undertaking that it "would co-operate in making Cato Manor an all white area

and nothing can stop its proclamation as such".<sup>44</sup> In the process he proved once again the close working relationship between the local and central states. However, in October 1957 Councillor Jackson was elected as Mayor of Durban, and he was regarded as more liberal, compared to his predecessor. He assured Indians that the DCC would carefully consider all the representations which were made to it, and that every endeavour would be made to ensure that the GAA was applied fairly, in order to reduce any hardship to the minimum. Major Jackson conceded that this would only be possible if the DCC received financial assistance from the Government.<sup>45</sup>

Officially, the DCC took a decision to consider reviewing its race zoning plans for Durban on 26 February 1958, when a meeting of the Council-in-Committee directed the City Engineer to investigate the possibility of revising the Council's race zoning plans in view of the developments which had taken place in the city since the original proposals were submitted in 1952.<sup>46</sup> In his report to the DCC, the City Engineer argued that in the long term any group area proposals, "will almost inevitably cause some hardship, unless one is content with a policy of laissez-faire, which is quite contrary to the spirit of the legislation".<sup>47</sup> However, unnecessary hardship should be avoided, unless it was of a very ephemeral nature.<sup>48</sup> He emphasised that a review did not necessarily imply that the original proposals were iniquitous. According to the City Engineer, the greatest hardship would be experienced in the residential areas, which was aggravated by the delay (of almost 5 years) in proclamations. However, he also argued that this unsatisfactory situation had presented an opportunity for the DCC to review the proposals it had submitted to the LTAB.<sup>49</sup>

At a Council-in-Committee meeting held on 27 May 1958 the DCC agreed in principle to revoke its previous zoning proposals, and to draft a new plan which ensured minimum disruption of the existing population distribution.<sup>50</sup> The meeting conceded that the City's 1953 proposals were unfair and were contrary to Ministerial assurances that the GAA would be enforced equitably:

Under the 1953 zoning plan, 20 000 acres were set aside for European occupation out of the available 28 500 - leaving 7 500 for Indians and 1 000 for Coloureds. On analysis, these figures would allow 8 Europeans to the acre, 23 Indians and 18 Coloureds. We have been directed from time to time both by the Minister of the Interior, Dr. T.E. Donges, and the Prime Minister to see that this Act must be implemented fairly and with justice to all races. We feel



that this has not been done. These figures show how impossible the situation was and it has been made worse if one bears in mind that the population for all races has increased in the last six years by at least 90 000.<sup>51</sup>

The DCC resolved at its Council meeting on 5 June 1958 as follows (ironically a day before the Government's Durban Proclamations):

- i) That the City Engineer be directed to report on the racial zoning of Durban, for the purposes of the Group Areas Act, upon a more realistic approach than the City Council has hitherto adopted, paying more regard to the present pattern of the distribution of the races in the City and the desirability of the minimum disturbance of the existing population.
- ii) That the City be zoned on the basis of obtaining Government approval of the Council's desire to allocate Cato Manor for Indian ownership and occupation.
- iii) That the Government be urged not to make any Group Areas proposals in respect of Durban until the City Council has received and considered the City Engineer's report referred to in (i) above.<sup>52</sup>

The decision to review the zoning proposals of Durban was apparently influenced, in part, by the Indian Affairs Advisory Committee of the DCC. The Committee was formed in late 1956.<sup>53</sup> Not much was known about the committee, except that it worked in terms of a special agreement with the DCC, and comprised of "hand-picked individuals who sit on it in their personal capacity and not as representatives of any organisation. Their qualification is simply their knowledge of Indian Affairs".<sup>54</sup> The committee was chaired by Councillor J.C. Bolton, and included the Deputy Mayor, Councillor W.E. Shaw, and Councillors A.S. Robinson, Margaret Maytom, and Messrs. A.M. Moolla, (President of the SAIO), and P.R. Pather, (President of the NIO). The latter two were also present at the Council-in-Committee meeting held on 27 May 1958. At this meeting Mr. P.R. Pather referred to the DCC's 1952 proposals, in which the Beach and Berea areas were undeniably white areas, and were zoned as such. He argued that if "the Council's original proposals had been framed on this basis, the present difficulty would not have arisen".<sup>55</sup> Mr. A.M. Moolla stated that the GAA would aggravate the shortage of housing for Indians, as those displaced would be unable to find alternative accommodation at affordable rentals.<sup>56</sup> He asserted that Durban was in danger of imposing a racial plan which was inimical to the dynamic development of the city, and which would be unable to "contain the natural economic and social forces moving within any

society".<sup>57</sup> Mr. Moolla emphasised that the DCC's proposals were unfair, went against Government assurances of fairness, and that the City could not afford the costs of relocations, even if it received aid from the central state.<sup>58</sup>

According to Mr. Bolton, members of the Advisory Committee had convinced "the Council how wrong they were in the original Group Areas proposals and in 'many other matters' affecting the well-being and future of the Indian community".<sup>59</sup> When questioned about why NIC members were not co-opted in their personal capacities, Councillor Bolton replied that based on past experience with the old Indian and Coloured Advisory Committee, "the Congress introduced politics in its arguments and repeatedly dwelt on the question of equal franchise and other matters and was always taking an extreme view and in consequence was at loggerheads with the Organisation [NIO]".<sup>60</sup> As a result of the continued rivalry between the NIC and the NIO the DCC decided to avoid representations by organisations on the Indian Affairs Advisory Committee.<sup>61</sup> The NIC maintained that Messrs. Pather and Moolla had no mandate from the Indian community to accept the invitation from the DCC to discuss group area proposals.<sup>62</sup> Such a choice reflected the partiality of the DCC towards the NIO and SAIO.

As its name suggested, the Committee served only in an advisory capacity, and in private, so that its minutes were not available for public scrutiny. The layman, however, wanted to know what matters were discussed by the committee, the recommendations advanced by the Indian members, and the extent to which these were accepted by the DCC. If Indians had the municipal vote their views would be heard directly by the DCC, which would be forced to respond to their needs. The Leader referred to the inability of Advisory Committees to achieve meaningful results:

Wherever these Advisory Committees function, one finds that they end up in sheer despair and failure. No concrete good or lasting results are obtained. They act as a brake on the real progress of the community. They degenerate into nice little talking shops where well meaning individuals exchange pleasant talk, polite talk, over a cup of tea. Fundamental issues are forgotten, and it is the tit bits that one is expected to shout about, and to thank the powers that be for the favours they so kindly, out of the bigness of their small hearts, reluctantly bestow.<sup>63</sup>

In its response to the review of group areas, the NIO supported the sincerity of the DCC, and hoped that its endeavours would be successful:

There is a sincerity behind the recent moves made by the Council and it is hoped that its endeavours to deproclaim areas where our people are being affected by their thousands would be crowned with success. If the Council fails in its endeavours then we could count upon the economic ruin of thousands of Indians ... A great deal depends upon the DCC which must act with the utmost celerity, otherwise the economy of the City as a whole would be shattered.<sup>64</sup>

According to the NIC the economic and social consequences of the DCC's plans had forced a review. However, the NIC believed that no amount of rezoning would bring about justice and fairness:

There may be dozens of re-zoning plans under the Act by various municipalities and local authorities throughout the country, but to expect any justice to be meted out to any person affected under the Act is most presumptuous.<sup>65</sup>

The Graphic contended that three factors lead to the review decision - the passage of time, the financial implications, as well as the fact that the composition of the Council had changed. However, it was not very optimistic of the outcome of the review of race zoning proposals because although the composition of the Council had changed, the same planners were in office, and the municipal voters remained the same.<sup>66</sup>

The decision to review group area proposals was well received in Durban circles. In welcoming the DCC's decision, the SAIRR stated that the review should be made after a thorough consideration of all the facts and figures - racial composition of each area; the number of people likely to be displaced; the value of residential, commercial and industrial property owned by each group; the losses which have occurred since the GAB's 1954 announcement; details of the different community facilities and services in each area; the provision of alternate accommodation, especially with regard to access to employment; and the estimated cost of implementing the zoning proposals. In its reassessment of the group area proposals, the SAIRR urged the DCC to consider:

- i) The fact that proposals affecting commercial and industrial enterprise may have very serious repercussions upon the economic life of the

- different sections of the community, as well as on the economic structure of Durban as a whole.
- ii) The effect of the proposals on the working classes which constitute the mainstay of industry and of the city's economy (e.g. distance from place of work, time taken up in travelling, cost of fares, etc.).
- iii) The implications of proposals with due regard for the many human aspects.<sup>67</sup>

The SAIRR stressed that the aim of its representations was to ensure that the GAA was "implemented with as great a measure of justice as possible to all racial groups, and to mitigate as far as possible the severe hardships which must inevitably be suffered by 'disqualified groups'". In a letter addressed to prominent citizens in Durban, it attempted to mobilise whites to support the DCC's new initiatives, and to influence their Councillors to do likewise.

A group of ten prominent Europeans, including an Archbishop, a university professor and an MP, released a statement urging the DCC to give "clear and indisputable proof of its desire to right past wrongs, to afford justice to all and to discharge its obligations to all sections of the community on the question of the city's race zoning plans".<sup>68</sup> The statement continued:

As citizens of Durban we consider that many of the proposals made by the Council to the GAB in 1953 were neither reasonable or equitable in that almost the entire burden of sacrifice falls upon the non-white population, in particular the Indian community. We urge the Council readily to agree to the recommendations of the Indian Advisory Committee and avail itself of the opportunity of reviewing and amending its original zoning proposals.<sup>69</sup>

Ultimately, the DCC was forced to review its race zoning plans because of the exorbitant cost of implementing apartheid. It recognised that there was insufficient land within the boundaries of the city to accommodate the displaced groups. The city was unwilling, and in fact could not afford, to finance the cost of resettlement. There would be a need to develop land outside the city's periphery. However, it was reported in Parliament that "the cost of land and services, if such a measure was to be implemented, would be of such astronomical proportions that unless the Government was prepared to finance the whole of the move itself, it was utterly beyond the capacity of the DCC".<sup>70</sup>

On more than one occasion the Government had attempted to entrust the responsibility of developing group areas in Durban onto the DCC. In terms of Section 13 of the Group Areas Development Act, the Board could delegate its powers and functions to local authorities. In a letter dated 8 February 1957, the Secretary of the Group Areas Development Board enquired from the DCC whether it would accept this responsibility. The DCC replied that it would have to consider the financial implications before accepting any such delegation. The matter was raised again by the Chairman of the GAB on 24 June 1958. On 7 July 1958, the DCC replied that "in view of the Council's existing development commitments, the Council is unable to accept any such delegation at the present time".<sup>71</sup>

Both the central and local states were experiencing a fiscal crisis. At the Council-in-Committee meeting on 28 May 1958, Councillor Carte stated:

We know that the country has been bogged down with capital expenditure; that reserves have sunk to their lowest level of 75 000 000 pounds, that import measures are being introduced and that for the sake of a small overseas loan the City Council, at the suggestion of the Minister of Finance, has had to send the City Treasurer to England to renew it.

We go to all these lengths and at the same time we have idealistic ideas about moving some 40 000 people. Where is the money coming from? And in any event, there are far more important things to be done.

There is a hopeless lack of sewerage arrangements in Durban, bridges are standing up in mid-air and national highways cannot be developed for lack of funds.

Against all this, is it realistic to say we can move 40 000 Indians and re-house them?<sup>72</sup>

Furthermore, Mr. Carte emphasised:

I have personally been told on more than one occasion by people who should know, such as Mr. Hechroodt, the Chairman of the Development Board, that there is no question about it, the Council will be expected to pay all expenses in connection with the removal of people from one area to another. This was told to others in the Mayor's Parlour and at meetings I had with the Chairman of the Group Areas Board and also the Group Areas Development Board, both Mr. de Vos Hugo and Mr. Hechroodt. There is ample evidence to show that the Council is expected to foot the bill.<sup>73</sup>

The Government itself was unable to answer the question of who would foot the bill for relocating about 63 000 Indians. However, the Government had given the DCC a warning with the draft amendment to the Group Areas Act Development Bill.<sup>74</sup> In terms of the Draft

Amendment Bill to the Group Areas Act Development Bill of 1957, Dr. Donges wanted the power to force local authorities to provide housing for displaced groups, and to force them to acquire properties from the Development Board. He also wanted the authority to initiate housing schemes and to force the municipalities to bear the costs.<sup>75</sup> This marked a turning point in the relationship between the central and local states. The DCC was strongly opposed to the Government being empowered to usurp the functions of local authorities and to impose financial sanctions on them.<sup>76</sup> As early as 1950, Mr. E.A. Wollaston, a member of the Asiatic Land Tenure Board stated in an address to the Natal Municipal Association (NMA):

Local authorities must provide alternative accommodation for people liable to be displaced before applying for the establishment of a group area ... The local authority should not shelve its responsibilities and must make provision for more racial groups within its own boundaries.<sup>77</sup>

The Chairman of the NMA stated that "while there was a desire to collaborate" local authorities could not bear the costs of implementing the GAA. Therefore, "unless the state can subsidise local authorities, the Act will remain nothing more than a gesture".<sup>78</sup> Mr P.O. Sauer of the NP stated that the "Government intended to force towns to carry out social segregation in accordance with the GAA."<sup>79</sup>

The Star questioned whether local authorities would be able to afford to provide for alternative accommodation, and maintained that Durban was partly responsible for the present state of affairs:

The Government forced this unworkable Act on to the Statute Book, now, as usual, they are trying to pass the buck to the already overburdened municipalities. Durban cheered on the Bill, thinking the Government was going to solve its Indian problem for it; but is Durban cheering now?<sup>80</sup>

The central state, however, was very firm in its commitment to implementing apartheid, and would not allow recalcitrant local authorities to stand in its way. In 1954 Dr. Verwoerd, Minister of Native Affairs, stated:

If there is a local authority which tries to obstruct that policy, the government is not exercising dictatorship when it makes the national policy compulsory, applicable even in that city ... Therefore when it may become necessary to compel a City Council which is not prepared to implement the policy of apartheid to do so, I shall do so ...<sup>81</sup>



The Town Clerk, Mr. W.H. Howes was instructed by the DCC to submit a memorandum to the Government, protesting against the threat to undermine the autonomy of local authorities, as well as the attempt to force local ratepayers to bear the cost of implementing the state's policy of apartheid. In the memorandum, the DCC argued that the proposed amendments were

- i) premature because the GAA had not been given sufficient time to be implemented;
- ii) impractical because local authorities were expected to finance the implementation of the GAA, which was well beyond their limited budgets; and
- iii) a threat because the independence of local authorities could be undermined.<sup>82</sup>

It was suggested that "Durban should now give a lead to the rest of the country in totally rejecting what the Government proposed". There was also a suggestion that the DCC should "'wash its hands of the GAA' and leave it to the Government to implement it without the Council's co-operation".<sup>83</sup> According to Councillor Carte the DCC was

clearly concerned that the Government did not appear to be implementing the Act with the justice it had promised. Delays in determinations and refusals of permits were imposing virtual paralysis on the property market in some areas. The fear was expressed that the proposed legislation was a political move designed to create the impression in the public mind that it was the local authorities and not the Government which was responsible for the slow progress in bringing about residential apartheid. The Council feels that the present Group Areas Development Act is being administered rather harshly, and not with the complete justice which the Minister time and again assured us would be the case. The Council also feels that the proposed amendments threaten to undermine our powers - powers which we think should be more entrenched.<sup>84</sup>

There was however, the dissenting voice of Councillor Osborn, who asserted that refusal to co-operate with the central state in the implementation of the GAA in Durban would lead to the chaos of the 1940s. While the DCC should protest against the usurpation of local autonomy, he warned that if the Council did not carry out its functions as determined by the GAA, then the central state would merely impose its version of segregation upon the city.<sup>85</sup>

The protest by the DCC against this amendment to the GAA was interpreted as being 'hollow' by the NIC, especially "when the indecent haste with which the DCC rushed to support the Nationalists" was recalled:

After being jointly responsible with the Nationalists for actively creating machinery for the legalised robbery of the Indian people of Durban, the Council now seems to weep over the fact that it may not get a substantial share of the spoils on which it had banked.

What is wrong with the measure is not the proposed amendments as such but the whole underlying principles which are unjust and have already caused such misery and suffering to the Indian people in particular.<sup>86</sup>

The Government response to the DCC's decision was that the proclamations of 6 June 1958 "corresponded almost entirely with the recommendations made by the Council, which were thoroughly investigated by the GAB".<sup>87</sup> The Minister of the Interior, Dr. Donges stated that in the 5 year interim period between the GAB's recommendations and the proclamations there had been no objections, (obviously from whites), to Durban race zoning plans. He said: "In fact, if ever a scheme had the approval of a large section of the community, it was the plan which was recommended to me by the Board and of which we gave an advance publication some years ago, a plan which was finally embodied in the proclamations of June this year".<sup>88</sup> The permanency of group area proclamations had also been emphasised by the Chairman of the GAB:

Race zoning under the GAA will be no small task but it should be done and done thoroughly and boldly, because once an area has been proclaimed for the particular group and has become legal, it will be very difficult to change it. Mistakes may be made and Group Areas once proclaimed must not be altered; but the intention of the Act certainly is that once an area has been stamped with a certain group character it should retain that character and this is the principle which the Board wishes to follow.<sup>89</sup>

Under the circumstances, a very strong case had to be made for a review. Dr. Donges was adamant that the Government was determined to implement its plans regardless of the views of the DCC, and he threatened to amend the law to force local authorities to co-operate. Under the circumstances, The Leader contended that much would depend on the steadfastness of the DCC:

Much depends on what the City Council will do in the next few months. If it presents a solid front against the machinations of the Government, Dr. Donges will have to think hard before taking the next step.

If, however, it wavers and cowers down to the bullying tactics of Dr. Donges, then there is little hope. The City Council has the wholehearted support of the Indian people in any steps it takes to lessen the misery and suffering which the enforcement of the proclamations will cause.<sup>90</sup>

In its response to Dr. Donges, the DCC asserted that rather than impeding the implementation of group areas legislation, the Council had made inordinate efforts to make it feasible on the equitable and just basis which the Government seemed to desire. It would therefore be far better for the Government to co-operate with the Council in regard to the problems which it had experienced, instead of threatening it with compulsion. Since 1951, the DCC had unfailingly made it clear that it was the Government's duty to provide the necessary funds for relocation costs incurred by people displaced by the Act. These facts did not justify the contention that the City Council was intentionally hindering the Group Areas Development Board.<sup>91</sup>

However, just as the DCC had to yield to economic reality, the Daily News argued that the Government would ultimately be compelled to do likewise. The Daily News aptly summarised the Government's dilemma:

The Government may be privately piqued at Durban's dilatoriness, but in 5 years the realities of the GAA have become patently clear to the Council, which was further startled last year by the Government's draft Bill aiming at placing the financial responsibility of the GAA directly on the city ... Durban has one of the most complex and therefore one of the most costly group areas problems in the country. Unless the Government can suggest where the money will be found to impose its pattern of complete apartheid on the city, it will have to accept the Council's plan for a reconsideration of the whole plan. This may eventually lead to an acceptance by the Government of a new plan demanding as little redistribution of the population as possible.<sup>92</sup>

Meanwhile, the DCC was going ahead with its review of zoning proposals, and Indian organisations wanted to be consulted in this process. The NIC, in May 1958, wrote a letter to the Mayor, requesting that Congress representatives be given an opportunity to address the DCC on the revised race zoning proposals for the city. In August 1958 the Town Clerk replied that various Indian Ratepayer Associations had made representations to the DCC, and a meeting had therefore been arranged between these organisations and the Indian Advisory Committee. Under the circumstances the DCC averred that "no purpose would be served by

inviting representatives or organisations of an all embracing nature" such as the NIC.<sup>93</sup> The NIC replied that it had directed its application to the DCC, and had not requested a meeting with the Indian Advisory Committee, which it did not recognise:

We do not agree with you that no purpose will be served by Congress representatives addressing the City Council on the far reaching effects of the Group Areas Act and Proclamations thereunder. The NIC, we submit, is the representative organisation of the Indian people and is the only body recognised by them to speak on their behalf.<sup>94</sup>

The Sponsors Committee also requested to address the DCC when it discussed revised group areas plans for Durban. It appealed "that no plans be finalised without giving the Indian Community, through representatives of the Sponsors Committee, a full hearing before the full Council".<sup>95</sup>

On 28 August the DCC convened a meeting between the Indian Advisory Committee and representatives of eleven Indian Ratepayers' Associations, to discuss group area proposals. The Chairman, Councillor Bolton conceded that the DCC had been responsible for plans which would dispossess the Indian community:

I can understand the bitter feelings that must exist in the minds of the Indian people in regard to the Group Area Proclamations and the criticism that has been levelled at the City Council because of the fact that they, the City Council, were responsible in the main for the proposal, which if implemented, must mean mass misery and humiliation and heavy financial losses to a very large section of the Indian people in the Durban area.<sup>96</sup>

At the meeting Indians called upon the DCC "to maintain the status quo as it existed before 1943 - when the Pegging Act was passed - and to work on undeveloped areas for future Group Areas".<sup>97</sup> Attention was drawn to the fact that the DCC's 1953 proposals "had been made without any consultation with the Indian community, and if accepted would result in the uprooting of the entire Indian population of Durban".<sup>98</sup> It was agreed that an *in loco* inspection of some of the areas would have to be made. The Mayville Indian Ratepayers' Association made an emotional appeal to the DCC:

People form deep and lasting attachments to the places in which they live and such attachments are rooted in emotional association with homes, temples, churches, mosques, schools, burial places and with neighbours - years of friendship, the passing on of homes from generation to generation. Such are

worthwhile values which cannot be set aside lightly. Is it fair to ask people, now advanced in years, to break up old associations and homes, businesses, etc. and to start afresh. Besides, can monetary compensation, even though seemingly adequate, take the place of homes, businesses, etc.? Enforced removal must necessarily bring resentment and resentment can be so very easily smoulder into hate.

The life savings of people is often invested in their areas. Callous dispossession of property must cause ill-health. Businesses small and large will be ruined. Farm holdings, small and large, cannot be transposed, economically over a period of 20 years ... To our Association, the Race Zoning Plans are an unrealisable dream from an economic standpoint. Residential segregation which in our case spells economic strangulation and therefore ruination.<sup>99</sup>

Significantly, the Durban Combined Indian Ratepayers Association was not invited to the meeting convened by the DCC between the Indian Advisory Committee and Indian Ratepayers' Associations. In a memorandum to the Chairman of the Indian Affairs Advisory Committee, it expressed its appreciation to the DCC for its decision to review its group area proposals, and for requesting the Government to set aside the proclamations of 6 June 1958. The DCIRA urged the DCC to base its execution of the GAA on the principles of justice and fairness. It drew attention to the financial losses that would be incurred by Indians. An appeal was made to the DCC to allow Indians to remain in their predominantly settled areas. According to The Leader, if there was a need for housing and further expansions, undeveloped land could be used to develop model townships.<sup>100</sup>

#### 7.4 THE REVISED PLANS OF THE DCC

The DCC's revised proposals were first discussed on 14 August 1958. The revised race zoning plan was prepared by the City Engineer in terms of the DCC's resolution of 5 June 1958, and was "based broadly on the existing pattern of racial composition, where this pattern lends itself to the setting up of group areas unless special circumstances warrant different treatment."<sup>101</sup> The special circumstances mentioned by the City Engineer included

- i) the native settlement in Cato Manor, which was of a temporary nature;

- ii) although the Effingham Road area was almost completely white, it was included as part of Duikerfontein for Indian settlement; and
- iii) the land between Randles Road and Sparks Estate was predominantly Indian, but was zoned for coloureds.

The data presented was regarded as a "good reflection of the present pattern of occupation".<sup>102</sup> A more detailed analysis of the proposals follows.

### **7.3.1 Durban North**

Durban North was divided into two sections - east and west of the North Coast Road. The western area was known as Duikerfontein, and was occupied by Indians, with the exception of Effingham Road which was occupied by whites, and the mixed area of eastern Greenwood Park (figure 7.2). The Effingham Road area extended over 246 acres, and had a population of 1 367 Europeans, 70 Indians and 75 coloureds. The value of white owned property was 325 860 pounds, Indian 3 140 pounds, and coloured 16 070 pounds. The acting City Engineer presented the following argument for Duikerfontein and Effingham to be zoned for Indians:

- i) Duikerfontein was a homogenous unit, with clearly defined boundaries, and to sub-divide it in any way would go against the grain of sound planning. There was sufficient land for expansion to the north, beyond the city's boundary.
- ii) Zoning Duikerfontein for Indians would create an extended Indian belt ranging from Newlands to Avoca and the North.
- iii) The demand for land among Indians was far greater than that among whites.
- iv) The whites who would be displaced were far more economically mobile than the non-whites. Furthermore, whites in Effingham would find ready buyers for their properties, at good prices, in the Indian community.
- v) The Effingham area had unsatisfactory boundaries for definition as a separate group area.



