

**THE PASS SYSTEM IN COLONIAL NATAL, 1845-1910**

**BY**

**SAZI KUNENE**

Submitted as the dissertation component  
(which counts for 50% of the degree)  
in partial fulfilment of the requirements  
for the degree of  
**Master of Arts**

in the

**Department of Historical Studies**  
University of Natal  
Pietermaritzburg

December 1995

The financial assistance of the Centre for Science Development (H.S.R.C., South Africa) towards this research is hereby acknowledged. Opinions expressed, and conclusions arrived at, are those of the author and are not necessarily to be attributed to the Centre for Science Development.

## ABSTRACT

This dissertation sets out to investigate the making and implementation of pass laws in Natal between 1845 and 1910. It begins with a brief examination of how and why control of movement of people was exercised by homestead heads, chiefs and kings during the pre-colonial era. It argues that African people were accustomed to control of movement before the colonial era. It shows that control of movement during the pre-colonial era was exercised by those in authority, among other things, for orderly and peaceful living and in line with certain taboos and avoidances. During the period of colonial rule pass laws were implemented by the Natal administration as a means of regulating and controlling labour supply (particularly African labour supply) and also as a means of maintaining control over the African population for reasons of security and stability. Furthermore, passes were also used in an attempt to check drunkenness among Africans and to check cattle-stealing. It also shows that although the pass system had no racial exclusivity and it applied to all the racial groups in Natal, Africans were, however, the most affected by it. The first pass law was passed in 1855 and by the first decade of the 20th century a number of pass laws were in operation in Natal. Each of these pass laws was designed for a specific purpose. The dissertation ends with an analysis of how Africans of different background and outlook responded to the pass system. Some had reason to support it, especially some of the elders and chiefs in the countryside, when those who were subject to their authority deserted them to live and work in the towns. Others were opposed to it, among other things, because of the inconvenience and costs it involved on their part.

## TABLE OF CONTENTS

	PAGE
ABSTRACT .....	ii
ABBREVIATIONS .....	v
PREFACE .....	vi
ACKNOWLEDGEMENTS .....	ix
CHAPTER ONE: INTRODUCTION: CONTROL OF MOVEMENT DURING THE PERIOD BEFORE 1845 .....	1
1.1 Control of movement during the pre-Voortrekker period .....	1
1.2 Control of movement during the Voortrekker period, 1838-1843 .....	8
CHAPTER TWO: LABOUR, SECURITY AND THE FIRST PASS LAWS, 1845-1855 .....	14
2.1 The British settlement and attempts to develop the economy .....	14
2.2 First proposals for pass laws .....	16
2.3 Government Commissions of Enquiry recommend pass laws .....	22
2.4 The first pass laws .....	25
CHAPTER THREE: PASS LAWS AND CONSTITUTIONAL, SOCIAL AND ECONOMIC CHANGES, 1856-1882 .....	30
3.1 Arguments for and against the pass system .....	30
3.2 Passes for control of movement from one magisterial division to another .....	35
3.3 Passes for <i>togt</i> workers in town .....	37
3.4 Passes for immigrant workers .....	41
3.5 Pass laws as attempts to prevent cattle-stealing .....	44
3.6 The implementation of passes as a measure to stop drunkenness among Africans .....	45
3.7 The Government Commission of Enquiry and its recommendation on pass laws .....	47

	<b>PAGE</b>
<b>CHAPTER FOUR: PASS LAWS AND SOCIAL AND ECONOMIC CHANGES, 1883-1892</b> .....	<b>50</b>
4.1 Pressures for the adoption of a pass system increase .....	50
4.2 Passes for control of movement between Natal and neighbouring territories .....	53
4.3 Passes for town workers of all classes in Pietermaritzburg and Durban .....	57
4.4 Passes to stop cattle-stealing .....	62
4.5 The pass system and Indian people .....	65
<b>CHAPTER FIVE: PASS LAWS IN THE ERA OF COLONIST DOMINATION, 1893-1910</b> .....	<b>71</b>
5.1 The colonists finally achieve control over native affairs .....	71
5.2 Passes for control of movement between Natal and neighbouring territories .....	72
5.3 Passes to check cattle-stealing .....	78
5.4 Passes for African workers throughout the colony .....	80
5.5 Were exempted Africans subject to native pass laws? .....	83
5.6 African responses .....	89
<b>CHAPTER SIX: CONCLUSION</b> .....	<b>99</b>
<b>APPENDICES</b> .....	<b>105</b>
<b>LIST OF SOURCES</b> .....	<b>116</b>

## **ABBREVIATIONS**

<b>EC</b>	-	<b>Executive Council</b>
<b>CSO</b>	-	<b>Colonial Secretary's Office</b>
<b>GH</b>	-	<b>Government House</b>
<b>LAD</b>	-	<b>Legislative Assembly Debates</b>
<b>LCD</b>	-	<b>Legislative Council Debates</b>
<b>NBB</b>	-	<b>Natal Blue Books</b>
<b>NGG</b>	-	<b>Natal Government Gazette</b>
<b>NGNP</b>	-	<b>Natal Government Notices and Proclamations</b>
<b>NPP</b>	-	<b>Natal Parliamentary Papers</b>
<b>NW</b>	-	<b>The Natal Witness</b>
<b>SNA</b>	-	<b>Secretary for Native Affairs</b>

## PREFACE

This study focuses on control of movement of the people through a pass system during the colonial era in Natal. This subject has not been researched before by academic historians. D. Hindson's Ph.D. thesis is the only major work on the pass system but his work focuses on the period after the formation of the Union of South Africa in 1910. It looks at the pass system in a broader context and gives an analysis of how and why it was implemented nationally rather than provincially. This study therefore looks at the origins and development of the pass system in Natal before the formation of the Union of South Africa in 1910. It gives an analysis of the development of the pass system from the embryonic stages in the early years of British rule, to its becoming the cornerstone of the government's policy towards Africans early in the first decade of the 20th century.

An attempt will be made to answer the question: What was the meaning or definition of a pass during the period under discussion? In the sources consulted, the evidence suggests that each group (i.e. Africans and whites) had its own perception of the meaning of a pass which differed, though not to a large degree, from that of the other. However, it would be incorrect to conclude that the word 'pass' as it was used during the period under discussion, lacked definitional precision. What is clear though as Kahn points out is that "Statistics, proclamations, regulations and bye-laws avoid definitions".<sup>1</sup> Thus while, on the one hand, whites would narrowly "equate a pass with a document controlling movement",<sup>2</sup> on the other, Africans perceived the word 'pass' more broadly. To them, any document, which could be a poll tax receipt or a dog tax receipt, which they were required to produce on

---

1. E. Kahn, 'The pass laws', in *Handbook on Race Relations in South Africa*, ed. E. Hellmann (London, Oxford University Press, 1949), p.275.

2. *Ibid.*

demand by a police officer, or else face summary arrest, was perceived to be a pass. Marquard has the following simple and precise definition of a pass: "A pass is a piece of paper on which a man's employer or a Government official states that he has permission to go from one place to another."<sup>3</sup> Kahn's criterion in defining a pass is as follows: "The test as to whether a document is a pass, it is suggested, is whether it ... is required for lawful movement into, out of, or within a specified area."<sup>4</sup>

Thus a document that an African was required to carry in terms of, amongst others, the Togat Regulations of 1874, Law 48 of 1884 and Law 3 of 1904, laws that were passed primarily to control the movement of African people, may correctly be defined as a pass. There were other laws, such as Law 22 of 1878 (the liquor law), Law 27 of 1875 (the dog tax law) and Law 1 of 1899 (the cattle-stealing law), which had the effect of controlling the movement of people. A pass therefore, had a broad meaning which encompassed any document which the people, particularly Africans, were required to carry and which had the effect of controlling their movements.

This dissertation covers a rather lengthy period from 1845 to 1910. I have followed a chronological-thematic framework. Pass laws that were designed to serve the same purpose have been grouped together and discussed accordingly. The introductory chapter discusses control of movement of the people during the pre-colonial period and during the Voortrekker period. This is followed by a series of chapters structured around the making and implementation of particular laws within four successive phases.

The dissertation has uncovered several areas in this field which need more investigation. One of these is the use by government officials of African customary

---

3. L. Marquard, *The Native in South Africa* (Johannesburg, Witwatersrand University Press, 1948), p.63.

4. Kahn, 'The pass laws', p.275.



law to exert their authority over African people. As this study shows in certain instances, the government relied on unwritten law to govern African people, which it formulated on the basis of its interpretation of African customary law.

## **ACKNOWLEDGEMENTS**

I would like to express my sincere thanks to the following people who have helped me in various ways in the production of this dissertation:

- My supervisor, Professor John Wright, for his invaluable support and guidance, firm supervision and the great interest he has shown in this dissertation;
- The staff of the libraries of the University of Natal, the Natal Society Library, the Natal Archives Depot and the University Archives;
- My Standard 10 teachers, B.R. Gasa and A.T. Mkhize (now Principal of Amakholwa High School) without whose encouragement university education would not have featured in my life;
- Mr A.P. Mkhize, for his inspiration, support and fatherly advice in various ways;
- My friends, Ndabe, Nathi, Msizi kaZindela and Gift for their constant support and encouragement;
- Mrs J. Dyall for her indefatigable efforts in typing the manuscript;
- My children, Yazi and Wazi, for their tolerance and understanding.

## CHAPTER ONE

### INTRODUCTION: CONTROL OF MOVEMENT DURING THE PERIOD BEFORE 1845

#### 1.1 Control of movement during the pre-Voortrekker period

The historical and ethnographic literature of the pre-Voortrekker period suggests that before the establishment of Zulu domination south of the Thukela river, inhabitants of the chiefdoms in the region were accustomed to controls over their movements, as were people in other African societies. Evidence indicates that control of movement was exercised at different levels of authority, extending from the head of the homestead at the bottom of the socio-political hierarchy to the chief of the chiefdom at the highest level of authority.<sup>1</sup> The sources consulted include accounts given by traders and missionaries of their experiences in Natal during the middle and late 19th century. These sources are not specific, though, on control of movement of the people as sanctioned by customary law. The ethnographic literature by authors Bryant and Krige was consulted as well as more recent ones by various authors.<sup>2</sup> There are very few sources on African life and history in Natal before the 18th century. The evidence suggests, however, that the system of government as practised during the 19th century dates back to unspecified times and some of its elements have been preserved up to the present day, as can be observed in the areas where there are traditional chiefs.

The evidence indicates that the concept of private ownership of land was unknown to African communities. They believed in communal ownership of land, and there

---

1. L. Grout, Rev, *Zulu-Land; or Life Among the Zulu Kafirs of Natal and Zulu-land, South Africa* (London, African Publication Society, 1861), p.116. Grout, whose book was published in the mid-19th century, must have relied on his personal experiences and oral testimony given by the African generation of the early 19th century.

2. See references below.

were no privately owned estates, nor land titles, fences or rents.<sup>3</sup> The chiefs administered the land occupied by the people and regulated its distribution and use.<sup>4</sup> Grazing land and hunting areas were accessible to everyone in the chiefdom. The household head could, with the approval of his chief and his advisers, allocate part of his arable land to a relative but could never sell it.<sup>5</sup> Occupation of land without prior approval of the chief and his advisers was not permitted. Refugees were given permission to settle as long as they offered the chief allegiance.<sup>6</sup>

The household head had to be informed by every member of the household of his or her movements, to which he had a prerogative to object. This included his married sons, who as long as they still lived in his homestead, were subject to the same kind of family rules.<sup>7</sup> Like all other inmates, they were bound to inform him of all their movements and responsibilities.

"It used to be the universal custom that from birth till puberty, with the boys, and with the girls till marriage, the Zulu children never left the parental kraal or its immediate neighbourhood, save perhaps, for a very rare journey with their father or their mother."<sup>8</sup>

The husband was the executive head of the household in much the same way as the chief was of the chiefdom. Nothing of any importance could be done without his knowledge and authority.<sup>9</sup>

- 
3. A.T. Bryant, *The Zulu People: As They Were before the White Man Came* (Pietermaritzburg, Shuter and Shooter, 1949), p.464.
  4. I. Schapera and A.J.H. Goodwin, 'Work and wealth', in *The Bantu-Speaking Tribes of South Africa: An Ethnographical Survey*, ed. I. Schapera (Cape Town, Maskew Miller, 1966, first published London, 1937), p.156.
  5. *Ibid.*, p.157.
  6. I. Schapera, 'Political institutions', in *The Bantu-Speaking Tribes of South Africa: An Ethnographical Survey*, ed. I. Schapera (Cape Town, Maskew Miller, 1966, first published London, 1937), p.192.
  7. *Ibid.*
  8. Bryant, *The Zulu People*, pp. 184-185.
  9. Schapera, 'Political institutions', p.178.

Restrictions on the mobility of females were applied more strictly, and adult females and girls could not make a journey alone.<sup>10</sup> Women's subservience to men in the household was characteristic of the African social order, and was impressed upon them from an early age. Females, married or unmarried, were regarded literally as children by men and a very important asset for producing food and generating wealth.<sup>11</sup> It followed therefore that this important asset was carefully guarded and controlled. That young girls were not allowed to roam about unattended and could not travel alone to visit friends and relatives is a clear illustration of the importance which men attached to women.<sup>12</sup> However, the evidence indicates that women could travel alone within their neighbourhood either to draw water from the spring or stream or to collect wood from the forest.<sup>13</sup> Although there is no direct evidence on this, it is likely that married and unmarried women could not go off to visit friends and family without the permission of the household head. This practice is still being followed even today, especially in rural areas, and probably goes back to precolonial times.

Furthermore, women had to observe certain taboos and avoidances which were inculcated in them from an early age and to which they adapted as they grew older. Some of these taboos and avoidances had to do with control of their movements. For example, "... certain spots in all the village settlements, such as the public courtyard, and under various conditions the cattle-kraal, are reserved for men, and normally inaccessible to women."<sup>14</sup> Women were regarded as unclean when

---

10. Bryant, *The Zulu People*, p.240.

11. J.B. Wright, 'Control of women's labour in the Zulu kingdom', in *Before and After Shaka: Papers in Nguni History*, ed. J.B. Peires (Rhodes University, Institute of Social and Economic Research, 1981), pp.82-84.

12. H.C. Lugg, *Life under a Zulu Shield* (Pietermaritzburg, Shuter and Shooter, 1975), p.37.

13. T.Z. Masondo, *Amasiko EsiZulu* (Pietermaritzburg, Shuter and Shooter, 1940) pp.27-30.

14. Schapera, 'Political institutions', p.191.

menstruating and as a result had to observe a wide range of avoidances.<sup>15</sup> Girls were not permitted to walk through a herd of cattle in case one of them was menstruating and so caused milk production to fail.<sup>16</sup> They had to avoid cattle enclosures to which their access was in any case controlled by men, and could not pass through fields where indlubu groundnuts or tobacco were being grown.<sup>17</sup> A woman who had given birth was isolated from the other members of the homestead because she was regarded as unclean.<sup>18</sup>

Let us now turn our attention to the labour practices of African society and try to find out if there were any restrictions on the movement of people in this sphere. The labour practices of pre-colonial African society differed, to a large extent, from those of white colonial society. In African society there were no 'employers' in the strict sense of the word and therefore no remuneration for labour. Labour was organized along kinship lines, and the economy was essentially a subsistence one. In this context, the concept of labour control, a recurrent theme in the colonial era, was not entirely non-existent. The sources consulted indicate that there was a form of labour control that was exercised by elders over juniors, particularly by the father as head of the family.<sup>19</sup> Each homestead was relatively self-sufficient, and there was no need for one to labour outside one's homestead except when called upon by the chief to perform tribute labour. Labour was divided between males and females according to a clearly defined system.<sup>20</sup> The elders and chiefs, therefore, did

---

15. Wright, 'Control of women's labour in the Zulu kingdom', p.86.

16. *Ibid.*

17. *Ibid.*

18. *Ibid.*

19. J. Guy, 'Analysing pre-capitalist societies in southern Africa', *Journal of Southern African Studies*, vol. 14 (1987-88), p.21.

20. E.J. Krige, *The Social System of the Zulus*, 2nd ed. (Pietermaritzburg, Shuter and Shooter, 1950, first published by Longmans in 1936), pp. 184-212; Bryant, *The Zulu People*, pp. 177-180; J. Shooter, *The Kafirs of Natal and the Zulu Country* (London, Stanford, 1857), pp. 16-19.

exercise a degree of control over the movements of people for labour purposes in pre-colonial African society.

There were also restrictions on movements of individuals across the landscape that were enforced by chiefs with the assistance of *abanumzane* or homestead heads. Chiefs had to be kept informed of movement of the people in and out of villages and local neighbourhoods. "All strangers visiting the tribe must be reported to him, while none of his own people may go away without his knowledge."<sup>21</sup> Traders who wished to enter a village for trading purposes were also subject to the same kind of customary rules that were followed for controlling the movement of people. They were required first to obtain permission from the chief by making him a payment in the form of a present.<sup>22</sup> It is not clear in the sources consulted whether the same customary law was strictly enforced by chiefs in all the chiefdoms south of the Thukela river. What is clear though, is that movement of individuals across the landscape was subject to control by chiefs with the assistance of *abanumzane* or homestead heads who acted as chiefs' advisers.

When Shaka became chief of the Zulu chiefdom north of the Thukela river in the late 1810s, the Zulus established indirect domination of Natal south of the Thukela river. The evidence suggests that the form of indirect rule which Shaka introduced did not to any significant degree alter the underlying principles of the system of government. Admittedly, the authority that was exercised by the chiefs over their people was, to a certain degree diminished, but the customary law which governed African life remained, in the main, the same. In the sources consulted, there is nothing to suggest that during the Shakan period any important major changes were made to the customary laws which governed control of movement of people. The customary law which required a stranger first to report himself to the

---

21. Schapera, 'Political institutions', p.178.

22. Schapera and Goodwin, 'Work and wealth', p.154.

chief of a chiefdom and state the purpose of his visit may perhaps have been observed more strictly during the Shakan period.

During the Shakan period the chiefs and their advisers were still involved in the control of movement of the people as they had been before. The important change in regard to control of movement which Shaka introduced was when young men and women were enrolled in age-regiments or *amabutho*. Full-time service for all young men was introduced for the first time during the Shakan period.<sup>23</sup> The male age-regiments lived in specially built barracks, or *amakhanda*, until they were allowed to marry.<sup>24</sup> They did most of the work for the king, building military settlements, hunting, planting, reaping and making gardens,<sup>25</sup> and were physically separated from their own homesteads. In this situation therefore, the movement of the young men and women in the age-regiments was strictly controlled. There is no evidence, however, that when the Zulus established indirect domination of Natal, the *amabutho* system was extended to the chiefdoms south of the Thukela river. This implies that full-time service in *amabutho*, did not apply to chiefdoms south of the Thukela river.<sup>26</sup> Evidence from the sources consulted suggests that semi-autonomous chiefs in this region continued to organize their fighting men as territorial rather than age-based units, as had been the case before.<sup>27</sup> In these circumstances therefore, control of movement of people in Natal remained, to a great degree, the same as before the Shakan period.