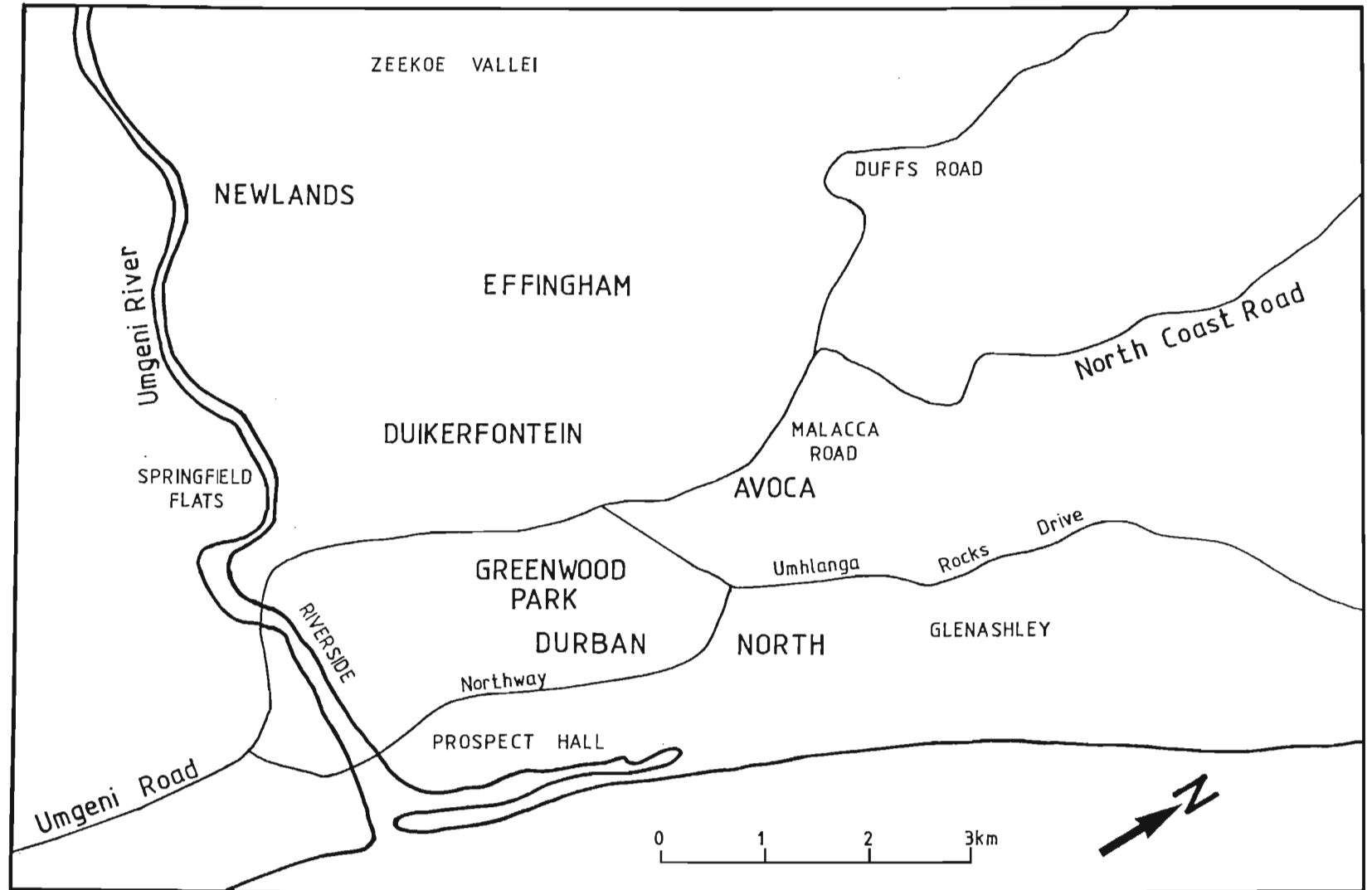


Figure 7.2 The Durban North Area

Eastern Greenwood Park comprised of 140 acres, with a population of 625 whites, 640 Indians, and 100 coloureds, and the rateable value of their property was 128 750, 70 670 and 8 600 pounds, respectively. The City Engineer argued for the area to be zoned for coloureds because:

- i) It would cater for the 1 500 coloureds who lived north of the Umgeni.
- ii) There had been 35 applications to acquire properties in the area from coloureds since the beginning of the year. In most cases the sellers were whites.
- iii) There was a coloured school in the area.

At the meeting of the PDCC of the DCC held on 14 August 1958 to discuss the racial rezoning of the city, Councillor Maytom objected to the zoning of eastern Greenwood Park for coloureds as it represented an isolated pocket, and was surrounded by other groups, which would not allow for any expansion. She and Councillor Kinsman argued that Effingham Road should be zoned for whites "as it was one of the oldest areas in Durban, and there were many people in the area who had spent all their lives there". If it was zoned Indian, residents of the area would suffer considerable hardship. The Town Clerk drew attention to the fact that the Council's previous decision was to leave the area west of the North Coast Road unzoned.<sup>103</sup> Councillor Bolton moved the following motion which was accepted by the Committee:

That the Council's previous proposals for the racial zoning of the Duikerfontein area to be amended to provide for the area west of Havelock Road being zoned as Indian, and the area east of Havelock Road and including the Effingham Road area remaining unzoned.<sup>104</sup>

According to the acting City Engineer, the area east of North Coast Road was largely inhabited by whites, with the exception of Malacca Road, Briardene, Prospect Hall and Riverside which were regarded as isolated pockets occupied by Indians. He was unsure whether these pockets should be zoned as group areas for Indians (figure 7.2). The following statistical information was presented to help the Council make a decision:

- i) In the Malacca Road area, comprising 242 acres, there were 2 090 Indians and 40 whites, and the rateable value of property owned by the former group was 44 780 pounds, and the latter 14 460 pounds. There were also 4 Indian temples in the area.

- ii) Riverside covered 289 acres with a population of 3 990 Indians and 100 whites. The rateable value of Indian property was 252 280 pounds, and that of whites was 209 940 pounds. There were two Indian schools in the area.
- iii) Prospect Hall extended over 197 acres, with a population of 2 500 Indians and 35 whites. The rateable value of Indian property was 228 200 pounds, and that of whites 12 040 pounds. In addition, the area had 3 Indian schools and 2 Indian mosques.

Councillor Mrs. Maytom stated that Briardene was a settled Indian area, and should remain as such. Councillor Bolton moved "that no steps be taken to secure a revision of the present racial zoning of the Riverside and Prospect Hall area", but was unable to obtain a seconder. Councillor Williamson stated that "any pocket of racial occupation should be considered on its merits, and not be disregarded merely because the pocket was considered to be too small to be admitted as a group area".<sup>105</sup> No definite decision was taken in regard to the zoning of the area in spite of overwhelming evidence presented by the acting City Engineer that the Malacca Road area, Riverside and Prospect Hall were predominantly owned and occupied by Indians. This cast serious doubts about the sincerity and commitment of the DCC to revising the race zoning of the city in terms of minimum displacement of established communities. There was a lack of consensus within the local power bloc with regard to rezoning. The local state executive was still keen to protect the interests of the white electorate at the expense of Indians.

### **7.3.2 Sydenham Coloured Area**

This complex included the Sparks Road Coloured Housing Estate, with Brickfield Road as its eastern boundary. Outside the housing estate, the area was occupied almost entirely by Indians. In terms of the principle of "zoning by existing racial occupation" and minimum displacement, only the housing estate should be zoned coloured. However, the City Engineer argued that there were special circumstances which favoured the coloured group.

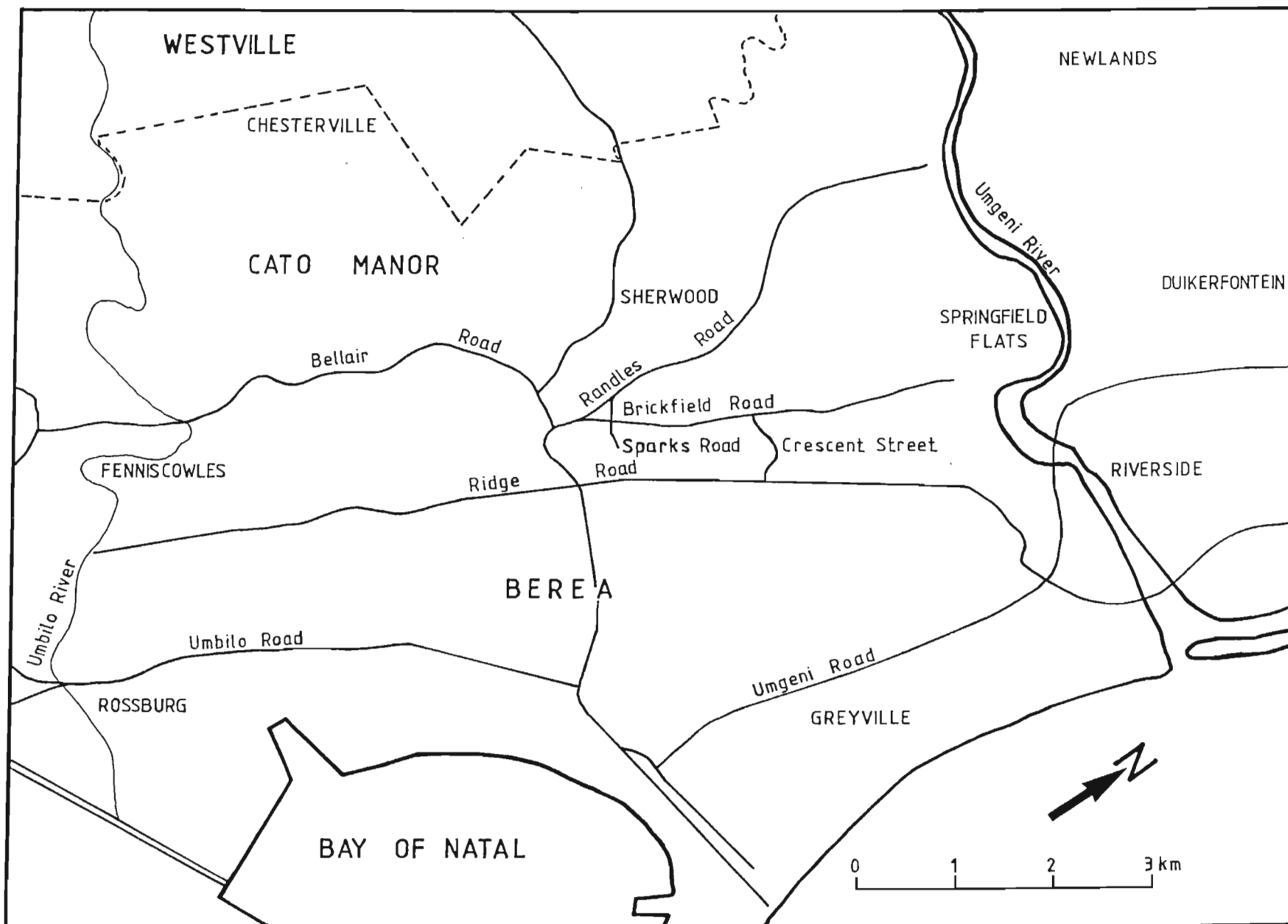


Figure 7.3 The Cato Manor-Sydenham Area

The coloured community was comparatively small in number and there was no area in the City where, by reason of present occupation, they could institute a claim to a group area of adequate size even for the existing population. Therefore, to give them an area of sufficient size for future expansion, there would be some uprooting of other races. Furthermore, it would be preferable to establish such a group area with the Sparks Road Housing Estate as the nucleus, as this was the only developed coloured community in Durban. Indians would be displaced in the process. If coloureds were allocated the area west of Randles Road, 2 430 Indians would have to move, and if this was extended to Brickfield Road (in terms of the DCC's 1952 proposals) 9 580 would be displaced (figure 7.3). Councillor Bolton agreed that there should be some provision for the expansion of the coloured settlement in the Sparks Estate area. However, this should be done with the minimum displacement of Indians. He therefore suggested that the coloured area should expand west of Spark Estate, parallel to Sherwood in such a manner so as to include a corridor linkage with the coloured sports ground in the Till's Crescent area. This was accepted by the Committee.<sup>106</sup> It was evident that the Committee had no hesitation in adopting decisions which would result in the displacement of Indians. The local state bureaucracy and executive appeared to be keen to protect the interest of coloureds at the expense of Indians.

### 7.3.3 Cato Manor

The City Engineer supported the DCC's recommendation of 5 June 1958 that Cato Manor be zoned for Indians, but he had reservations about the boundaries, particularly the eastern one adjacent to the white area, where there was no effective buffer zone (figure 7.3). The area covered 5 535 acres, and had a population of 24 739 Indians, and 183 whites. The rateable value of Indian property holdings was 2 080 690 pounds, and that of whites was 1 575 130 pounds.

Councillor Robinson contended that Cato Manor should remain a white area, and that neighbouring local authorities would object to it being allocated to Indians. Furthermore, the area would ultimately become too small to accommodate the Indian population. Councillor McIntyre argued that Cato Manor would become an Indian island surrounded by European

areas. Indians would eventually spill into the surrounding European areas.<sup>107</sup> Councillor Bolton moved:

That the Council's previous proposal for the racial zoning of Cato Manor be amended to provide for the area being zoned as Indian, subject to the eastern boundary thereof, particularly between Cato Manor and the area west of the ridge, being re-examined and suitably amended.<sup>108</sup>

There was a major division of opinion, and the motion was carried on the casting vote of the Chairman, Councillor Carte.

#### **7.3.4 Main Line Suburbs**

According to the acting City Engineer, the main line suburbs (Rossburgh, Sea View, Bellair, Hillary), were occupied predominantly by whites, except for four pockets of Indian areas (figure 7.4). He proposed that these should form separate group areas. However, he pointed out that it would be difficult to establish clear and definite boundaries. Significantly, the Indian population totalled 5 190, and their property holdings in the area had a municipal valuation of 302 430 pounds. In addition, there were 2 Indian temples, 1 Indian school, and a sports ground. However, the Committee agreed that the area should be zoned for whites.

#### **7.3.5 Crescent Street Area**

The main issue here was the determination of the boundary between the white area east of the ridge, and the Indian area coming up from the Brickfield Road - Springfield area (figure 7.3). The Committee agreed that "the land west of a line running generally along Chapel Street, Crescent Street extending to Hartley Road, should be zoned Indian".<sup>109</sup> This would ensure minimum displacement.



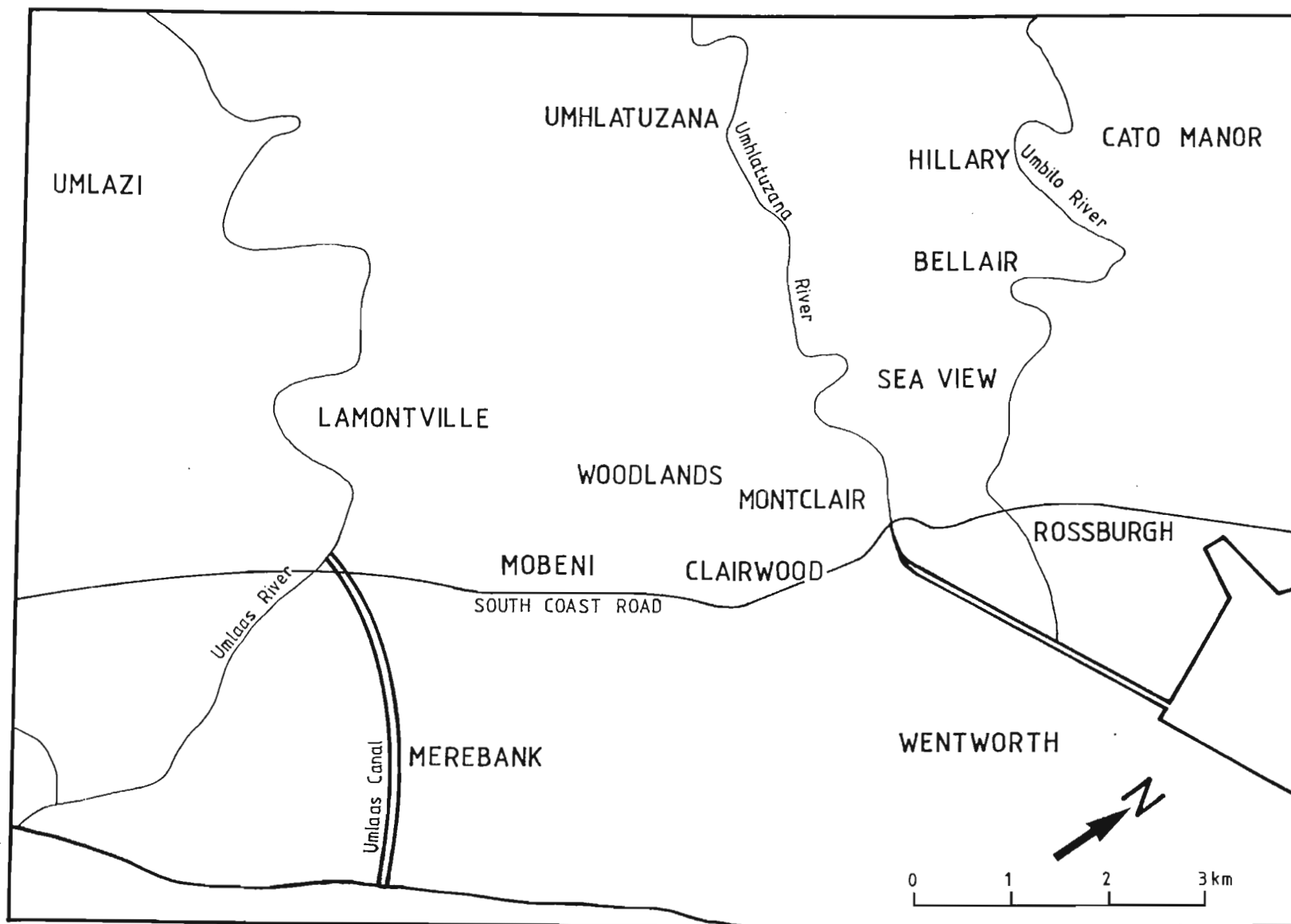


Figure 7.4 The Lamontville-Woodlands Area

### 7.3.6 Lamont - Woodlands Area

The City Engineer expressed dissatisfaction with the zoning of Lamontville for Africans, as this would prevent the development of a cohesive Indian area extending from Merebank-Wentworth to the Umhlatuzana valley (figure 7.4). Under the circumstances, he argued, the zoning of Lamontville for Indians should be considered. There was, however, no support for this suggestion in the Committee. A provincial road was planned from Mobeni to Pinetown. The alternative proposal submitted by the City Engineer was that the area east of the road be earmarked for whites, which would link up with Woodlands, and the area between Lamontville and the road be allocated to Indians (figure 7.4). This proposal was accepted by the Committee. It recommended that the DCC urge the GAB to proclaim the Umhlatuzana valley west of the proposed provincial road as an Indian area.<sup>110</sup>

Reviewing the meeting, Councillor Carte, Chairman of the Committee stated that with the exception of Cato Manor, "there was general unanimity for the proposal to leave existing groups where they were, when this was possible, and to base the setting up of group areas on the existing pattern of racial occupation".<sup>111</sup> However, the Councillors appeared to be afraid to commit themselves to a rezoning of Prospect Hall, Riverside and Briardene, which was imperative if the avowed principle of the existing racial distribution, and minimum displacement, was adopted. The main line suburbs were also zoned in favour of whites. The only concession was the zoning of Cato Manor for Indians, and even this was a close decision (figure 7.5).

Immediately, Europeans in Durban began to clamour for Cato Manor to be retained as a white group area.<sup>112</sup> They had the support of the central state. The Minister of the Interior told Parliament on 10 September 1958 that at the 1953 group areas hearings it was emphasised that Cato Manor "was the main gateway to Durban from the inland and that it had to be kept in white ownership".<sup>113</sup> Tensions between the local state and its constituency, as well as the central state had increased remarkably, and the municipal elections were due in October 1958.

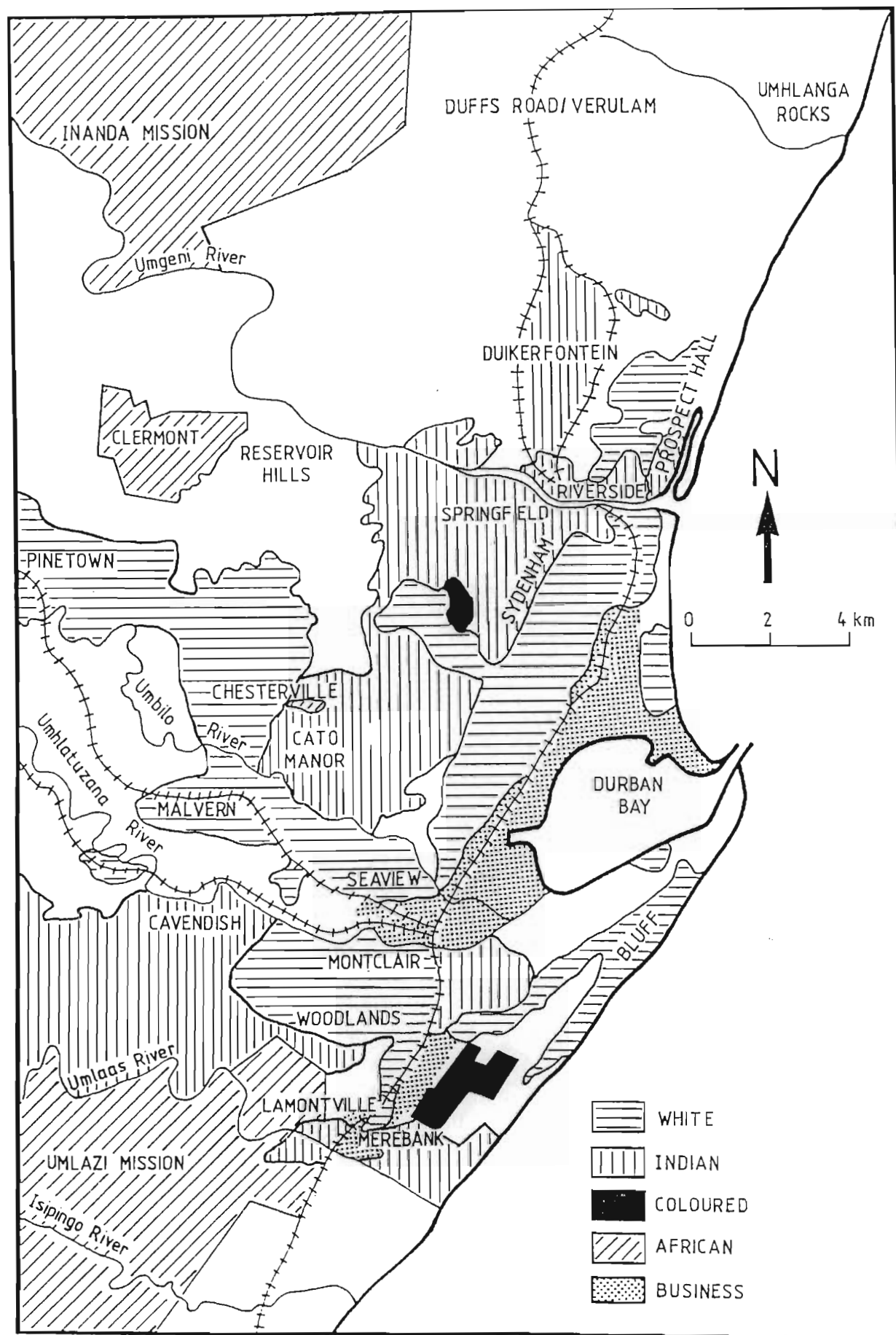


Figure 7.5 The DCC's Compromise Proposals

## 7.4 THE DCC - AN ABOUT TURN?

On 1 October 1958 the composition of the DCC was drastically altered by the white electorate. Eleven of the twelve Councillors standing for re-election lost their seats. Almost all the Councillors who were supporting the call for a revision of the June proclamations lost their seats, including Messrs. Carte, Blakely, Axelson and Bolton, and Mrs. Mary Asher. Many Indians were satisfied that it was the support for fairness taken by candidates in terms of the implementation of the GAA that sealed their fate at the polls. If true, according to The Leader, this reflected the bigotry of Durban Europeans and the covetousness with which they viewed Indian-occupied areas.<sup>114</sup>

The new Mayor, Mr. Ted Shaw stated that he would work in the interests of all the citizens of Durban, including Indians. Referring to race zoning, he stated that the Government had always stressed that the GAA would be implemented with justice, and the DCC expected this commitment to be honoured. He gave the assurance that the DCC would "never be a party to the displacement of settled communities without suitable and possibly better accommodation being available".<sup>115</sup> There was, however, a total change in the composition of the PDCC, which was directly involved in making recommendations with regard to group areas. Mr. Percy Osborn was appointed as Chairman of the PDCC. Clairvoyant powers were not required to forecast the future. Referring to Mr. Osborn, The Leader maintained that

Indians do not have much faith in his conception of justice and many regard him as a Nationalist sympathiser. As if to confirm these fears, Mr. Osborn, immediately after his appointment as chairman of the Council 'cabinet' declared that he stood by the June 6th proclamations ... The question now ... is whether there will be sufficient support in the new Council for the Planning and Development Committee's recommendation that the proclamations be altered in order to alleviate the fantastic sufferings that these have already imposed upon thousands of Indians.<sup>116</sup>

These fears were to be realised sooner than most people realised. At a special meeting of the Planning and Development Committee held on 10 February 1959, the Chairman, Councillor Osborn emphasised the exigency for the DCC to reach finality with regard to the city's race zoning. He contended that the GAA had been designed to benefit all groups in the community. He argued that maximum benefits for all groups would be best realised by

adherence to the Council's 1952 racial zoning proposals.<sup>117</sup> Given the seriousness of the issue and its implications, Councillor Panavoka moved:

That, having regard to the joint and interlocking responsibility of Parliamentary, Provincial and Municipal representatives for the present and future welfare of Durban and all its peoples, this meeting requests that a convention be arranged consisting of all Members of Parliament, Members of the Provincial Council and City Councillors representing Durban, for the purpose of studying, considering, adopting and supporting a final group areas plan for Durban.<sup>118</sup>

The motion, however, was defeated. This was largely because the majority of the newly elected Councillors supported the DCC's 1952 group area proposals, and hence did not see the need for a comprehensive review.