---

23. J.B. Wright, 'Pre-Shakan age-group formation among the northern Nguni', *Natalia*, no. 8 (1978), pp.22-23.

24. *Ibid.*

25. J.J. Guy, 'The political structure of the Zulu kingdom during the reign of Cetshwayo kaMpande', in *Before and After Shaka: Papers in Nguni History*, ed. J.B. Peires (Rhodes University, Institute of Social and Economic Research, 1981), p.57.

26. J.B. Wright, 'The dynamics of power and conflict in the Thukela-Mzimkhulu region in the late 18th and early 19th centuries: A critical reconstruction' (unpublished Ph.D. thesis, University of Witwatersrand, 1989), pp.293-294.

27. Wright, 'Pre-Shakan age-group formation among the northern Nguni', p.26.



British traders from the Cape Colony were the first whites to come to Natal with the aim of establishing a permanent settlement. They arrived in 1824 at the time when a number of chiefdoms, previously separate autonomous entities, had been conquered and incorporated into the Zulu kingdom, and their chiefs reduced to the status of subordinate tributary chiefs who owed their allegiance to the king of the Zulus.<sup>28</sup> Gradually they started gathering around them groups of African adherents whom they needed as retainers. Prospects of a more secure life and better livelihood attracted the people to the traders.<sup>29</sup> The settlers settled a little distance from one another and organized their adherents along African political lines, separating them into villages which acknowledged individual traders as chiefs. They appointed their captains or *izinduna* in line with the African system of government.<sup>30</sup>

The sources on the history of British traders in Natal are not specific on how trader-chiefs exercised control over the movements of their adherents. In these sources the evidence suggests that their adherents listened to them because they respected rather than feared them. One can only speculate that it is likely that they exercised a degree of control over the movements of their adherents in the same way as other African chiefs did.

European missionaries came to Natal from 1835 onwards with Captain Allen Gardiner, an Anglican missionary, as the first to arrive. Like trader-chiefs, the missionaries had a number of adherents who stayed with them on mission stations. The sources consulted are not specific on how the missionaries exercised control

---

28. C. Ballard, 'The role of trade and hunter-traders in the political economy of Natal and Zululand, 1824-1880', *African Economic History*, vol. 10 (1981), p.4.

29. Wright, 'The dynamics of power and conflict in the Thukela-Mzimkhuṭu region in the late 18th and early 19th centuries', p.337.

30. Dinya kaZokozwayo's evidence, 1 March 1905, in *The James Stuart Archive of Recorded Oral Evidence Relating to the History of the Zulu and Neighbouring Peoples*, vol. 1, eds. C. de B. Webb and J.B. Wright (Pietermaritzburg, University of Natal Press, 1976), p.99.

over the movements of their adherents. The evidence suggests that the degree of control that was exercised was considerably lighter than that exercised by African chiefs, who probably relied principally on cohesion in enforcing discipline. Rev Owen relates how one of his adherents simply left him after a quarrel with his driver.

"Having sworn by his chief it was impossible for him to retract, tho' I remonstrated with him on the sinfulness of his conduct and its inconsistency with the religion he had professed ... He drew with him the other Zooloo [*sic*], his companion and friend and they both set off with their wives and children to walk to Port Natal, leaving me without proper leaders to my waggons ..." <sup>31</sup>

The above incident provides a clear illustration of how difficult it sometimes was for the missionaries to enforce restrictions on the movements of their adherents. But as indicated above, there is little evidence in the sources consulted regarding this issue.

## **1.2 Control of movement during the Voortrekker period, 1838-1843**

The Voortrekkers came to Natal in 1837, and with the defeat of Dingane, the Zulu king, in 1840, the area between the Mfolozi and Mzimvubu rivers was declared Voortrekker territory. A Voortrekker government, the Volksraad, was set up which met in Pietermaritzburg. These Voortrekkers were essentially stock-keepers or pastoral farmers, and when they settled down they needed more servants. The Coloured people they had brought with them from the Cape proved to be insufficient in number.<sup>32</sup> The refugees from the Zulu kingdom who were continually flowing into Natal were at first not regarded as a threat to the security of the Voortrekkers. To them (the Voortrekkers) these refugees were a suitable source of cheap labour.

---

31. G.E. Cory, ed, *The Diary of the Rev. Frances Owen* (Cape Town, Van Riebeeck Society, 1926), pp.12-13.

32. L. Thompson, 'Co-operation and conflict: The Zulu kingdom and Natal', in *The Oxford History of South Africa: South Africa to 1870, vol. i*, eds. M. Wilson and L. Thompson (Oxford, Clarendon Press, 1969), p.367.

Some of these refugees had been displaced during Shaka's wars of conquest and were returning to their former homelands. Others were fleeing the political instability which resulted from the defeat of Dingane.<sup>33</sup> From 1839 there was a 'massive flood' of refugees into Natal, and when the labour supply far exceeded their labour needs, as the evidence suggests, the Voortrekkers began to express serious concerns about their security.<sup>34</sup> It was indeed too early for the Voortrekkers to rule out the possibility of Zulu reprisals, as nearly 60 000 refugees moved into Natal between 1839 and 1842.<sup>35</sup>

Control of movement of people in Dutch colonial society dated back to the time of the first settlement in the Cape. They exercised control over the movements of the slaves, the Khoikhoi and the Xhosa. The evidence indicates that in Cape Town the movement of slaves was strictly checked and the Company Lodge was locked at 8 p.m.<sup>36</sup> This was done to prevent desertion from work, as it was not unusual for slaves to run away if their movements were not strictly checked. In 1760 the first pass law was passed, which provided for slaves to carry a pass, a letter signed and dated by their masters, when moving between rural and urban areas.<sup>37</sup> In 1780 the Swellendam officials suggested that the pass system should be extended to the Khoikhoi. The reason for their suggestion is not hard to find as the basic grievances of the Dutch about the Khoikhoi were vagrancy, theft and security as violent conflicts between the two over land and cattle continued intermittently from 1659.<sup>38</sup>

---

33. C. Ballard, 'Traders, trekkers and colonists', in *Natal and Zululand from Earliest Times to 1910: A New History*, eds. A. Duminy and B. Guest (Pietermaritzburg, University of Natal Press, 1989), p.118.

34. Thompson, 'Cooperation and conflict', p.368.

35. Ballard, 'Traders, trekkers and colonists', pp.122-123.

36. J.C. Armstrong and M.A. Worden, 'The slaves, 1652-1834', in *The Shaping of South African Society, 1652-1840*, 2nd ed., eds. R. Elphick and H. Giliomee (Cape Town, Maskew Miller, Longman, 1989), p.152.

37. *Ibid.*

38. L. Thompson, *A History of South Africa* (London, Yale University Press, 1990), pp.37-40.

In 1787 pass regulations were implemented for those Khoikhoi who lived in Cape Town. In terms of the regulations, the Khoikhoi were prohibited from changing their places of abode and were required to carry passes.<sup>39</sup> In 1809 the government issued the Caledon Code which provided for the Khoikhoi throughout the Cape Colony to carry passes.<sup>40</sup> Hindson states that the Caledon Code was simply the government's design to create a supply of forced labour.<sup>41</sup> In 1828 the pass system was extended to all foreign Africans who entered the Cape Colony. The evidence suggests that the reason for the extension of the pass system to foreign Africans was to regulate the supply of labour and to ensure that every African in the colony was employed.<sup>42</sup> The pass system at the Cape, as the above survey shows, provided a precedent on which the Voortrekkers drew when they adopted the same system in Natal.

In 1840 J.P. Zietsman, the Landrost for Pietermaritzburg, wrote a letter to the Volksraad in which he suggested that all those refugees who lived on the farmers' lands but were not necessarily in their employ, should work for the farmers and should they refuse to do so, be forced to vacate the farms.<sup>43</sup> Consequently in March 1840 the Volksraad passed a resolution which provided for each farmer to keep a maximum number of five families on his farm.<sup>44</sup> In August 1841, the Volksraad further resolved that all 'surplus' Africans (i.e. all those who were not in the employ of whites) be removed from the Republic of Natalia and be settled

---

39. G.M. Theal, *Records of the Cape Colony*, vol. xxxv (London, William Clowes and Sons, 1905), p.308.

40. *Ibid.*, pp.313-314.

41. D. Hindson, *Pass Controls and the Urban African Proletariat in South Africa* (Ravan Press, Johannesburg, 1987), p.16.

42. *Ibid.*, p.17.

43. B.J. Liebenberg, *Andries Pretorius in Natal* (Pretoria, Academica, 1977), p.118.

44. A.J. Du Plessis, 'Die republiek Natalia', in *Archives Year Book for South African History, Part 1*, eds. C.G. Botha *et al.* (Cape Town, Office of the Chief Archivist, 1942), p.153.

across the Mzimkhulu river.<sup>45</sup> The need for security was no doubt the main motivation for the adoption of the above resolutions. The large number of Africans in their midst was felt by the Voortrekkers to pose a potential threat to the security of persons and their property. The above resolutions could not be carried out, as the weak Volksraad could not enforce its decisions.<sup>46</sup>

Refugees from the Zulu kingdom continued to settle in Natal and this increased the Voortrekkers' concerns about vagrancy, theft and a threat to the security of persons and their property. The Volksraad was inundated with complaints from the Voortrekkers who felt that a more effective measure had to be adopted in order to solve these problems.<sup>47</sup> Consequently, in February 1842, the Volksraad passed another resolution which made provision for pass regulations. These pass regulations made provision for every African worker to be issued with a pass which showed the following particulars: his name, his apparent age, any distinguishing marks, the number of his wives, children and cattle, and his place of residence.<sup>48</sup> Any African who was found without a pass would be punished as a vagrant.

Furthermore, the pass regulations provided that no African was allowed to travel on horseback for more than two hours away from his workplace without a pass from his master.<sup>49</sup> In the special pass for this purpose had to be stated the reasons for the journey the African was undertaking.<sup>50</sup> Moreover, every African servant was required to carry, in addition to a pass, an identification disk or plate, "engraved on

---

45. Liebenberg, *Andries Pretorius in Natal*, p. 121.

46. Thompson, 'Co-operation and conflict', p. 368.

47. J.A.I. Agar-Hamilton, *The Native Policy of the Voortrekkers, 1836-1858* (Cape Town, Maskew Miller, 1928), pp.42-43.

48. *Ibid.*, pp.43-44.

49. Du Plessis, 'Die republiek Natalia', p. 155.

50. H.J. Simons, 'The origin and functions of the pass laws' (South African Institute of Race Relations, memo, 1961). p.63.

the one side with the number of his pass, and on the other with the name of his master".<sup>51</sup> Another provision of the pass regulations extended to all other African adult males who were not necessarily in the employ of white farmers. They were also required to carry an identification disk or plate showing, among other things, the number of the location to which they belonged.<sup>52</sup> Possession of an identification disk was made a condition for employment, which meant that any African adult male who was without an identification disk could, in terms of this clause, not be employed.<sup>53</sup> There is reason to doubt whether these pass regulations were effectively carried out, as the Volksraad administration was, throughout its short lifespan, faced with administrative difficulties which, to a large extent, rendered it chaotic and ineffectual.<sup>54</sup> In the sources consulted, the evidence suggests that the above pass regulations were never implemented. They merely represented an expression of how the Dutch wished to govern African people. The Volksraad needed a large and efficient police force to enforce these pass regulations, but such a force did not exist.<sup>55</sup> There is no evidence of any attempts by the Volksraad to implement its pass system.

The above survey shows that control of movement by the political authorities was a feature in Natal even before the establishment of colonial rule in 1845. We have seen that during the pre-Voortrekker period control of movement in African society was exercised at different levels of authority which involved the homestead heads, chiefs and the king. The evidence in regard to the reasons for control of movement

---

51. Agar-Hamilton, *The Native Policy of the Voortrekkers*, p.44.

52. *South African Archival Records: Natal, no. 2*: Records of the Natal Executive Council, 1846-1848. Letter from Cloete to J. Montague, November 1843 (Cape Town, Office of the Director of Archives, 1960), p.81.

53. *Ibid.*

54. H. Cloete, *Five Lectures on the Immigration of the Dutch Farmers from the Colony of the Cape of Good Hope, and Their Settlement in the District of Natal* (Cape Town, Saul Solomon and Co., 1856) pp.111-112.

55. Du Plessis, 'Die republiek Natalia', p.155.

being exercised during this time is partly speculative. However, it seems that orderly and peaceful living and customary practice were the main reasons why control of movement was exercised. As we have seen above, there is no evidence as to how trader-chiefs and missionaries exercised control over the movements of their adherents. For reasons of security and to enable them to extract labour from Africans, the Voortrekkers introduced a pass system in 1842, but the Volksraad was unable to implement it. Natal was annexed to Britain in 1843 and up to 1845, there is no evidence that the pass regulations of 1842 were ever implemented. During the period of transition (1843-1845) the Volksraad was allowed to continue functioning and make laws. But Major Smith (British Commandant in Natal) had no executive power to implement the laws of the Volksraad.<sup>56</sup> Control of movement of people therefore, would not have been something new to African people as they were accustomed to it. What would have been new to them was to be required to carry a pass or an identification disk as proof of authorization to move from one area to another.

---

56. See chapter two below.

## CHAPTER TWO

### LABOUR, SECURITY AND THE FIRST PASS LAWS, 1845-1855

#### 2.1 The British settlement and attempts to develop the economy

The British government at the Cape was compelled by a number of factors to intervene in Natal and establish British supremacy in the region, cutting short the life of the Voortrekker Republic. Natal generally offered few commercial possibilities, and frequent pleas by the traders for the establishment of British authority over the territory had been rejected by successive British governments.<sup>1</sup> The evidence suggests that it was strategic considerations which ultimately convinced the British government of the need to establish its authority over Natal. The Voortrekker attack on Chief Ngcaphayi of the Bhaca in 1840 was, in the British view, likely to throw the Cape eastern frontier into turmoil, which carried the risk of further military expenditure that Britain was determined to avoid at all costs.<sup>2</sup> It was, therefore, the fear of instability on the Cape frontier which impelled Britain to intervene in Natal.

Natal was annexed in May 1843 but formal annexation to the Cape took place only in May 1844. The proclamation of annexation was promulgated in August 1845 and the first colonial administration was formed in December of the same year.<sup>3</sup> Between May 1843 and December 1845 there was a period of transition during which "the precise status and the constitutional position of the new dependency

- 
1. C. Ballard, 'Traders, trekkers and colonists', in *Natal and Zululand from Earliest Times to 1910: A New History*, eds. A. Duminy and B. Guest (Pietermaritzburg, University of Natal Press, 1989), p.125; B.J.T. Leverton, 'Government finance and political development in Natal, 1843-1893', in *Archives Year Book for South African History, vol. i*, 1970, eds. J.H. Esterhuyse *et al.* (Johannesburg, Office of the Director of Archives, 1971), pp.15-16; L. Thompson, 'Co-operation and conflict: The Zulu kingdom and Natal', in *The Oxford History of South Africa, vol. i*, eds. M. Wilson and L. Thompson (Oxford, Clarendon Press, 1969), p.389.
  2. Leverton 'Government finance and political development in Natal, 1843-1893', pp.16-17.
  3. Ballard, 'Traders, trekkers and colonists', pp.123-125.



were ... left undefined".<sup>4</sup> The Volksraad accepted the Queen's authority in May 1843, and was allowed to meet and make laws, subject to the undefined veto power of Major Smith (British Commandant in Natal).<sup>5</sup> What was even more confusing was that Major Smith had no executive power to implement the laws of the Volksraad, nor did the Volksraad itself. As a result, real action in terms of the legislative and executive responsibilities of government was to take place only after the formation of the first British government in December 1845. The Lieutenant-Governor, who was subordinate to the Cape Governor, was assisted by several top-ranking officials; together they made up the Executive Council, but the power to legislate remained with the Cape Legislature. The inconvenience was so great that a local Legislative Council with full executive powers was set up in 1848.<sup>6</sup> This Council remained the legislative body of Natal until 1856, when a new constitution was implemented.

The establishment of British authority over Natal resulted in a substantial number of Voortrekker families removing from Natal and trekking further inland to establish their own states. In 1846 the number of Boer families was estimated at 400, but by 1847 a *Grahamstown Journal* correspondent calculated that Natal could not muster sixty Boer families.<sup>7</sup> British immigration into Natal changed the demographic structure of the population, and between 1849 and 1851, when about 5000 immigrants came to Natal, it became predominantly English-speaking.<sup>8</sup> The indigenous inhabitants numbered between 100 000 and 150 000. This figure increased considerably over time. The British immigrants, notably those of Byrne's

---

4. E.H. Brookes and C.de B. Webb, *A History of Natal*, 1st ed. (Pietermaritzburg, University of Natal Press, 1965), p.48.

5. *Ibid.*

6. *Ibid.*, p.54.

7. A.F. Hattersley, *The British Settlement of Natal* (Cambridge, Cambridge University Press, 1950), p.79.

8. C. Bundy, *The Rise and Fall of the South African Peasantry*, 1st ed. (Cape Town, David Philip, 1979), p.168.

emigration scheme, "were of various grades in the social scale; but the larger portion were peasant farmers".<sup>9</sup> Some were merchants, artisans and labourers, whereas others were of the learned professions. Most of the latter group turned to farming for more remunerative work.<sup>10</sup>

They found Natal economically underdeveloped with an economy based principally on pastoral farming and on homestead-based agricultural production. The aim of the various immigration schemes was for the colonists to become farmers, with twenty to fifty acres of land allocated to each family head. They experimented with various crops, i.e. coffee, wheat, cotton, indigo, arrowroot, tobacco, tea and sugar.<sup>11</sup> In their attempts to succeed as farmers, the colonists encountered a number of insuperable obstacles. The grants of twenty to fifty acres proved to be inadequate. Much of the land allocated was unsuited for production and the market was small. Most settlers came with little capital.<sup>12</sup> Another serious problem which confronted the colonists was the shortage of labour, which became one of the crucial issues in the debate for and against the pass system.

## 2.2 First proposals for pass laws

The prospect of acquiring abundant and cheap African labour had proved to be a useful drawcard for emigrants when the potential of Natal as a colony of British settlement was advertised.<sup>13</sup> The colonists needed cheap African labour in every branch of the economy: for domestic help, for light industry such as brick-making

---

9. J. Bird, ed., 'Natal: 1846-1851', *Natalia*, vol. i (1971), p.20.

10. R.J. Mann, *The Colony of Natal: An Account of the Characteristics and Capabilities of This British Dependency* (London, Jarrold and Sons, 1859), p.191.

11. H. Slater, 'Land, labour and capital in Natal: The Natal Land and Colonisation Company, 1860-1948', *Journal of African History*, vol. 16 (1975), pp.153-154.

12. Hattersley, *The British Settlement*, pp.280-281.

13. Bundy, *The Rise and Fall of the South African Peasantry*, 1st ed. p.168; Hattersley, *The British Settlement*, p.228.

and lime-burning, and for commercial farming. The government also needed plentiful labour for harbour and road works.<sup>14</sup> The evidence suggests that the idea of importing British labourers was not even contemplated, presumably because of the expense, and the availability of Africans from whom cheap labour could potentially be drawn. British emigrants who came to Natal did so mainly as potential masters rather than as potential labourers.<sup>15</sup>

The colonists' main demands on the government were for security and labour. There was diversity of opinion among the colonists as to how the government could best meet these demands. Three strands of thought are clearly discernible: the farmers (both stock and commercial farmers) and merchants, the absentee landowners, and government officials, all had their own interests. The differences of opinion amongst these interest-groups delayed the adoption of a pass system in Natal. The commercial farmers were the most vocal of all the interest-groups in so far as the shortage of labour was concerned because, unlike pastoral farmers, their operations required a regular and continuous supply of labour.<sup>16</sup> Their complaints were in most cases accompanied by suggestions as to how to solve the labour problem.

Their standpoint was that voluntary engagement, if not compulsion, was a solution to the problem of the shortage of labour. A letter from a writer who identified himself only as 'RC' appeared in *The Natal Witness* of 23 October 1846.

"They know we have no control over them and this engenders a spirit amongst them that ought to be quelled. How can cotton planting or any agricultural pursuits be carried on whilst this state of things exists? A

---

14. B. Ellis, 'The impact of white settlers on the natural environment of Natal, 1845-1870', in *Enterprise and Exploitation in a Victorian Colony*, eds. B. Guest and J.M. Sellers (Pietermaritzburg, University of Natal Press, 1985), p.76.

15. J.E. Methley, *The New Colony of Port Natal: With Information for Emigrants* (London, Houlston and Stoneman, 1850), p.51.

16. Hattersley, *The British Settlement*, pp.240-241.

people who have always lived under the pressure of tyrannical government; that pressure removed, and nothing in its place to control irregularity, must soon become a pest and a scourge to the colony, instead of a blessing which, under proper management, they undoubtedly would be."<sup>17</sup>

The writer of the above letter strongly suggested stricter control over Africans as the only solution to the problem of the shortage of labour. Another letter from a writer who identified himself as 'N.W.L.', appeared in *The Natal Witness* of 11 December 1846. The writer suggested a system of registration that would provide for every African labourer (both on the farms and in the towns) to be issued with a ticket as a means of identification. This, he believed, would help to restrict the movements of Africans and compel them to work.<sup>18</sup> Clearly, the ticket-system that 'M.W.L.' suggested above was nothing else but a pass-system, which required every African labourer to carry a ticket or pass as a means of identification and confirmation that he was in the employ of a white.

The farmers and merchants suggested that the government should use compulsion if necessary in order to ensure that their demands were met. The evidence suggests, however, that indirect rather than direct compulsion seems to have been the basis of their standpoint. As Atkins states, they harangued the government to institute a "gate of misery" and squeeze Africans through it.<sup>19</sup> The ticket-system appeared to them to be the best policy through which the government could institute such indirect compulsion on Africans to adapt to work habits. Another suggestion for a pass was made by J.D. Jackson in a letter to the Editor of *The Natal Witness* of 16 February 1849. He suggested that the employer should be supplied:

"... with a printed form, to be filled up by him, and given to the Kaffir at the end of his service, stating how long he worked, and his conduct good, bad,

---

17. NW, 23 October 1846.

18. *Ibid.*, 11 December 1846.

19. K.E. Atkins, *The Moon is Dead! Give Us Our Money: The Cultural Origins of an African Work Ethic, Natal, South Africa, 1843-1900* (London, James Currey, 1993), p.2.

or indifferent, as the case may be, to be again endorsed by the future master."<sup>20</sup>

A public meeting was held in Durban on 8 March 1849 at which plans for a pass system were discussed. Suggestions emanating from the meeting were forwarded to the Legislative Council for its consideration. Although it is not clear which interest-groups were represented at this meeting, it seems that the advocates of a pass system (farmers and merchants) dominated in its deliberations. Their suggestions for a pass system, as reported in *The Natal Witness* of 16 March 1849, were as follows:

- "1. That there be a general, particular, and very minute Registration
  - (1) of all the people, their class, sex, age
  - (2) of livestock of every description
  - (3) of goods and chattels.
2. That the Natives shall wear (suspended to them) a medal of brass, or some other metal, upon which shall be stamped each one's number, from one upwards to the total number of Natives found in the Colony, above 10 years of age.
3. The Natives be furnished each one with a passport on leaving the Location in search of employment, or for any other object beyond that of his or her daily calling or avocation. The passport to contain a general description of the person, the number, place of residence, destination, object, ..."<sup>21</sup>

Examination of labour practices in Britain during this time (i.e. in the middle of the 19th century) indicate that ideas about control of movement and occupation (i.e. distribution of labour), were imported into Natal from Britain.<sup>22</sup> Control of movement and occupation existed in Britain before and during the industrial revolution. It was exercised by government in an attempt to channel labour away from agricultural production, which was then the main sector of British economy where labour was concentrated, into industry. Controls of movement and occupation were abolished during the first half of the 19th century, but as Ashworth argues, the influence

20. NW, 16 February 1849.

21. *Ibid.*

22. W. Ashworth, *A Short History of the International Economy since 1850*, 4th ed. (London, Longman, 1987), pp.107-112.

survived them.<sup>23</sup> These influences were imported into Natal by the British settlers. The pass system for which they agitated reflected the restrictive labour practices that had been in force in Britain prior to the mid-19th century.

Although cattle-stealing affected mainly stock-farmers, the need for security was a common concern of all the colonists, regardless of their occupations. This interest-group (i.e. farmers and merchants) attributed threats to their security to the liberty that was allowed to Africans to move about as and when they wished.<sup>24</sup> They believed that the movements of Africans should be strictly checked. This control, in their view, would help address their concerns about the shortage of labour and about cattle-stealing and security. Their concerns about security reflected the fears of a minority of whites in the midst of an overwhelming number of Africans. The whites' preoccupation with a Zulu invasion dominated their minds until after the defeat of the Zulus in the Anglo-Zulu war of 1879.<sup>25</sup> The intermittent wars between the Xhosa and Britain on the Eastern Cape frontier seemed to justify these fears of a Zulu invasion.

The second interest-group was that of absentee landowners.<sup>26</sup> They were opposed to restriction on the movements of Africans and to measures that were designed to compel them to work for whites. Their standpoint was that "their economic interests were best met by the extraction of rent from African peasants on their lands ..."<sup>27</sup> They obtained the support of some of the white colonists who relied on African peasant production, as white commercial farming was not yet on a good footing at

---

23. *Ibid.*

24. NW, 11 December 1846.

25. D. Welsh, *The Roots of Segregation: Native Policy in Colonial Natal, 1845-1910* (Cape Town, Oxford University Press, 1971), p.230.

26. Absentee landowners did not live on their lands. Some lived in the towns of Natal while others lived outside Natal, in the Cape Colony or Britain. For more information, see Slater, 'Land, labour and capital in Natal', pp.257-283.

27. Bundy, *The Rise and Fall of the South African Peasantry*, 1st ed., p.174.

this time.<sup>28</sup> A farmer from the Umvoti District who identified himself only as 'EM' was probably expressing the views of absentee landowners when he said about Africans who deserted from service: "... it is natural for them to also feel a longing for home sometimes, and a good master will give them permission to visit their family occasionally."<sup>29</sup> Another writer, who identified himself only as 'New Comer', shared 'EM's' sentiments and rejected the suggestions for a pass system that had been made at the public meeting in Durban in March 1849 as "crude opinions", "oppressive" and "cruel".<sup>30</sup>

The third group was that of government officials who regarded the pass system as contrary to British liberal ethics of freedom of movement and equality for all, regardless of the colour of one's skin. British policy towards Africans was clearly set out in the statement of conditions for annexation of Natal to which all government officials were expected to subscribe. The statement of conditions (or a proclamation declaring the essential conditions under which the new administration would govern) maintained that no distinction or disqualification on the basis of colour, origin, language or creed would be tolerated.<sup>31</sup> Theophilus Shepstone, who had been appointed as Diplomatic Agent to the Native Tribes of Natal, supported the pass system but only in so far as the need for orderly and peaceful living was concerned. On the question of labour he believed in voluntary and moderate inducements rather than compulsion, which the pass system entailed, albeit indirectly.<sup>32</sup>

---

28. Bundy, *The Rise and Fall of the South African Peasantry*, 1st ed., p.174.

29. NW, 11 December 1846.

30. *Ibid.*, 23 March 1849.

31. Atkins, *The Moon is Dead!*, p.16.

32. *Ibid.*, p.17.

### 2.3 Government Commissions of Enquiry recommend pass laws

One of the problems which confronted the Colonial government was the influx of large numbers of refugees from the Zulu kingdom. The same problem had confronted the Volksraad during the Voortrekker period.<sup>33</sup> In 1846, Lieutenant-Governor Martin West appointed the Native Locations Commission to investigate possible ways of settling the majority of displaced Africans. The composition of the Commission largely favoured the interests of Africans in so far as access to land ownership and promotion of independent African peasant farmers as against indirect forced labour through a pass system were concerned. The five members of the Commission included Shepstone, who represented official interests in as far as the handling of African affairs was concerned. The official view at this time was opposed to indirect forced labour through a pass system.<sup>34</sup> Two of the other members were missionaries, people who were well known for their sympathetic attitude towards Africans.<sup>35</sup> As a result, the outcome of the Commission largely favoured official interests. In their report, the Commissioners recommended, among other things, the institution of a pass system in the proposed African locations:

"In addition to his magisterial duties, the Superintendent, assisted by his subordinates, should, as soon as it is practicable, complete a registration of all natives living within his location, man, woman and child, together with the number of cattle possessed and owned by each individual. He should also register all removals whether into or out of his location, specifying the destination of the parties removing and furnishing such with a passport or memorandum to the Superintendent of the location to which they are removing."<sup>36</sup>

The evidence suggests that the Commission recommended a pass system mainly to promote peaceful and orderly living in the African locations. Its recommendations

---

33. See chapter one above.

34. L. Young, 'The native policy of Benjamin Pine in Natal, 1850-1855', in *Archives Year Book for South African History*, vol. ii, ed. C. Beyers (Cape Town, Officer of the Director of Archives, 1951), pp.297-298.

35. Brookes and Webb, *A History of Natal*, 1st ed. p.58.

36. NW, 14 January 1846.



fell far short of the expectations of the employers (i.e. farmers and merchants), whose major concern at this time was to obtain an adequate supply of cheap and disciplined labour. From the start, they were opposed to the formation of African locations which in their view "blocked up" the African labour supply.<sup>37</sup> They wanted the locations to be broken up and reduced to smaller ones.<sup>38</sup> Although it is not clear in the sources consulted how far these recommendations for the implementation of a pass system were carried out by the government, there is reasonably clear evidence in the records of the Secretary for Native Affairs (called the Diplomatic Agent at this stage) to the effect that the control of movement of the people through a pass system from one Division to another within Natal was, in fact, in line with this recommendation.<sup>39</sup>

The colonists' complaints about Africans wandering about in the country, cattle-stealing and the establishment of locations which "obstructed the flow of labour" became important topics of discussion in the press. The Lands Commission that was set up in 1848 by Sir Harry Smith, Governor of the Cape Colony, 1847-1852), had dealt specifically with land distribution to and occupation by whites and had made no recommendations on pass laws.<sup>40</sup> With the increase in the number of Europeans during this time (1849-1852), the government sought to find a more satisfactory solution to the problems that were associated with what the colonists described as the "wandering and do-no-work Africans". Consequently Lieutenant-Governor Benjamin Pine appointed a Native Affairs Commission in 1852 "to inquire into and investigate the present condition and future government of the native

---

37. R.L. Cope, 'C.W. de Kiewiet, the imperial factor, and South African "Native Policy"', *Journal of Southern African Studies*, vol. 15 (3) (1988-89), p.489.

38. M.W. Swanson, 'The urban factor in Natal native policy, 1843-1873', *Journal of Natal and Zulu History*, vol. 3 (1980), p.4.

39. See chapter three below.

40. The report of this Commission is taken from the Natal Government Notices and Proclamations, 1848-1849, pp.54-57.

population of the District".<sup>41</sup> However, during its proceedings the Commission became so preoccupied with the labour question that it was referred to in the contemporary press as the "Native Labour Commission".<sup>42</sup> Undoubtedly, the subject of restricting the movements of African people in order to solve the problem of the shortage of labour would come under focus. The composition of the Commission shows that the colonists were strongly represented, which meant that, unlike in the Native Locations Commission (1846-1847), settler interests would carry more weight than official interests. Of twenty-three members, only four were government officials.<sup>43</sup>

Giving evidence before the Commission, a Mr Wilson, a farmer, stated that it was the uncontrolled liberty of Africans roaming at large in the colony that was the major cause of cattle-stealing, shortage of labour and insecurity.<sup>44</sup> Further evidence that was given suggested that these "wandering Africans" often took some of the colonists' cattle in the process.<sup>45</sup> On completion of their work, the Commissioners recommended, among other things, that: "No Kafirs should be allowed to wander up and down through the country, and leave their Locations, without a pass from the Resident Magistrate ..."<sup>46</sup> The same pass regulation had been recommended by the Native Locations Commission of 1846-1847.

Pine objected to the above recommendation on the grounds that it was "impracticable, and ... seemed not to allow mature servants the choice of masters

---

41. Young, 'The native policy of Benjamin Pine in Natal, 1850-1855', p.291.

42. *Ibid.*

43. Proceedings and Report of the Native Affairs Commission, 1852-1853 (Pietermaritzburg ?. Vause, Statter & Co.,?, 1853?), p.1.

44. NGG, 8 March 1853.

45. NW, 26 November 1852.

46. Proceedings and Report of the Native Affairs Commission, 1852-53, p.55.

to which he thought them entitled".<sup>47</sup> No doubt Pine was quite conscious of the latest developments in the labour movement back at home. An unrestricted labour market approach seemed to him to be the right policy to follow.<sup>48</sup> However, Pine was not necessarily importing British labour practices into Natal. His views on pass laws reflect official opinion at this time as to how to handle African affairs.

#### **2.4 The first pass laws**

As discussed above, the official view at this time was opposed to the implementation of pass laws in order to compel Africans to work for the colonists. The government was preoccupied with security, and this must be seen against the background of its fears of a Zulu invasion and intermittent wars between Xhosa and Britain on the Eastern Cape frontier. Hence, the first pass laws that were passed by the Colonial government were designed to stop cattle-stealing and regulate the movement of African people in order to promote peaceful and harmonious relations between the colonists and Africans. The government's main concern was to ensure the security of colonists and their property and to maintain British domination of Natal. The colonists, on the other hand, were more concerned with legislation that was designed to ensure an adequate supply of cheap African labour. Although they made repeated complaints about the shortage of labour in the local press, it is difficult to say with certainty how far their complaints were grounded in reality. What is clear in the sources is that Africans were, at this time and until some years later, reluctant to adapt to the work habits required of them by the colonists.

As the evidence suggests, during the period under discussion, the government was not yet convinced that the shortage of labour in the colony could effectively be solved through a pass system. This is attested by the type of legislation that was

---

47. Young, 'The native policy of Benjamin Pine, 1850-1855', pp.297-298.

48. See above.

passed to solve the problem of the shortage of labour. Ordinance 2 of 1850 as amended by Ordinance 13 of 1855 (the Master and Servants' Ordinance) served to legalise contracts of service between employer (master) and employee (servant).<sup>49</sup> Ordinance 2 of 1855, (Ordinance to prevent squatting) like the Master and Servants' Ordinances, also had no pass regulations. It provided that no land-owner was allowed to keep more than three families on his farm.<sup>50</sup> However, such legislation proved to be of little value as a prohibitory measure on desertion from service because nobody would know that a worker had deserted from service unless he was compelled to carry a pass with him.

Legislation that was designed to stop cattle-stealing came as a response by the government to frequent complaints by stock farmers about cattle-stealing. *The Natal Witness* reported frequently on the subject. The following report is one of many similar reports which appeared in this newspaper:

"On Friday last, while some cattle were grazing on the town lands, adjoining the town hill, five maccatee [*sic*] Kafirs drove away five young oxen belonging to Mr Leathern - some of whose Kafirs, on their way to town, from Umngeni, met the fellows driving the oxen, but without taking particular notice of them".<sup>51</sup>

A.J. Pretorius, a farmer, in a letter to the Lieutenant-Governor complained bitterly about cattle-stealing:

"It is thus that the two or three Boers who still wish to stay here will be driven away because they see that their cattle are left in possession of the thieves, and that they are in constant danger."<sup>52</sup>

---

49. R.L. Hitchins, ed., *Statutes of Natal, 1845-1899, vol. ii* (Pietermaritzburg, P. Davis and Sons, 1901), pp.1-15.

50. *Ibid.* pp.1-3.

51. NW, 3 February 1854.

52. *South African Archival Records, no. 2: Records of the Natal Executive Council, 1846-1848: A.W. Pretorius to Lieutenant-Governor* (Cape Town, Office of the Director of Archives, 1960), p.105.

Consequently, in 1854 the Legislative Council drafted a bill that was designed to try to prevent the stealing of cattle. The bill required Africans to carry passes when driving cattle from one area to another.<sup>53</sup>

There was disagreement among the officials on the necessity for and practicability of the bill. Some of the officials who were opposed to the pass system saw the bill as "absurd".<sup>54</sup> Henry Cloete, the Senior Recorder<sup>55</sup> in the government, was strongly opposed to the bill, not only because of the inconvenience it would entail to both Africans and whites, but also because it undermined the statement of conditions for annexation of Natal that the government was expected to abide by.<sup>56</sup> In contrast to Cloete, Lieutenant-Governor Pine fully supported the bill as necessary to stop cattle-stealing. About the supposed inconveniences of the pass provisions of the bill, he remarked:

"No doubt, however, the pass system will be attended with some inconvenience, and so must every stringent system of police, and in fact almost any other measure devised by man."<sup>57</sup>

Unlike Cloete, Pine was prepared from expediency to act contrary to the statement of conditions for annexation of Natal to support colonist opinion. The bill was passed as Ordinance 1 of 1855, the first ordinance to be passed by the Natal Legislative Council which contained provisions for the implementation of a pass system. Of particular importance here is Clause 1 of this ordinance, which merits quotation in full:

"It shall not be lawful for any native to drive or lead any cattle through any part of the District, unless he shall be provided with a pass, in writing,

---

53. NW, 8 December 1854.

54. *Ibid.*, 1 December 1854.

55. When a judicial system was established in 1847, Natal was separated from the Cape Colony, and a District Court was set up. Henry Cloete was appointed Judge, styled Recorder, of the Court. See B.A. Flanagan, 'Henry Cloete in Natal, 1848-1855' (unpublished M.A. thesis, University of Natal, 1946), pp.37-38.