Councillor Osborn strongly supported Cato Manor being zoned for whites. He argued that it was not suitable for Indian occupation as it was surrounded by European areas, and problems could arise if the Indian population expanded to the extent whereby the area would be unable to contain it. According to Osborn this could result in the area for Indian occupation being increased or they would be forced to move out of this area. However, this would be avoided if the proposed areas zoned for Indians to the north and south of the city were developed. There would then be a "voluntary movement of Indians from Cato Manor ... as it would be in the interests of the Indians concerned to move to these areas where greater amenities could be provided".<sup>119</sup> Councillor Osborn moved the following resolution which was accepted almost unanimously by the Committee - that with reference to the Council's resolutions of 5th June 1958:

- i) This Council reaffirms its conviction that, in the present state of the peoples who comprise their City's population, the implementation of the policy of residential segregation is necessary for the preservation of the comfort and happiness of this City's people and the avoidance of racial friction and disharmony;
- ii) Pursuant to that policy, this Council accepts that the proclamation of the Cato Manor area as an area for eventual White occupation (with no compulsion upon other races to remove therefrom until alternative accommodation is available) is in the best interests of this City; and
- iii) Representations be made to the Government for an assurance (entrenched in amendments of the present legislation) that persons who are compelled to dispose of property, in consequence of its inclusion in a group area for another group, will be paid a fair price therefor or will be adequately compensated for any loss they would otherwise suffer.<sup>120</sup>



The endorsement of the 1952 plans elicited strong protest from both Indians and whites. The Sponsors Committee (convener of the mass meeting in June 1958 to protest against group area proclamations) requested to address the meeting of the DCC where the proposals of the PDCC would be discussed. It was also proceeding to challenge the June 6 proclamations in court. The mass petition to Parliament was given an impetus, and an attempt was made to canvass every area in the city. The different ratepayer organisations flooded the DCC with requests that the June 6 proclamations be repealed. If the 1952 proposals were accepted, it was suggested that the Indian members of the Advisory Committee of the DCC should resign.<sup>121</sup>

Significantly, there was strong white opposition to the recommendation that Cato Manor should be zoned for Europeans. Led by Roman Catholic Archbishop Hurley, concerned whites formed a 'Citizens' Committee' which convened a mass meeting that was attended by more than 2 300 whites on 23 February 1959. In his address to the meeting, Archbishop Dennis Hurley stated that removal of Indians out of Cato Manor was morally indefensible, and was tantamount to 'legalised pillage'.<sup>122</sup> The Archbishop stated that it was dangerous "to play with justice, to tamper with human rights, and to make those human rights the prerogative of a white skin and not of the human person".<sup>123</sup> Responding to Councillor Osborn's view that allocation of Cato Manor to Indians would result in overcrowding, and subsequent spillovers into surrounding white areas, he said:

Who wants to make Cato Manor the only place where Indians can live? Is the City Council to abdicate all control over the place so that house can be piled on house, family on family, till the volcano erupts and Indians flow like lava all over Bellair, Sea View, Rosburgh, Umbilo, Manor Gardens and Glenwood? Let us not be deceived by talk of blocked concentrations and racial concentrations building up to bursting point. These are false images designed to confuse rather than clarify.<sup>124</sup>

Mr. A. Goldberg, a former Durban MP, maintained that the civic morality was being tested, and questioned whether the DCC would take similar arbitrary action against whites:

If, as we have been assured, there is to be no greater sacrifice demanded on one racial group than of another, the basis of that testing can readily be determined. Would we demand of Europeans the same sacrifice that some would seek to impose on Indians? If the Council proposed to do to 25 000 Europeans in the whole of Durban what is being required to do to at least that



number of Indians in Cato Manor alone - it would not last 5 minutes. And the Councillor in the forefront of such a move would be the first to go.<sup>125</sup>

He further emphasised that Durban did not only belong to those who had the vote:

It belongs to all of its citizens, all who have taken a root here, who have established their homes, who by their toil earned their daily bread, who are happy to share the burden if not all of the privileges of citizenship ... We as part of the general community pray that our City Council will not sully the fair name of this City and that it would refuse to lend itself willingly to the perpetration of rank injustice against those whose cardinal sin is that they were not born white.<sup>126</sup>

Mr. R.A. Carte, former Mayor and chairman of the Planning and Development Control Committee, argued that Cato Manor should be allocated to Indians for the following reasons:

- i) It was predominantly occupied by Indians.
- ii) The area had been promised to Indians.
- iii) Cato Manor was ideally suited for an Indian township, without in any way being detrimental to European interests.
- iv) The ratepayers of Durban could not afford to pay for the displacement of Indians from Cato Manor.
- v) The Duffs Road area which had been allocated to Indians in 1952 had been zoned for Natives.
- vi) It was impossible to provide alternative accommodation for the Indians who would be displaced, and very little progress had been made over the past eight years.<sup>127</sup>

The meeting unanimously endorsed the following resolution:

This meeting of the citizens of Durban regards the ultimate removal of Indians from Cato Manor as morally indefensible and as imposing an intolerable financial burden beyond the resources of the City, and calls upon the City Council to do everything possible to prevent this grave injustice.<sup>128</sup>

The 'Citizens' Committee', requested the Mayor to call a meeting of citizens of Durban to consider the above resolution. However, Mayor Shaw refused to accede. According to The Leader it was "the first time that a Mayor of Durban refused to bow down to the wishes of the citizens".<sup>129</sup> The concern expressed at the meeting was regarded as a "reflection of the

opinion of the great majority of Durban's European citizens", and it was envisaged that it would "eventually find voice in the DCC, in the form of the return to the City Council's resolution of June 5, 1958".<sup>130</sup> Mr. C.F. Clarkson, a former Minister of the Interior, revealed that as early as 1946 the DCC had given the Government an undertaking that Cato Manor had been set aside as an Indian area. Furthermore, in terms of the Ghetto Act of 1946, the DCC had set aside Cato Manor for Indian development and occupation.<sup>131</sup>

Under the circumstances, The Graphic questioned:

Can the DCC now deny that Cato Manor was set aside for Indians and promised for the Indians? The evidence weighs heavily and solidly against them. Is the City Council now deciding to break the previous promises and pledges given? ...

There is evidence - incontrovertible evidence in abundance, if evidence be needed of the blatant dishonesty of the DCC over a number of years as far as Indians go ... Despite the DCC's failure to play the game with the non-white population, the DCC must not be allowed to get away from its promises and pledges in respect of Cato Manor ...

The all white City Councillors ... if they are to remain honest and true to the previous pledges and undertakings given, and true to their own convictions of fair-play and justice have only one decision to make and that is - CATO MANOR SHOULD REMAIN INDIAN.<sup>132</sup>

Commenting on the Citizens' Committee meeting, The Graphic maintained that for the first time in the history of Durban white conscience had been stirred into mass action and protest against the immoral and impartial treatment of voteless and voiceless blacks. It expressed the hope that this was the forerunner to the establishment of more harmonious race relations based on justice and fair play.<sup>133</sup> While welcoming the Citizen's Committee, the NIC stated that it did "not go far enough".<sup>134</sup>

The protest organised by the Citizen's Committee had an impact on Councillor Osborn and the DCC.<sup>135</sup> He said that it was gratifying to see the interest expressed by citizens "in the operation of the GAA and with particular reference to Cato Manor". He emphasised that Councillors had voted against the whole of Cato Manor being zoned for Indians, and implied that there would be no objection to part of the area being allocated to this group. Ironically, he argued that the zoning of Cato Manor for Indians or the exemption of the operation of the

GAA in Durban "would eventually bring greater misery and unhappiness to the Indians than the proposals of the PDCC".<sup>136</sup>

The DCC was to consider the proposals of the PDCC's proposals for the zoning of Cato Manor on 2 March 1959. On 1 March 1959 a mass meeting of 5 000 Indians from Cato Manor and surrounding areas called upon the DCC "in the name of 'human decency, fair play and justice' to adopt today a decision which would prevent the uprooting of a large settled community in Cato Manor".<sup>137</sup> The meeting urged the DCC to request the government to deproclaim the area, and expressed concern at the PDCC's decision to endorse the June 1958 proclamations. The meeting declared that the proclamation of Cato Manor for whites would result in a

gradual but sure ruin of our people and their eventual banishment from an area occupied by them and their forbearers for generations ... It can only cause hardship and suffering to our voteless community which faces the problem of acute housing shortage, unemployment, poverty and lack of schools.<sup>138</sup>

The strong European protest against the DCC's plans for Cato Manor had an impact on the Council. At the meeting on 3 March 1959, the DCC seemed reluctant to make a definite decision with regard to the zoning of Cato Manor. Percy Osborn stated that the Council should be cautious and not take any decision with undue haste. He stated that "our highly paid and competent experts" would advise Councillors about technical details of the problem. Councillor Williamson replied that the June 1958 decision was based on expert opinion - that of the City Engineer. He urged the Council to support the 1958 resolution, and to declare once and for all, that Cato Manor would be allocated to Indians. The DCC did not accept the recommendation of the PDCC, and resolved that the matter be referred back so that further consideration could be given as to whether Cato Manor should be zoned for whites, or whether that part which was owned and occupied by Indians should be zoned for this group.<sup>139</sup>

However, this action was inadequate in itself. The DCC needed to give the Committee some directive, like accepting the June 1958 decisions. The 'refer back' was regarded as a procedural manoeuvre used by the DCC to temporarily shelve the issue, so as to avoid taking a decision on the merits of the case. The Leader warned that the 'refer back' trick had been

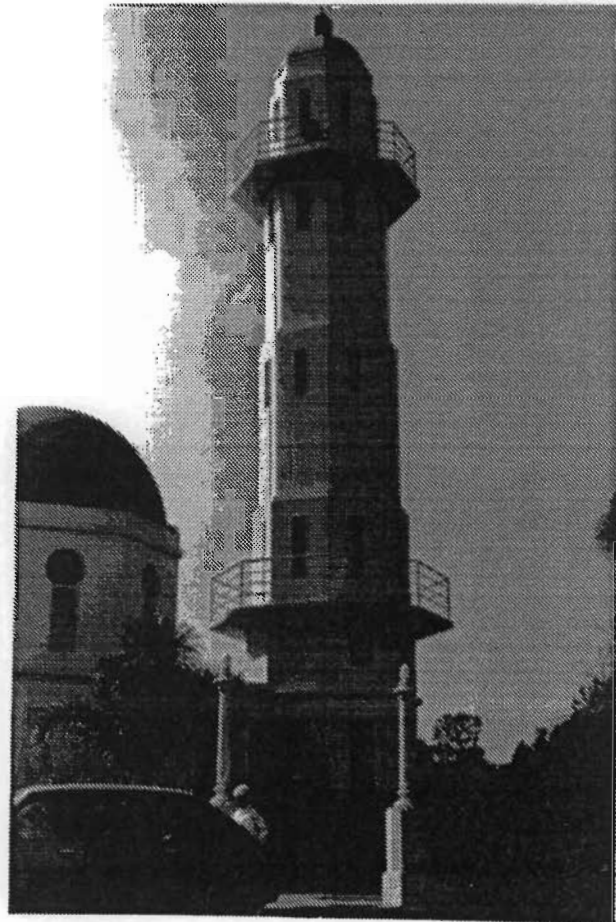
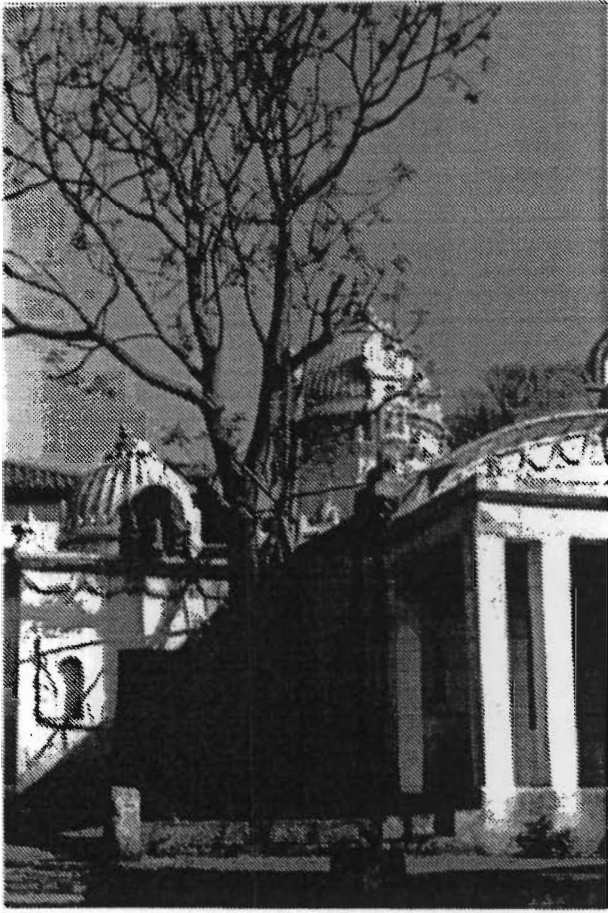
shamelessly employed by the Council to overcome public protest and public opinion rallied against their obnoxious schemes ... The City Council's refusal to take a decision is in some ways worse than taking a decision that Cato Manor shall be white. ... The Citizen's Committee is wise to keep a vigilant eye. It has done a gallant piece of work and were it not for the hue and cry which they raised, Councillor Osborn and his colleagues would have got away with it.<sup>140</sup>

The languid attitude of the DCC towards the rezoning of Cato Manor was proven two months later. On 12 May 1959 a special meeting of the PDCC to discuss the Cato Manor issue had to be abandoned because only nine out of thirty Councillors attended. Such an event was unprecedented and showed disrespect for the accountable positions Councillors held, represented a dereliction of duty on their part, and revealed their contemptuous attitudes towards matters which affected Indians. To The Leader it was apparent that "most City Councillors do not care a 'damn' as to what happens to the Indians in Cato Manor".<sup>141</sup> As a compromise, the DCC considered the possibility of dividing Cato Manor between Indians and whites.

## 7.5 THE FAILURE OF COMPROMISE

On 26 May 1959, the PDCC recommended that Cato Manor be divided between Indians and whites. In terms of this decision a quarter of Cato Manor (1 300 acres out of 5 000), was set aside for, and expected to accommodate, 48 000 Indians.<sup>142</sup> The proposals were advanced by the Committee "without the publication of any figures concerning population, land ownership, population displacement, or community amenities affected by the proposal".<sup>143</sup> The City Engineer estimated that the population in the Indian zone was 15 000.<sup>144</sup>

The proposed Indian zone of 1 300 acres constituted less than half of the Indian owned land in Cato Manor. The area was densely populated, with little room for further development and expansion. Furthermore, a vast section of Indian owned property which was capable of providing for future needs was excluded from the proposals. In addition to the population dislocation, loss of land and homes, the Indian community would also lose important business and community amenities, such as schools, places of worship (figure 7.6),<sup>145</sup> factories and



**Figure 7.6 Religious Amenities in Cato Manor**

welfare organisations (table 7.1). There was no financial formula which could compensate communities for loss of these important amenities.<sup>146</sup> According to the DCC the Indian population of Cato Manor was 25 000, and the latest plan would displace about 10 000. According to the Daily News these figures, however, were outdated, and unofficial estimates indicated that the population was about 40 000, and in terms of this 10 000 Indians would be displaced. These facts proved that the proposal of the PDCC was unrealistic, unfair and inadequate.<sup>147</sup>

The SAIRR suggested that the Indian zone should be expanded to include all areas owned and occupied by Indians in Cato Manor, and this could be realised without prejudicing the interests of other groups. This would be in keeping with the DCC's policy of minimum displacement of settled communities, which was adopted on 5 June 1958. Furthermore, the DCC was urged to consider the acute Indian housing shortage, which would be exacerbated by the GAA proclamations, and the cost of implementing the Act, which would have to be borne by the Council and its ratepayers.<sup>148</sup> The plan was also opposed by the central state<sup>149</sup> as well as the Indians of Cato Manor.



Table 7.1 Community Amenities in Cato Manor<sup>150</sup>

Amenities	Indian Zone	Outside Indian Zone
Schools	7	4
Places of Worship	12	4
Sports Grounds	0	1
Cemeteries	2	2
Crematorium	0	2
Business Establishments	90	25
Factories	11	4
Garages	3	1
Welfare Organisations	80	40
TOTAL	205	83

The Cato Manor Co-ordinating Committee (CMCC)<sup>151</sup> contended that this proposal was absurd, totally unacceptable and a grave injustice to the settled Indian community in Cato Manor. In a letter to the Town Clerk, Mr. Sooboo Rajah, Secretary of the CMCC, maintained that the DCC perpetrated the greatest crime against its citizens in 1952 when it acquiesced to the demands of the Minister of Native Affairs, Dr. Verwoerd, that Cato Manor be set aside for whites, in return for financial assistance from the central state. This resulted in

the greatest tragedy yet suffered by a law-abiding and ratepaying Indian community which was to a very large extent responsible for the development of the Cato Manor area, and it was as a result of this development that the Council incorporated the area in 1932.

Ever since incorporation the City Council has ruthlessly pursued a policy of molesting Indian land owners, expropriating large tracts of land for the purpose of carrying out some of their schemes.

By their persistent actions, the City Council has shown scant regard for the property rights of the Cato Manor Indians. As a result of the encouragement given by the City Council, the State has made it as its policy to change the present racial character of Cato Manor.<sup>152</sup>

Mr. Rajah contended that the PDCC would not be able to present an acceptable proposal to resolve the Cato Manor issue as long as it refused to "recognise the rights of Indian property owners and the hardship, misery, unhappiness and economic ruination that they would have to face if and when they are uprooted from their settled homes".<sup>153</sup> The DCC had a responsibility to remedy the breach of faith against the Indian community. In fact it was the only body capable of resolving the issue, and if it adopted a bold stand in support of Indians, a great service would be rendered to the city.<sup>154</sup>

The CMCC maintained that Indians were always called upon to make sacrifices in terms of the GAA, and it was callous to demand further sacrifice from them as envisaged in the new plan. It appealed to the Mayor to reject the recommendation because it was unfair towards one section of the city's population. Furthermore, the CMCC argued that it would be sinful for the DCC to consider such a vital issue without giving the Indian ratepayers a chance to place their case before the Council.<sup>155</sup>

The Mayville Indian Ratepayers Association (MIRA) made a similar call to the DCC to give the affected community an opportunity to present its case. It maintained that City Councillors should make decisions on the basis of fair play and justice, and not support proposals which would increase social strife and conflict. According to MIRA it would be absurd if the authentic claims of Indians were ignored. The MIRA maintained that ultimately it was the DCC's responsibility to alleviate the problem:

We have hitherto done everything to win the sympathy of the City Council and Councillors by making approaches to them in a peaceful and humble manner for our just cause. However, my Association will continue to look upon the City Council to remedy the breach, which it had wrongly committed against the interest of the Indians to whom it is morally obligated. We ask the City Council to take a bold stand on behalf of the Indians and give them the security to which they are entitled and let them live in peace in Cato Manor which was to a large extent developed by the Indians. It is the prerogative of the City Council to take such a stand, if it did so it would add immeasurably to the greatness of this fair city.<sup>156</sup>

The Citizens' Committee was disappointed with the proposal to divide Cato Manor because it did not offer sufficient relief or security to Indians. Furthermore, it was unlikely that the plan would be accepted by the GAB because the limited size of the area may lead the Board

to regard it as an "'Indian pocket' in what might have been an area of substantial development".<sup>157</sup> The Citizen's Committee urged the DCC to give serious consideration to the following:

- i) Justice and equality to all race groups in Durban.
- ii) Implementation of the Council's policy of 'minimum disturbance of settled communities'.
- iii) The possibility of significantly increasing the area for Indian ownership and occupation in Cato Manor.
- iv) The future needs of a growing Indian population, as well as the already acute Indian housing shortage, which was compounded by the 1958 proclamation.<sup>158</sup>

Some Durban City Councillors also objected to the Cato Manor re-division plan. Councillor George Willis described the plan as a "compromise on a compromise".<sup>159</sup> An alternative, more realistic proposal which envisaged 3 000 acres at Cato Manor being zoned for 23 000 Indians, and a displacement of about 2 000, was presented by Councillors J.J. Higginson, A. Moelwyn-Hughes, and B. Kerdachi, but this was rejected by the DCC.<sup>160</sup> Councillor C.D. Frolick argued that "moving the Cato Manor problem - out of sight - to Umhlatuzana would not solve it but merely replace it with what could be an even bigger problem". It would be far more economical to improve the existing conditions in Cato Manor and accept it "once and for all as a healthy and well adjusted part of the city".<sup>161</sup>

On 2 June 1959 the DCC accepted the proposal of the PDCC that a portion of Cato Manor which was predominantly Indian owned and occupied be zoned for this group. This would require an amendment of the proclamations of June 1958. The DCC agreed that representatives of the City Council meet the GAB in order to discuss the amendment.<sup>162</sup> Percy Osborn believed that the GAB was unlikely to accept the DCC's proposal because the Board had sat for months and considered comprehensive evidence. "The crucial point is that we should prove to the Board that it was wrong in accepting those original proposals. I do not believe we could do that".<sup>163</sup>

A conference on 'Group Areas, Housing and Franchise' convened by the Durban Combined Indian Ratepayer's Association on 25 October 1959, noted with regret that in spite of "united representations from the Indian and other interested groups, the Minister has up to now failed to take any steps to deproclaim the areas where Indian ownership and occupation has been so seriously affected".<sup>164</sup> The strategy adopted by the conference to oppose the GAA was very similar to that of the Sponsors Committee in June 1958, and was, to a certain extent, rhetorical. It resolved to:

- i) Submit a memorandum to the Minister of the Interior, the GAB, and the DCC objecting to proclamations in Durban, and calling for the de-proclamation of all areas where Indian occupation and ownership was affected.
- ii) Interviews would be sought with these three bodies in order to explain and elaborate on the objections contained in the memorandum.
- iii) Ratepayers, residents and property owners in affected areas would be mobilised to oppose implementation of proclamations which would result in the dispossession of their homes and livelihood.
- iv) The assistance of other organisations and individuals, white and non-white, would be sought in this struggle.<sup>165</sup>

At its 12th Annual Conference in October 1959, the NIC rejected the compromise proposals of the DCC. According to the NIC these proposals only requested an amendment to the proclamation which would apply to one third of Cato Manor, which in any case was to be expropriated by the DCC for the purpose of Indian housing. Hence the original owners and occupiers would still be forced to move. The NIC argued that the GAA and its proclamations should therefore not be opposed on a piecemeal basis. This was why the Congress "consistently pursued a policy of total opposition to this Act and campaigned for its repeal".<sup>166</sup> The NIC maintained that the DCC could not disclaim responsibility for the GAA as it had been an accomplice of the NP in the formulation of the legislation.<sup>167</sup> It called upon the DCC and the Government "to leave the people of Mayville and Cato Manor in their homes and in their businesses and to provide civic amenities without discrimination as to race or colour".<sup>168</sup> Rhetoric continued to dominate the NIC's opposition to the GAA, and this was evident from the following extract from its 12th Annual Conference:

It is our duty to rally all our people, businessman and worker alike, property owner and tenant, nay each and every individual in our community to fight tooth and nail against this naked and ruthless robbery and eviction of our people from the City of Durban which the authorities want to recreate into an exclusive white utopia. It is, too, our task to muster the greatest amount of co-operation united action possible from all sections of the Durban population in the struggle to defeat the Group Areas and its implementation...