56. See above.

57. NW, 8 December 1854.

signed by the magistrate, Justice of the Peace, Field Cornet or some other inhabitant, specifying the number of such cattle, the place from whence the native has come, the place to which he is proceeding, and the place of abode of the person granting the same."<sup>58</sup>

There is no evidence in the sources as to how this cattle-stealing pass ordinance was implemented.

The influx of refugees from the Zulu kingdom was another serious problem which the Colonial government inherited from the Voortrekker government. The government was besieged with complaints about these refugees, some of whom simply occupied other people's property without their authority. It was forced to intervene from time to time to resolve disputes between colonists and Africans which emanated from land 'invasion' by refugees.<sup>59</sup> It was against this background that the Legislative Council passed Ordinance 4 of 1855, "Ordinance to prevent natives being brought into this District".<sup>60</sup> Clause 2 of the ordinance contained a pass provision which required that a person who wished to bring an African from Zululand into Natal had first to obtain written permission from the Lieutenant-Governor.<sup>61</sup> Ordinance 4 of 1855 therefore, was the first pass law to be passed by the Colonial government to regulate and control the entry of refugees into Natal. The evidence suggests that Africans in Natal who wished to move into Zululand did not fall under the pass provisions of this ordinance. It is not clear in the sources how effectively the provisions of this ordinance were enforced by the government. No doubt, the stock farmers were happy with the passing of the cattle-stealing pass ordinance. However, there is no evidence as to how effectively its provisions were

---

58. NGG, 20 February 1855.

59. Records of the Natal Executive Council, 1846-1848: To Diplomatic Agent from Colonial Secretary, p.281.

60. Hitchins, ed., *Statutes of Natal*, vol. ii, p.4.

61. *Ibid.*

enforced by the government. There seems to have been no easy solution to this problem even under representative government (which was granted to the colonists in 1856), which had to amend the pass law from time to time to make it more effective. The concerns of commercial farmers who strongly advocated a pass system for labour purposes were not addressed. The government was still opposed to the use of a pass system in order to compel Africans to work for whites.

## CHAPTER THREE

### PASS LAWS AND CONSTITUTIONAL, SOCIAL AND ECONOMIC CHANGES, 1856-1882

#### 3.1 Arguments for and against the pass system

In terms of the Royal Charter of 1856,<sup>1</sup> Natal was granted a new constitution which, for the first time, provided for an elected Legislative Council. There was no colour bar in the new constitution, but the franchise qualifications were of such a character that very few Africans could meet them. The franchise was limited to males over the age of 21, owning immovable property to the value of £50 or renting such property to the yearly value of £10.<sup>2</sup> The Legislative Council comprised twelve elected members and four officials, the latter also being members of the Executive Council. The establishment of representative government heralded the beginning of a long struggle for power between some of the settler members of the Legislative Council, who represented settler opinion, and the Executive Council, which represented official opinion. From the outset, many settler members of the Legislative Council agitated for more control over government finance and native affairs, and launched scathing attacks on the Charter of 1856 which, they felt, did not go far enough to satisfy colonists' aspirations for greater legislative powers.<sup>3</sup> In the area of native affairs, they began to press for the adoption of effective restrictive measures on the movements of Africans for labour and security reasons.<sup>4</sup> As discussed in the

- 
1. *South African Archival Records, no. 4: Records of the Natal Executive Council, 1853-1856: Charter of Natal* (Cape Town, Office of the Director of Archives, 1963), pp.305-315.
  2. D. Welsh, *The Roots of Segregation: Native Policy in Natal, 1845-1910* (Cape Town, Oxford University Press, 1971), p.51.
  3. E.H. Brookes and C. de B. Webb, *A History of Natal*, 2nd ed. (Pietermaritzburg, University of Natal Press, 1987), pp.75-77; Welsh, *The Roots of Segregation*, pp. 51-52.
  4. C.W. de Kiewiet, 'The period of transition in South African policy, 1854-1870', in *Cambridge History of the British Empire*, vol. viii, 1st ed. eds. A. Newton and E.H. Benians (Cambridge, Cambridge University Press, 1936), p.418.



preceding chapter, the advocates of a pass system believed that the shortage of labour and threats to their security, could best be solved through this system.

There is reasonably clear evidence that concerns about security were widespread among whites, including members of the Executive Council.<sup>5</sup> Settler members of the Legislative Council were strongly opposed to the Executive Council's handling of native affairs, which they claimed was detrimental both to colonists and Africans. They argued that the colonists suffered from insecurity and scarcity of labour, and that for Africans there was no advance in real civilization and improvement.<sup>6</sup>

There were three provisions in clause viii of the Charter which the settler members wanted revoked.<sup>7</sup> Firstly, there was the provision for the reservation of £5000 annually for native purposes, such as financial assistance to African peasant farmers, the building of schools and provision of health services to Africans. Secondly, there was the provision which empowered the Lieutenant-Governor to refuse his assent to any legislation which subjected non-Europeans to special disabilities not affecting Europeans. Thirdly, there was the provision which gave the imperial government the power to disallow any legislation which, in its view, was not in the best interests of all the people of Natal. The Executive Council, on the other hand, held a different view. It supported ideas of economic liberalism which embodied the belief that economic progress could occur only if the state interfered as little as possible in the affairs of its people.<sup>8</sup> What enabled the Executive Council to maintain its policy towards Africans, at least until the late 1880s, was the fact that the colonists were not unanimous in their demands. The coastal farmers who, as

---

5. Colony of Natal: Votes and Proceedings of the Legislative Council, vol. i, 1857, p.5.

6. Votes and Proceedings of the Legislative Council, vol. iii, 1858: Select Committee Report, pp.31-32.

7. Records of the Natal Executive Council, 1853-1856: Charter of Natal, pp.313-315.

8. J. Lambert, *Betrayed Trust: Africans and the State in Colonial Natal* (Pietermaritzburg, University of Natal Press, 1995), p.55.

from 1860, benefited most from imported labour (i.e. the Tsonga from southern Mozambique, AmaNdwabo from Zanzibar, and Indians) began to identify with the official view about the pass system. They were against restrictions on the movements of Africans, as this, in their view, was likely to affect labour stability, which was their greatest concern.<sup>9</sup> The absentee landowners, who depended on African homestead production and on rents derived from Africans, also supported the policy of the Executive Council.<sup>10</sup> The group which was opposed to the Executive Council's policy towards Africans, and supported the idea that pass restrictions should be imposed on Africans, consisted of inland farmers and business people in the towns.<sup>11</sup> As discussed in chapter two, each of the above groups was motivated by its own particular interests.

Between 1856 and 1864, Natal experienced an economic upswing. The prosperity which resulted was accompanied by more frequent demands by white employers for an adequate supply of labour. The advocates of pass laws believed that an adequate supply of labour could be provided only if the government could exercise stricter control over the movements of Africans.<sup>12</sup> They were not satisfied with the Lieutenant-Governor's speech to the Legislative Council in 1857 in which he had promised to make the African 'an industrious subject'.<sup>13</sup> The advocates of pass laws insisted on the introduction of visible and practical measures designed to discourage 'idle pastoral pursuits' among Africans. In November 1858, early in the life of the Legislative Council, a Select Committee was appointed to investigate the matter of scarcity of labour and report to the Legislative Council. All five members

- 
9. N.A. Etherington, 'Labour supply and the genesis of South African confederation in the 1870s', *Journal of African History*, vol. 20 (1979), pp.236-237.
  10. N. Etherington, 'The "Shepstone system" in the colony of Natal and beyond the borders', in *Natal and Zululand from Earliest Times to 1910: A New History*, eds. A. Duminy and B. Guest (Pietermaritzburg, University of Natal Press, 1989), p.176.
  11. See chapter two above, pp.17-21.
  12. Votes and Proceedings of the Legislative Council, vol. iii, 1858, p.32.
  13. *Ibid.*, vol. i, 1857, p.10.

of the Committee were elected representatives who supported the idea of full control over native affairs being given to the Legislative Council.<sup>14</sup> The report of the Committee reflects, in its entirety, settler opinions. On the question of the need for more effective restrictions on the movements of Africans for labour and security, the Committee endorsed,

"... the opinion of the Council without any qualification and would further state, that every departure from the above principle of governing an uncivilized people in these circumstances, will certainly, in the end, be attended with danger to the peace of the Colony ...".<sup>15</sup>

When the government came up with no effective response, the advocates of pass laws exerted more pressure on the Legislative Council to have their demands met.

Lieutenant-Governor Scott (1856-1864) stood firm in defending the Charter of 1856, particularly clause viii, which in 1858 the Legislative Council wanted revoked. Summing up his objections to the Councils' demand for the repeal of clause viii, Lieutenant-Governor Scott stated that:

"A prospect of an unlimited supply of cheap manual labour connects itself so closely with every individual's self-interest that all schemes, all questions bearing upon such are sure to ring pleasantly on the popular ear."<sup>16</sup>

Pass laws at this stage would, in the official view, be in conflict with the policy of the Executive Council to encourage some of the African people to be independent farmers.<sup>17</sup> Scott was not prepared to deviate from this policy. From the angle of security, pass laws were, in the official view, an appropriate measure to adopt, but not for compelling Africans to work for whites. Security was of paramount importance to the government, as a result of political instability in the Zulu kingdom and intermittent wars on the Eastern Cape frontier.

---

14. Votes and Proceedings of the Legislative Council, vol. iii, 1858, pp.31-32.

15. *Ibid.*

16. GH, 1212, no. 88/1858, Scott to Stanley, 30 December 1858.

17. Welsh, *The Roots of Segregation*, pp.184-187.

From 1865 the colony sank into an economic depression, and for a time being the demand for labour died down.<sup>18</sup> However, in 1868 when the economy started improving, the labour question came to the fore again and further proposals were made for pass laws.<sup>19</sup> At a farmers' meeting held in Pietermaritzburg on 1 March 1868, speakers made clear their opinion that pass laws were the only remedy to the problem of the shortage of labour, and resolved to petition the government to take definite steps in this regard.<sup>20</sup> Some speakers argued that the pass system as an instrument to regulate and control labour, was not a new phenomenon in the world but had been in vogue in England during feudal times.<sup>21</sup> It had been applied with remarkable success and they could not understand why it could fail to have the same results in Natal.

On 29 July 1865, the Legislative Council debated a petition from the Farmers' Club which made recommendations for the adoption of a pass system for Africans, among other things. Theophilus Shepstone, Secretary for Native Affairs, was opposed to the adoption of such a system for Africans residing in the colony on the grounds that it would be "practically inoperative".<sup>22</sup> It would be difficult to establish the machinery that would be necessary to implement it. However, he supported the recommendation for the introduction of a pass system for foreign Africans entering Natal, though not without reservations. He mentioned the financial burden which such a system would entail as the main reason for the government's reluctance to take action.<sup>23</sup>

---

18. Welsh, *The Roots of Segregation*, p.180.

19. *Ibid.*, p.180.

20. NW, 10 March 1868.

21. *Ibid.*

22. *Ibid.*, 4 August 1868.

23. *Ibid.*, 4 August 1868.

The Council proceeded to appoint a Select Committee that would further consider the petition. The Committee, which was composed of five members, presented its report on 26 August 1868.<sup>24</sup> Although it is not clear what specific interests each member represented, the report, to a large degree, reflected official opinion. Echoing the views of Shepstone, the Committee stated its view that a pass system would entail the extension of administrative machinery and a corresponding increase in expenditure.<sup>25</sup> It supported the recommendation for the adoption of a pass system for foreign Africans, though not unreservedly, again highlighting the question of increased expenditure.<sup>26</sup>

### **3.2 Passes for control of movement from one magisterial division to another**

Control of movement of local Africans from one magisterial division to another dates back to the late 1850s, and remained government policy right up to the end of colonial rule. There is abundance of evidence in the Secretary for Native Affairs' records that a pass system was used to control movements of this kind.<sup>27</sup> But the question by what law these movements were controlled is difficult to answer. There is no evidence of a pass law that was designed for this purpose in the colonial statutes researched. As discussed above, Ordinance 4 of 1855 had made provision for passes to be issued to Africans from the Zulu kingdom who entered Natal. Local Africans who moved out of Natal were exempted from the pass provisions of this ordinance. The Native Locations Commission of 1846 and the Native Affairs Commission of 1852, had recommended control of movement of Africans from one location to another (within the same district) as well as from one magisterial division to another by means of a pass law. But there is no evidence in the sources

---

24. NPP, 251, Select Committee Report no. 8/1868, presented on 26 August 1868.

25. *Ibid.*

26. *Ibid.*

27. SNA, 1/7/9, Reports, memoranda and passes.

researched that any actual laws were enacted by the government to implement the recommendations.

In 1859, the Secretary for Native Affairs issued a circular to Resident Magistrates to the effect that Africans who wished to remove from one magisterial division to another were from then onward required first to obtain permission from the Lieutenant-Governor.<sup>28</sup> There is abundant evidence in the Secretary for Native Affairs' records that passes were issued for this purpose.<sup>29</sup>

An examination of the circular of 1859 reveals that it covered only those Africans who wished to remove from one division to another for the purpose of establishing a residence and finding a new home. The circular states clearly

"... that all Natives desiring to remove from one country or Division to another have applied to the magistrate under whom they reside for a permit, which they produce to the magistrate within whom [*sic*]jurisdiction they are desirous of placing themselves ...".<sup>30</sup>

There is no mention in the circular of control of movements made for business or social reasons. What the Secretary for Native Affairs did in this circular was to take away from Resident Magistrates the responsibility of issuing passes to Africans who wished to remove to another division for the purpose of finding a new home. Such movements had supposedly led to disturbances of the peace in the past, and this was the main reason for the government's taking over this responsibility.<sup>31</sup> But the issuing of passes to Africans who wished to move from one division to another for other reasons remained the responsibility of Resident Magistrates. However, it must be stressed here that this was simply a 'practice' that was sanctioned by unwritten law (see appendix 1).

---

28. SNA, 1/8/7, Secretary for Native Affairs' circular to Resident Magistrates, 28 September 1859.

29. *Ibid.*, 1/7/9, Reports, memoranda and passes.

30. *Ibid.*, 1/8/7, Secretary for Native Affairs' Circular to Resident Magistrates, 28 September 1859.

31. *Ibid.*, 1/8/7, Secretary for Native Affairs' circular to Resident Magistrates, 28 September 1859.

Although there is insufficient evidence to prove legal authorization, the sources researched reveal that the practice of controlling the movements of Africans by means of a pass system had been in existence for a while before 1859. The circular of 1859 simply took away certain powers from the Magistrates. These powers do not seem to have been derived from any law enacted by the legislative bodies of Natal. The powers seem to have been derived from informal regulations that were made by the Secretary for Native Affairs in terms of his interpretation of African customary law. An examination of the colonial native policy as it was developed by Shepstone reveals that some of the African customary practices which, in one way or another, were found to be in harmony with what the government perceived to be the best way of governing Africans, were adopted and interwoven with western principles of government. There is enough evidence to suggest that some of the elements of customary practices were used in combination with western law for effective supervision and control of Africans.

### 3.3 Passes for *togt*<sup>P</sup> workers in town

The economic depression of 1865-1868 brought about unemployment, especially in the towns of Pietermaritzburg and Durban. Poverty in the locations and on the farms drove Africans to the towns in search of alternative means of making a living. This resulted in overpopulation in the towns which persisted even when the economy started improving after 1868.<sup>33</sup> Even in the 1850s the number of Africans who came to the towns for alternative means of living had been steadily increasing, partly as a result of dissatisfaction with conditions in the locations which were congested and in parts barren.<sup>34</sup> Africans worked in the towns as craftsmen,

---

32. The term '*togt* men' refers to day African workers who travelled to and from work in the town every day. See Atkins, *The Moon is Dead!*, pp.109-111; K. Atkins, 'Origins of *amaWasha*: The Zulu washermen's guild in Natal, 1850-1910', *Journal of African History*, vol. 27 (1986), pp.43-44.

33. Leverton, 'Government finance and political development in Natal, 1843-1893', p.100.

34. Atkins, *The Moon is Dead!*, p.47.

brickmakers, dockworkers and 'kitchen men'. Others were self-employed firewood collectors, hawkers and washermen.<sup>35</sup> Although the discovery of diamonds in 1867 had led to an exodus of Africans to the diggings in Griqualand West, the influx of Africans into the towns increased. In the colonists' view, this situation was aggravated by the influx of migrant workers from countries like Mozambique who, for one reason or another, decided to remain in Pietermaritzburg and Durban, though in actual fact their original destination had been Griqualand West.<sup>36</sup> Another group was made up of unsuccessful African peasant farmers who moved to the towns to try other means of livelihood when their farming ventures failed.<sup>37</sup>

The influx of Africans into the towns worsened the colonists' fears about an African revolt.<sup>38</sup> Their concerns about security were confirmed by the Langalibalele affair of 1873. Africans bought guns on the diamond fields and returned with them to Natal.<sup>39</sup> Shepstone stated early in the 1870s that the increasingly large numbers of Africans in the towns posed a major security risk which the government could no longer overlook.<sup>40</sup> He believed that the solution lay in subjecting them to strict control.

"African workers in the towns came from widely scattered areas, some from far beyond the Colony's borders. They were not under the effective control of any chief. They mingled with, and sometimes cohabited with, the poorer white residents. They were frequently accused of crime."<sup>41</sup>

---

35. *Ibid.*, pp.109-111.

36. Leverton, 'Government finance and political development in Natal, 1843-1893', p.129.

37. Welsh, *The Roots of Segregation*, p.188.

38. Etherington, 'The "Shepstone system" in the colony of Natal and beyond the borders', pp.179-180.

39. *Ibid.*, p.183.

40. *Ibid.*, p.179.

41. *Ibid.*



In 1863 the Town Council of Pietermaritzburg had authorized the issuing of an identification badge system for every *togt* man.<sup>42</sup> There is no evidence that this system was ever implemented. In 1871 the Council passed a bye-law which made provision for a 9 o'clock curfew for all Africans in town.<sup>43</sup> Africans who were found in the town after this time were liable to be arrested. The Town Council of Durban passed a similar bye-law three years later.<sup>44</sup> *The Natal Witness* reported widely on whites' objection to the presence of large numbers of Africans in the town. An unidentified colonist in an article "Native Problem", which appeared in *The Natal Witness* of January 1873, expressed his strong disapproval of what he called "brutes who lounge around the streets, and deafen you with their voices".<sup>45</sup>

The year 1873 marks an important turning point in the history of native policy in Natal. Since the establishment of British rule in 1843, the Natal government had dealt with Africans with a great deal of sensitivity for fear of provoking them into revolt. The colonists were always preoccupied with questions of security in the midst of an overwhelming number of Africans.<sup>46</sup> A number of laws that were passed by the Natal Legislative Council had subsequently been disallowed by the imperial government on the grounds that they were of such a kind as was likely to provoke Africans into revolt. As discussed above, the economic depression of the late 1860s had resulted in a large number of Africans moving to the towns for alternative means of living. The situation was aggravated by the discovery of diamonds in 1867. The guns which the Africans purchased on the diggings were the

---

42. Atkins, 'Origins of *amaWasha*', p.53.

43. K. Atkins, 'Kafir time: Pre-industrial temporal concepts and labour discipline in nineteenth-century colonial Natal' *Journal of African History*, vol. 29 (1988), p.243.