It is ... incumbent on us to stress that our struggle to fight injustice is largely with the people themselves. It is they who must bear the brunt of the fight to win our legitimate rights, and it is they who suffer the burden of the hardship and suffering that is heaped on them daily from the mounting pieces of apartheid legislation. Our campaigns to mobilise the fullest participation of every single person in the struggle to defend our homes must be redoubled in the ensuing year.<sup>169</sup>

In October 1959 there was a further change in the local politics of Durban. Councillor C.A. Milne, a progressive, was elected as Mayor of Durban. At his induction ceremony, Mayor Milne recalled Dr. Donges' assertion that the GAA would be 'administered with justice', and stated that the DCC expected the Government to adhere to this stated policy. He gave the assurance that the DCC would "never be a party to the displacement of settled communities without suitable and possibly better accommodation being made available".<sup>170</sup>

Mayor Milne was aware that Indians were experiencing severe difficulties in obtaining building and occupation permits and were living under conditions of great insecurity. He acknowledged that this state of affairs was largely attributed to the GAB and the DCC. He gave a pledge that the DCC would do everything in its power "to eliminate the difficulties experienced by the Indian community of Durban in acquiring permits for business and residential purposes from the GAB".<sup>171</sup>

The election of Councillor Milne as Mayor was welcomed in Indian circles, where it was viewed as a "sign of the resurgence of liberalism in the DCC".<sup>172</sup> The Graphic maintained that the development of a more progressive City Council was significant, and expressed the hope that this would contribute to the solution of many serious problems, as well as pave the way for more harmonious race relations in the city.<sup>173</sup> The Graphic welcomed the assurances of Mayor Milne:

For the first time comes a sincere and spontaneous assurance from the First Citizen of the City of Durban, that he and his Council would never be a party

to the uprooting of settled communities, unless suitable and better accommodation was made available to them. These are indeed brave words, for we are fully aware that there are some members in the Council, who are not in the least concerned as to what happens to the non-white people of Durban, for they are only in the Council, voted into power by the White electorate, to protect and maintain the supremacy of the White skinned group.<sup>174</sup>

According to the NIO, Councillor Milne had always sympathised with the aspirations of Indians, and as Mayor he was likely to be more influential in this regard. Its President, Mr. P.R. Pather said that the DCC had used Indians as a political football. It was high time that the uncertainty associated with the GAA was eliminated, and the promises made by the DCC to the Indian community were honoured:

The Group Areas proposals as they affect the Indian people have been swinging like a pendulum and the time has arrived for the Councillors to take a determined stand against thousands in our community being sacrificed ... Too long have the Indian people suffered as a result of power politics in the Council. But for the power politics which have used the Indian as a pawn in the game, there could not be that uncertainty exercising the minds of our people. A considerable progress has been made recently in the revision of the Group Areas plans, and it is hoped that the promises that have been made to the Indian community would be kept. Too often have we seen that promises are made only to be broken.<sup>175</sup>

However, the central state was not impressed with developments in Durban. On 20 February 1959, the Minister of the Interior, Mr. J.F. Naude said in Parliament that "as Cato Manor had already been proclaimed a group area for whites, he was no longer called upon to give a decision on the matter".<sup>176</sup> He acknowledged that because of delays in the implementation of the GAA, and with changes in the composition of the DCC, the government was not receiving the co-operation of the Council. However, the Government made it clear that it would enforce its version of race zoning, with or without the co-operation of the DCC. Minister Naude, stated that in Durban there had been

various municipalities from time to time; some of the municipalities have been co-operative. But, unfortunately, on account of these delays, by the time we got to the stage where we could, perhaps, carry on, a new municipality had been elected and they simply go to the other extreme and refuse any sort of co-operation with the GAB ... If we get the support of the municipality, we shall be pleased ... but if not we shall simply carry on without it.<sup>177</sup>



As a result of intense opposition from municipalities, spearheaded by the DCC, the Minister of the Interior withdrew the proposed amendment which imposed financial responsibility for the implementation of the GAA upon local authorities. However, he emphasised that he would re-consider the amendment if local authorities impeded the Government in the implementation of the GAA. Furthermore, he argued that local authorities, like Durban, were aware that they would have to finance the implementation of the GAA.<sup>178</sup> Mr P.W. Botha, the Deputy Minister of the Interior, stated that it would be unfortunate if the GADB was forced, out of necessity, to take over the functions of local authorities with regard to the implementation of the GAA.<sup>179</sup> The increasing tensions in central-local relations, and the implications of the delay in reaching finality with regard to the racial zoning of Cato Manor is aptly captured in figure 7.7.<sup>180</sup>

On 15 January 1960 a deputation from the DCC led by Mayor Milne met the GAB in Pretoria to discuss the deproclamation of a portion of Cato Manor for Indian occupation, and to request the 'unfreezing' of the issuing of permits to Indians in the Indian areas of the city. The Board's refusal to grant permits in proclaimed Indian areas had frozen all development in these areas. The Leader supported the DCC's call:

May we take this opportunity of making an earnest appeal to the GAB to agree with the limited request of the DCC? It would be in the nature of such a gesture which would find a ready response from a community which has given up all hope of ever getting justice and fair play under the GAA. May we have an assurance from the board that there is still some hope of fair play and decency in the working of the GAA?<sup>181</sup>

However, the GAB rejected the DCC's appeal. This decision was criticised by whites and Indians.

According to the SAIRR, the "Board's decision was made in complete disregard of the views and wishes of all sections of the citizens of Durban and despite the earnest plea of the DCC".<sup>182</sup> Councillor H.W. Higginson stated that there would be no removals from Cato Manor as there was no alternative accommodation for those who would be displaced. In addition, the DCC was trying to handle a backlog of 25 000 houses for Indians. Furthermore, the Indian population would double in the next 17 years and it would therefore be impossible for "anyone to shift the Indian people without creating fresh and difficult problems".<sup>183</sup>



Figure 7.7 'Time Keeper'

Councillor Williamson argued that the whole of Cato Manor rightly belonged to the Indians, and "they must be given the whole of the area, and not a part of it".<sup>184</sup>

The Daily News editorial echoed the concerns of Indian organisations that the GAB's decree was financially, materially and morally bankrupt:

The edict is totally unreal: it bears no relevance to the true needs of the Indian people, it is physically impossible and financially back-breaking, and it ignores two aspects that come down to individual wish: the Indians will be loth to move out and Europeans will not want to move in ...

Finally, and most important of all, not one moral judgment can be advanced for depriving settled people of their land, their homes ... The DCC must make it clear to the Government that it wishes to have no part in an undertaking which cannot be justified on any grounds.<sup>185</sup>

The NIO contended that the GAB's decision sounded a death knell over all Indian settlements in Durban, and made a mockery of Government assurances that the GAA would be implemented fairly:

It is no exaggeration to say that the fate of practically every Indian property in the city of Durban is sealed.

Whatever assurances the Minister had given the Indian people, were merely to lull them into a false sense of security ...

The Indian people will go on fighting in the full knowledge that injustice is only shortlived and cannot endure.<sup>186</sup>

In a letter to the Chairman of the GAB, the MIRA asserted that it was difficult to understand how an established community of more than 40 000 Indians could be uprooted from Cato Manor without social and economic hardships. An appeal was made to the GAB to institute a re-hearing in respect of the Cato Manor area. It was pointed out to the GAB that Indians were largely responsible for the development of Cato Manor, as a result of which the area was incorporated by the DCC in 1932. The Association maintained:

There is no valid reason as to why Cato Manor should now be given to the Europeans at the expense of the suffering Indians, and the Europeans are not interested in occupying that part of Cato Manor which is predominantly occupied by Indians. We emphatically state that beyond doubt and in every respect there is a logical case for Cato Manor to be left undisturbed and for the status to be maintained.<sup>187</sup>



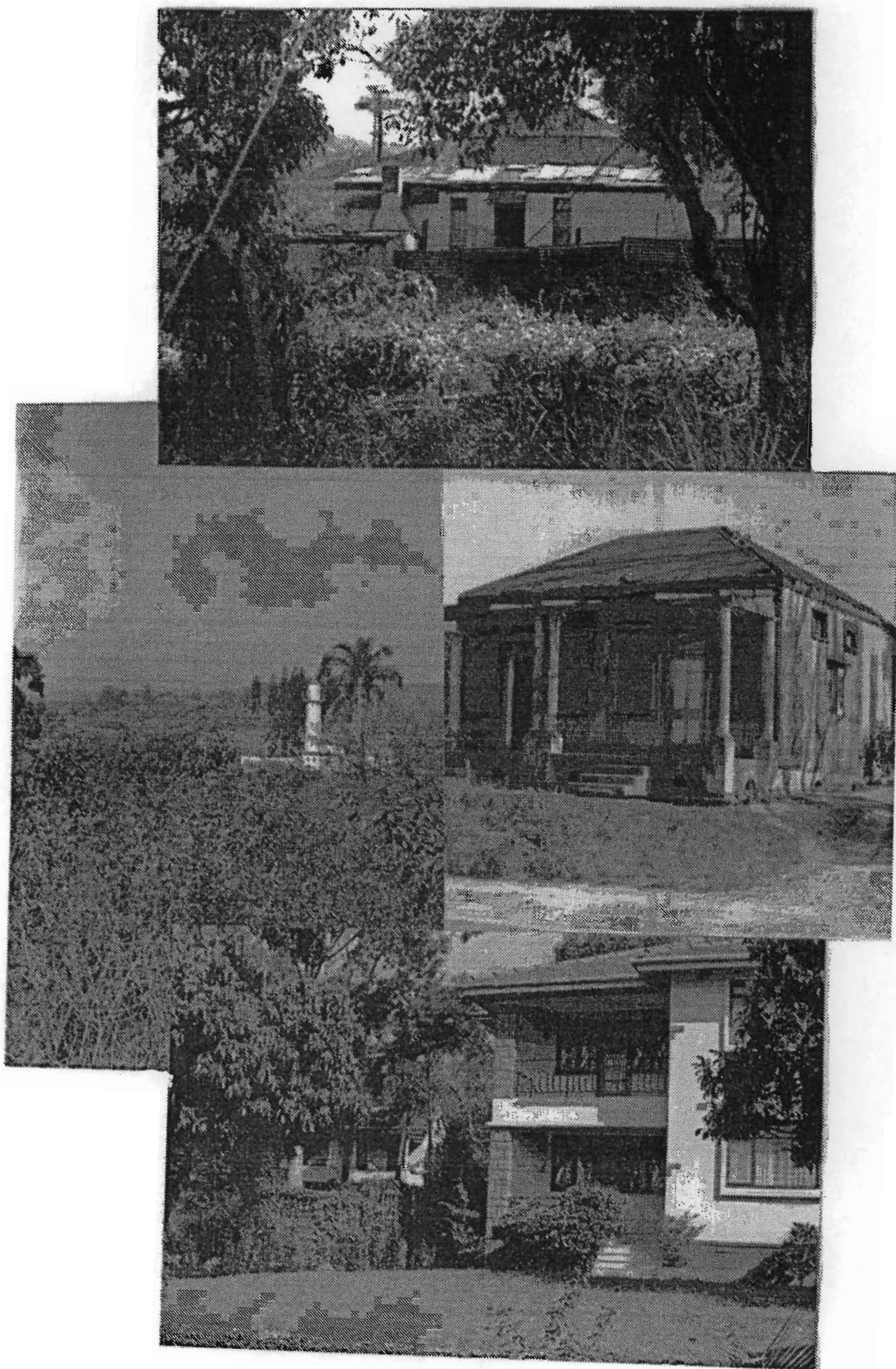


Figure 7.8 Fragments of Cato Manor

Instead of engaging in a 'colossal undertaking' of uprooting 40 000 settled Indians, the MIRA believed that the DCC and the Government should establish a model township in Cato Manor with all the essential amenities.<sup>188</sup> Meanwhile, given the uncertainty of its racial zoning, the Cato Manor area was rapidly deteriorating (figure 7.8).<sup>189</sup>

The NIC maintained that Durban could not be reserved for whites, and appealed to all people with a conscience to "voice their protest against the damage and destruction to homes, businesses and livelihood that is taking place under the GAA".<sup>190</sup> Mr. N.T. Naicker, General Secretary of the NIC, complemented the Indian community for not co-operating with the GAB or the local authorities as they attempted to apply the GAA: "We have correctly refused to be partners in our own ruin and liquidation".<sup>191</sup> The DCIRA stated that the GAB's decision was cruel and unjust, and revealed what was in store for voiceless Indians.<sup>192</sup>

The Leader viewed the Cato Manor issue as a test of the Government's credibility in administering the GAA with fairness and justice. It argued that it was evident from the GAB's rejection of the DCC's compromise plan that "fairplay and justice are foreign to the very concept of group areas".<sup>193</sup> The Leader also lamented the futility of protests, appeals and deputations, as well as the dearth of responsible leadership and guidance:

Protests, appeals and deputations have failed to soften the Government. There are to be further protests and meetings, and a belated appeal to the courts. But the fate of the Indian people has been sealed so far as group areas go. It is the task of responsible leadership to devise ways and means of stopping this rank injustice from coming to pass.

It is not too late, and Indian leaders in particular, may well ponder and ask themselves 'what would Mahatma Gandhi have done in such circumstances?'<sup>194</sup>

Preparations were underway to challenge the validity of the 1958 proclamations in the law courts. Mass protests meetings were planned by the NIC and the DCIRA. In March 1960 the MIRA made further representations to the GAB to prevent the uprooting of settled communities in Cato Manor. The GAB replied that it was not prepared to re-open the Cato Manor issue, and affirmed its 1958 decision that the area was zoned for white ownership and occupation.<sup>195</sup> Minister Naude stated that he had been far too lenient and reasonable



towards Indians with regard to the implementation of the GAA, but they merely procrastinated rather than offered concrete proposals:

I have been very reasonable towards the Indians, but I want to say this: I have met deputations from time to time, but they must now understand that I will not allow them to make a fool of me, and I will not allow myself to be used further when it is quite clear that their whole object is to oppose and delay the operation of the Act. The time has arrived to say: No thus far but no further; we shall see that the Act is implemented fairly and justly, but if anyone has to make a sacrifice in the national interest then he has to do it whether he is an Indian or not ... I am tired of these Indians who just want postponements all the time and who never make any constructive suggestions as to what quid pro quo should be given.<sup>196</sup>

Mr. P.R. Pather, President of the NIO, maintained that the Minister was grossly unfair to the Indian community, and his statement was in complete contrast to the spirit and intention of the GAA and the assurances given by Dr. Donges in 1950. Furthermore:

It was wrong to say, as has been alleged by Mr. Naude, that the Indians have not submitted any proposals for the implementation of the GAA. The NIO has all along the line maintained that it is morally wrong to uproot thousands of Indians from their settled areas, and has submitted alternative proposals, aimed at reducing hardship to a minimum, at every hearing of the GAB. But the Board remained adamant.<sup>197</sup>

According to The Graphic, Minister Naude's admission that he was getting tired of Indians, represented an acknowledgement of his incapacity to deviate from his party policy line and to examine the problem realistically. Indians were always seeking interviews with the Minister because they had no other means of voicing their grievances. Also, numerous proposals had been put forward by Indians:

As for the allegation that Indians never put forward any proposals, one of our complaints has always been that a certain section of them put forward too many. There has been no lack of proposals alternative to those of the GAB and of local authorities presented at every hearing; proposals designed to save what could be saved from the wreck which the policy of the GAB has brought on the Indian community.

It is clear to us that we can expect very little from Mr. Naude and much less than many had hoped. It is equally clear to us that all Mr. Naude expects from us is to co-operate in our own ruin ... We would prefer to have him less concerned about our interests, if this is the way he intends to serve them.<sup>198</sup>



In its response, the PDCC suggested that the since the recommendations for the rezoning of a portion of the area for Indians was rejected by the GAB, the Council should "discontinue formulating recommendations to the Natal Committee of the GAB on applications in respect of properties situated in the proclaimed group area of Cato Manor".<sup>199</sup> The proposal was not accepted by the DCC. The PDCC maintained that further representations should be made to the Minister of the Interior with regard to the Cato Manor issue. The DCC resolved that a deputation, including Mayor Milne, interview the Minister of the Interior with regard to the rezoning a portion of Cato Manor for Indians.<sup>200</sup> The deputation was also requested to discuss with the Minister the issue of the refusal by the GAB to grant permits and determinations which were recommended and approved by the DCC.<sup>201</sup>

The MIRA made an earnest appeal to the DCC to make a strong case for the Indian ratepayers of Cato Manor when its deputation met Minister Naude:

... we plead to you to appeal to the Minister of the Interior to settle the Cato Manor issue once and for all in favour if the Indians; unless something is done immediately the Cato Manor Indians will be facing a serious crisis ... We would like to impress upon you the seriousness of the economic position of the Cato Manor Indians, so much so that 1958-9 rates were not paid and they were listed as defaulters...

As a law abiding, troubleless, decent, responsible, respectable, religious, voiceless, voteless, defenceless, well mannered and cultured Indian community with a sporting mind - we appeal to you in the name of the Almighty God to do everything in your power, as a right, to prevent the Indians from being uprooted from Cato Manor for which we shall be extremely grateful to your Council.<sup>202</sup>

The DCC's meeting with the Minister of the Interior was, however, unsuccessful. The DCC and other interest groups had confidently anticipated a serious discussion on the rezoning of Cato Manor. Mr. Naude summarily dismissed the meeting, and shocked the Indian community, by saying that he was not prepared to discuss the re-zoning of Cato Manor: "The Board's decision is final and I will definitely not change it". He argued that the GAB was a competent body which had considered residential, business, religious and other factors before making its decision.<sup>203</sup> He also said that he had received representations from people who wanted Cato Manor to remain a white area. He did not reveal their identities, yet he placed great reliance on their representations. However, he ignored the thousands who

protested against the proclamations, and he refused to meet Indian leaders. The Minister maintained that the deproclamation of Cato Manor would create a precedent as he would then be inundated with requests for de-proclamations throughout the country.<sup>204</sup>

Mayor Milne expressed deep disappointment at the Minister's response, especially as the DCC's compromise proposals were not considered at all. He maintained that it was impractical to move so many people from settled communities. It appeared that the DCC would not be able to do anything further about Cato Manor as the Minister had emphasised that his decision was final. The only recourse was an appeal to the GAB which had the power to review proclamations. The Mayor hoped that the GAB would review the Cato Manor proclamation. He said the DCC had decided not to request the Government "to go it alone" in implementing group area proclamations as "such an attitude would be failing the non-Europeans, who are looking to the Council for protection and a square deal".<sup>205</sup>

The Leader contended that Minister Naude's

argument does not impress, for it merely goes to show that there is country-wide protest against the group areas proclamations, not only in regard to Cato Manor. And still in a sense, Cato Manor is the most shocking example of how unjustly the GAA can be made to work against Indians in particular. The Minister's refusal to meet and discuss the situation with Indian spokesmen was to be expected. The Government has no need to consult with Indians, for they do not regard them as part and parcel of the citizens of this country ... What, indeed, can the Indians do to strike a sympathetic chord in the Government or to evoke some response to their appeals?<sup>206</sup>

Mr. P.R. Pather maintained that the Minister's response lacked any sense of justice, and was an intimation of what was in store for the Indian people of South Africa:

The NIO has always maintained that the issue of Cato Manor will be the crucial test and if Cato Manor goes, all is lost. The Minister knows full well that in Cato Manor there can be no two views as was exemplified by the mass meeting of Europeans in Durban last year, which categorically resolved that ... Cato Manor should remain Indian. The NIO urges the Minister to reconsider his decision in the light of the tragedy that has hit the Indian since 1950.<sup>207</sup>

All the proclamations to date suggested that the GAB was advising the Minister to remove every Indian from his house. The fact that the Indian viewpoint was always spurned gave credence to this suggestion.<sup>208</sup>

The NIC called upon its branches in the Indian areas of Durban to mobilise their constituencies to protest against uprooting of thousands from Cato Manor. It also called on all "organisations who believe in democracy and fairplay to voice their protest to the Minister of the Interior and to support the Congress call to the Government to keep their hands off Cato Manor".<sup>209</sup> In a letter to Mr. Dag Hammarskjöld, Secretary General of the UN, the NIC called for the organisation to intervene in the Cato Manor debacle:

The situation in Cato Manor could lead to tremendous upheavals with unpredictable serious consequences, not only in Durban and South Africa, but beyond the borders. There can indeed be a threat to world peace flowing from the flagrantly shameless, unjust, inhuman and discriminatory action of the Nationalist Government in the new notorious Cato Manor of Durban.<sup>210</sup>

The CMCC appealed to Indians not to engage in recreation or entertainment, but to observe 'Cato Manor Day' on 23 October 1960 in silent protest against the GAB's decision to declare the area for white ownership and occupation. A mass meeting of all Cato Manor residents was being called on this day to decide on a plan of action to fight for the de-proclamation of the area. The intention was to "launch a determined, more vigorous and stiffer campaign on this day, against the June 1958 proclamations which sets aside the whole of the Cato Manor area for European ownership and occupation under the Group Areas Act".<sup>211</sup>

In his address to the prayer and protest meeting convened by the CMCC, Archbishop Denis Hurley said that all the citizens of Durban, including whites and City Councillors would rejoice "if in a re-consideration of the Cato Manor determination we could detect a practical beginning to a re-consideration of many aspects of policy that hurt and humiliate such numbers of our people".<sup>212</sup> Dr. A. Baboolall, President of the DCIRA, urged the Government to hold a referendum of the people living in Cato Manor to determine their attitude towards the proclamation.<sup>213</sup> Dr. G.M. Naicker, President of the SAIC, said:

If the full effects of the GAA comes into being, our complaint will no longer be of ill treatment but of genocide - of being economically ruined and made to suffer a slow death.

Durban and Cato Manor are only a mirror of the devastation that we face throughout the country. It is so gruesome that it has become a nightmare which bears repeating.

I appeal to you stand firm in your resolve not to be a party to Group Areas. I appeal to you to be united in your struggle to defend your homes. You save not only Cato Manor but South Africa.<sup>214</sup>

Mr. A.M. Moolla, President of the SAIO, made a practical suggestion to the meeting. He called for the establishment of a committee to collect funds to assist Cato Manor residents who were in arrears with their rates, and whose properties were to be sold by public auction by the DCC.<sup>215</sup> The GAB had purchased six properties at one such auction 'for a song'. Mr. Moolla said that while the public was presenting a broad united front "to preserve their homes and hearths, the immediate and most practical way of showing their solidarity was to prevent the Indian property from falling into the hands of the GAB".<sup>216</sup> A similar call was made by Mr. S. Bridgemohan, Vice-President of the DCIRA.<sup>217</sup> However, this suggestion was not followed up.

The MIRA stated that the Minister was wrong and totally unjustified in refusing to consider the DCC's logical request for the re-zoning of Cato Manor. Mr. Rajah, secretary of the MIRA, vowed to continue demanding the legitimate rights of Indians to occupy that part of Cato Manor which belonged to them. He still believed that the DCC could be influential in this regard:

We still pin our faith in the City Council and hope that it will do all in its power to persuade the Government to change its mind on Cato Manor ... We are confident that through the efforts of the City Council we will eventually triumph in our efforts. We shall not give up hope and will continue to struggle in a decent manner until we succeed.<sup>218</sup>

A former Mayor of Durban, Mr. Carte appealed to Indians that while they had a significant proportion of white support and sympathy, this group should not be alienated by undue criticism of the DCC. However, he also made a damning indictment of the DCC:

I was Chairman of the Council's Technical Planning Committee at that time, and I can tell you that neither the committee nor the Council ever had an opportunity of examining logically the Cato Manor zoning proposals.<sup>219</sup>

An appeal was made by the MIRA in a letter to the Prime Minister, Dr. Verwoerd, to review the zoning of Cato Manor, as "Indians have a strong case to support their claim for the retention of that part of Cato Manor, owned and occupied by them".<sup>220</sup> Failing this, the Association urged the Prime Minister to arrange a re-hearing for the zoning of Cato Manor. Indians would then have an opportunity to present their case to the GAB. The Prime Minister replied that he could not intervene as the matter was within the jurisdiction of the Minister

of the Interior. The Leader, however, argued that this was a rather lame excuse, as the Prime Minister had the power not only to deproclaim Cato Manor, but to repeal the entire GAA. The main reason was that he agreed with Mr. Naude that Cato Manor should be zoned for whites.<sup>221</sup>

The MIRA called a special general meeting to discuss the Cato Manor issue on 14 August 1960. The Association was criticised for adopting a 'cap in hand' and 'futile letter writing' approach. Mr. Rajah agreed that humble appeals supported by strong cases had been brusquely rejected by the government. The meeting called for more drastic measures of protest. Mr. Rajah replied:

I must emphasise that we have come to the stage where we have exhausted all the main avenues of approach - however we still have other avenues open to us and we shall continue to press for our right to retain what belongs to us, under the same peaceful methods as we have adopted in the past ... purely as a matter of expediency.<sup>222</sup>

He stressed, once again, that the DCC had an important role to play:

I am firmly convinced that the onus is on the City Council to remedy the breach it had committed against the interests of the Indian. The Council is the only body that has the right whip in its hand to resolve the Cato Manor problem.

It will be a treacherous act on the part of the City Council if it refuses to pursue the matter any further. It is morally obliged to take up a fighting stand on behalf of the Indians because it was the Council that had created the problem.<sup>223</sup>

After much debate, the meeting accepted a compromise resolution that the Cato Manor issue should be taken to court, but only after the action initiated by the Sponsor's Committee was over. The CMCC was also in favour of instituting legal action against the Government.<sup>224</sup>

## 7.7 RECOURSE TO LAW - THE 1960 COURT ACTION

At the mass meeting held on 26 June 1958, the Sponsor's Committee was mandated to test the validity of the 1958 proclamations in court. Opinion received from senior counsel indicated that there were good grounds for declaring the 1958 proclamations ultra vires. It was decided that selected individuals from the different affected areas would institute



proceedings in the Supreme Court as test cases.<sup>225</sup> Nineteen Indians who were owners and/or occupiers of property in white areas in terms of the June 1958 proclamations were expected to move before 5 June 1959. They refused to move, and instituted legal action against the Minister of the Interior, requesting that the proclamations be set aside and be declared null and void. The basis of their declaration was that:

- i) The GAB had not considered the availability of suitable alternative accommodation for blacks who would be displaced in areas set aside for whites.
- ii) The Board had decided on the group areas it would recommend before the enquiry was completed. It had, therefore, not given appropriate attention to all the representations which were made.
- iii) The GAB chairman was prejudiced against Indians, and this influenced his decisions.
- iv) The effect of the proclamations would increase discrimination and partial and unequal treatment between the races to a significant degree. However, this was not permitted by the GAA.<sup>226</sup>

According to the declaration:

The said Act does not authorise the Minister or the Governor-General-in-Council to discriminate between different races in such a manner as to result in partial and unequal treatment to a substantial degree and between members of the White and non-White groups...

The areas in which they occupied property were all select residential areas having the usual amenities which such areas had in large towns in South Africa. Although there was suitable accommodation for displaced white people who were at present occupying properties in the non-white areas, there was no non-white areas, there was no suitable accommodation available for Indians affected by the proclamations ... [Therefore] the issue of the proclamation was invalid and the proclamation is of no force and effect.<sup>227</sup>

The Minister of the Interior made a number of exceptions to the declarations, which were viewed as bad in law, irrelevant, vague and embarrassing, because a cause of action was not disclosed. Objections raised by the Minister were that:



- i) In terms of the Act the Governor-General-in-Council was not obliged to determine whether alternative accommodation was available for the people affected before issuing any proclamation.
- ii) It could be logically deduced from the provisions of the GAA that it permitted a considerable degree of partial and unequal treatment between whites and blacks.
- iii) No accurate information had been provided with regard to the allegation that the Chairman of the GAB was prejudiced against Indians.<sup>228</sup>

The gist of the Government's contention in support of the exceptions was that

discrimination alone could not render the proclamation invalid - only mala fides could. Moreover, it was argued that in the absence of an allegation that permits under the Act would not be issued to alleviate hardship caused through the proclamation of group areas, partial and unequal treatment could not generally render the proclamation invalid.<sup>229</sup>

The Defence Counsel argued that there was no link between the recommendations of the GAB and the final proclamation, as neither the Minister nor the Cabinet were obliged to consider the GAB's report when any proclamations were made. In addition to the GAB's reports, they had to consider other facts as well as the question of policy. Consequently, if an issue was partially dealt with by the GAB, the proclamations could not be condemned.<sup>230</sup>

On 4 July 1960, Supreme Court Judge Henochsberg dismissed the exceptions raised by the Minister of the Interior that the Plaintiffs had no valid cause for action. He maintained that the Plaintiffs would be successful in setting aside the proclamations if they proved their allegations at a subsequent trial. The basis of his judgment was that:

- i) Although not bound by the Minister's convictions or proposals, the Legislature contemplated that the Governor-General-in-Council should duly consider the issue of whether the proclamation produces a fair or unfair result. The provision of alternative suitable accommodation must therefore be viewed as being within its knowledge.

- ii) In the absence of any statutory injunction to the contrary, the power to proclaim group areas should be exercised in such a manner so as to prevent the development of substantial inequalities between the different race groups.
- iii) The question of whether the 1958 proclamations produced such a result would have to be proved by the Plaintiffs.
- iv) The Plaintiffs would also have to prove their allegations of prejudice against the Chairman of the GAB.<sup>231</sup>

Commenting on the legal implications, Judge Henochsberg said:

Authority to do unreasonable things can be specifically given either in express terms or by necessary implication. I can find no such express terms in the GAA nor can I find anything which by necessary implication authorises discrimination coupled with partiality and inequality in treatment to a substantive degree ... It seems to me that the exercise of a power to proclaim group areas for the different race groups can and should ... be exercised without the inevitable result that members of different races are treated on a footing of partiality and inequality to a substantial degree.<sup>232</sup>

The Judge ruled that the allegations constituted an adequate basis in law for the Court to intervene. The Government lodged an Appeal against the judgment. The principles of the judgment had far reaching implications, and if the Appeal failed, thousands of people affected by the GAA would benefit. The DCC agreed with the judgment and substantiated from its own experience in Durban that the "GAA and its administration has always brought, and is bringing a large measure of disruption and hardship to many thousands of Indians in particular; and this despite the assurance given at Ministerial level that the Act would be administered with equality and justice to all groups".<sup>233</sup>

However, Judge Henochsberg's ruling was overturned by the Appellate Division in Bloemfontein in March 1961. Appellate Judge J.A. Holmes declared that implicit in the GAA was the power of the Governor-General-in-Council to discriminate significantly between the races. According to the Judge:

The GAA represents a colossal social experiment and a long term policy. It necessarily involves the movement out of Group Areas of numbers of people throughout the country. Parliament must have envisaged that compulsory population shifts of persons occupying certain areas would inevitably cause disruption and, within the foreseeable future, substantial inequalities. Whether

all this will ultimately prove to be for the common weal of all the inhabitants is not for the Court to decide.<sup>234</sup>

The inherent inequality in the GAA and its discriminatory character was acknowledged by the Legal Advisor to the GAB, Advocate Rousseau, who attributed this to specific circumstances:

Propagandists against group areas have had much to say about ghettos, but in theory, at least, the Group Areas Act was, and is, completely undiscriminatory ... In practice it was and is inevitable that the white group should find itself best off in comparison with other groups. But it is mainly the result of circumstances, not of discrimination. Throughout South Africa it is members of the white group who have built up, developed and placed inflated values on, superior business and residential areas. The select areas must inevitably become white group areas, for the simple reason that the members of other groups do not have the economic and financial ability to own, occupy and maintain them.<sup>235</sup>

A white academic, Jack Simons responded that the GAA was grossly discriminatory in theory and practice, and whites were able to occupy select areas because of their monopolisation over political power:

They command more wealth than other groups largely because their monopoly of power enables them to curb or eliminate competition. If, as Advocate Rossouw maintains, Indians as a community do not have the economic and financial ability to own, occupy and maintain select areas, their poverty stems directly from a social system that despoils them of vested rights, reduces their small share of the national income and limits severely the scope of their opportunities for gainful employment.<sup>236</sup>

The Appellate decision had a major impact as, according to Schoombee, it gave the central state impunity against "judicial review upon the most obvious and strongest substantive ground, namely discrimination in the implementation of the Act".<sup>237</sup> If the Plaintiffs had been successful, major trials, similar to the hearings of the GAB, would have resulted in most cities. However, the court was not prepared to interfere with the apartheid blueprint, even if this meant disregarding established legal principles entrenching individual rights and democracy. It had adopted a 'hands off' approach which, according to Schoombee, could not be justified. A judicial re-assessment of the issues of inequality and discrimination would have instilled some justice into the process by which group areas were proclaimed.<sup>238</sup>

Mr. A.M. Moolla, President of the SAIO, who was also one of the 19 petitioners who had initiated the court action, maintained that the Government had always argued that the GAA would be applied fairly, with justice and equity. The Indian community therefore believed that if there was any injustice in the application of the Act, then recourse to the courts would provide relief. However, the principles of the Appellate judgement stated categorically that it would be impossible for group area proclamations to be challenged in the courts, irrespective of how unjust their effects would be on any community. The judgement indicated that communities "through the country must expect from the Act, within the foreseeable future substantial degrees of inequalities and the Appeal Court is unable to do anything about it".<sup>239</sup> It was in this context that Indian political and ratepayers' organisations, as well as the DCC made last ditch demands for a second GAB hearing to review the zoning of Cato Manor.

## **7.8 THE LAST DITCH STAND - THE SPATIAL IMPRESS OF THE CENTRAL STATE**

In spite of Minister Naude's categorical ruling in July 1960, the DCC, in December 1960, again requested the GAB for an amendment to the Cato Manor proclamation. The Board replied that the Minister's decision of July was final.<sup>240</sup> The DCC sought legal opinion to determine whether it could challenge the proclamation of Cato Manor in court. However, legal Counsel maintained that it was very unlikely that such action would be successful.<sup>241</sup> On 15 May 1961 the DCC agreed that a delegation led by Mayor Milne should make further representations to the Minister of the Interior and the GAB to ensure that sympathetic consideration is given to the following:

- i) Permits and determinations be granted in accordance with the recommendations of the DCC.
- ii) The Minister should give Indian property owners affected by the Proclamations liberal extension of time.
- iii) A pledge that no further proclamations be issued for Durban until the Council had re-assessed the situation in terms of its June 1958 resolution.

- iv) Steps should be taken to avert the serious consequences emanating from the administration of the GAA.
- v) There should be a more cordial relationship between the DCC and the GAB to ensure that "the Act will be applied with justice, and fair play to all sections of the community and in accordance with Ministerial assurances".<sup>242</sup>

The Government replied that the Minister of Community Development, his predecessors and the GAB had always desired and sought the co-operation of the DCC, and it appreciated the co-operation of the Council in the "very difficult matter of group areas".<sup>243</sup> The DCC had always been afforded the opportunity to present its views at public inquiries conducted by the GAB. However, the Government could not guarantee that the DCC's recommendations would always be accepted:

The Council's participation in the consideration of applications for permits and determinations in matters presenting difficulty would be welcomed, but it will be appreciated that no assurance can be given that the Council's group area recommendations will be accepted as a matter of course. As in the past, every application will be dealt with on its merits.<sup>244</sup>

The criteria by which merit was determined, however, remained unclear.

Mr. P.R. Pather commended the DCC action as it had requested for concessions which would have given Indians a reprieve.<sup>245</sup> However, he expressed concern about the impasse over Cato Manor, and requested the DCC to call for a fresh inquiry, especially in view of the overwhelming evidence against the area being zoned for whites. This was vital, considering the changes which had taken place since the 1953 hearing, which included:

- i) The DCC's view that part, if not the whole, of Cato Manor should be deproclaimed.
- ii) The strong white opinion which supported this view, as represented by the Citizen's Committee.
- iii) Indian organisations were now in possession of facts and figures which were not available to them at the 1953 hearing.<sup>246</sup>

At a new hearing the DCC, the Citizens' Committee, and Indians could represent a united force calling for the de-proclamation of Cato Manor. A similar appeal was made by the CMCC to the Mayor, Mr. C.A. Milne, requesting him "on moral and legitimate grounds" to intervene on behalf of the Indian community in the Cato Manor debacle.<sup>247</sup> The DCIRA also beseeched the DCC to support Indian representations to the GAB for a new hearing regarding Cato Manor.<sup>248</sup> The NIC maintained that the GAB should at least have a hearing before evicting thousands from their homes in terms of the 1958 proclamation of Cato Manor.<sup>249</sup> Local capital also supported this call.

More specifically, the Durban Chamber of Commerce supported the call for a new GAB hearing to review the 1958 proclamations. While the Chamber was not convinced that the GAA would reduce racial friction and establish a harmonious social and economic order, it recognised that it was the law, and confined itself to a "consideration of the ways and means by which ... the best results can be obtained in the implementation of the Act".<sup>250</sup> The Chamber recognised that the aim of the Act could only be achieved if:

- i) Housing, amenities and services are provided for all races on a fair and equitable basis.
- ii) The displacement of settled communities should be kept to an absolute minimum, and alternative accommodation must be provided.
- iii) Areas inhabited overwhelmingly by one race should be zoned for that group.
- iv) Workers should live as close as possible to their place of employment.
- v) There must be full compensation to property owners affected by proclamations.
- vi) Moral and humane values which characterise a Christian society should guide the implementation of the GAA.<sup>251</sup>

In this context the Chamber supported calls for the rezoning of the whole of Cato Manor for Indians. Furthermore, it also believed that other long established Indian areas should remain undisturbed and called upon the DCC to revise its 1952 race plan in terms of the 5 June 1958 resolution. It argued that Sydenham, Overport, Riverside and Prospect Hall were predominantly Indian, and should remain as such. It emphasised the need for a new GAB hearing:



With the revision of these plans, the Chamber recommends that the DCC, with the support of this Chamber and other interested bodies, urge the GAB of the necessity for a new Hearing in respect of these areas where changes of plans are proposed, so that the whole situation may be re-investigated and re-examined in the light of experience already gained in the application of the Act since the 1953 Hearing, and in the light of the social and racial changes presently taking place.<sup>252</sup>

On 11 February 1961 delegates from the DCIRA and CMCC had a 45 minute meeting with the chairman of the Natal Committee of the GAB, Mr. G.P. Nel, in order to convince him of the necessity to have a re-hearing over the Cato Manor issue in view of the changing circumstances.<sup>253</sup> The delegation emphasised the social and economic consequences of displacing settled communities. It was pointed out that the GAB had the prerogative to decide on a re-hearing, and examples of de-proclamations were cited from the Transvaal and Cape Province. Furthermore, in Cato Manor there was very little evidence of white interest to purchase properties from Indians at forced sales in spite of the low prices. As The Leader pointed out: "In actual fact, the Group Areas Development Board purchased practically all properties in Cato Manor during these forced sales".<sup>254</sup> Mr. Nel requested the delegation to submit a comprehensive memorandum to the Natal Committee, who would comment on it, and thereafter to submit it to the GAB in Pretoria for final consideration.<sup>255</sup>

In a memorandum submitted to the Natal Committee of the GAB, the DCIRA argued that whites were not keen to move into Cato Manor. This was partly attributed to the fact that there were adequate suitable areas for white residential development. According to the DCIRA it was also possible that the "European community's conscience will not allow them to take Cato Manor from the Indian people, because they feel a great injustice is being done to them."<sup>256</sup> It maintained that whites had not invested in Cato Manor, and were not likely to incur losses if the area was de-proclaimed. On the contrary, if whites sold properties to Indians they were likely to make profits. The 1958 proclamation had stifled development and initiative in Cato Manor, leading to stagnation and decline. Indian owned properties were being sold at public auctions, at a fraction of their market values. Deproclamation would change the picture overnight. Under the circumstances, the DCIRA urgently appealed to the GAB and the Minister of the Interior to agree to the call for a rehearing of the zoning of Cato Manor.<sup>257</sup>

In December 1961 the CMCC submitted a 12 page memorandum to the Prime Minister, Dr. H.F. Verwoerd, making a "solemn and urgent appeal" to him to intercede on behalf of Indians living in Cato Manor. Attention was drawn to the fact that in 1952 Dr. Verwoerd, as Minister of Native Affairs, had pressurised the DCC to zone the area for whites. It was emphasised that neither the DCC nor the Government had the financial capacity to relocate 40 000 people. The CMCC presented a five point plan to the Prime Minister to resolve the Cato Manor crisis, and argued that justice would be done if the Government accepted even one of the following proposals:

- i) Withdrawal of the June 1958 proclamations.
- ii) The section of Cato Manor owned and occupied by Indians should be retained by this group.
- iii) A delegation from the CMCC should be afforded an opportunity to meet with the Prime Minister, the Minister of the Interior or the Chairman of the GAB.
- iv) There should be a re-hearing to decide the fate of Cato Manor.
- v) The Government should respect the legitimate rights of Indians who own and occupy more than half of the area.<sup>258</sup>

The Prime Minister replied that he was unable to pass judgment on the matter, and the memorandum was accordingly submitted to the Minister of Community Development, who had all the information and dealt with such matters.<sup>259</sup> In a written response to Dr. Verwoerd, the CMCC expressed its disappointment at his attitude as well as the fact that he had not given any indication as to whether he supported the legitimate demands of the Indians:

In view of the fact that we have no hesitation in charging you for having been responsible for creating the Cato Manor problem, we expect you to pay some personal interest in this matter, and show your sympathy and extend your helping hand to us in our struggle to regain that part of Cato Manor which is predominantly owned and occupied by us ... We plead with you, to adopt a more realistic attitude and march with the times in this rapidly changing world ... It is with much grief that we emphatically state that the Government is underestimating the gravity of the Cato Manor issue. We solemnly say that we will never rest until we achieve the desired redress. We have taken a vow at mass rallies to fight to the bitter end ...<sup>260</sup>

The CMCC made a similar plea to the Minister of Community Development and Housing, Mr. P.W. Botha, in a 17 page memorandum, highlighting the difficulties Indians had experienced in terms of the GAA.<sup>261</sup> Mr. P.W. Botha replied that he was not prepared to repeal the proclamation which declared Cato Manor a white area. He was not even prepared to consider the CMCC's proposal (which had also been submitted by the DCC), that a portion of Cato Manor be zoned for Indians. Minister Botha declared that it would be in the interest of the Indian community to co-operate with his Department: "Ample opportunity is made available for the Indian community in Natal to develop its own areas. If your community will co-operate with the Department of Community Development, the positive implementation of this policy will be achieved in a very short time".<sup>262</sup> The CMCC resolved not to accept the Minister's decision as final, and to continue to make further representations for a re-hearing.<sup>263</sup> It also agreed to pursue a more vigorous and determined opposition to the rezoning of Cato Manor as "peaceful and humble means" had been ignored by the Government.<sup>264</sup> This included taking the Cato Manor issue to the United Nations.<sup>265</sup>

Mr. P.R. Pather said that the Indians of Cato Manor were being pushed to the point of desperation as the Government had closed its doors to further negotiations. It was clear that many Europeans supported the re-zoning of Cato Manor for Indians, but the Government had not seen the evidence in support of this call. He therefore "urged European sympathisers to draw up a petition protesting against the proclamation of Cato Manor as a European area". This would prove to the Minister that whites did not want the area.<sup>266</sup> The CMCC also appealed to whites in Durban to support the opposition to the Government's decision to dispossess Indians in Cato Manor.<sup>267</sup> It also called upon whites not to purchase Indian owned property in Cato Manor.<sup>268</sup>

The death knell for Cato Manor as an Indian area was approaching rapidly. On 30 March 1962 the Chairman of the GAB announced that the Board would be enquiring into the desirability of proclaiming Cato Manor as well as the other areas, which in terms of the 1958 proclamations were zoned for future European occupation, for immediate white ownership and occupation. Any representations and objections had to be lodged with the Regional branch of the Department of Community Development in Pietermaritzburg by 30 April 1962.<sup>269</sup>

In addition to Cato Manor, the other areas of concern included Riverside, Prospect Hall, Bellair, Hillary, and Sea View. More than 108 000 blacks would be forced to move from these areas which had a total white population of only 6 210.<sup>270</sup> At its meeting on 25 April 1962, the PDCC maintained that if immediate proclamations were issued by the GAB, then about 46 000 Indians, 5 000 coloureds and 58 000 Africans would be displaced. The Committee resolved to recommend to the GAB that immediate proclamation for white occupation of the said areas should be deferred until "adequate and comparable" housing was provided for all who would be displaced. Furthermore, it was unable to determine when suitable alternative accommodation would be available.<sup>271</sup> In 1958 the DCC had a backlog of 23 000 houses for Indians, and it was estimated that a further 21 000 would be required to meet the natural increase in the population for the next 15 years.<sup>272</sup> At a subsequent meeting, the DCC described the plans of the GAB as 'unjust and inhuman', and resolved to oppose them.<sup>273</sup> Mayor Milne accused the Government of a grave injustice, maintaining that as the Council was trying to cope with the African housing problem, it was also saddled with thousands of Indians who would be displaced, especially from Cato Manor. He emphasised that the DCC would continue to oppose the zoning of that section of Cato Manor which was predominantly owned and occupied by Indians for whites. The Mayor said it was inconceivable that between 30 000 to 40 000 people would be uprooted without the provision of alternative accommodation.<sup>274</sup>

The NIC urged the DCC to vociferously oppose the GAB's proposals "in the name of humanity and more particularly on behalf of the voiceless and voteless residents of the affected areas".<sup>275</sup> The leadership vacuum in the NIC, resulting from the State of Emergency imposed by the central state, however, led to rhetorical statements without any plans for effective action:

Just as the Government was determined to implement its policy of total apartheid, the Indian people had to rededicate themselves to work with the same determination as the Nationalists to win full freedom and democracy for all in South Africa.

The task of opposing the latest move in Cato Manor was a major one, but by standing firm, united and determined, the victory could be won.<sup>276</sup>

On 6 May 1962 the NIC convened a mass meeting, attended by 4 000 people to protest against the proclamation of Cato Manor. In his address to the meeting, Dr. Alam Baboolall

stated that only the GAB was buying properties in Cato Manor from sales in which Indians were forced to settle rates arrears. He maintained that the GAB and the Minister of Community Development would be forced to accept the reality of the situation. However, he warned that the community could not afford to be apathetic:

They must have faith in their own struggle, and with determination they could help to save not only Cato Manor but other Indian areas zoned for white ownership.<sup>277</sup>

The meeting resolved that the proclamations should be repealed so that people would have the right to live in their own homes. The possibility of legal action would also be considered.<sup>278</sup>

The NIO argued that given the large number of Indians who would be displaced if the different areas were to be proclaimed for European occupation, and the fact that whites were unlikely to occupy these areas in the near future, there was no need for the forthcoming inquiry. Immediate proclamation would displace 46 000 Indians who would require 8 000 houses, and such a mammoth undertaking was beyond the capacity of any local authority. Forced removals would impose incalculable hardships which, the NIO believed, was not the intention of the Government. "Ministerial announcements made from time to time have indicated in unequivocal terms that in the application of the GAA there would be least hardship".<sup>279</sup> Under the circumstances, the NIO argued there was no need for an inquiry. Failing this, the NIO called for the enquiry to be postponed to not before February 1963 so that there would be sufficient time to gather relevant information.<sup>280</sup>

The President of the NIO, Mr. P.R. Pather, appealed to the Prime Minister, Dr. Verwoerd, to intervene personally to prevent "the disaster that faces thousands of Indians who will be forced to evacuate their homes" and in the process alleviate the suffering being imposed upon sections of the people who have no say in the administration of the country. He pointed out that although Indians were allowed to make representations to the GAB, their submissions were not considered because the Board sat with preconceived notions. Mr. Pather made an impassioned plea to the Prime Minister:

Our people contributed in no small measure to the development of South Africa. We believe sincerely that there is a great future for the country and that the future can only be built upon a policy of peaceful co-existence and of good neighbourliness. The GAA, because of its inherent injustice is the very

antithesis of such a policy. The Act does not, and will not, by the very nature of its apotheosis, promote racial harmony in the country. We have a passionate love for this country and it is that love that prompts us to address you in the firm belief that you would, in the goodness of your heart, undo a wrong being perpetrated on a section of your people.<sup>281</sup>

The CMCC and its affiliates made a concerted effort to mobilise people to make written objections to the zoning of Cato Manor for whites on specially printed forms. An urgent appeal was also made to Europeans and their organisations to launch their objections before the 30 April deadline.<sup>282</sup> About 11 500 objections were submitted to the GAB.<sup>283</sup> Their potential impact was summarised by the Natal Mercury:

Their appeal is couched in terms that no humanist can ignore. If the plan is carried out more than 40 000 Indians will be uprooted from a settled community ... Is Durban satisfied that there is either equity or humanity in these proposals? The ordinary citizen who feels that there is not should assert his right to say so. If the Government decides to go ahead with its plan, as seems probable, further vigilance will be necessary to see that no one is moved unless he has a place to go to and that fair compensation is paid to those who stand to lose by the enforced move.<sup>284</sup>

The Daily News contended that for 80 years Cato Manor had been a convenient Indian 'homeland'. It editorialised: "Who will suffer except the prides of ideology if it remains such for yet another 80 years and at the same time be transformed into a model township".<sup>285</sup>

The Cato Manor hearing was scheduled to commence on 10 July 1962. However, the Secretary for Community Development subsequently announced that the Cato Manor case would not be heard.<sup>286</sup> This was viewed in many circles as a victory for the NIO and the CMCC. Mr. Sooboo Rajah attributed the shelving of the hearing to the thousands of individual objectors, and Mr. P.R. Pather ascribed this to the Department of Community Development's concern for the thousands of Indians who would be displaced.<sup>287</sup> The NIO expressed the hope that this reflected a change of policy which would ultimately result in the proclamation of Cato Manor for Indian occupation and ownership.<sup>288</sup> However, their 'victory' was shortlived. An official of the Department said that the Government had not abandoned its plans to zone Cato Manor for whites: "All that has happened is that the Board has decided not to hear representations on July 10 in regard to Cato Manor. It will be dealt with at a later stage - possibly in the near future".<sup>289</sup>



The Regional Under-Secretary of the Department of Community Development officially informed the CMCC that a Committee of the GAB would inquire into the desirability of proclaiming Cato Manor as a white group area on 12 December 1962 in Durban.<sup>290</sup> The hearing was regarded as a "trial of life and death" for Indians.<sup>291</sup> Mr. S. Bridgemohan of the DCIRA requested the GAB to take note of what appeared to be a preconceived notion of the fate of Indians living in Cato Manor because the Department of Community Development had the

necessary machinery for the resettlement and mass transference of the possible shifting of the Indian from Cato Manor. There is gloom and despair awaiting the Indian and no matter what his representation is or how genuine his case, the verdict is pronounced before his actual trial, and if we fail, it will obviously be not the fault of the Indian but his misfortune of being voteless and voiceless in the management of his affairs.<sup>292</sup>

If Cato Manor was proclaimed for immediate white occupation, Indian residents would be given three months' notice to vacate the area. The NIO, NIC, CMCC, DCIRA, SAIRR and DCC were represented at the hearing, and were in agreement that Cato Manor was a natural group area for Indians. However, Mr. F.P. Rousseau, appearing for the state, argued that the purpose of the inquiry was not to determine whether Cato Manor should be zoned for Indians. He maintained that the state's intention was to proclaim the area for immediate white occupation because

- i) The Act, which was supported by the electorate, made it clear that group areas must be proclaimed within a reasonable time.
- ii) Group areas proclaimed for future occupation had a negative effect on property values and development in general.
- iii) There was rapid provision of housing for Indians displaced by the GAA, and it would be uneconomical for these dwellings to remain empty.<sup>293</sup>

Mr. Rousseau argued that the GAA was a 'slum clearing Act' which, when implemented, would move Indians from unsatisfactory conditions in Cato Manor to superior facilities in Chatsworth.<sup>294</sup> Land was also available for Indians who could afford it. Also, landowners would be compensated for up to 80 percent of the value of their property. He gave the assurance that no one would be moved without the provision of suitable alternative accommodation.<sup>295</sup>

The DCC argued that the GAA was not designed for slum clearance and it should not be used for this purpose. The Council was unable to provide housing for Indians who would be displaced from Cato Manor if the area was zoned for immediate white occupation. It could not accept Mr. Rousseau's assurance that no one would be removed without alternative accommodation as the Government could change its policy. There was no urgency for the area to be occupied by whites, who were not experiencing a housing shortage. Under the circumstances, the Council maintained that "the time was not ripe for the proposed proclamation because alternative accommodation was not available for those who would be displaced".<sup>296</sup>

However, Indians felt that the DCC had 'unwittingly erred' in making this statement, which was in conflict with the resolution of 5 June 1958. The Council was urged to ratify the position with the GAB.<sup>297</sup> Mr. J.N. Singh, representing the CMCC, requested the GAB to recommend a new hearing which would lead to a deproclamation of group areas. This was because circumstances had changed dramatically since the 1958 proclamations. Even the DCC did not support the GAB's proposals for Cato Manor. Indeed, according to the Daily News "no group of organised opinion in Durban had asked for the removal of the Indians from Cato Manor".<sup>298</sup> There was, thus, overwhelming support from diverse groups in Durban for the zoning of Cato Manor for Indians. Indians were hopeful that a deproclamation in their favour would finally resolve the problem.