44. *Ibid.*

45. NW, ... January 1873 (the full date is not reflected on the newspaper consulted).

46. See chapter two above.

preponderate issue in the Langalibalele affair of 1873.<sup>47</sup> The government adopted a hard line which set a precedent for its future policy towards Africans.

In 1873, the Secretary for Native Affairs drafted regulations that were designed to control the movements of *togt* workers. Other classes of Africans were exempted from these pass regulations, i.e. any African who was either "... the proprietor or renter of any house or land within the borough, or is in monthly or yearly service of a proprietor or renter ...".<sup>48</sup> Africans who entered the towns of Pietermaritzburg and Durban to find employment were allowed a period of five days within which to decide whether to take up monthly service or day service. If an African chose the latter, he was required to register at a police station, where he was issued with an identification badge showing his registration number. He was required to wear the badge as long as he was in the town. The *Togt Minute* (i.e. Shepstone's memorandum containing the rules), as it became known, made it clear that only day workers were required to register and be issued with an identification badge. A *togt* man who, after some time, elected to enter monthly or yearly service, or quit the town, was required to hand back his identification badge.<sup>49</sup> Shepstone defended the *Togt Minute* from possible criticism on the part of those who were opposed to a pass system by referring to African customary law in terms of which strangers who arrived at a homestead were required to report to higher authority, giving their names and other particulars.<sup>50</sup>

The rules and regulations under the *Togt Minute* came into effect in 1874 in the towns of Pietermaritzburg and Durban. There is evidence that although the *Togt Minute* was applauded by some advocates of a pass system as a step in the right

---

47. Welsh, *The Roots of Segregation*, pp.133-135.

48. NGG, 31 March 1874.

49. *Ibid.*

50. NW, 20 June 1873.

direction, others felt that it did not go far enough.<sup>51</sup> They advocated all-embracing pass regulations that would apply to every African who resided or worked in town. That the Togat Minute was meant to apply only to a particular category of Africans was in itself bound to undermine its effectiveness and feasibility. Shepstone appealed to the householders to use their discretion in order to avoid wrongful arrest of those African workers who, in terms of the Togat Minute, were not required to wear an identification badge.<sup>52</sup> (See appendix 2).

### 3.4 Passes for immigrant workers

The late 1860s witnessed a significant shift in British imperial policy in southern Africa. The policy of non-intervention which had resulted in the recognition of the independence of the Transvaal and Orange Free State in 1852 and 1854 respectively had, in the British view, been a mistake.<sup>53</sup> The discovery of diamonds in the interior was the main reason for the shift. Other reasons related to the intermittent wars between Britain and the Xhosa in the Eastern Cape, the Basotho wars of 1865-1868 and the Langalibalele affair of 1873, all of which convinced Britain of the need to federate the South African states into a single British dominion.<sup>54</sup>

As pointed out above, foreign workers were imported into Natal as from 1860. However, when diamonds were discovered in Griqualand West in 1867, most of the migrant workers were attracted to the diamond fields where wages were higher than in Natal. As a result, coastal farmers, who relied mainly on imported labourers,

---

51. NW, 20 June 1873.

52. *Ibid.*

53. T.R.H. Davenport, *South Africa: A Modern History*, 1st ed. (Johannesburg, Macmillan, 1977), p.126.

54. L. Thompson, 'Co-operation and conflict: The highveld', in *The Oxford History of South Africa: South Africa to 1870*, vol. i, eds. M. Wilson and L. Thompson (Oxford, Clarendon Press, 1969), pp.422-445; Etherington, 'Labour supply and the genesis of South African confederation in the 1870s', pp.243-246.

renewed their pressure on the government to devise ways and means of bringing more workers to Natal, and to ensure that they could retain the labour that they already had. In 1872 the Legislative Council appointed a Select Committee to look into the importation of labourers from the neighbouring countries. The Committee was composed of four settler representatives and Shepstone, whose influence over the Committee is well attested in its report.<sup>55</sup> At the suggestion of Shepstone, the Committee recommended, among other things, a pass system for foreign labourers. This would provide that "a token with his name and number marked upon it, corresponding with the register, should be given to each man, to serve as a means of personal identification".<sup>56</sup> Shepstone argued that while a pass system was then not necessary for local Africans, who could still be ruled through the tribal system, the movements of foreign workers who were in Natal as 'individuals' and not 'communities', needed to be controlled under a pass system.<sup>57</sup> These people were accustomed to rigorous control in their own societies, and their chances of escape from their employers were high if they were not subjected to control and supervision, he concluded.<sup>58</sup> The government hoped to help the colonists by stopping desertion from service through a pass system, and by directing migrant workers away from the diamond fields. Shepstone's views throw some light on the thinking of the government in regard to passes for Africans at this stage. The evidence suggests that in the 1870s the government still believed that a pass system was not necessary for supervision and control of local Africans who, in Shepstone's words, could still be ruled by 'tribal arrangement'. The recommendations of the Committee were implemented in 1876, and regulations were issued by the government which affected Tsonga and Amandawo labourers.

---

55. NPP, 260, Select Committee Report, no. 9, presented on 13 November 1872.

56. *Ibid.*

57. *Ibid.*

58. *Ibid.*

The first set of regulations that was issued by the government in terms of the recommendations of the Committee applied to Tsonga labourers. These regulations made provision for the appointment of an Immigration Officer who would be stationed in the Lower Tugela Division and would be responsible for the registration and distribution of Tsonga work-seekers to prospective employers.<sup>59</sup> A contract of service would be entered into which showed, among other things, the duration of the period of service with the employer.<sup>60</sup> Of particular importance for this enquiry is that each foreign labourer was to be issued with a ticket or pass, showing "the register number and year of Registration".<sup>61</sup> Every such labourer was required to carry his ticket or pass at all times for identification purposes. On the expiration of their terms of service, these labourers were free to leave the colony, but first had to obtain a discharge certificate from a Resident Magistrate.<sup>62</sup> There is reason to doubt whether the above rules and regulations were actually enforced, in view of repeated admission by the government that it lacked effective machinery to implement a pass system in Natal.<sup>63</sup>

In the same year, the government issued further regulations which were designed to apply to liberated African slaves who entered Natal for employment.<sup>64</sup> These were former slaves who had been liberated following the suppression of the slave trade along the East Coast of Africa by Britain in the late 1850s.<sup>65</sup> They were imported to Natal not as slaves but as foreign labourers to try to alleviate the problem of the shortage of labour. They were imported under Law 13 of 1859,

---

59. NGG, 16 February 1876.

60. *Ibid.*

61. *Ibid.*

62. *Ibid.*

63. See below.

64. NGG, 4 April 1876.

65. NPP, 265, Select Committee Report, presented on 20 August 1874; EC, 10, meeting No. 12, Minute Book, 14 July, 1876 -25 February 1880.

which provided that each liberated African would be issued with a pass by a Protector of Immigrants.<sup>66</sup> The ticket thus issued to each immigrant would show, among other particulars, name of immigrant, number, name of father/mother, sex, age, stature, caste, native country and village, and name of vessel and captain by which introduced.<sup>67</sup> The same provisions were, among others, included in the regulations of 1876.

### 3.5 Pass laws as attempts to prevent cattle-stealing

Implementation of a pass system was also seen by settlers and officials as a means of putting a check on certain types of crime. Security of persons and property was always a major concern of the colonists. Security of property was linked in their minds to the need to control the movement of Africans. They attributed crime to unemployed Africans who moved about as they wished, under no effective control and supervision.<sup>68</sup> For many settlers, cattle-stealing was of particular concern. As already seen, Ordinance 1 of 1855 was a measure which had been designed to check it. It is difficult to assess the effectiveness of this legislation in the absence of relevant evidence. What is clear, however, is that stock farmers' reports of cattle-stealing continued in spite of this legislation.<sup>69</sup> The evidence reveals that the Natal government was too weak to implement some of its laws. Lambert states:

"The absence of a properly organized police force made the detection of crime difficult, and the magistrates were too overworked to pay attention to crime in areas remote from their seats. With few policemen and even fewer Justices of the Peace to assist them, it was impossible for magistrates to combat the spread of crime."<sup>70</sup>

---

66. C.F. Cadiz, ed., *Natal Ordinances, Laws and Proclamations, 1843-1870*, vol. i (Pietermaritzburg, Vause, Slatter & Co., 1879), pp.256-261.

67. *Ibid.*

68. See chapter two above.

69. *Ibid.*

70. Lambert, *Betrayed Trust*, pp.132-135.

The stock farmers also, from time to time, petitioned the government to introduce stricter measures to stop cattle-stealing, but to little avail. Although the settlers controlled the Legislative Council, their interests were not necessarily homogeneous, and this militated against timely response and unanimous action.

Ordinance 1 of 1855 was amended by Law 4 of 1868 and Law 5 of 1869 which had made provision for punishment of offenders, tracing of stolen cattle and the stopping of cattle-stabbing.<sup>71</sup> These laws were repealed by Law 10 of 1876, the aim of which was to extend the pass provisions of Ordinance 1 of 1855 to Coloureds and Indians. The Legislative Council was divided on this issue. While some of the members supported the inclusion of Coloureds and Indians in the pass provisions because of their alleged involvement in cattle-stealing, others opposed the measure, putting the blame for cattle-stealing solely on Africans.<sup>72</sup> In the end those who objected to the inclusion of Coloureds and Indians in the bill had their way. When the bill was passed into law, it applied only to Africans. According to clause 3 of Law 10 of 1876, an African was required to obtain a pass from a Resident Magistrate, Justice of the Peace, Field Cornet, or any white person on the list of voters under the Charter of Natal before he could drive cattle from one area to another.<sup>73</sup>

### **3.6 The implementation of passes as a measure to stop drunkenness among Africans**

The pass system was also used by the administration to try to stop drunkenness among Africans, which officials felt led to reluctance to work, crime and

---

71. C.F. Cadiz, ed., *Natal Ordinances, Laws and Proclamations*, 1870-1979, vol. ii (Pietermaritzburg, Vause, Slatter & Co., 1880), pp.1165-1169.

72. NW, 29 August 1876.

73. Cadiz, ed., *Natal Ordinances, Laws and Proclamations*, vol. ii, pp.1165-1169.

insubordination to authority.<sup>74</sup> Traditionally, beer drinking fell exclusively under the authority of the *umnumzane* or homestead head. He was the one who gave out beer for drinking either for entertainment or when certain rituals were performed.<sup>75</sup> With the growing dependence on wage labour during the colonial period, the authority of homestead heads was considerably weakened.<sup>76</sup>

Law 23 of 1863 which had made it illegal for dealers to sell liquor to Africans had had no pass provisions.<sup>77</sup> In 1877 an amendment to the law to make provision for pass regulations was considered by the Legislative Council. A Select Committee was set up to consider the Lieutenant-Governor's message No. 11 of 1877, on the subject of "Increased Drunkenness among the Native Population."<sup>78</sup> The Committee consisted of John Shepstone (acting Secretary for Native Affairs, 1876-1884) and five of the elected members of the Council. Its proceedings reveal clearly how seriously the government and magistrates viewed the subject of drunkenness among Africans.<sup>79</sup> In its report, presented in July 1877, the Committee suggested, among other things, the implementation of a pass regulation that would help the authorities to keep check on illegal purchases of liquor by Africans.<sup>80</sup> Consequently, a Bill to "Prohibit the Sale and Disposal of Spirits and other Intoxicating Liquor to Persons of the Native Race" was introduced into the Legislative Council by the Lieutenant-Governor in July, 1878. It was passed into Law in September. Clause 8 read as follows:

"When any native is supplied, in terms of the provisions of the preceding section, with any spirituous liquors, wine, or fermented liquors, it shall be

74. NW, 13 July 1877.

75. Lambert, *Betrayed Trust*, pp.127-128.

76. *Ibid.*

77. NGG, 1 August 1863.

78. NW, 13 July 1877.

79. NPP, 272, Select Committee Proceedings of Report no. 10, presented on 27 July 1877.

80. *Ibid.*



the duty of the licensed dealer to furnish such Native with a pass, on which shall be written the name of the European in whose name the said liquor has been supplied, the name of the Native to whom it shall have been delivered, the description and quantity of the liquor supplied, the date upon which it was supplied and the name of the licensed dealer supplying the same."<sup>81</sup>

The licensed dealer could issue a pass only after he had satisfied himself that the letter from the European authorizing an African to purchase liquor for him, was, in fact, genuine.<sup>82</sup> Failure on the part of an African in possession of liquor to produce a pass when ordered to do so by a police officer rendered him liable to be arrested, and, on conviction, to pay a fine of twenty shillings. On default of payment, imprisonment of a month could be imposed.<sup>83</sup> There is little evidence on how far the law was implemented.

### **3.7 The Government Commission of Enquiry and its recommendation on pass laws**

In 1881, the government appointed a Native Affairs Commission to enquire into "... the future government, civilization and moral improvement of the native population of this colony."<sup>84</sup> This took place against the background of signs of a deep crisis that was emerging in the African society at the time. The problems which the colonists associated with Africans, viz. drunkenness, cattle-stealing, faction fighting and a reluctance to adapt their work habits, became more serious as time went by. The measures that were adopted by the government to solve some of the above problems seemed to be ineffective. In short, the Commission was expected to come up with recommendations as to how the government could best handle native affairs.

---

81. Cadiz, ed., *Natal Ordinances, Laws and Proclamations*, vol. ii, pp.1288-1290.

82. *Ibid.*

83. *Ibid.*

84. NW, 12 November 1881.

The Commission had difficulty in achieving unanimity on various issues concerning African affairs, and had most of the time to rely on majority decisions.<sup>85</sup> Although little is known about the specific interests represented by the individuals who sat on the Commission, it is clear from the report that official opinion dominated in the proceedings of the Commission. Up to the early 1880s the coastal farmers still identified with the official view about the undesirability of passes for local African workers throughout the colony. As a result, the official view about passes had, to a great extent, influenced the Commission's decision on this issue. In its report the Commission made recommendations for the registration of all male Africans in the colony "... but such registration should not involve them being obliged to have and keep tickets."<sup>86</sup> Such registration, the Commission believed, would be the solution to the problems highlighted above that were associated with Africans.<sup>87</sup>

So widely did the commissioners differ on many issues, including the pass system, that each commissioner issued a memorandum to express his individual opinion.<sup>88</sup> Commissioner Otto was of the opinion that registration should involve requiring Africans to carry passes on the grounds that the issue of registration and passes could not be separated.<sup>89</sup> Another Commissioner, Stainbank, shared this opinion, because, without passes, "... Registration would be little more than a census, and insufficient for the better working of the Masters and Servants Ordinance, tracing of criminals, etc."<sup>90</sup> On the question of Africans entering and leaving the colony, the Commission seems to have spoken with one voice on the need to maintain the pass system, which was not, however, entrenched in law.

---

85. Report of the Natal Native Affairs Commission, 1881-82 (Pietermaritzburg, Vause, Slatter & Co., 1882), pp.14-30.

86. *Ibid.*

87. *Ibid.*

88. *Ibid.*

89. *Ibid.*

90. *Ibid.*

Judging by the purpose which pass legislation was designed to serve during the period under discussion, it is clear that the government was still opposed to the establishment of a general pass system throughout the colony. In regard to the security of persons and their property, a pass law had been enacted which applied to Africans throughout the colony. The government also had not hesitated to establish a pass system for foreign workers in the colony. Concerning local African workers, a half-measure (i.e. the Togat Minute) was adopted which imposed a pass system only on day-workers in the towns of Pietermaritzburg and Durban. The government believed that a pass system for local Africans would "restrict the liberty of natives desirous of seeking labour and would in the final analysis lead to the conversion of free into indentured labour."<sup>91</sup> Furthermore, the government took great care not to adopt measures that were of such a kind as to provoke Africans into revolt.<sup>92</sup> The overwhelmingly large numbers of Africans in Natal, coupled with the fear of a Zulu invasion, was another reason for the government's reluctance to impose a general pass system in the face of African opposition. Besides the security concerns of the government, its ambivalence regarding the establishment of a general pass system in Natal may also be attributed to lack of finances to implement the system.<sup>93</sup> As a result, while, on the one hand, officials were concerned to place checks and controls on the African population, on the other hand, they felt they did not need to do this beyond a certain point.

---

91. EC, 10, meeting no. 12, Minute Book, 14 July 1876 - 25 February 1880.

92. *Ibid.*

93. *Ibid.*, no. 11, meeting No. 4, 8 March 1881, Minute Book, 25 February 1880 - 24 June 1884.

## CHAPTER FOUR

### PASS LAWS AND SOCIAL AND ECONOMIC CHANGES, 1883-1892

#### 4.1 Pressures for the adoption of a pass system increase

In the 1880s a demand on the part of certain colonist interests for more political power grew stronger. At the centre of the debate on 'responsible government' was, among other things, the demand by the colonists for control over native affairs, a demand which they had from time to time made since the 1850s. Although the colonists were not unanimously in favour of responsible government, a number of factors tipped the scales in favour of it. A growing crisis in African society as evinced by an increase in faction-fighting, cattle-stealing, drunkenness and insubordination of young men and women to their elders, among other things, contributed to the Executive Council's becoming more amenable to settlers' demands.<sup>1</sup> The need by the colonists for control over native affairs, among other reasons, for labour and security, could no longer be ignored by the Executive Council. The demand for control over native affairs through a pass system must therefore be seen against the background of the struggle by the colonists for more powers for the Legislative Council, and a diminishing of imperial restraints.

The Anglo-Zulu war of 1879, the frontier wars in the Eastern Cape and the Anglo-Boer war of 1881 had led to a change in the thinking of British governments regarding the issue of self-government for Natal. The military expenditure that was incurred in these struggles entailed a heavy burden on the British taxpayers.<sup>2</sup> The wars had served to encourage the colonists in their demand for responsible government in Natal. When independence was granted to the Transvaal in 1881,

---

1. Lambert, *Betrayed Trust*, pp.105-118.

2. S.T. van der Horst, *Native Labour in South Africa* (London, Frank Cass & Co., 1971), p.64; J. Lambert, 'Sir John Robinson and responsible government, 1863-1897, The making of the first Prime Minister of Natal' (unpublished M.A. thesis, University of Natal, 1975), pp.59-60.

there arose the question, why not Natal.<sup>3</sup> The Anglo-Zulu war in particular had served to diminish the colonists' sense of insecurity, and therefore the withdrawal of Imperial troops, should responsible government be granted, was seen as being less important than before.<sup>4</sup> Parallel with these developments was the farmers' continuing demand for an adequate supply of labour, which remained one of the key issues in the colonists' demand for control of native affairs.<sup>5</sup>

Members of the merchant class, which was made up of predominantly urbanized people, were strong advocates of responsible government, probably because the withdrawal of imperial troops, the crucial condition for the granting of responsible government, did not matter as much to them as it did to the farmers.<sup>6</sup> Stock farmers and coastal farmers (the latter were sugar-cane planters) were concerned with security, as they were isolated and surrounded by a large African population. Unlike the merchant class therefore, the farmers were opposed to responsible government which, in their view, would increase security risks.<sup>7</sup>

When the Charter Amendment Bill was debated in Parliament in 1883, to pave the way for the granting of responsible government, the farmers sent numerous petitions to the government requesting that the bill be rejected. The bill was subsequently rejected and the responsible government debate was suspended during the period of economic depression between 1883 and 1886.