There was, however, a subsequent shift in the position of the DCC. The minutes of a meeting between the GAB and representatives of the DCC held in May 1963 revealed that Cato Manor was likely to be developed into a high class white residential area. In fact the DCC had already begun acquiring properties in the area. The DCC representatives to the meeting were of the opinion that the greater portion of the area should be acquired by the Council to ensure proper planning and development of the area. Furthermore, it was reported that the PDCC was "to investigate the possibility of the Council's accepting delegated powers from the Group Areas Development Board, so that it would assume the duties and responsibilities of the board in the area".<sup>299</sup> The Mayor, Mr. Milne, said that there was a shortage of land for white housing and the Council would acquire land in Cato Manor to fill this need. The immediate concern was to clear the land and leave it fallow for a period.<sup>300</sup>

This was a complete shift from the Council's previous position. It appeared that an unholy alliance, reminiscent of the 1950s, was developing between the NP appointed GAB and the DCC. The DCC had succumbed to the Government directive that Cato Manor should be developed for whites. The change in the DCC's policy could be related to the fact that Mayor Milne, certain Councillors and officials had benefitted personally from land sales in areas vacated by Indians. Attempts were made to change land uses to increase the value of some of these properties.

The CMCC contended that the DCC had lost all sense of justice as the findings of the special enquiry held in December 1962 had not been released, and the Minister of Community Development had not made an announcement in this regard.<sup>301</sup> In a rhetorical statement it maintained that it would not be deterred from continuing with the struggle to salvage the area: "Our people will not lose their properties if they pin their faith in God and fight for their just rights in a constitutional manner which would have worldwide approval".<sup>302</sup>

In terms of Proclamation No. 272, released on 4 October 1963, Cato Manor was zoned for immediate occupation by whites.<sup>303</sup> A statement released by the Government's Department of Information stated that Cato Manor "one of the 1958 future white areas" had been proclaimed a full white group area. The statement continued that it was evident since 1958 that Cato Manor would inevitably become white: "Disqualified persons were in consequence for the past five years not unaware that they would have to evacuate this area".<sup>304</sup> The Minister of Community Development attempted to justify his decision by alluding to white prejudices in Durban:

... I had to see Cato Manor against the background of the fact that Durban ... had to remain part of white South Africa ... we did not act arbitrarily. We planned Durban in such a way that thousands of people who are not even prepared to admit it, are grateful to us for having assisted them out of their difficulties.<sup>305</sup>

The NIO asserted that the group area proclamations in Durban were contrary to the recommendations of the DCC, the Durban Chamber of Commerce and other responsible organisations, and went against the assurances of previous Prime Ministers and Ministers responsible for administering the Act, that it would be implemented with "fairness, justice,

equity and with proportionate sacrifice by all race groups".<sup>306</sup> Given the gravity of the situation, the NIO called upon the Government to appoint a commission of enquiry to investigate

- i) the extent to which the GAA is being administered contrary to the assurance given by successive Prime Ministers, and Ministers responsible for the administration of the Act;
- ii) the extent of the selective and disproportionate sacrifices demanded from Indians by the proclamations already issued throughout the Republic and those yet to be issued.<sup>307</sup>

Pending the report of the Judicial Commission, the Government was urged to maintain the status quo. Copies of the resolutions were submitted to the Ministers of Community Development and Indian Affairs, the Prime Minister and the Chairman of the GAB. In an appeal to the Prime Minister, Dr. Verwoerd, the NIO maintained that it had always approached the GAA problem in a practical, realistic and moderate manner, but its efforts had been in vain:

We add that the NIO, from its inception, has approached the complex problems in our country in a realistic manner; at every stage, when called for hearings of the GAB on matters relating to the Government's policy, we have placed before the Board proposals and plans which in our firm opinion have deserved the most careful and studied examination, insisting among our own circles that we should deal with our problems with practical common sense based on sound economic planning and feelings of all our people.

It has been a source of great distress to us that, except where our recommendations scarcely differed from those of the GAB itself, all our endeavours practical and realistic have been in vain.<sup>308</sup>

The NIO requested a meeting with Dr. Verwoerd, in order to draw his attention to more detailed information about how the administration of the GAA was jeopardising Indians.<sup>309</sup>

The NIO received a scathing reply from the Ministry of Indian Affairs, which was not prepared to recommend that the Prime Minister meet with its delegation, and which questioned its constituency. The Ministry maintained that the NIO's letter and resolution

grossly exaggerate the position and contain grave inaccuracies clearly designed to stampede public opinion into resistance to the application of state laws and policies. It is deplorable that your Organisation should without good grounds summarily reject assurances by the Minister of Community Development that the provisions of the Group Areas legislation will not be used to deprive the present generation of traders of their means of livelihood.<sup>310</sup>

The letter urged the NIO to accept the Governments policy of apartheid, which would be in the best interests of the Indian community, as

no purpose can be served by representations to the Government to abandon its policy of separate development for the various races ... If your organisation has the interests of the Indian community at heart, it would achieve much more by accepting the policy of separate development and working towards its proper fulfilment rather than presenting a purely negative and selfish front.<sup>311</sup>

The NIO replied that it had not at any stage claimed to represent the entire Indian community, nor did it indulge in exaggerations and grave inaccuracies. It did not have a negative attitude as it had encouraged Indians to appear before the GAB, and if need be, present alternative plans.<sup>312</sup> It was evident that the apartheid rulers were so 'power-drunk' at this stage that they were insensitive to the most moderate opinion, which they treated with contempt.

After numerous requests the Minister of Community Development, Mr. P.W. Botha, agreed to meet a four man delegation from the CMCC on 21 November 1963 to discuss the proclamation of Cato Manor. The meeting was interpreted as a hopeful sign for the Indians of Cato Manor. The delegation handed Mr. Botha a memorandum requesting him to deproclaim Cato Manor and to initiate a new hearing "affording fresh and proper opportunities to all the Indians of Cato Manor to present their case in support of their claims to retain their property and occupational rights in the area".<sup>313</sup> The CMCC maintained that although Indians constituted 10 percent of the population of South Africa, 90 percent of the sacrifices under the Act were being imposed upon them.<sup>314</sup> However, the CMCC's appeal was turned down by the Minister, who was not prepared to review any proclamations, but was only interested in the practical implementation of the GAA.<sup>315</sup> Mr. P. Seebran, the leader of the CMCC delegation said:

The Minister's attitude showed that he was not concerned with our plight. He was only bent on emphasising that the Government's separate development policy must be implemented. He said that the Indian community must co-operate with the Government to implement the GAA ... The Minister said that if he deproclaimed any areas which had already been proclaimed for any group then he would make himself a laughing stock in the Republic.<sup>316</sup>

In spite of this setback, Indian organisations, particularly the CMCC, continued to make representations to the DCC and the Government to de-proclaim Cato Manor. The DCC



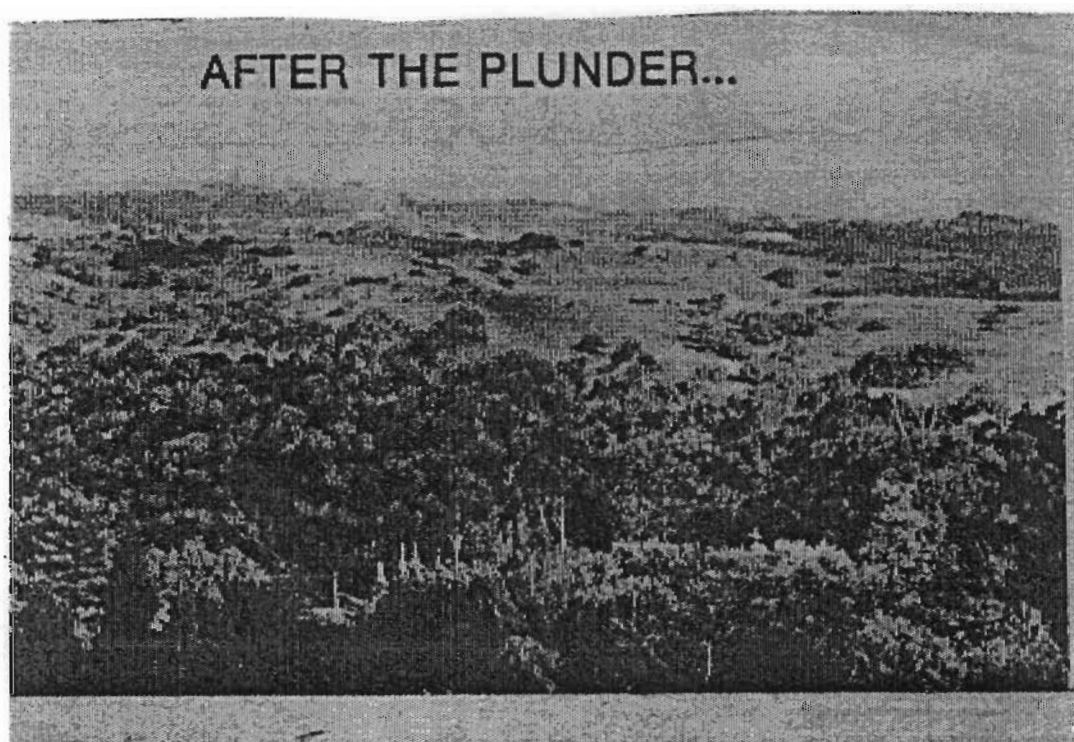
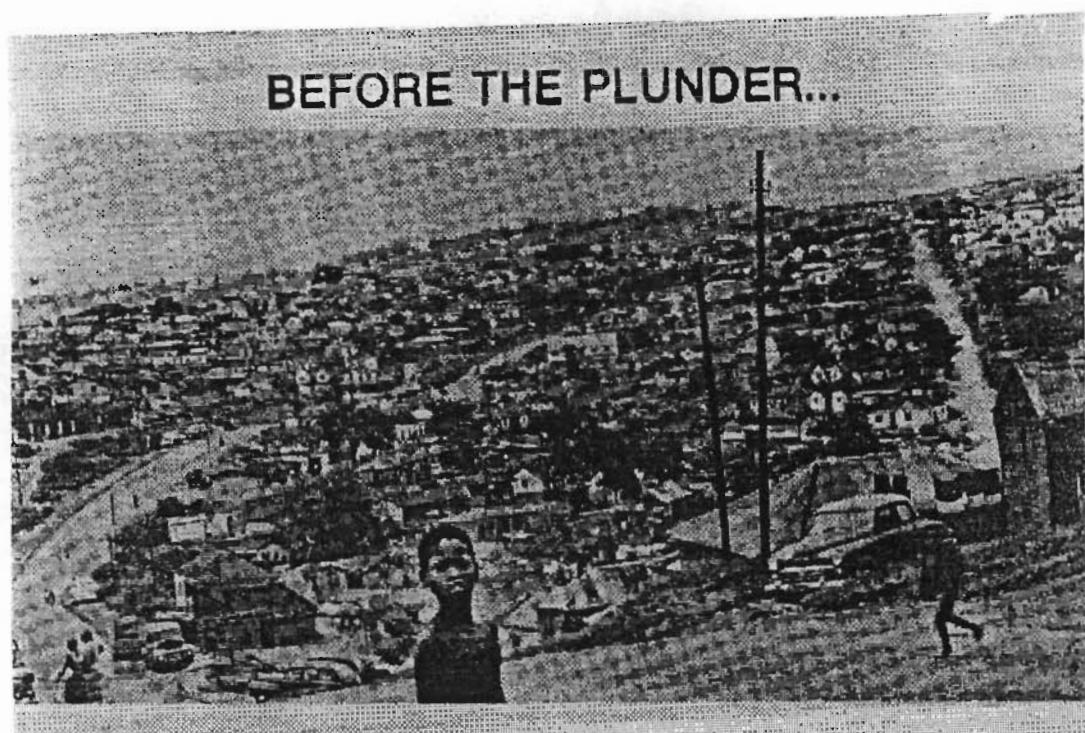


Figure 7.9 The Contrast in Cato Manor - Before and After the Group Areas Act



maintained that it had done everything in its power to influence the Government to review its decision.<sup>317</sup> In November 1964 the Minister of Indian Affairs said that a review of the Cato Manor decision was not possible, and referred to the poor housing and slum conditions in the area. He said the earlier the people moved out of the area, the more likely they were to receive state assistance:

There is no possibility at all of Cato Manor being proclaimed an Indian area. The sooner the Indian community accepts this fact and decides to move out, the sooner we will be able to help those people who will suffer as a result of this move or who are genuine cases of hardship.<sup>318</sup>

The Daily News aptly summarised the Minister's attitude:

This is a copy book example of the official closed mind tied to doctrinaire ideology, with a passion for tidy maps and ignoring the wishes and feelings of those whose lives it controls. But then, that is apartheid."<sup>319</sup>

The 'death-knell' came on 1 June 1965 when a triumvirate of Government Ministers - Mr. Maree of Indian Affairs; Mr. P.W. Botha of Community Development; and Mr. Haak of Planning - made a joint final statement that the Cato Manor proclamation was irrevocable.<sup>320</sup> The aftermath of the GAA in Cato Manor is aptly captured in figure 7.10.<sup>321</sup>

## 7.9 CONCLUSION

In a recent book, Posel has questioned the notion of a 'grand plan' in terms of which apartheid was systematically implemented since 1948.<sup>322</sup> By focusing her analysis on the state and its apparatus in the administration of influx control legislation, she concludes that such a notion was greatly exaggerated. Posel's analysis reveals that apartheid was

forged through a series of struggles within and beyond the state, which forced the architects of state policy to adapt and revise many of their original strategies. Uncertainties, conflicts, failures, and deviations, although often less visible than the continuities and triumphs of apartheid, were fundamental to its development.<sup>323</sup>

This chapter, by focusing on the struggle to save Cato Manor for Indian ownership and occupation, highlighted the changing relations between the central and local states in the

implementation of apartheid. It also highlighted the conflicts and compromises which influenced central-local relations. In order to ensure that its policies would be applied, by force if necessary, the central state threatened to resort to legislation to reconfigure central-local relations. The increasing power and influence of the central state executive (as represented by the Ministers of the Interior and Community Development) and bureaucracy in the form of the GAB, was highlighted. Hence, the extension and consolidation of state administrative power "only occurred through the actively contested formation of apparatuses which sought to extend spatial reach and integration in various ways".<sup>324</sup> Against such an onslaught the local state in Durban was increasingly powerless to implement its own policies and decisions with regard to the rezoning of the city in terms of the GAA. The chapter also drew attention to the failure of protest and resistance by Indian political and civic organisations. Thus, central state policies were actively contested in localities.

As early as 1955 members of the DCC were beginning to have second thoughts about the proposals it had submitted to the GAB. In 1957 the PDCC suggested that the possibility of rezoning Cato Manor for Indians should be re-examined. In June 1958 the DCC resolved that a 'more realistic approach' be adopted with regard to race zoning, with emphasis on the 'minimum disturbance of the existing population'. There was to be a comprehensive review of the city's race zoning plans. Ultimately, the Council was forced to review its race zoning plans because of the exorbitant costs of implementing apartheid. The Government itself was unable to answer the question of who would foot the bill for relocating tens of thousands of Indians. Thus while there was general consensus between the central and local states with regard to political and residential order in Durban, there was conflict over who would bear the costs of implementing the GAA. The alliance between the National Party and the DCC was strained, and tensions between the central and local states increased markedly. Finance is a common cause of conflict between central and local states, both of which have a strong interest in restricting expenditure and consequently strive to pass the financial burdens of various policies onto different parties.<sup>325</sup>

It would appear that the importance of local authorities to the apartheid state was related to their capacity to "carry out various aspects of social engineering, such as residential segregation and influx control".<sup>326</sup> In order to ensure that its policies would be applied

uniformly, the central state threatened to resort to legislation to reconfigure central-local relations. The Government was not prepared to review the June 1958 proclamations, and warned that in terms of the draft amendment to the Group Areas Act Development Bill the GAB could demarcate group areas, and the DCC would be compelled to pay for its development, regardless of whether it approved or not. The DCC maintained that it would be far better for the Government to co-operate with the Council in regard to the problems which it had experienced, instead of threatening it with compulsion. In terms of the DCC's revised group area proposals the only concession was the zoning of Cato Manor for Indians.

Immediately whites in Durban protested against this action, and they had the support of the Government. In October 1958 there was drastic change in the composition of the DCC, with liberal councillors losing their seats, and Mr. Percy Osborn was elected as Chairman of the PDCC. Mr. Osborn supported the DCC's 1952 proposals and opposed the zoning of Cato Manor for Indians. However, there was strong white opposition to the zoning of Cato Manor for Indians. A mass meeting of Europeans led to the formation of the Citizen's Committee which argued that the removal of Indians from Cato Manor was immoral and beyond the financial capacity of the DCC. This represented the development of a non-racial alliance that was opposed to the GAA. The DCC was forced to take cognisance of this protest and adopted a compromise solution, in terms of which that portion of Cato Manor which was predominantly Indian owned and occupied, would be zoned for this group. Numerous unsuccessful attempts were made by the DCC to influence the Minister of the Interior to accept the Cato Manor 'compromise'. However, the central state was adamant that it would impose its version of race zoning upon the local state, and it had the power to force the DCC to finance this process of massive relocation of hundreds of thousands of disenfranchised people.

This chapter also highlighted the role of human agency in opposing the policies of the central and local states. By the end of the 1950s both the NIC and NIO's opposition to the group areas took the form of rhetorical statements, with very little practical action. However, the ratepayer and civic organisations, particularly the CMCC, made spirited attempts to save Cato Manor, in spite of being berated and humiliated by the Government. As a disenfranchised group, their views were not taken seriously by the state. In December 1962 the GAB held a hearing to determine whether Cato Manor should be zoned for immediate white occupation.

Despite receiving more than 10 000 objections to the zoning of Cato Manor for whites, the GAB merely affirmed the Government's decision of 6 June 1958. The weak apartheid state of 1948 was very much in control by the early 1960s.

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24. Ladlau, op. cit., p. 19.
25. Daily News, cited in Ladlau, 1975, op. cit., p. 21. This was supported by evidence submitted to the Riots Commission by the ANC and SAIC (see U.G. 36-1949, op. cit., p. 10).
26. Edwards, I. 1983. Living on the 'smell of an oilrag': African Life in Cato Manor in the late 1940s. Paper presented to a workshop on African Life in Durban in the Twentieth Century, University of Natal, Durban., p. 15.
27. ibid., pp. 11-13.
28. Fighting Talk, August 1959, p. 3.
29. Durban Housing Survey, ... op. cit., p. 375.
30. Fighting Talk, August 1959, p. 3.
31. Edwards, 1989, op. cit., p. 192.
32. The Durban Housing Survey 1952. The Durban Housing Survey - A Study of Housing in a Multi-racial Urban Community. Pietermaritzburg: University of Natal Press, p. 382.
33. ibid., p. 382.
34. Sunday Tribune, 16/6/57.
35. DCC Minutes, 20/11/50.
36. Durban Housing Survey, ... op. cit., p. 380.
37. Daily News, 24/8/51.
38. Daily News, 24/4/51.
39. The Graphic, 7/5/55. Mayor's address to the 34th Anniversary of the Aryan Benevolent Home in Mayville.
40. Sunday Tribune, 25/8/57.
41. Natal Mercury, 20/3/58.
42. Natal Mercury, 18/5/57.
43. ibid.



44. ibid.
45. Mayor's Minutes, 1957-58, p. 1.
46. Letter from the City Engineer's Department to the Town Clerk, 22/5/58.
47. ibid.
48. ibid.
49. ibid.
50. Daily News, 28/5/58.
51. Councillor R.A. Carte, ibid.
52. DCC Minutes, 5/6/58, (emphasis added).
53. The Graphic, 7/3/58.
54. The Leader, 5/9/58.
55. The Leader, 25/7/58.
56. ibid.
57. Daily News, 28/5/58.
58. The Leader, 13/6/58.
59. The Leader, 5/9/58.
60. The Graphic, 7/3/58.
61. ibid.
62. The Graphic, 14/3/58. Messrs. Moolla and Pather argued that in contrast to the negative attitude of the NIC, by serving on the Committee, they were able to obtain better housing e.g. Merebank and Springfield, and educational facilities and civic amenities for the Indian community (The Graphic, 25/8/61).
63. ibid.
64. The Leader, 13/6/58.
65. The Leader, 13/6/58.
66. The Graphic, 13/6/58.
67. Letter from the Natal Coastal Region of the SAIRR to the Town Clerk, 1/4/58.
68. Indian Opinion, 7/3/58. The statement was signed by Dr. Killie Campbell; Mr. Roy Fenhalls; Mr. D.G. Fannin; Mr. M.V. Grimwood; Archbishop Denis Hurley; Prof. Hansi Pollak; Mr. Majorie Scott; Archdeacon E. Wade; and Mr. T.O. Williams, MP.
69. ibid.

70. Hansard, 10/9/58, col. 3461.
71. DCC Minutes, 7/7/58.
72. Daily News, 28/5/58. This view was echoed by Councillor T.A. Blakely at the mass meeting at Curries Fountain on 26 June 1958 (The Graphic, 27/6/58).
73. The Graphic, 27/2/59.
74. Hansard, 10/9/58, cols. 3461-3462.
75. The Graphic, 29/11/57.
76. Daily News, 28/11/57.
77. The Star, 8/9/50.
78. Natal Mercury, 14/10/52.
79. Daily News, 10/11/52.
80. The Star, 8/9/50.
81. Hansard, 1954, col. 4111.
82. Daily News, 10/12/57.
83. Daily News, 28/11/57.
84. ibid.
85. Natal Mercury, 22/11/57.
86. Indian Opinion, 13/12/57.
87. Hansard, 10/9/58, col. 3471.
88. Hansard, 10/9/58, cols. 3473-3474.
89. Extract from Town Clerk's Opening Address to Land Tenure Board on Group Areas Public Hearing in Durban (1953).
90. The Leader, 19/9/58.
50. Daily News, 12/9/58.
92. Daily News, 29/5/58.
93. The Graphic, 26/9/58.
94. ibid.
95. The Graphic, 5/9/58.
96. The Graphic, 29/8/58.

97. Natal Mercury, 29/8/58.
98. ibid.
99. Memorandum from the Mayville Indian Ratepayers' Association submitted to the DCC, 30/5/58 (original emphasis). The TSC, however, contended that a survey of 200 whites and 200 Indians (obviously in the high income group) revealed that more than 70 percent had moved within 10 years, respectively. It concluded that the "high mobility in property ownership points to a relative absence of deep-rooted sentimental attachment to an individual dwelling" (Report of the TSC, op. cit., paras. 121-2).
100. The Leader, 5/9/58.
101. Report prepared by the Acting City Engineer, entitled 'Group Areas Act - Racial Zoning', discussed on 14 August 1958 at a meeting of the PDCC. All statistical information in this section, unless otherwise stated, was obtained from this report.
102. ibid.
103. Minutes of the PDCC, 14/8/58. See also Memorandum from the Town Clerk, Mr. W.L. Howes to the Planning and Development Control Committee, 24 april 1959.
104. ibid.
105. ibid.
106. ibid.
107. ibid.
108. ibid.
109. ibid.
110. ibid.
111. Daily News, 15/8/58.
112. The Durban West Co-ordinating Council, which represented four white ratepayers' association, insisted that Cato Manor remain a white area (Daily News, 23/8/58).
113. Hansard, 10/9/58, col. 3473.
114. The Leader, 24/10/58.
115. The Star, 13/10/59.
116. ibid.
117. Minutes of the PDCC, 10/2/59.
118. ibid.
119. ibid.
120. ibid.