- 
3. Brookes and Webb, *A History of Natal*, 1st ed., p.168.
  4. B. Guest, 'Towards responsible government', in *Natal and Zululand from Earliest Times to 1910: A New History*, eds. A. Duminy and B. Guest (Pietermaritzburg, University of Natal Press, 1989), p.237.
  5. Lambert, *Betrayed Trust*, pp.93-94.
  6. Guest, 'Towards responsible government', p.240.
  7. Lambert, 'Sir John Robinson and responsible government, 1863-1897', p.180.

The farmers demanded guarantees from the imperial government that native interests would be protected under responsible government. Their argument centred on their fears of a possible native rebellion should any measures be adopted which were likely to produce dissatisfaction on the part of the natives. They believed that this would lead to detrimental consequences, exacerbating labour shortage and increasing security risks.

During the boom years in the late 1880s, a number of developments took place which favoured the supporters of responsible government. The discovery of gold in the Transvaal in 1886 brought about improved economic conditions in Natal.<sup>8</sup> However, the employers of labour disapproved of the exodus of labourers to the gold fields.<sup>9</sup> Control of native affairs to ensure an adequate supply of labour became a favoured idea among coastal farmers in these altered circumstances. There was therefore a swing in coastal opinion in favour of responsible government.<sup>10</sup> They exerted pressure on the government to introduce more effective measures to restrict the movement of Africans out of Natal. Inland farmers, who employed labour-tenants on their farms, were more interested in control of movement of Africans for security reasons than in the extraction of labour from Africans. It should be remembered that while on the one hand stock farmers had always been opposed to the implementation of a pass system for the extraction of labour from Africans, they had always supported it for security of persons and their property on the other hand.

We have seen in the preceding chapter that coastal farmers had identified with the official view that passes were not necessary for control and supervision of local Africans. With the discovery of gold in 1886, different classes of settlers - the

---

8. Leverton, 'Government finance and political development in Natal, 1843-1893', pp. 253-255.

9. Van der Horst, *Native Labour in South Africa*, p.145.

10. Lambert, *Betrayed Trust*, pp.95-96.

farmers, merchants and mine-owners in the Transvaal all competed for labourers. The Natal government also needed labour for railways, roads and the harbour. All these developments necessitated greater control of labour.<sup>11</sup> The coastal farmers and urban settlers, pushed together by economic changes at play, pressed for tighter control of the movements of Africans that would help divert labour from the mines. The climate was indeed favourable for the introduction of tighter controls over Africans. However, the government was still ambivalent about passes for local African workers in the colony, as will be seen below.

#### **4.2 Passes for control of movement between Natal and neighbouring territories**

The influx of Africans from the Zulu kingdom continued through the period under discussion. The colonists had always expressed concern about their security in the midst of an overwhelming number of Africans.<sup>12</sup> Ordinance 4 of 1855, which was designed to control and restrict entry into Natal of Africans from Zululand, had been passed as a response to these concerns. There is no evidence that this ordinance was effectively implemented. The Anglo-Zulu war of 1879 was followed by internal strife and chaos in Zululand, and as the situation got worse, more and more Africans fled to Natal.<sup>13</sup> When Cetshwayo (king of the Zulus, 1872-1884) who had been exiled to Cape Town in 1879, returned in 1883, war broke out between him and his half-brother, Prince Hamu, and Zibhebhu, chief of the Mandlakazi, who had been appointed chiefs in terms of Wolseley's settlement. Prince Hamu and Zibhebhu were among the thirteen appointed chiefs, through whom Britain had

---

11. See above.

12. See chapter two above.

13. J. Guy, *The Destruction of the Zulu Kingdom: The Civil War in Zululand, 1879-1884*, 2nd ed. (Pietermaritzburg, University of Natal Press, 1994, first published London, 1979), pp.190-193; LCD, 1883, vol. vi, pp.769-770, 22 October 1883.

hoped to ensure the destruction of the Zulu monarchy.<sup>14</sup> When Cetshwayo died in 1884, the war continued now between Zibhebhu and Cetshwayo's son, Dinuzulu.<sup>15</sup>

Refugees did not, however, come only from Zululand. Africans from the Transvaal had also entered Natal before and after the Anglo-Boer war of 1881.<sup>16</sup> They came to Natal as labour migrants. Thousands of Africans had also come from the other neighbouring territories to seek employment. In most cases this influx of foreign Africans into Natal was aggravated by frequent outbreaks of war and at other times by local ecological and political crises.<sup>17</sup> This holds true of the Basotho from Orange Free State, the Mpondo from the Eastern Cape, the Tsonga from Mozambique and the Pedi from the Transvaal.<sup>18</sup> The government felt that this migration of Africans had to be controlled both for labour and security reasons.<sup>19</sup> Although the sources consulted are not specific on why Africans came to Natal in particular, two factors seem to have been at play here. Firstly, with the exception of the Anglo-Zulu war of 1879, there was relative peace in Natal, when compared to the Cape colony where intermittent wars between the Xhosa and Britain had led to instability. Secondly, before the discovery of diamonds and gold, coastal farmers in Natal probably offered better employment opportunities than were available in the other territories.

---

14. J. Laband and P. Thompson, 'The reduction of Zululand, 1878-1904', in *Natal and Zululand from Earliest Times to 1910: A New History*, eds. A. Duminy and B. Guest (Pietermaritzburg, University of Natal Press, 1989), pp.193-223.

15. Guy, *The Destruction of the Zulu Kingdom*, 2nd ed., pp.217-227.

16. P. Delius, *The Land belongs To Us: The Pedi Polity, the Boers and the British in the Nineteenth-century Transvaal* (Johannesburg, Ravan Press, 1983), p.64.

17. J. Kimble, 'Labour migration in Basutoland, 1870-1885', in *Industrialization and Social Change in South Africa, 1870-1930*, eds. S. Marks and R. Rathbone (London, Longman, 1982), p.120.

18. *Ibid.*; Delius, *The Land belongs To Us*, p.74.

19. NGG, 30 October 1883; P. Harries, 'Kinship, ideology and the nature of pre-colonial labour migration: labour migration from the Delagoa Bay hinterland to South Africa, up to 1895', in *Industrialization and Social Change in South Africa, 1870-1930*, eds. S. Marks and R. Rathbone (London, Longman, 1982), pp.143-144.



In 1883 the official members of the Natal Legislative Council introduced the 'Native Passes Bill'. It provided for passes to be issued to Africans who travelled between Natal and Zululand.<sup>20</sup> When the bill was passed into law, it was disallowed by the imperial government. The main reason had to do with its scope. The imperial government favoured a short bill with provisions which empowered the Natal government to make rules from time to time for control of movement of Africans between Natal and Zululand.<sup>21</sup> In 1884 a Native Pass Bill that was similar to the one of 1883 was introduced into the Legislative Council by the acting Secretary for Native Affairs, J.W. Shepstone. General opinion in the House was that the bill was needed to maintain peace and stability, but some members felt that it did not go far enough. Like the Bill of 1883, it was specifically meant to apply to Africans who travelled between Natal and Zululand.<sup>22</sup> Some of the members of the Council objected to the Bill having to apply only to Africans who travelled between Natal and Zululand.<sup>23</sup> Mellersh, member for Klip River, proposed that the word 'Zululand' be omitted and instead the words 'neighbouring states' be inserted and the word 'Zulu' be also omitted and the word 'Native' alone left.<sup>24</sup> The new amendments were accordingly made in the title of the bill and it was read a third time and passed on 11 August 1884 as Law 48 of 1884 (see appendix 3).

This law provided for two types of passes: an inward pass that was issued to Africans who entered Natal from the neighbouring territories, and an outward pass that was issued to Africans from Natal who wished to travel to any of the neighbouring territories. In 1885, the government set out to frame rules and

---

20. NGG, 30 October 1883.

21. GH, 129/84, no. 202, Secretary of State for Colonies to Bulwer, 22 March 1884.

22. LCD, 1884, vol. vii, p.314, 30 July 1884.

23. *Ibid.*

24. *Ibid.*

regulations under Sections 1 and 2 for the implementation of the law.<sup>25</sup> Separate passes would be issued to Africans who entered Natal, to those who travelled out of Natal, and to those who wished to remove permanently from the colony.<sup>26</sup>

As discussed above, the discovery of gold in the Transvaal in 1886, led to an exodus of Africans to the gold fields for better remuneration. The employers of labour, particularly the coastal planters who depended on migrant labour, strongly protested against the loss of labour to the Transvaal.<sup>27</sup> In 1886 the government amended the rules and regulations under the law to restrict further the movement of Africans out of Natal.<sup>28</sup> The amended rules and regulations empowered white inhabitants who were electors on the voters' roll and who lived near the border, to issue passes to Africans who travelled between Natal and the neighbouring territories.<sup>29</sup> The government was involving white male citizens in the implementation of the law in order to ensure that control of movement of Africans out of Natal was done more strictly.

In 1891 the government issued a modified set of pass rules and regulations. The discovery of diamonds and gold had created new opportunities for African entrepreneurs, some of whom periodically travelled to and from Kimberley and the Witwatersrand to sell their products. Others were employed by white traders as transport riders.<sup>30</sup> These developments, in the government's view, necessitated the amendment of the pass rules and regulations. Another development which necessitated the amendment of pass rules and regulations was the annexation of

---

25. NGG, 15 September 1885.

26. *Ibid.*

27. See above.

28. SNA, 1/1/93, Minute Papers, 1886.

29. *Ibid.*

30. Van der Horst, *Native Labour in South Africa*, p.103.

Zululand to Britain in 1887. According to the amended rules and regulations, restrictions on the movement of Africans between Natal and Zululand, were now to be applied less strictly. An alternative to a written pass was provided for Africans from Zululand and Natal. Resident Magistrates and authorized officers were to provide Zululand Africans with a metal badge with the words 'Zululand Pass' printed on it, and punched with one, two or three holes denoting that the holder was authorized to remain in the colony for one, two or three days respectively.<sup>31</sup> Africans from Natal were also to be provided with such a badge instead of an ordinary pass. For traders, a new form of pass was designed to be used for wagon drivers who were in the employ of white traders. It would show the following particulars: name of driver of wagon, name of leader, destination, employer and place of residence.<sup>32</sup> For independent African traders, passes were to be issued by an authorized officer. They would show the name of the driver, the name of the leader, and the destination.<sup>33</sup>

#### **4.3 Passes for town workers of all classes in Pietermaritzburg and Durban**

The 1880s saw a rapid increase in the number of migrant workers who entered and left Natal. Important developments were taking place in the political economy which stimulated labour migrancy throughout southern Africa.<sup>34</sup> The discoveries of diamonds and gold, the resultant improvement of railway construction, the parallel success of sugar and maize industries, and the discovery of coal in northern Natal, brought about competition for labour.<sup>35</sup> Political instability and ecological factors

---

31. NGG, 17 November 1891.

32. *Ibid.*

33. *Ibid.*

34. S. Bhana and J.B. Brain, *Setting Down Roots: Indian Migrants in South Africa, 1860-1911* (Johannesburg, Witwatersrand University Press, 1990), p.17.

35. B. Guest, 'The new economy', in *Natal and Zululand from Earliest Times to 1910: A New History*, eds. A. Duminy and B. Guest (Pietermaritzburg, University of Natal Press, 1989), pp.302-313; Leverton, 'Government finance and political development in Natal, 1843-1893', pp. 257-258.

were also forcing people to the towns for livelihood and safety. The product of these developments was an increasingly large number of Africans in the towns, which increased whites' concerns about the security of their persons and their property. This was the same condition that had led to the passing of the Togat Minute in 1874. Young African men began to find life in the towns more attractive as parental control over them became weaker.<sup>36</sup> The towns were found to be convenient halting places by migrant workers on their way to the interior.<sup>37</sup>

These developments in the economy had served to draw colonist interests both inside and outside Parliament, previously poles apart on native affairs, closer together. Migrants became a more and more unreliable source of labour as higher wages attracted them to the diamond and gold fields, with consequent loss of labour for the coastal planters.<sup>38</sup> The urban white settlers were greatly concerned about their security as the number of Africans increased in the towns. The urban employers of labour had also to contend with desertions from work, which were easy in the absence of a more effective system of control. Stock farmers who depended on labour-tenancy were, on the other hand, less affected by the migrant labour movement. In the Legislative Council, the coastal planters and urban merchants supported the extension of the pass system. The inland farmers who employed labour-tenants as workers on their farms were opposed to the implementation of a pass system for the extraction of labour from Africans.<sup>39</sup> Inland farmers supported the implementation of the pass system for security of persons and their property and not for the extraction of labour from Africans. But after 1895 when more and more of their tenant-workers deserted them to seek employment on the diamond and gold fields, they were bound to change their views about the need

---

36. Van der Horst, *Native Labour in South Africa*, p.100; Lambert, *Betrayed Trust*, pp.134-137.

37. Van der Horst, *Native Labour in South Africa*, p.94.

38. See above.

39. Lambert, *Betrayed Trust*, pp.96-97.

for the implementation of a pass system for the extraction of labour from Africans and to retain what they already had. The climate was favourable for the implementation of a pass system and the government was gravitating more towards the advocates of a pass system.<sup>40</sup>

During the period under discussion, the responsible government movement was given impetus when the imperial government disallowed five bills passed by the Legislative Council. Some of these bills had envisaged the implementation of a pass system throughout the colony, while others had focused only on the towns and townships.<sup>41</sup> James Hulett, a successful sugar planter,<sup>42</sup> and Harry Escombe, a lawyer from Durban,<sup>43</sup> emerged as ardent advocates of a pass system in the 1880s. Hulett expressed the views of the coastal planters, while Escombe represented urban settler interests. The debates on the pass bills provide evidence of the colonists' concerns about the inadequate supply of labour, desertion from work and security of lives and property.<sup>44</sup>

It should be remembered that the Togat Minute of 1874 did not apply to all categories of workers in the boroughs because the government lacked the necessary machinery to enforce a comprehensive measure. The Pass Bill, "To facilitate the Registration of Natives within Boroughs", introduced by Escombe in 1883, aimed at expanding the scope of the Togat Minute to apply to all categories of African workers.<sup>45</sup> When the bill was passed into law, it was disallowed by the imperial

---

40. *Ibid.*

41. LCD, 1883, vol. vi; 1884, vol. vii; 1885, vol. viii; 1886-1887, vol. ix.

42. R.F. Osborn, *Valiant Harvest: The Founding of the South African Sugar Industry, 1848-1926* (Durban, The South African Sugar Association, 1964), pp.194-195.

43. M.H. Comrie, 'The Ministry of Harry Escombe 1897' (unpublished B.A. (Hons) thesis, University of Natal, 1965), pp.1-4.

44. LCD, 1883, vol. vi; 1884, vol. vii; 1885, vol. vii; 1886-1887, vol. ix.

45. NW, 16 March 1883; LCD, 1883, vol. vi, p.317, 23 August 1883.

government which objected to its extended scope which included all the municipalities in Natal. The Governor was accordingly advised to propose an alternative measure that would apply only to the chief municipalities of Pietermaritzburg and Durban.<sup>46</sup>

For three consecutive years, 1884 to 1886, Hulett introduced a bill for the adoption of a pass system in the colony. He did this in spite of the reasons which had been advanced by the imperial government for its objection to a similar bill in 1883. Hulett's persistence in pressing for a pass law is a manifestation of the hardening of attitudes on the part of the coastal planters who had suffered substantial labour losses during the depression years (1883-1886). The discovery of gold in 1886, which had sparked off an exodus of workers to the gold fields, made the situation worse for them.<sup>47</sup> The pass bills of 1884 and 1885 were rejected by 14 to 12, and 15 to 11 votes respectively.<sup>48</sup> The narrow margin of votes by which both bills were rejected reflects not indecision but more loss of hope on the part of the Legislative Council. The disallowance of a similar bill in 1883 was crucial in the voting patterns of the members of the Legislative Council. 'Why should we approve a bill that will most certainly be disallowed by the imperial government?' was a reasonable question to ask. The voting patterns of the members reflected not the views of the majority of the Legislative Council regarding the pass system, but the views of the majority regarding the probable decision by the imperial government. At this point, the urban representatives, coastal farmers and official members who supported greater control over Africans made up the majority in the Legislative Council.<sup>49</sup> As already pointed out above, inland farmers who employed labour-tenants as workers on their farms were opposed to the implementation of a pass system for the

---

46. GH, 128/83, no. 189, Secretary of State for Colonies to Bulwer, 28 February 1883.

47. Lambert, *Betrayed Trust*, p.95; LCD, 1886-1887, vol. ix, p.115, 5 October 1886.

48. LCD, 1884, vol. vii, p.362, 6 August 1884; 1885, vol. viii, p.253, 13 August 1885.

49. See the return of members comprising the Legislative Council, NBB, 1994, pp.62-63.

extraction of labour from Africans. Labour-tenants were more reliable workers than migrants and desertion from work was not easy for them because they lived on the farms of their employers.

In 1887, Escombe tabled another bill modelled on the lines of the bill of 1883.<sup>50</sup> The bill "To facilitate the Registration of Natives within Boroughs and Townships" was passed into law but again disallowed by the imperial government. The latter once again insisted that the scope of the law should be limited to the towns of Pietermaritzburg and Durban, and should apply not only to Africans, but also to all other "uncivilized races".<sup>51</sup> In 1888, a modified bill modelled on the lines of Escombe's bill of 1887, was tabled in Parliament by Henrique Shepstone, Secretary for Native Affairs (1884-1893). In line with the recommendation of the imperial government, the bill was made applicable only to the boroughs of Pietermaritzburg and Durban. It was also made applicable to Indians and Coloureds.<sup>52</sup> The bill required workers of all categories to register at the office of the Superintendent and be issued with a registration ticket (a pass).<sup>53</sup> General opinion in the House was in favour of the bill, and it became evident in the course of the debate that there was strong support for its extension to areas other than the two boroughs.<sup>54</sup>

The debate took another turn when disgruntled members of Parliament challenged the right of the imperial government to veto their legislation in terms of clause viii of the Charter of 1856. The argument for responsible government was considerably strengthened when the 'pro-responsibles', out of frustration, called for the adoption

---

50. NW, 11 January 1887.

51. GH, 144/87, no. 82, Secretary of State for Colonies to Havelock, 15 June 1887.

52. NGG, 3 July 1888.

53. *Ibid.*

54. LCD, 1888, vols. xi and xii, pp.78-79, 6 August 1888.

of a new constitution that would give more powers to the settlers.<sup>55</sup> The Select Committee which was appointed in 1888 to draft a new constitution recommended that the Legislative Council should have full control over all classes of the population.<sup>56</sup> This was the issue in the debate on the pass bill of 1888. In the event, the bill which was passed as Law 21 of 1888, applied only to the two boroughs of Pietermaritzburg and Durban (see appendix 4). It was duly approved by the British government. Pietermaritzburg was the first to implement the law when its bye-laws were approved by the Governor in 1892.<sup>57</sup>

#### 4.4 Passes to stop cattle-stealing

As discussed in chapter three, the pass system was also used as an administrative device to try to stop cattle-stealing. Reports from magisterial divisions reveal that cattle-stealing by Africans was becoming more frequent during the period under discussion.<sup>58</sup> Lambert attributes the rising rate of crime, including cattle-stealing, partly to the problems of serious social dislocation in African society. These problems manifested themselves in a rising rate of crime, alcohol abuse, faction-fighting and insubordination of young men and women as a result of the breakdown of tribal restraints.<sup>59</sup> In addition, there was a growing mood of resistance to white rule, to which Lambert attributes some of the cases of cattle-stealing.<sup>60</sup> African frustrations and resistance to white rule found an outlet in various acts of insubordination, go-slows by labourers, and refusal to perform certain tasks, and

---

55. LCD, 1888, vols. xi and xii, pp.88-89, 7 August 1888.

56. Lambert, 'Sir John Robinson and responsible government, 1863-1897', pp.170-171.

57. SNA, 1/1/66, Bye-laws relating to the registration of Native servants and servants belonging to Uncivilized Races within the borough of Pietermaritzburg, 1893.

58. Supplement to NBB, 1885-1888, magisterial reports.

59. Lambert, *Betrayed Trust*, pp.134-137.

60. *Ibid.*



even murder of certain farmers.<sup>61</sup> It was against this background that on 13 August 1883 the Legislative Council appointed a Select Committee to investigate ways and means of dealing with the problem of cattle-stealing.<sup>62</sup> The Committee, which reported on 28 August 1883, recommended that the pass system needed to be applied more strictly, and went so far as to draft a bill amending the existing law.<sup>63</sup> A modified version of the bill was presented in Parliament in 1884.

The social and economic changes that were taking place at this time brought about a change in the official view about passes. Not only was the government prepared to take the initiative and implement the pass system for the security of persons and their property but, as we have seen above, it also took the initiative in implementing a pass system to restrict the movement of African workers out of the colony. However, it still displayed a certain degree of ambivalence as far as passes for local African workers were concerned.

The Cattle-Stealing Amendment Bill was introduced into the Legislative Council by the Governor, Henry Bulwer. The aim of the bill was to amend the Cattle-Stealing Law No. 10 of 1876 so as to make its provisions more effective and workable.<sup>64</sup> According to this law, any white person could issue a pass to an African for the purpose of driving cattle from one area to another.<sup>65</sup> The new bill specified that a pass had to be obtained from a Resident Magistrate, Administrator of Native Law, Justice of the Peace, Field Cornet, the owner or agent of owner of cattle, or some other person authorized by the Resident Magistrate.<sup>66</sup> Thus the authority of other

---

61. Lambert, *Betrayed Trust*, pp.134-137.

62. NPP, 290, Select Committee Report, no. 15, presented on 28 August 1883.

63. *Ibid.*

64. LCD, 1884, vol. vii, p.17, 19 June 1884.

65. See chapter three above.

66. NGG, 20 May 1884.

white persons to issue passes was nullified. The bill was warmly received by almost all the members of the Legislative Council,<sup>67</sup> and was passed as Law 46 of 1884.

In the same session, the Cattle Removal Bill, which also had pass provisions, was introduced into the Legislative Council by Bulwer. The bill was the first to contain pass provisions that were applicable specifically to non-Africans.<sup>68</sup> It should be remembered that an attempt to include Indians and Coloureds in the scope of Law 10 of 1876, which would have required them to carry passes like Africans when driving cattle from one area to another, had been unsuccessful in the face of opposition from some members of the Legislative Council.<sup>69</sup>

In moving the second reading of the bill, the Attorney General, M.H. Gallwey, indicated that in the light of frequent reports of cattle-stealing by whites, Indians and Coloureds, as well as by Africans, it was necessary that regulations relating to the driving of cattle which had previously applied only to Africans, should be extended to people of other race groups.<sup>70</sup> The bill was enthusiastically received, which was in itself a clear indication that such legislation had long been desired by some of the white settlers.<sup>71</sup> It was passed as Law 30 of 1884. It required Indians, Coloureds and whites to obtain a pass from a Resident Magistrate, Justice of the Peace, Field Cornet, owner or agent of the owner of cattle before they could remove cattle from one area to another.<sup>72</sup> Those whites who were cattle owners or agents of owners could thus issue passes to themselves when driving cattle from one area to another,

---

67. LCD, 1994, vol. vii, p.17, 19 June 1884.

68. NGG, 20 May 1884.

69. See chapter three above.

70. LCD, 1884, vol. vii, p.22, 19 June 1884.

71. *Ibid.*

72. W. Broome, ed., *The Laws of Natal*, vol. iii, 1879-1889 (Pietermaritzburg, W.M. Watson, 1890), pp.1530-1533.

as could Indians and Coloureds who happened to be owners of stock, as well as their agents.<sup>73</sup>

#### 4.5 The pass system and Indian people

As discussed in chapter two, the success of attempts to develop the economy was, among other things, largely dependent on the availability of an adequate supply of labour. Various crops were experimented with and the failure of some of these earlier experiments was, to a certain degree, blamed on lack of an adequate supply of labour. One example is the failure of cotton farming during the late 1850s which was principally blamed on scarcity of labour.<sup>74</sup> Africans had proved to be unreliable labourers largely on account of the fact that they were unaccustomed to work habits as demanded by western capitalism. In these circumstances, the most affected employers were sugar planters, whose farming operations required reliable labour rather than just an abundant supply of cheap labour. The first public meeting of employers to discuss labour problems was held in 1851 and called for the introduction of 'coolies' from the East Indies.<sup>75</sup> The first group of Indians arrived in Natal in 1860 imported under Law 14 of 1859.<sup>76</sup> They came in two groups, the indentured Indians or contract labourers and non-indentured, free or passenger Indians. Indentured Indians were allocated to employers and a five-year contract was entered into. After the expiry of the contract of service, they were given the option of either returning to India or accepting a piece of crown land of equivalent

---

73. Broome, ed., *The Laws of Natal*, vol. iii, pp.1530-1533.

74. B.J.T. Leverton, 'The Natal cotton industry, 1845-1875: A study in failure' (unpublished B.A. (Hons) thesis, University of South Africa, 1963), pp.26-34.

75. Bhana and Brain, *Setting Down Roots*, p.25.

76. Cadiz, ed., *Natal Ordinances, Laws and Proclamations*, vol. i, p.261.

value to the return passage.<sup>77</sup> The second option was cancelled in 1874. Although the largest group was employed in the sugar industry, others were employed in other occupations such as in the railways or as domestic servants.<sup>78</sup> Free Indians were at liberty to become either independent farmers or businessmen or to work in the towns where there was better remuneration.<sup>79</sup>

Law 14 of 1859 made provision for each indentured Indian to be registered when he or she entered Natal for the first time and to be issued with a registration ticket that would be kept by the employer.<sup>80</sup> They were required to obtain a pass from their employer if they moved more than two miles from their employer's residence.<sup>81</sup> The law of 1859 was amended on numerous occasions, but its pass provisions remained unchanged.<sup>82</sup> When Indian labourers' terms of indenture expired, they were issued with a discharge certificate which they were obliged to carry with them when moving about in the colony. This discharge ticket served as a pass, and it was unlawful for them to move without one.<sup>83</sup> Free Indians (i.e. those born in the colony and those who came as free or passenger Indians) were exempted from the above pass regulation.

When indentured Indians completed their terms of indenture, most of them joined the passenger Indians as market gardeners, hawkers, traders and fishermen.<sup>84</sup> By

---

77. J. Brain, 'Natal's Indians, 1860-1910: From cooperation, through competition, to conflict', in *Natal and Zululand from Earliest Times to 1910: A New History*, eds. A. Duminy and B. Guest (Pietermaritzburg, University of Natal Press, 1989), p.251; Bhana and Brain, *Setting Down Roots*, pp.21-22.

78. Brain, 'Natal's Indians, 1860-1910', p.253.

79. Bhana and Brain, *Setting Down Roots*, pp.47-57.

80. Natal Almanac and Register, 1885, p.198.

81. *Ibid.*

82. *Ibid.*, pp.196-203.

83. NPP, 246, Select Committee Report, no. 19, presented on 26 July 1865.

84. Brain, 'Natal's Indians, 1860-1910', p.257.

the early 1890s, Indians were running a network of stores in the hinterland of Natal, where they captured much of the black trade.<sup>85</sup> Their success in this led to resentment on the part of white traders who complained of being undersold by their Indian counterparts. Consequently, early in the 1890s white traders started agitation for restrictions to be placed on Indians, particularly in the area of business.<sup>86</sup>

In the 1890s, the influx of a large number of Indians into Natal was a matter for grave concern for the Natal government. In the colonists' view, indentured Indians seem not to have caused a problem because they, particularly coastal farmers, still needed them. However, the colonists were opposed to free Indians who came to Natal with the aim of becoming independent farmers or businessmen. The white small businessmen, who feared competition with Indians,<sup>87</sup> began early in the 1890s to press for measures to be adopted to restrict Indian immigration to Natal. In 1897, the Prime Minister, Harry Escombe, introduced into Parliament an Immigration Restriction Bill, and warned that without restrictions on Indian immigration, small businesses in trade and farming, "will pass into Indians' hands."<sup>88</sup> The bill was passed as Law 1 of 1897 and the imperial government duly assented to it.<sup>89</sup> In the following year, 1898, rules and regulations were framed under the law which made provision for an embarkation pass and a visiting pass. A visiting pass was issued to a prohibited immigrant for the purpose of a temporary stay in Natal whilst the application for entry was still being considered. An embarkation pass was granted to an immigrant from another state in South Africa who wished to travel through Natal to the harbour.<sup>90</sup>

---

85. Bhana and Brain, *Setting Down Roots*, pp.63-66.

86. Brain, 'Natal's Indians, 1860-1910', p.261; Bhana and Brain, *Setting Down Roots*, p.63.

87. LAD, 1897, vol. vxxv, pp.64-72, 25 March 1897.

88. *Ibid.*

89. GH, 181/97, no. 101, Secretary of State for Colonies to Hely-Hutchinson, 12 November 1897.

90. NGG, 1 November 1898.

As discussed above, Indians who lived within the boroughs of Pietermaritzburg and Durban were also subject to the pass provisions of Law 21 of 1888 (which envisaged a pass system for workers of all categories in Pietermaritzburg and Durban.<sup>91</sup> In 1897, a bill "To protect uncovenanted Indians from arrest in mistake for absconding indentured Indian servants" made provision for a special pass for free Indians that would make them clearly distinguishable from indentured Indians and thus protected from wrongful arrest.<sup>92</sup> The bill was passed as Law 28 of 1897. Passes issued under it would show the following particulars: name, sex, native of (i.e. the village or district from which one came), father's name, mother's name, caste, age, height, complexion, marks, marriage particulars, residence and employment.<sup>93</sup> In 1903, Act No. 1 of 1897 was replaced by Act No. 30, "To place closer restrictions on Immigration". The pass provisions of the 1897 law were not changed but additional provisions were made for the punishment of any person found assisting prohibited immigrants and immigrants who resisted any officer in the execution of his duties.<sup>94</sup> Although the immigration law was formulated in such a way as to appear non-discriminatory, its major aim was to restrict the immigration of free Indians to Natal. The introduction of indentured Indians was not interfered with.<sup>95</sup>

We have seen above that, although the main function of a pass was to control movement, it was also used for various other administrative functions such as to check cattle-stealing and discourage drunkenness among Africans. Furthermore, the pass system was also used by the government to generate funds and raise revenue. A law "To impose certain Fees on Passes issued under Law 48 of 1884"

---

91. See above.

92. NGG, 2 March 1897.

93. Hitchins, ed., *Statutes of Natal*, vol. i, pp.46-47.

94. NGG, 9 June 1903.

95. LAD, 1897, vol. xxv, pp.70-71.

was passed by the Legislative Council in January 1887.<sup>96</sup> This took place against the background of a four-year long depression (1883-1886) which had devastating consequences on the economy of Natal.<sup>97</sup> A fee of one shilling was payable by every African who was issued with a pass in terms of Law 48 of 1884 (the law which provided for control of movement of people between Natal and the neighbouring territories).<sup>98</sup> Although the main aim of the law was to raise revenue for the government, it may also have had the incidental effect of restricting the movements of people who could not afford to pay the required fee.

By 1892, every inhabitant of Natal, regardless of the colour of skin, was affected by pass laws in one way or another. The whites, like all the other racial groups, were also affected by the cattle-stealing pass law. There is no evidence, however, of how the pass law was enforced to check cattle-stealing by whites. The trend that was followed by the government was to enact pass legislation on racial lines. Hence there were pass laws which were meant to apply to a specific racial group and not to the others. There were pass laws that were meant to apply to Indians only, at the same time there were those that were meant to apply to all non-Europeans. For example, the curfew regulations in the towns of Pietermaritzburg and Durban applied similarly to all non-Europeans, as did Law 21 of 1888 (which envisaged a pass system for workers of all categories in Pietermaritzburg and Durban) discussed above.

The official view about passes remained basically the same as in the previous period. The government was still ambivalent about passes for local African workers. While it was prepared to adopt measures that were designed to restrict the movement of Africans out of Natal, it still felt that its administrative and financial

---

96. NW, 25 January 1887.

97. Leverton, 'Government finance and political development in Natal, 1843-1893', pp. 235-243.

98. Broome, ed., *The Laws of Natal*, vol. iii pp.1867-1868.

capabilities were not sufficient for the implementation of a pass system throughout the colony for the extraction of labour from Africans. Although in the colonists' view, the social and economic changes at play demanded stricter control of the movements of Africans, mainly for the benefit of white employers, the government still appeared ambivalent in this regard. However, when it came to the security of colonists and their property, the government did not hesitate to take the initiative in adopting what it saw as suitable measures. Of the colonists, only the up-country farmers who employed labour-tenants as workers on their farms remained opposed to the implementation of a pass system to compel Africans to work. Merchants and sugar planters advocated the implementation of a pass system to extract more labour from Africans and to check desertion from work.



## CHAPTER FIVE

### PASS LAWS IN THE ERA OF COLONIST DOMINATION, 1893-1910

#### 5.1 The colonists finally achieve control over native affairs

In 1893, Natal was granted responsible government. In effect the white settlers achieved political domination of Natal. During the late 1880s the evidence indicates that the colonists (i.e. those were employers of labour) were preoccupied with the need to take control over native affairs so as to procure an adequate supply of labour from Africans. The annexation of Zululand to Britain in 1887 made the possibility of a Zulu invasion even more remote, and the colonists' concerns about security had considerably diminished.<sup>1</sup> Full control over native affairs would enable them to solve, among other things, the problem of the shortage of labour through the implementation of a pass system.

In terms of the final responsible government bill of 1893, the Governor retained his position as the Supreme Chief over Africans. However, as before, he could not act independently and was required to advise and consult his ministers regarding any matter affecting Africans before he could take action. The Instructions to the Governor from the imperial government had spelt out clearly that his constitutional right to reserve legislation, extended to

"Any Bill whereby persons not of European birth or descent may be subjected or made liable to any disabilities or restrictions to which persons of European birth or descent are not also subjected or made liable."<sup>2</sup>

- 
1. Leverton, 'Government finance and political development in Natal, 1843-1893', p. 286; Welsh, *The Roots of Segregation*, p.230; Guest, 'Towards responsible government', p.237.
  2. Legislative Assembly, Sessional Papers, 1st session, 1st Parliament, L.A. no. 3, 23 October 1893, pp.5-9.

In theory therefore, the colonists could not exercise unlimited and unchecked control over native affairs.

Responsible government was granted at a time when the colony was on the threshold of major economic and social changes. Colonist control over native affairs was now a reality and the extent of such control will be assessed in terms of the measures that were adopted to solve the problem of the shortage of labour, security and other irregularities that were associated with Africans. African society appeared to be disintegrating. African producers failed and their operations collapsed, the rate of crime increased, faction fighting and violence became more frequent.<sup>3</sup> Farmers were more strongly represented in the Legislative Assembly and when all official representatives who had been sympathetic to Africans had left the government, disillusioned by the prevailing crisis in the African society,<sup>4</sup> the government began identifying with colonists' interests.<sup>5</sup> The exodus of Africans to the gold fields affected even up-country farmers during the period under discussion. As a result they began changing their views about the pass system in order to retain their labour-tenants on the land. Thus in this period we find unprecedented unity among colonists on the question of the need to implement the pass system.

## **5.2 Passes for control of movement between Natal and neighbouring territories**

As discussed in chapter four above, the opening of the Witwatersrand gold mines in 1886 had resulted in migration of workers throughout southern Africa. In Natal, the growing crisis in African society caused by, among other things, the shortage of land, rinderpest, drought, locusts, heavy taxes, forced removals and faction

---

3. Supplement to NBB, 1885-1892, magisterial reports.

4. Lambert, *Betrayed Trust*, p.64.

5. *Ibid.*, p.166.

fighting, was pushing large numbers of Africans into wage labour.<sup>6</sup> The demand for labour rose to higher levels as the production of gold stimulated the development of other industries like agriculture, railways, harbours and urban businesses. Every sector needed an adequate supply of labour and this resulted in competition for labour.<sup>7</sup> The prospect of higher wages on the mines attracted more migrant workers, not only from Mozambique, but also from other areas in southern Africa, like Basutholand, Bechuanaland, Swaziland and the Cape Colony.<sup>8</sup> Consequent upon the discovery of gold, the railways were rapidly extended to replace ox-wagons for the conveyance of goods to the Transvaal.<sup>9</sup>

In extending the railways and improving the harbour of Durban, an adequate supply of labour was essential. As a result, a situation arose where the railways competed for labour with the roads, the coal mines and other industries.<sup>10</sup> Higher wages were offered on the railways, and this had an adverse effect on the labour supply to other sectors. European farmers in many parts of Natal also required a supply of more labour so as to be able to increase their production as the demand for their products increased on the gold fields. It was against this background that the new government began introducing measures designed to discourage desertion and emigration of workers.<sup>11</sup>

In 1894 the government published a new set of amended rules in terms of the powers it exercised under Law 48 of 1884 (the law which provided for control of

---

6. Lambert, *Betrayed Trust*, pp.123-155; Bhana and Brain, *Setting Down Roots*, p. 17.

7. Van der Horst, *Native Labour in South Africa*, p. 145; S.E. Katzenellenbogen, *South Africa and Southern Mozambique: Labour, Railways and Trade in the Making of a Relationship* (Manchester, Manchester University Press, 1982), pp.37-38.