121. The Leader, 13/2/59.
122. Daily News, 24/2/59.
123. Natal Mercury, 24/2/59.
124. Daily News, 24/2/59.
125. ibid.
126. The Graphic, 27/2/59.
127. ibid.
128. Natal Mercury, 24/2/59.
129. The Leader, 27/2/59.
130. The Leader, 20/2/59.
131. The Graphic, 20/2/59.
132. ibid., (Original emphasis).
133. The Graphic, 27/2/59.
134. Agenda Book of the 12th Annual Conference of the NIC, 9-11 October 1959.
135. All previous protests organised by the Indians had been ignored by the DCC. The Citizen's Committee comprised of white voters - hence the concern to consider their views.
136. Natal Mercury, 21/2/59.
137. Daily News, 2/3/59.
138. ibid.
139. DCC Minutes, 2/6/59.
140. The Leader, 13/3/59.
141. The Leader, 29/5/59.
142. The Graphic, 5/6/59.
143. Memorandum submitted by the SAIRR to the DCC, 12/6/59.
144. Daily News, 30/6/59.
145. Source: Butler-Adam and Venter, op. cit., p. 72.
146. Memorandum submitted by the SAIRR to the DCC, 12/6/59.
147. Daily News, 30/6/59.
148. Memorandum submitted by the SAIRR to the DCC, 12/6/59.

149. The Minister of Bantu Affairs stated that the Government had not changed its position since 1953 - Cato Manor must remain white (Daily News, 9/9/59).
150. Source: Memorandum submitted by the SAIRR to the DCC, 12/6/59.
151. The CMCC Comprised of Mayville, Cato Manor, Second River and Stella Hill Ratepayers' Associations.
152. The Graphic, 4/9/59.
153. ibid.
154. ibid.
155. ibid.
156. Letter from the Secretary of the MIRA to the Town Clerk, Re-Racial Zoning of Cato Manor, 6/8/59.
157. Letter from the Citizen's Committee on Cato Manor to the Town Clerk, 2/6/59.
158. ibid.
159. ibid.
160. ibid.
161. Letter from the MIRA to the Town Clerk, 25/7/60.
162. DCC Minutes, 2/6/59.
163. Daily News, 7/7/59.
164. Resolution adopted at the Durban Combined Indian Ratepayers' Association Conference on 'Group Areas, Housing and Franchise', held in Durban on 25/10/59.
165. ibid.
166. Agenda Book of the 12th Annual Provincial Conference of the NIC, 9-11 October 1959, p. 26.
167. The Graphic, 12/6/59.
168. Daily News, 12/5/59.
169. Agenda Book of the 12th Annual Conference of the NIC, 9-11 October 1959. This rhetorical trend continued, and in a memorandum to the GAB, the NIC referred to group area proposals for Durban as "fantastic, immoral, iniquitous and unjust". See Memorandum submitted to the Group Areas Board on proposals for areas in central Durban, as advertised by the GAB on 2 October 1959, para. 23.
170. The Graphic, 23/11/59.
171. The Leader, 25/12/59.
172. The Leader, 23/10/59.
173. The Graphic, 23/10/59.

174. ibid.
175. Mr. P.R. Pather, ibid.
176. Daily News, 20/2/59.
177. Minister of the Interior, Hansard, 12/4/60, col. 5370.
178. Daily News, 22/6/59.
179. 'Group Areas and the Local Authority', address delivered by Mr P.W. Botha, Deputy Minister of the Interior, at the opening of the 14th Annual Conference of the Institute of Town Clerks of Southern Africa, 24-27 April 1960, Mossel Bay (Source: Municipal Affairs, June 1961, pp. 11-15).
180. Source: The Durban Housing Survey, op. cit., p. 378.
181. The Leader, 22/1/60.
182. The Leader, 12/2/60.
183. Address by Councillor Higginson to the Cato Manor Indian Economic Housing Scheme Ratepayers' Association, The Leader, 26/2/60.
184. ibid.
185. Daily News, 8/2/60.
186. Mr. P.R. Pather, President of the NIO, The Leader, 22/1/60.
187. The Leader, 21/1/60.
188. Letter from MIRA to the Town Clerk, 25/7/60.
189. Source: Butler-Adam and Venter, op. cit., p. 21.
190. The Leader, 12/2/60.
191. The Leader, 26/2/60.
192. The Leader, 12/2/60.
193. The Leader, 12/2/60.
194. ibid.
195. The Graphic, 4/3/60.
196. Hansard, 11/4/60, col. 5285.
197. Natal Mercury, 14/4/60.
198. The Graphic, 22/4/60.
199. DCC Minutes, 18/2/60.
200. DCC Minutes, 18/2/60.



201. DCC Minutes, 3/6/60.
202. Letter from the MIRA to the Town Clerk, 25/7/60.
203. The Graphic, 5/8/60.
204. Daily News, 28/7/60.
205. Daily News, 29/6/60.
206. The Leader, 5/8/60.
207. The Leader, 5/8/60.
208. Daily News, 29/7/60.
209. The Graphic, 5/8/60.
210. The Leader, 26/8/60.
211. The Leader, 14/10/60.
212. The Leader, 28/10/60.
213. ibid.
214. ibid.
215. There were examples that Indian owned properties were auctioned for one third of their municipal valuation (The Graphic, 11/11/60).
216. ibid.
217. The Graphic, 10/2/61.
218. ibid.
219. Natal Mercury, 24/10/60.
220. The Leader, 5/8/60.
221. The Leader, 19/8/60.
222. The Graphic, 19/8/60.
223. The Leader, 19/8/60.
224. The Leader, 25/11/60.
225. The Graphic, 1/8/58.
226. Daily News, 11/3/60.
227. The Graphic, 18/3/60.
228. The Graphic, 15/7/60.

229. Schoombee, J.T. 1987. An Evaluation of Aspects of Group Areas Legislation in South Africa. Unpublished Ph.D. thesis, University of Cape Town, pp. 276-277.
230. The Graphic, 18/3/60.
231. The Graphic, 15/7/60.
232. S.M. Lockhat and 18 others versus the Minister of the Interior, Supreme Court transcript, Durban, 4 July 1960, p. 41.
233. DCC Minutes, 15/5/61.
234. Cited in Schoombee, *op. cit.*, p. 278. However, three years later the Minister of Community Development and of Housing stated: "Far from being directed against any particular group, as so often unjustly presented, the (Group Areas) Act is completely non-discriminatory". Speech by the Honourable P.W. Botha, Minister of Community Development and of Housing delivered at the session of the Indian National Council, 24/3/64, Cape Town.
235. Rousseau, F.P. 1960. Handbook on the Group Areas Act. Cape Town: Juta, p. 8.
236. Simons, J. 1961. Indian Struggles and Prospects. Opening Address to the Conference on Municipal Franchise, Durban, 23/7/61.
237. Schoombee, 1987:281.
238. *ibid.*, pp. 279-282.
239. The Leader, 21/4/61.
240. Daily News, 31/1/61.
241. Daily News, 29/3/61.
242. DCC Minutes, 15/5/61.
243. Letter from the Minister of Coloured Affairs, Community Development and Housing, The Leader, 1/9/61.
244. *ibid.*
245. The Leader, 19/5/61.
246. The Leader, 9/12/60.
247. Memorandum submitted to the Mayor of Durban by the CMCC, The Leader, 16/12/60.
248. The Leader, 17/2/61.
249. Dr. G.M. Naicker, The Graphic, 10/2/61.
250. Policy adopted at a Council Meeting of the Durban Chamber of Commerce, 7/2/61, para. 4.
251. *ibid.*, para. 6.
252. *ibid.*, para. 9.

253. The Graphic, 10/2/61.
254. The Leader, 17/2/61.
255. ibid.
256. The Leader, 28/4/61.
257. ibid.
258. Memorandum from the CMCC submitted to the Prime Minister, Dr. H.F. Verwoerd, 4/12/61.
259. The Leader, 22/12/61.
260. Letter from CMCC to the Prime Minister, Dr. H.F. Verwoerd, The Leader, 22/12/61.
261. Daily News, 15/1/62.
262. Letter from the Secretary of the Minister of Community Development and Housing to the CMCC, Daily News, 15/1/62.
263. Meeting of the CMCC, 15/1/62, Daily News, 15/1/62.
264. The Leader, 22/9/61.
265. Daily News, 10/4/62.
266. Daily News, 18/1/62.
267. Daily News, 5/4/62.
268. Daily News, 29/5/62.
269. Natal Mercury, 30/3/62.
270. Figures prepared by City Engineer, Mr. A. Kinmont, Daily News, 20/4/62.
271. Daily News, 25/4/62.
272. Letter from the NIO to the Regional Under-Secretary, Natal, Department of Community Development, 25/4/62.
273. DCC Minutes, 30/4/62.
274. Daily News, 30/4/62.
275. Natal Mercury, 26/4/62.
276. The Leader, 4/5/62.
277. The Leader, 11/5/62.
278. Daily News, 7/5/62.
279. Letter from the NIO to the Regional Under-Secretary, Department of Community Development, 25/4/62.

280. ibid.
281. Letter from Mr. P.R. Pather, President of the NIO, to the Prime Minister, Dr. H.F. Verwoerd, Daily News, 18/5/62.
282. Daily News, 24/4/62.
283. The Leader, 29/6/62.
284. Natal Mercury, 28/4/62 (original emphasis).
285. Daily News, 1/5/62.
286. Daily News, 23/6/62.
287. The Leader, 29/6/62.
288. Memorandum presented by the NIO to the GAB, 10/7/62.
289. Daily News, 23/6/62.
290. The Leader, 14/12/62.
291. Mr. J.N. Singh, representing the CMCC, Daily News, 20/12/62.
292. The Leader, 28/12/62.
293. Daily News, 19/12/62.
294. Daily News, 20/12/62.
295. Daily News, 19/12/62.
296. Daily News, 19/12/62.
297. Mr. S. Bridgemohan, who represented the DCIRA, Daily News, 31/12/62.
298. Daily News, 19/12/62.
299. Daily News, 25/5/63.
300. ibid.
301. Daily News, 27/5/63.
302. The Leader, 7/6/63.
303. Government Gazette, 4/10/63.
304. Statement released by the Department of Information, Daily News, 4/10/63.
305. Hansard, 9/6/64, cols. 7568-7569.
306. Resolution adopted at a meeting of the NIO held on 21 September 1963, para. 1; 11.
307. ibid.

308. Letter from the NIO to the Prime Minister, 26/9/63.
309. ibid.
310. Letter from the Ministry of Indian Affairs to Mr. P.R. Pather, President of the NIO, 14/10/63.
311. ibid.
312. Letter from Mr. P.R. Pather to the Private Secretary of the Minister of Indian Affairs, 25/10/63.
313. Daily News, 22/11/63.
314. ibid.
315. Daily News, 15/12/63.
316. ibid.
317. Daily News, 14/1/65.
318. Daily News, 14/11/64.
319. Daily News, 17/11/64.
320. Daily News, 1/6/65.
321. Source: Undated NIC Pamphlet.
322. Posel, D. 1991. The Making of Apartheid 1948-1961: Conflict and Compromise. Oxford: Clarendon Press.
323. ibid., p. 5.
324. Ogborn, M. 1992. Local power and state regulation in nineteenth century Britain. Trans. Inst. Br. Geogr. N.S., 17, p. 218.
325. Page, E. 1986. Fiscal pressure and central-local relations in Britain. In M. Goldsmith and S. Villadsen (eds.), Urban Political Theory and the Management of Fiscal Stress. Aldershot: Gower, p. 132.
326. Atkinson, D. 1991. Cities and Citizenship: Towards a normative analysis of the urban order in South Africa with special reference to East London, 1950-1956. Unpublished Ph.D. thesis, University of natal, Durban, p. 300.

## CHAPTER EIGHT

### CONCLUSION

The reconstruction of South Africa's economy, polity and human landscape towards new, post-apartheid forms must clearly be the top priority for any responsible pattern of engagement with the development challenges of the next decade. To do this effectively will require great sensitivity to the geographical legacy of apartheid and the scars it has left behind, and also to the complex local, regional and environmental diversity that characterises the South African whole.<sup>1</sup>

#### 8.1 BACKGROUND OF PREVIOUS STUDIES

The development of racial residential segregation in South Africa has been conventionally associated with the central state, while the role of other state apparatus, particularly the local state, has been neglected in scholarly analysis. While there has been a burgeoning of empirical research amongst geographers focusing on the origins of segregation and apartheid at the local level, these studies often failed to relate their rich historical evidence to theoretical accounts of the state and its apparatus. An implicit assumption has been that local states responded autonomously to local exigencies, until their powers were severely restricted by the central government. Thus the local state has frequently been regarded as part of the central state apparatus. In the process conflicts between the central and local states are neglected, and the importance of politics at the local level is ignored.

A good example of this neglect is Parnell's work on segregation in Johannesburg in the first half of this century. Notwithstanding her rigorous empirical analysis, a major weakness is that her work is often presented in a theoretical vacuum. The analytical value of her work could be enhanced if it is underpinned by a theoretical perspective on the state.<sup>2</sup> Another example is Mather who examined the conflict between the central state and the Johannesburg City Council over the implementation of the so-called 'location in the sky' Act. Once again, no attempt was made to theorise the state and its apparatus.<sup>3</sup> A similar weakness is evident in Nel's work on racial segregation in East London and Proctor's research on segregation in



Krugersdorp.<sup>4</sup> Although the above studies focus on localities, the burgeoning theoretical literature relating to the local state is ignored. This neglect to explicitly consider the state and its apparatus is surprising since in South Africa there has been an "overwhelming propensity towards statism (the concentration of political, economic and social activity around the state)".<sup>5</sup> The present study focused on the role of the state and its apparatus (particularly the interaction between the central and local states), and institutions (especially the bureaucracy) in controlling territories and people with specific reference to the implementation of the GAA in Durban.

Notable previous studies on the GAA did not explicitly consider an analysis of the role of the central and local states with regard to the origin and implementation of this legislation. There was a tendency among South African geographers to adopt a 'neutral', uncritical stance when examining the GAA. This was best exemplified in the work of W. Davies, who argued that geographers should not be concerned with the advantages or disadvantages of the GAA. In his study of the GAA in Port Elizabeth in 1971, Davies stated that his

investigation is not concerned with the merits of the policy underlying the Group Areas legislation. It is a study in applied urban geography ... The Act has been with us since 1950, and we must live with it until such time as it is replaced by some other legislation. Since this possibility appears to be remote at the present time, it is necessary that urban geographers and other social scientists subject its applications to the closest possible scrutiny to ensure that its provisions will not adversely affect the growth and development of our cities.<sup>6</sup>

Perhaps the most comprehensive and perceptive study of the GAA was undertaken by a British geographer, John Western. In his humanistic study of the impact of GAA on the coloured community of Cape Town, Western emphasised the role of the central state in implementing the legislation in order to ensure white minority hegemonic control.<sup>7</sup>

## **8.2 THE PRESENT STUDY**

By contrast, the present study has examined the development of segregation at the local or municipal level, and the nature of central-local relations. This was attempted by analysing the various demands for group areas legislation in a specific local context - Durban. The study

has revealed how local imperatives and contingencies led to demands for segregation, which were ultimately adopted by the central state and implemented nationally. It has also highlighted the conflicts and tensions in the relationship between the central and local state with regard to the segregation of Indians. Initially, segregation initiatives were confined to the local state. In the 1940s the Smuts' Government tried to resist pressure from the DCC for statutory measures. The Smuts' Government, aware of the international implications of such measures, asserted that the problem could be solved by voluntary segregation, and it supported the Lawrence Committee and the Pretoria Agreement. However, the DCC deliberately sabotaged these attempts. As pressure from the white electorate mounted, the central state introduced sweeping measures culminating in the GAA of 1950.

An historical analysis of the development of the local state in Durban provided an effective backdrop for understanding the response of the DCC to white demands for statutory segregation in the form of the GAA. Intensive historical analysis revealed that the local state in Durban had played an important role in facilitating the process of urban capital accumulation and developmental expansion, and had actively pursued an industrial-growth agenda. This was promoted by infrastructural arrangements, alliance with the railways, the fostering of tourism, and the development of its own municipal enterprises. The main aim was to increase the city's income so that this could subsidise the cost of municipal services and keep the rates charges for its predominantly white citizens at a minimum. The local state had also played an important role in facilitating the control and regulation of labour. It developed the 'Durban system', subsequently adopted by the central state, which ensured that workers contributed towards their own reproduction. Although the local state was heavily involved in the provision of the social means of reproduction, there was a shortage of housing for working class whites. This was attributed to the infiltration of Indians into traditionally white residential areas, and gave rise to the call for some form of segregation. This represented the early stages of a racist, anti-Indian discourse which peaked in the 1950s.

In Durban there were conflicts of interest at times between the local state executive and the local state bureaucracy, with the former being more sympathetic to the needs of capital, and the latter inclined to support white working class interests. Since the turn of the twentieth century the local state and its bureaucracy were at the forefront of calls for compulsory

segregation against Indians because this group presented a serious threat to whites in the competition for economic and social space. The racist discourse and anti-Indian sentiment which characterised the period under study consolidated a political alliance between the local state, the white elite and the white working class.

### **8.3 THE ANTI-INDIAN BASIS OF THE GROUP AREAS ACT**

Restrictions on Indian acquisition and occupation of land dates back almost to their arrival in South Africa in 1860. The origin of South African Indians can be traced back to the agricultural labour requirements of colonial Natal in the mid-nineteenth century. As Indians progressed economically they were perceived to be a threat to European interests. Whites displayed racial prejudice against Indians, feared their economic competition, and were also concerned about their rapid population growth which was perceived as a political threat. These prejudices were transformed into policies which limited their access to land and housing, as well as trading opportunities. The epitome of white domination was that the emerging Indian bourgeoisie had to be vanquished to ensure that the immigrant group remained as unskilled labourers.

The constraints on the economic activities of Indians were underpinned by a consistent policy of racial residential segregation, pursued most vigorously by the local state in Durban, which often went against central state initiatives. The local state in Durban, representing the white ruling class, was at the forefront of calls for the segregation of Indians. Anti-Indian agitation and allegations of Indian penetration in Durban dominated the 1940s. Conflict between Indians and whites escalated as the DCC refused to accept the fact, which was supported by ample evidence, and acknowledged by the central state, that Indians were moving into white areas because the DCC had failed to provide them with sites with suitable amenities and services. Furthermore, the DCC had gone out of its way to expropriate Indian properties in settled, established communities. The politics of local white interests were often at odds with the central state which preferred voluntary segregation, while the DCC demanded compulsory segregation. However, as the pressure from the white electorate and the local state mounted the central state was forced to introduce various legislation, culminating in the Ghetto Act of

1946, which laid the foundations of the Group Areas Act that followed in 1950. Thus, the local state had played an important role in influencing the policies of the central state.

The present analysis of the legislation, parliamentary debates and statements by various politicians has revealed that the GAA was a culmination of the anti-Indian measures, restricting access to land and trade, which had pervaded the Union, as well as the colonies and the republics, for almost a century. The local state in Durban played a significant role in the development and promulgation of the GAA, and worked in close collaboration with the central state. The National Party claimed that the GAA was in response to calls from Durban to act against Indian penetration.

The local state regarded the GAA as a life line by which Durban could be preserved as a 'European' city. The DCC almost matched the NP in their defence of the GAA, arguing that it provided opportunities for blacks to develop on a parallel basis to Europeans, as well as offering them new economic opportunities. The different race zoning plans drawn by the DCC ensured that white interests would be entrenched at the expense of displacing settled Indian communities, for they had the municipal franchise, and the Councillors were accountable to their electorate. Local governments reflect and represent the collective interests of their constituents, which may not necessarily be all or the majority of citizens.<sup>8</sup> Conclusive evidence was presented in the study to support the contention that in Durban the Group Areas Act was initially aimed primarily at Indians. In the past, some scholars have supported this view, while others have rejected it with neither side presenting any concrete evidence.<sup>9</sup>

#### **8.4 'THE FAILURE OF RESISTANCE'**

Indian political organisations were vociferous in their condemnation of, and opposition to, the GAA, which was intended to ruin the community economically, and force them into ghettos. They resolved to mobilise their resources, and to use every available avenue of protest to oppose the implementation of the GAA, and to defy the unprecedented assault on basic human rights and privileges. In an atmosphere of increasing hostility and intolerance these

organisations utilised peaceful measures, which included recourse to law, passive resistance and appeals to India and the United Nations, to expose the injustice and violation of human rights in South Africa. However, while they claimed to represent the Indian community, there was very little evidence of mobilisation of the working class.

This study contributes to the historiography of South African Indians. It highlighted the nature of the dispossession of property owners which was provoked by white covetousness and prejudice. The nature of the struggle to overcome this dispossession and the reasons for its failure were also examined. The main reason for the failure of resistance to the GAA was the repressive state apparatus, as well as divisions within the Indian community. Divisions between the NIC and NIO were directly related to class. While the NIC had greater grassroots support, it failed to effectively mobilise this support. Leadership was sterile, and it often resorted to rhetorical slogans when there was a need for immediate action. This was partly due to the fact that leaders were frequently arrested and harassed by the police. The majority of Indians were low income labourers who were afraid of being arrested, and the consequent loss of jobs, earnings and family support associated with political activism. Furthermore, segregation presented an immediate threat to middle class Indians, and political action and resistance was directed to protecting the interests of this group. For the poor there was the possibility of being housed in municipal housing schemes and a relief from the high levels of exploitation from the Indian landlords. In spite of the divisions, all leaders and organisations failed to exploit the opportunity for mass mobilisation presented by the meeting organised by the Sponsor's Committee in June 1958.

The NIO comprised the numerically smaller, but economically more powerful business interests. As a conservative group, it was prepared to negotiate with both the central and local states, although it achieved little success in this regard. It appeared that both the central and local states attempted to exploit the divisions within the community by their partiality towards the NIO. The leadership of the NIO was ultimately co-opted by the state to form the Indian Advisory Council, predecessor to the South African Indian Council.

The leadership vacuum in the Indian community that developed in the struggle to oppose the GAA was filled by civic and ratepayer organisations, a trend which continues to the present

time. These organisations tried in vain to oppose relocation through mass protest meetings, petitions and negotiations. However, the fledgling apartheid state of 1948 and its repressive apparatus was firmly in control by 1960, and it refused to acquiesce to the most reasonable demands of a disenfranchised group.

## **8.5 CENTRAL-LOCAL RELATIONS: CONTINUITIES AND CONFLICTS**

There was substantial evidence of close collaboration and complicity between the DCC and the NP with regard to the formulation and implementation of the group areas legislation. The DCC submitted a number of amendments to the GAA which were intended to facilitate racial zoning with a minimum of disturbance, ensure the provision of alternative accommodation for those who would be relocated, and protect property values. The Government accepted these amendments and established the GADB, whose concern was community development. It became increasingly apparent that these measures were proposed to hasten the dispossession of Indians. The GADB provided the machinery for the DCC to accelerate the European acquisition of Indian properties in order to realise its aim of making the Old Borough a white group area.

The Technical Sub-Committee of the DCC had worked in close conjunction with the Government in drawing the 1952 race plan for Durban. Furthermore, the DCC had co-operated closely, and was generally in agreement with the GAB and the Planning and Reference Committee of the NP. Hence, there were significant continuities between the policies of the local state in the 1940s and early 1950s and the apartheid central state. This study supports Van Tonder's suggestion that "certain elements within the United Party, [especially at the local level] were as dedicated to the ideal of urban and spatial segregation as the Nationalists were, but lacked only their ideological zeal and dedication to more dogmatic apartheid".<sup>10</sup> It was evident that the local state in Durban was operating with a significant level of autonomy. It had not only initiated action over compulsory residential segregation independently of higher state tiers, but also influenced the central state, and was functioning within a 'sphere of local immunity'.<sup>11</sup>



The LTAB hearings in Durban 1953 proved that the DCC's proposals would wreak havoc for Indians. The hearings revealed the close working relationship between the DCC and the NP, who had almost identical plans. In spite of spirited objections to the Council's plans by Indian political and civic organisations, the Board's recommendations to the Minister revealed that it had basically accepted the DCC's plans. Indian objections and recommendations were not considered at all, and this questioned the alleged impartiality of the GAB, as well as Ministerial assurances that the Act would be applied with justice and equity.

Significantly, there also appeared to be a stirring of white conscience in Durban. Many prominent Europeans also supported the protest against the proclamations. Eight years after the implementation of the GAA, and with the election of more liberal Councillors to positions of influence, and especially as the financial costs of implementing apartheid became evident, the DCC began to review its support for the GAA. Shifts in state policies which are regarded as conflicting or contradictory are related to changes in its power base, or the result of pressure from popular groups. The nature of local politics not only differs between cities, but also within the same locality over time. Local governments reflect and represent the collective interests of their constituents, which may not necessarily be all or the majority of citizens.<sup>12</sup> As emphasised by Greer, the temporal goals of the city are determined by the results of the local political system and the configuration of interests it represents - in terms of who holds leadership posts, whose interests are promoted by the city, and the nature of local policy.<sup>13</sup> In addition, local governments are "bureaucratic organisations with their own agendas of power and continuity (reproduction). Hence ... local governments are purposeful actors and agents that interpret statutes, coerce their citizens, and manipulate their legitimacy".<sup>14</sup> Collectively, these components ascertain the viability of political leadership, the differential ability to combine interests and to promote programs responsive to local needs and the capability to manoeuvre public and private sector interventions. Together, these factors influence political and economic outcomes in specific localities.<sup>15</sup>

The June 1958 proclamations fulfilled the worst fears of the Council in terms of the costs of providing alternate accommodation for tens of thousands of displaced Indians. The DCC therefore resolved that a 'more realistic approach' be adopted with regard to race zoning, with emphasis on the 'minimum disturbance of the existing population'. Ultimately, the Council

was forced to review its race zoning plans because of the exorbitant costs of implementing apartheid. The Government itself was unable to answer the question of who would foot the bill for relocating 63 000 Indians. Finance is a frequent area of conflict between central and local states, both of which have a strong interest in restricting expenditure and consequently strive to pass the financial burdens of various policies onto different parties.<sup>16</sup> However, increased financial dependence upon the central state does not "simply and indisputably translate into complete deterioration of autonomy and power at the local level ... Each local state has its own configuration of political and administrative institutions and a set configuration of internal interests to which, directly or indirectly, it must be responsive".<sup>17</sup>

The Government, however, was not prepared to review the June 1958 proclamations, and warned that in terms of the draft amendment to the Group Areas Act Development Bill, the GAB could demarcate group areas, and the local state would be compelled to pay for its development, regardless of whether it approved or not. The central state was using its recourse to law to undermine the autonomy of local authorities. Hence, as suggested by Ogborn, legislation sets the "capacities, potentials and limits of central-local relations".<sup>18</sup> The DCC maintained that it would be far better for the Government to co-operate with the Council in regard to the problems which it had experienced, instead of threatening it with compulsion. The alliance between the NP and DCC with regard to the implementation of the GAA was now strained, and tensions between the central and local states increased markedly. Indeed, throughout the twentieth century, central-local relations were particularly strained because the DCC believed that the Government was reducing its fiscal base.

In terms of the DCC's revised race zoning proposals the only concession was the zoning of Cato Manor for Indians. Immediately a significant number of whites in Durban protested against this action, and they had the support of the Government. In October 1958, however, there was drastic change in the composition of the DCC, with liberal councillors losing their seats. The new Council supported the DCC's 1952 proposals and opposed the zoning of Cato Manor for Indians. However, there was some white support for the zoning of Cato Manor for Indians. A mass meeting of concerned whites led to the formation of the Citizen's Committee which argued that the removal of Indians from Cato Manor was immoral and beyond the financial capacity of the DCC. The DCC was forced to take cognisance of this

protest and adopted a compromise solution, in terms of which it recommended that portion of Cato Manor which was predominantly Indian owned and occupied, should be zoned for that group.

Numerous unsuccessful attempts were made by the DCC to influence the Minister of the Interior to accept the Cato Manor 'compromise'. Indian political and civic organisations, particularly the CMCC, made spirited attempts to save Cato Manor, in spite of being berated and humiliated by the Government. In December 1962 the GAB held a hearing to determine whether Cato Manor should be zoned for immediate white occupation. In spite of receiving more than 10 000 objections to the zoning of Cato Manor for whites, the GAB merely affirmed the government's decision of 6 June 1958. The spatial impress of the central state was imposed upon the local state of Durban.

Thus, by the early 1960s there was evidence of increased central state control over the local state, and the space for local opposition to central policies was significantly reduced. This was because

- i) the central state had officially reduced the scope of the 'statutory discretion' of the local state in implementing central policies;
- ii) this was accompanied by a re-assertion of central authority and an increase in bureaucratic pressure on the local state; and
- iii) the political will to use this bureaucratic apparatus increased the power of the central state to exploit the fiscal vulnerability of the local state, with the latter being forced to acquiesce to the policies of the former.<sup>19</sup> This was because the NP grew increasingly more powerful with each election after 1948, and it could therefore afford to 'get tough' with intransigent local authorities like the DCC.

## 8.6 ANALYTICAL ISSUES

Conceptually and analytically, this study has been influenced by a 'state-centred' approach to human geography which emphasises the concrete role of the state and its various apparatuses (especially the local state), and institutions (especially the bureaucracy), in regulating territories (space) and people.<sup>20</sup> This approach stresses the historical and geographical specificities of state form. Hence, state form and structure, and its interaction with civil society will vary in different localities, depending on different historical processes, experiences and specificities. However, the influence of social (class) forces on state formation is not neglected. This is in keeping, for example, with the 'strategic-relational' approach advocated by Jessop, which emphasises that the state must be examined through its interaction with the rest of society.

Epistemologically, this is possible through the adoption of a realist perspective, which recognises that the state is located within a complex and diverse social formation, and which identifies necessary as well as contingent factors that influence its interaction with society. This approach ensures that any analysis of the state must go beyond a simple consideration of class and economic factors.<sup>21</sup> More specifically, the approach avoids the reductionism which characterised much 'society-centred', revisionist analysis of the South African state, with its accompanying structuralist and economistic emphases, as well as the tendency among local state analysts to focus solely on economic restructuring "as the major determinant of local social relations".<sup>22</sup> Following Brown, the empirical focus of this thesis has been on the "standard institutional forms through which power operates (state legislation and politics)".<sup>23</sup> The study supports Clarke and Kirby's contention that neither the central nor local state can be analysed in isolation, nor can social, political and economic processes be examined in isolation - necessary as well as contingent relationships must be considered.<sup>24</sup>

Most attempts to analyse central-local relations have lacked historical specificity, which is critical for an understanding of local state action.<sup>25</sup> In a recent review of local state literature, Reynolds argued that to "to date research on the politics of place and the local state has been long on theory and short on historical/empirical analysis".<sup>26</sup> A conjunctural analysis in the present study demonstrated how both apparently necessary social relations and

contingent historical factors influenced the form of the local state. In South Africa it is arguable that apartheid legislation was the necessary causal factor responsible for the general pattern of residential segregation. However, the nature and pattern of implementation of racial segregation in specific localities depended on various contingencies. Intensive historical research revealed how certain local contingencies (the Indian question in Durban) had a tangible influence on national processes (e.g. the GAA), which in one perspective is the necessary cause, and yet which was devised by conscious, active individuals and groups. In politically fragmented metropolitan areas, the local state envelops clearly defined geographical boundaries, with distinct ethnic and racial groupings, as well as social and economic configurations. Regional variations in race and class compositions lead to differences in the politics of localities.<sup>27</sup>

To the apartheid central state, local authorities were the pawns to implement its policy of social segregation. Local state responses were significantly influenced by their constituencies, which led to continuities as well as conflicts between the state tiers. The Indian 'problem' in Durban, for example, influenced the formation of an alliance between the ruling National Party and a local authority which was sympathetic to the United Party. Ultimately, there had to be some form of accommodation, but largely on conditions imposed by the central state.

## **8.7 THE CENTRAL AND LOCAL STATES IN SOUTH AFRICA**

The present study contributes towards an understanding of the nature of the South African state both at the central and local levels. It highlighted the tensions, conflicts and contradictions in the relationship between the central and local state with regard to the implementation of residential segregation. In many cases, shifts in state policies at both the central and local levels were related to changes in its power base, or were the result of political pressure from popular groups. Hence, it was not merely the interaction between the central and local states which influenced the development and implementation of local policies. There has been a tendency amongst local state analysts to overlook conflicts between the central and local states, as well as to underestimate the importance of politics at the local level. Yet varying goals and interests between central and local states lead to

increasing conflict.<sup>28</sup> In South Africa, prior to 1948, the local state was viewed as an agent of the central state, with a measure of administrative autonomy.<sup>29</sup> However, this thesis suggests that in developing measures to segregate Indians the central state was responding to initiatives from the local state in Durban. The local state was "generating 'autonomous initiatives' and 'pursuing its own strategies and goals' independently of other social actors to a significant degree".<sup>30</sup>

The state-centred approach to the local state in the present study "emphasised the central state as an active and purposeful agent in local government issues".<sup>31</sup> The analysis of the GAA in Durban demonstrated how the autonomy of the local state was ultimately usurped by the central state. Recently, scholars on South Africa have drawn attention to the need to explore the role of the state bureaucracy in the implementation and entrenchment of apartheid.<sup>32</sup> This study revealed that an important role was played by the civil service bureaucracy, especially the GAB. The GAB was very influential and functioned as a 'state within a state'. The GAB played an important role in undermining the autonomy of the local state with regard to race zoning. In Durban, for example, the local GAB refused to rezone Cato Manor for Indian ownership and occupation, in spite of numerous appeals from the local state between 1958 and 1962. Hence, as Posel observes, the implementation of apartheid depended upon the increasing power and control of the central state bureaucracies, often at the expense of the local state.<sup>33</sup>

Prior to 1948 the central state was reluctant to introduce statutory residential segregation because of international repercussions, particularly in its relations with India, and by extension with the Commonwealth. As far as was possible it preferred voluntary residential separation. This was evidenced by the establishment of the Lawrence Committee and the abortive Pretoria Agreement. Even the Pegging Act was a temporary measure for three years. These attempts by the central state were consistently thwarted by the local state in Durban, which demanded statutory segregation of Indians.

Indeed, the major statutory measures introduced by the central state, the Pegging and Ghetto Acts, were in response to pressure from the DCC and its white citizens. Hence, the social and economic prejudices of whites against Indians were supported by legislation, and adopted



as national state policy. In the process the central state was going against the findings and recommendations of numerous commissions of inquiry which emphasised that the segregation of Indians and limitations on their trading practices would ultimately have an adverse impact on the whole country. To ensure its legitimacy, the state must appear to represent the interests of the whole of society. However, it must promote the "power of certain groups for its own growth and power".<sup>34</sup> The local state is most likely to work in the interests of its electorate than any other apparatus of the state. The greater the intensity of local support for its actions, the greater is the capacity of the local state to force the central state acquiesce to its demands.<sup>35</sup>

This study further suggests that it is possible for central policies to be implemented differently in different localities. Also, local states have the autonomy and capacity to formulate goals as well as to influence central policies.<sup>36</sup> The Durban study supports Meegan's contention that the "state of local politics is crucially important and local political differences take on added significance in areas at odds with central government."<sup>37</sup> It also confirms the view that the South African state cannot be regarded as a monolithic entity. Apartheid policies were not merely imposed upon the local state, which in turn, cannot be viewed as a passive agent of the central state. The local state in South Africa does enjoy a degree of relative autonomy. In fact "local initiatives actually preceded and partially informed centralist approaches to urban apartheid".<sup>38</sup> The local state in Durban was responsible for pioneering the demands for residential segregation which was ultimately embodied in the Group Areas Act. However, as the financial implications of relocating hundreds of thousands of people became apparent, (especially that the cost would have to be borne by the white ratepayers of Durban), the DCC made a futile attempt to oppose the central state's attempt to impose its version of race zoning in the city.

In the theoretical literature the local state has been portrayed as passive - either responding to the political and administrative decrees of an all-powerful central state, or reacting to the dictates of market forces. This implies that local states can only respond to external forces, with little autonomy or power.<sup>39</sup> It is apparent from this study that the local state cannot be viewed merely as a politically neutral provider of services and facilities, nor can it be regarded as an agent of capital or the central state. The exceedingly complex nature of the

interactions between the central and local states in the structuring of urban social space has not been extensively analysed previously. The implementation of central policies in localities are the outcomes of conflict between and within classes, as well as between different government tiers. The present study supports Fincher's assertion that "an ever changing, conflicting set of relations exists between different levels of government, and between government and local community members, alliances and groups".<sup>40</sup> The nature of the relations and conflicts between the local and central states stem from a number of different causes and assume a variety of forms which reflect the frequently ambiguous nature of local-central relations, and which "must be based in consideration of past events and relationships".<sup>41</sup>

Local states have unique histories and variations in policies are determined by the "structuring of political participation, interest representation, and administrative arrangements in each locality".<sup>42</sup> In addition, the local state must respond to its internal political interests, which can be in conflict with those of the central state. In this study the nature of the relationship between the local state bureaucracy and executive was highlighted. There was a strong historical alliance between the local state bureaucracy and the white working class. Many members of the bureaucracy were recruited from this group. The local state bureaucracy in Durban was influential in its demands for racial segregation. This was primarily because Indians presented a serious economic and social threat to this group. The City Valuator and Estates Manager, for example, played an important role in the formulation of the 1943 race zoning proposals. The influential TSC comprised key officials of the local state bureaucracy (Manager of the Native Affairs Department; Senior Engineer; City Medical Officer of Health; Principal Clerk, City Estates Department). However, the local state executive had to consider the views of the white electorate, and the TSC's zoning proposals were accordingly modified. The form of state intervention, their political implications and the popular response they elicit, vary with the specific state at specific times. Therefore urban policies should be explained by reference to these local specificities as well as "an analysis of the interests represented in and affected by the particular state intervention".<sup>43</sup> An understanding of the internal politics of the local state is essential for two reasons:

First, the administrative routines, power structures and conflicts of interests within local authorities can affect policy processes by modifying and mediating external influences. Second, they may provide an internal dynamic. The

internal politics of local authorities reflect not only an ability to make choices in the context of external influences, but also a facility for taking initiatives and independent action on the part of officers and councillors.<sup>44</sup>

The attributes of the local state reflect the nature of social relations in a locality. Hence, in many respects, rather than being "given, apparently autonomous and socially inexplicable, changes in institutional 'things', state forms and actions are a part of changing relations between groups of people".<sup>45</sup> In this regard, Fincher recently called for a greater research focus on the contribution of the local state to the formation of social relations in localities. Although local political apparatuses influence local social relations, the role of the local state has not been considered explicitly.<sup>46</sup> Local social relations emerge from the history of the labour market, political institutions as well as the cultural heritage. By the very nature of its collective consumption functions, especially with regard to service provision and its spatial distribution, the local state can influence the nature of local social relations.<sup>47</sup> In the present study more emphasis was placed on the social relations of the local state ('how state institutions do things') rather than on the functions of the different state tiers.<sup>48</sup> In Durban the local state influenced local social relations, for example, by favouring the white electorate with regard to provision of services and facilities, as well as access to land. It was responsible for the chronic neglect of Indian areas, and ensured that this group would bear the greatest brunt of the GAA.

## 8.8 STRUCTURE AND AGENCY

The study has also drawn attention to the role of agency - a neglected facet of state development.<sup>49</sup> In part, this represented an attempt to redress the overemphasis on social structure at the expense of human agency which has characterised the dominant paradigms in urban theory - human ecology and marxian political economy.<sup>50</sup> An important theme in social theory is the association between the individual's autonomy to act and the constraints imposed by social structure.<sup>51</sup> Scott called for a form of spatial inquiry which considered more explicitly the role of human agency as a potent force influencing historical and geographical processes.<sup>52</sup> In this regard, in addition to the structural imperative, the role of agency, especially the influence of different power groups on urban development has been

highlighted. In the process the structuralism of Marxian political economy is avoided in support of a balanced exposition of the interaction between structure and agency.<sup>53</sup>

The study supports Dear and Wolch's contention that human landscapes are forged by actors or agents functioning in a specific social structure or context. The interaction between structure and agency is interceded by institutional factors (state apparatus) which facilitate as well as impede action.<sup>54</sup> In this study initial demands for segregation emanated from the economic threat presented by Indian traders to whites. Initially, the institutional apparatus, as represented by the United Party Government, was sympathetic to such demands. However, it was also concerned about the implications of such actions on its international relations. Subsequently, however, there were significant continuities between the apartheid central state and the local state in Durban with regard to the implementation of the GAA. However, after its initial enthusiasm, the local state in Durban was forced to review its support for the GAA, especially after the financial implications and human costs of segregation became evident.

Attention has also been drawn to the pressure exerted by popular classes, and its failure to deproclaim Cato Manor. Moreover, state empowered political action, as represented by the white voters in Durban, was successful in getting the GAA on the statute books. The Durban case study reveals that "not only do the specificities of local situations influence the actual outcome of more general processes, but those general processes are created by conscious, active individuals ... [and that] particular political events and outcomes are inextricably bound up in historical and spatial specificities."<sup>55</sup> It drew attention to "how conscious relations with the state develop through contests over programmes, policies, and procedures".<sup>56</sup> In a sense this 'bottom-up' approach to the study of the local state can be viewed as "both an empirical and conceptual advance on the purely 'top-down' world" of abstract structures and institutions.<sup>57</sup> Similarly, Clarke and Kirby have emphasised the need for a 'bottom up' approach which considers the influence of social, cultural, economic and political factors in shaping localities. This is only possible through intensive historical analysis in which neither the central nor local state, or political or economic factors are accorded the privilege of a single unit of analysis.<sup>58</sup>

## 8.9 THE NEGLECT OF URBAN POLITICS

Cities are contested terrains structured by struggles involving economic agents and political actors. There are numerous conflicts between agents and institutions over the control of urban space. Such conflicts take place between central and local states, citizens, and economic agents. Conflicts revolve around such issues as urban development plans, political influence, land use controls and the socio-spatial distribution of resources within the city. These conflicts cannot be explained in terms of a single perspective as they are influenced by local specificities and contingencies. However, a common feature of such conflicts is the battle for "political power and participation in the decision-making process".<sup>59</sup>

Although space has been structured and patterned by historical and material forces, an overriding factor has been the political influence. Any realistic analysis of urban structure must recognise that the city is an embodiment of the political, economic and social structure of society. In this thesis the influence of urban politics in restructuring space and territory was emphasised. The implementation of the GAA provides a classic example of what Cuthbert refers to as the "manner in which space is crafted, bounded, annexed, delineated and institutionalised to serve specific economic and political intentions".<sup>60</sup> In part, this also addresses the concern that politics has been neglected in recent urban theory. Jonas recently called for the reassertion of politics in urban theory, which he argues complements Soja's call for the reassertion of space in social theory. More specifically, while political processes influence the restructuring of urban space and territory, urban space and territory, in turn, represent prisms which refract political processes. A good example of this was the planning of segregation in terms of the GAA in Durban. This spatialisation of urban politics contributes towards explaining the reduced role of class conflict in influencing urban forms (which had been alluded to in chapter one of this thesis).<sup>61</sup>

## 8.10 SEGREGATION AND THE LOCAL STATE

It is evident from this study that residential separation in cities cannot be explained in terms of segregation indices or in terms of freedom of choice and constraints. Residential

segregation represents the territorial dimension of racism, and requires an examination of the "complex interweaving of social relations and spatial structures".<sup>62</sup> Urban racial patterns are the results of specific social, economic, political and ideological processes. There has been a tendency, however, to reduce racial issues to economic considerations. In South Africa, for example, race is not a natural phenomenon - it is a historical product of calculated human endeavour. Racial groupings are tangible, not mere substitutes for concealed material forces. As Swanson has argued, in South Africa race and ethnic factors "constituted a significantly independent variable in the calculus of power and making of urban segregation".<sup>63</sup> This study focused on the influence of institutions, particularly the state apparatus, on residential segregation. The role of the local state in planning for segregation was highlighted. The power to regulate land use is an important function of the local state, which often manipulates zoning laws to implement segregation. In the international literature segregation in terms of race and class has been implicitly related to the local state.<sup>64</sup> More recently, Bullard and Feagin have argued that race continues to be the most important factor in "explaining the socio-spatial layout of urban areas, including housing patterns, street and highway configuration, commercial development and industrial facility siting".<sup>65</sup>

Urban spatial differentiation is reflected in terms of land use zoning, race and class. The local state plays an important role in the segregation of land uses, and favours some interests against others. It is always managing this process and the associated conflicts. In many respects "the particular spatial outcomes of public segregative actions are most directly shaped by the decisions and initiatives of local government".<sup>66</sup> This thesis focused on racial segregation pioneered by the local state. Prior to the introduction of statutory measures, the local state in Durban had attempted to introduce segregation under the guise of slum clearance. This study demonstrated the centrality of the local state in the process of segregation. The study suggests that analysis of urban segregation would contribute towards an understanding of the local state. Perhaps there is a need to further examine this process. As Rabin observes:

Indeed, the land use-related policies and practices of government, at all levels, have been, and in many cases continue to be, important influences on both the creation and the perpetuation of racially segregated housing patterns<sup>67</sup> ... The need for an understanding of government's role in creating and perpetuating these segregated conditions is of fundamental importance.<sup>68</sup>



## 8.11 GEOGRAPHY, LAW AND THE STATE

In South Africa law has been used to structure social relations as well as effecting apartheid policies in specific socio-spatial contexts. The implementation of the GAA in Durban was a classic example of the influence of law on socio-spatial structuring. The formulation and administration of the GAA reflected the structure and organisation of power, as well as the capacity of different groups with varying access to power and the judiciary to oppose the implementation of the GAA. Thus, the study revealed that "law ... can be manipulated and used in the interests of groups that may have access to power".<sup>69</sup> Law, therefore, plays a key role in the process of social engineering, and this has been emphasised by Moore who argues that

underlying the social engineering view is the assumption that social arrangements are susceptible to conscious human control ... in such formulations 'the law' is a short term for a very complex aggregation of principles, ... and the activities of agencies of legislation, administration, adjudication and enforcement, backed by political power and legitimacy.<sup>70</sup>

However, the influence of law on socio-spatial organisation has been neglected by geographers. Indeed, as Cueva observes, the interdisciplinary approach that has characterised the new urban studies over the past 15 years has "ignored the law as one of the conditioning elements in urban social processes".<sup>71</sup>

Law represents an embodiment of state power<sup>72</sup> and is a "conjoint expression of state ideology and instrumentality".<sup>73</sup> It is important to note that "the location of law in terms of its implementation, interpretation, and enforcement, is in the state".<sup>74</sup> Indeed, as Urry observes, a significant feature of the state is that it "possesses and implements generally applicable laws. Very little of the activities of the state are free from lawful direction - and these themselves must be specified in legal terms".<sup>75</sup> Law serves the state to facilitate legitimisation and reproduction. Hence it has an ideological as well as an instrumental function.<sup>76</sup> In South Africa the group areas legislation served to legitimise the ideology of apartheid.

## 8.12 THE CONSEQUENCES

While it was beyond the scope of this study, it would be remiss if mention was not made of the social, psychological and economic consequences of the mass uprooting of established communities which characterised Durban and most South African cities in the 1960s. In 1969 Daily News reporter, Dorothy McLean described Riverside as follows:

Riverside today is a sad place. Buildings continue to tumble under the bulldozers, and lorries ply back and forth removing and depositing the rubble ... all that remains of a once-loved home, temple, mosque...

Most families have already left. A few remain. When they too have gone, when smart new European houses appear and the street names are westernised ... who will remember the romance of the East ... of Rustomjee, Rajcoomar, Cawnpore, Ceylon ... that was once the very essence of Riverside, and an integral part of Durban's early history?<sup>77</sup>

According to Senator Eric Winchester the victims of the GAA questioned how it was possible to explain the

indecent haste with which (they) have been forced to move into areas totally lacking in the essential facilities they enjoyed before they were moved? Into houses vastly inferior, in many instances, to those in which they formally lived? Into areas, which cannot by any stretch of the imagination, be compared as equitable with those they left in respect of scenic beauty, convenience and which appear planned with little thought to differing social standards? Why they ask, is it necessary at all to uproot a defenceless mass and move them without consultation as to their needs, their hopes and their wishes?<sup>78</sup>

The ultimate statement comes from a victim of the GAA:

The effect of the Act is that non-whites know only of uprooting, and little of resettling; they know removal and very little renewal, and they see the process as one of deprivation and depletion of community life. In fact the word 'resettlement' is a complete misnomer in the South African experiment, since the effect of the Act is to unsettle rather than resettle, to eliminate non-whites from the cities and to push them to peripheries. To the white executives and their foremen, Chatsworth and Kwa Mashu are words, out of which their black workers come by day and to which they safely recede by night.<sup>79</sup>

### 8.13 RETROSPECT AND PROSPECT

In South Africa race and state have portentously shaped socio-spatial structures. The Group Areas Act is the most glaring example of the role of the state in the social engineering of space in order to realise ideological and political ends. In the process millions have been uprooted and relocated and communities dismembered. The present study, by focusing on the role of the central and local state in the implementation of the Group Areas Act in Durban, makes a contribution towards demystifying the structuring of 'black social space'. In the process this study attempts to fill a void in South African urban social geography, and remedies some of the neglect which has characterised the discipline. Also, with the imminent transformation of South African society, an understanding of the implementation and consequences of the Group Areas Act is paramount, as this legislation is regarded as one of the pillars of apartheid. Although the GAA was abolished in 1991, the scars and imprints of the Act are still strongly evident in the South African urban landscape. Thus a crucial issue facing any post-apartheid government will be the full and total desegregation of social space, particularly the residential milieu.

A number of avenues for future research suggest themselves from this study. There is an evident need to examine the consequences of relocation, e.g. journey to work, proletarianisation; the dispossession of subsistence farmers in the relocated areas (e.g., Chatsworth); the impact of the GAA on traders; the role of the Department of Community Development in the dispossession of Indian properties; the housing problem which resulted from the implementation of the GAA; subsequent changes in state policy towards Cato Manor; the functioning of the Group Areas Board; residential desegregation following the repeal of the GAA in 1991; the issue of land reparation and comparative analysis of the implementation of the GAA in other South African cities. This thesis drew attention to the central role of law in regulating privilege and authority through socio-spatial structuring. There is a need to further explore the relationship between legal discourse and socio-spatial configurations in South Africa.

## ENDNOTES:

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