8. Van der Horst, *Native Labour in South Africa*, p.136.

9. Katzenellenbogen, *South Africa and Southern Mozambique*, p.16; Van der Horst, *Native Labour in South Africa*, p.140.

10. Van der Horst, *Native Labour in South Africa*, pp.140-141

11. See below.

movement of people between Natal and the neighbouring territories). According to the new rules, every African who, for one reason or another, wished to leave the colony but who was still under contract of service to an employer, would be issued a pass only with the written consent of his employer.<sup>12</sup> This was a new condition for issuing of outside passes that was designed to discourage desertion by workers whose contracts of service had not yet expired. The old rules had allowed for one pass to be issued to two or more Africans for the purpose of travelling out of Natal. According to the new rules, the principle of "one pass, one person" was adopted. The new rules provided for certain categories of Africans to be exempted from Law 48 of 1884. These included the following: African messengers who were sent by their chiefs to the government; Africans who entered Natal for labour purposes under schemes arranged in terms of Laws 13 of 1859 and 15 of 1871, under which foreign workers were recruited; Africans who were sent beyond the borders by their employers; and wagon drivers.<sup>13</sup> These categories of Africans, other than chiefs' messengers, were issued with a memorandum (a special pass) which differed from the ordinary pass as provided under the law.<sup>14</sup> The memorandum was simply another form of a pass, the aim of which was to make these categories of Africans easily distinguishable from other Africans. The statistical return of the number of Africans who were issued with passes in the year ended 31 December 1895 shows that the substantial figure of 26,233 Africans left the colony for labour purposes, while 9 099 of whom entered it to find employment.<sup>15</sup> Employers' complaints about the exodus of labour to the Transvaal seem to have been justified.

In 1897 the Government published an additional rule, which provided that in order to obtain an outward pass, an African who claimed to be a resident in a location or

---

12. SNA, 1/1/189, Rules under Law 48, 1884, 21 December 1894.

13. *Ibid.*

14. *Ibid.*

15. *Ibid.*, 1/1/208, Statistical Return of the Secretary for Native Affairs Office for year ended December 31, 1895.

on a mission reserve was required to satisfy the local magistrate that there was no objection to his leaving by reason of breach of contract of service.<sup>16</sup> This was designed to check desertion from service by workers who, as residents in a location or on a mission reserve, could claim not to be covered by the regulations of 1894. The regulations of 1894 had provided for passes to be issued to workers under contract of service only with the consent of their employers.<sup>17</sup>

Towards the end of the same year, the Under-Secretary for Native Affairs, S.O. Samuelson, issued a circular to Resident Magistrates, requiring them to furnish a return showing the number of outward passes issued during the months of October and November 1897.<sup>18</sup> No doubt the Native Affairs Department wanted to ascertain to what extent the issuing of outward passes contributed to the shortage of labour in the colony. The figures indicate that 1,768 left the colony for labour purposes, and 1,695 for other purposes in 1896, while 1,705 left for labour purposes and 1,734 for other purposes in 1897.<sup>19</sup> These figures show that of the total number of passes that were issued, a few more were issued for labour purposes than for other purposes. One would have expected that the difference between those who left for labour purposes and those who left for other purposes would have been quite substantial in view of the general perception among white employers during this time that those Africans who left the colony did so purely to sell their labour on the gold fields. There is therefore reason to believe that Africans, who were probably aware of the fact that most white employers did not approve of their leaving the colony to find work, frequently gave wrong information to the magistrates or persons who were authorized to issue passes.

---

16. SNA, 1/1/283, Rules under Law 48, 1884, 11 November 1897.

17. See above.

18. SNA, 1/1/267, Under-Secretary for Native Affairs to Resident Magistrates, 3 December 1897.

19. *Ibid.*, 1/1/267, Return of B passes issued during October and November, 1896 and 1897.

In 1898, the government published a new set of regulations in terms of Law 48 of 1884. These provided that Africans who moved between Natal and Zululand would be exempted from payment of fee for passes.<sup>20</sup> Zululand had been annexed to Natal in December 1897: this is presumably why this measure was implemented. Africans who moved between Natal and Zululand would henceforth do so under the authority of the new Zululand pass, which was issued for a period of up to six months and served the purpose of both an inward and outward pass.<sup>21</sup>

The new regulations also provided that no African would be granted an outward pass unless he was accompanied by his chief or a person appointed by his chief for that purpose.<sup>22</sup> An African who lived and worked on private land was required to produce the written consent of his employer and to satisfy the magistrate that he was not under contract of service before he could be issued with an outward pass. African married and unmarried women could not be granted an outward pass unless they were accompanied by their husbands, fathers or guardians.<sup>23</sup> The new regulations made leaving the colony more difficult, and indicate the government's determination to contain the movement of labour out of Natal. There is little evidence to suggest that whole families were moving out to seek employment on the gold fields. As evinced by statistical returns showing the number of outward passes issued to Africans for the purpose of seeking employment on the gold fields, some of the families (including married and unmarried women) might have moved out of Natal for reasons other than seeking employment.<sup>24</sup>

---

20. SNA, 1/1/283, Rules under Law 48, 1884.

21. *Ibid.*

22. *Ibid.*

23. *Ibid.*

24. *Ibid.*, 1/1/267, Return of B passes issued during October and November, 1896 and 1897.

In 1899 the government published a new set of regulations which repealed all existing regulations issued in terms of Law 48 of 1884.<sup>25</sup> The Zululand pass, as introduced under the rules of 1898, was repealed and Natal and Zululand Africans who moved between the two territories were exempted from having to take out passes.<sup>26</sup> Africans from the two territories would henceforth require an outward pass only if they wished to travel to a neighbouring territory. Africans from Zululand who wished to reside permanently in Natal were no longer required to have written permission from the authorities in Zululand. As before, applications for that purpose had to be forwarded to the Secretary for Native Affairs by the magistrate of the division in which the application was made.<sup>27</sup>

In the same year, the Governor, W.F. Hely-Hutchinson, as Supreme Chief over the African population, instructed Resident Magistrates to explain to the chiefs their responsibilities regarding the implementation of Law 48 of 1884.<sup>28</sup> An African who wished to apply for an outward pass was required to have the permission of his chief to leave the colony before a pass could be issued. In 1904 a new set of amendments to the regulations provided that no outward pass would be issued to an African unless he was in possession of an identification pass under Act of 1901,<sup>29</sup> which is discussed below.

In 1910 the government published yet another set of revised regulations.<sup>30</sup> While most of the old regulations remained unchanged, a number of new ones were introduced. The new rules were formulated against the background of moves toward

---

25. NGG, 21 February 1899.

26. *Ibid.*

27. *Ibid.*

28. *Ibid.*, 11 April 1899.

29. *Ibid.*

30. *Ibid.*, 1 March 1910.

the formation of the Union of South Africa, the first government of which was officially formed on 31 May 1910.<sup>31</sup> The new rules provided that an African who was in possession of an unexpired pass from any of the other South Africa states was exempted from the obligation of obtaining an inward pass when he entered Natal.<sup>32</sup>

### 5.3 Passes to check cattle-stealing

The cattle-stealing pass laws, viz. Laws 10 of 1876, 30 of 1884, 46 of 1884, 17 of 1891, 13 of 1895, 21 of 1876 and 23 of 1896, contained pass regulations which the government hoped would act as a check on cattle-stealing.<sup>33</sup> Cattle-stealing had continued in spite of the implementation of these regulations. As discussed above, the discovery of gold in the Transvaal in 1886, had resulted in a demand for labour much greater than that which had followed the discovery of diamonds.<sup>34</sup> In consequence, the number of people who moved into and out of Natal had increased dramatically. Although there are no departmental statistics that distinguish between, on the one hand, crime that was committed by foreign Africans and, on the other hand, crime that was committed by local inhabitants, it seems incorrect to suggest that only the latter were involved in crime. As far back as 1873, Theophilus Shepstone, then Secretary for Native Affairs, had expressed great concern about the presence in Natal of foreign workers who, he noted, were not under any tribal control and came to Natal, not as a community, but as individuals.<sup>35</sup>

---

31. A. Duminy, 'Towards union, 1900-10', in *Natal and Zululand from Earliest Times to 1910: A New History*, eds. A. Duminy and B. Guest (Pietermaritzburg, University of Natal Press, 1989), pp.418-423.

32. NGG, 1 March 1910.

33. *Ibid.*, 26 April 1895.

34. See chapter four above.

35. See chapter three above.



Besides losing cattle through theft, many stock farmers also suffered heavy losses as a result of drought and rinderpest after 1895.<sup>36</sup> The government felt it was necessary to assist the stock farmers by attempting to check stock theft. Stock losses as a result of rinderpest had also affected the homestead economy in the reserves. These (i.e. the reserves) were also becoming overcrowded, and frequent crop failures had placed the homestead economy on the verge of collapse.<sup>37</sup> Shortage of land, heavy taxes and forced removals were problems which affected Africans of all classes at this time.<sup>38</sup> As discussed in chapter four, from the 1880s in particular, resistance to colonial rule on the part of Africans manifested itself, among other things, in increased crime, which included cattle-stealing. It was against this background that, during the late 1890s, the government began seriously considering introducing a more effective measure that would consolidate all existing laws against stock theft into a single piece of legislation.

In 1898, H. Bale, the Attorney-General, introduced a bill "For the better prevention of the crime of cattle-stealing and kindred crimes".<sup>39</sup> What was new about the bill was that it was non-discriminatory in that it applied to all the inhabitants of Natal, irrespective of colour. However, a concession was made to Europeans who would require a pass only when driving cattle over a distance of more than ten miles.<sup>40</sup> Another thing that was new about the bill was that it provided for certain chiefs and 'responsible' Africans (both exempted and unexempted) to issue passes.<sup>41</sup> There is no evidence as to how this particular clause was implemented by the government.

---

36. Legislative Assembly, Sessional papers, 4th session, 1st Parliament, L.A. no. 2, 20 April 1896, pp.9-12.

37. Lambert, *Betrayed Trust*, pp.163-172.

38. Welsh, *The Roots of Segregation*, p.294; S. Marks, *Reluctant Rebellion: The 1906-1908 Disturbances in Natal* (London, Oxford University Press, 1970), p.122.

39. LAD, 1898, vol. xxvii, p.57, 11 May 1898.

40. *Ibid.*, pp.598-601, 7 July 1898.

41. *Ibid.*, p.567, 5 July 1898.

Punishment for violations in terms of the bill was made much more severe; it varied from imprisonment for a term not exceeding three years with hard labour, to whipping or forfeiture of property.<sup>42</sup> The bill was passed as Law 1 of 1899 and approved by the British government. A serious effort seems to have been made by the government to enforce its provisions. Resident Magistrates were periodically instructed by the Secretary for Native Affairs' office to submit returns showing how effectively the law was being implemented.<sup>43</sup>

#### **5.4 Passes for African workers throughout the colony**

The emigration of African workers from the colony became worse as the years went by. It was against this background of continual loss of labour to the gold fields in the Transvaal that in 1888 H. Fell, member of the Legislative Assembly for Umngeni Division, moved a motion for the government to take concrete steps to stop the emigration of African workers from the colony.<sup>44</sup> As discussed above, attempts had been made by the government to restrict the issue of outward passes in terms of Law 48 of 1884, but with little success. It should be remembered that when Law 21 of 1888 (which provided for workers of all categories to be registered and carry a pass in the towns of Pietermaritzburg and Durban) was passed, both Parliament and the government had recognized the fact that this law laid a foundation that would ultimately lead to the adoption of a pass system for all categories of workers throughout the colony.<sup>45</sup> When the shortage of labour became worse during and after the second Anglo-Boer war, farmers pressed for a new measure that would provide for every African worker in the colony to carry a pass. By doing so, they

---

42. Hitchins, ed., *Statutes of Natal, vol. i*, pp.38-50.

43. SNA, 1/1/353, Replies to Circular from Under-Secretary for Native Affairs to Resident Magistrates, 23 October 1906.

44. LAD, 1898, vol. xxvii, pp.555-556, 5 July, 1898.

45. See chapter four above.

hoped to retain the labour they already had and stop further migration to the gold fields.

The second Anglo-Boer war (1899-1902) caused considerable disruption to the economies of Natal and the Boer republics.<sup>46</sup> The labour supply on which the economy was based was also disrupted.<sup>47</sup> Rural Africans, whose poverty was made worse by the war, moved to the towns for alternative means of survival.<sup>48</sup> In the towns, the military presence provided opportunities for, among other things, rickshaw pullers, stevedores and washerwomen.<sup>49</sup> Numbers of African families moved permanently to urban areas as migrant labour began replacing agriculture as the main means of livelihood.<sup>50</sup> As discussed above, from the late 1890s representatives of white farmers were in the majority in both the Cabinet and the Legislative Assembly, and their persistent demands for tighter control over the movements of African workers could no longer be ignored. From 1899, when A. Hime took over as Prime Minister, "every ministry was dominated by farming representatives determined to protect and advance settler agriculture."<sup>51</sup>

In 1901, the Secretary for Native Affairs, F.R. Moore, introduced a bill "To facilitate the identification of Native Servants". The bill was specifically designed to solve the problem of the shortage of labour supply in the colony by binding workers to their employers through a pass system.<sup>52</sup> According to the bill, every African who wished to offer his services to a European employer was required first to take out

---

46. Van der Horst, *Native Labour in South Africa*, pp.160-162.

47. *Ibid.*

48. Lambert, *Betrayed Trust*, p.178.

49. A. Duminy and B. Guest, 'The Anglo-Boer war and its economic aftermath, 1899-1910' in *Natal and Zululand from Earliest Times to 1910: A New History*, eds. A. Duminy and B. Guest (Pietermaritzburg, University of Natal Press, 1989), p.354.

50. Lambert, *Betrayed Trust*, p.178.

51. *Ibid.*

52. NGG, 21 May 1901.

an identification pass from the pass officer in his magisterial district.<sup>53</sup> An African employee was liable to punishment if he entered a service contract with an employer without having first produced an identification pass.<sup>54</sup> Africans who lived and worked on private farms were exempted from the operations of this bill. Women and children could only take out a pass with the consent of the head of the family.<sup>55</sup> Africans who wished to work outside the colony were also exempted from the provisions of this bill, and only required to take out an outward pass in terms of Law 48 of 1884. *Togt* labourers in the boroughs were also exempted from the operation of the bill. It was passed as Law 49 of 1901 and the imperial government's assent to it obtained.<sup>56</sup> (See appendix 5).

The post-war boom increased the demand for labour. At the same time competition for labour among the various employers also increased. Public works in the towns, the macadamizing of streets, the provision of electric lighting, and the construction of new railway stations, government offices, drill halls, town halls and schools all needed an adequate supply of labour.<sup>57</sup> Farmers and merchants also needed more labour for their operations.<sup>58</sup> African workers who were looking for better wages were attracted to the gold fields, the towns, the railways and the ports. The migration to the towns and other centres of employment was aggravated by an agricultural depression which was characterized by recurrent drought and outbreaks of livestock disease.<sup>59</sup> As a result, in 1903 the Secretary for Native Affairs tabled a bill "To amend Act No. 49 of 1901 with a view to finding a more effective solution

---

53. LAD, 1901, vol. xxx, pp.460-464.

54. NGG, 21 May 1901.

55. *Ibid.*

56. GH, 210/01, no. 52, Secretary of State for Colonies to McCallum, 15 November 1901.

57. Duminy and Guest, 'The Anglo-Boer war and its economic aftermath', p.354.

58. *Ibid.*

59. Van der Horst, *Native Labour in South Africa*, p.168.

to the labour problems of the colony".<sup>60</sup> The bill applied to African workers who lived and worked on private lands. They were required to obtain their landlord's permission before they could apply for an identification pass. Passes had to be endorsed by the landlord, to show the duration of the service contract.<sup>61</sup> *Togt* labourers in towns were also included in the scope of the bill. It also made provision for the punishment of employers who employed an African without an identification pass.<sup>62</sup> In the past the law had provided for the punishment only of Africans if they entered a contract of service without having first produced an identification pass. This applied only to a contract of service that was entered in terms of Law 49 of 1901. By making employers also liable for punishment for employing an African who was not in possession of an identification pass, the legislators hoped to make the law more effective.<sup>63</sup> The bill was passed as Law 3 of 1904 (see appendix 6).

### **5.5 Were exempted Africans subject to native pass laws?**

As mentioned in chapter two above, the Royal Charter of 1856 allowed the franchise to the people of Natal without racial qualifications, but with high property-owning requirements.<sup>64</sup> In 1865 Africans were disenfranchised in terms of the Franchise Law no. 11.<sup>65</sup> In the same year, an exemption law, no. 28 of 1865, which was linked to the franchise law, was passed. This law provided for every African who satisfied all the requirements for exemption from the operation of customary law as laid down in the law to petition the Governor for exemption.<sup>66</sup> The exemption requirements included proof of one's ability to read and write,

---

60. LAD, 1903, vol. xxxiii, pp.366-369, 11 June 1903.

61. *Ibid.*, pp.31-32, 20 August 1903.

62. *Ibid.*, pp.394-396, 29 July 1903.

63. *Ibid.*, pp.366-369, 29 July, 1903.

64. Welsh, *The Roots of Segregation*, p.52.

65. *Ibid.*, p.60; Brookes and Webb, *A History of Natal*, 1st ed., p.76.

66. Cadiz, ed., *Natal Ordinances, Laws and Proclamations*, vol. i, pp. 533-539.

particulars of one's property, and the adoption of a western style of life.<sup>67</sup> In addition, an unmarried woman had to produce a European of good standing who was willing to act as her guardian. Only an exempted African could petition for the franchise after furnishing proof of seven years exemption, being resident in Natal for twelve years, living a civilized way of life, and having the required property qualifications.<sup>68</sup> When a married man was granted exemption from the operation of native law, his wife and children under the age of 16 were also exempted and their names listed in his exemption letter. Children over the age of 16, and those born after letters of exemption had been granted, remained unexempted.<sup>69</sup>

A question which caused considerable and endless confusion on the part of Africans and government officials alike was whether Africans exempted from the operation of native law in terms of the exemption law were exempted from pass laws. Some government officials gave their own interpretation of what they perceived to be the actual status of exempted Africans in relation to native pass laws.<sup>70</sup> To them, exemption from native law, did not necessarily imply exemption from pass laws.<sup>71</sup> Exempted Africans understood the exemption law to imply:

"... that exemption from native law put the individual obtaining it, in the position of the European, subject to the laws and practices ruling the latter,  
<sup>72</sup>  
 ..."

It is not clear in the sources consulted whether all exempted Africans held the same view. There is insufficient evidence on the subject to suggest conclusive statements.

---

67. *Ibid.*

68. Marks, *Reluctant Rebellion*, p.58; Brooks and Webb, *A History of Natal*, 1st ed., pp.76-77.

69. W.S. Dhupelia, 'Frederick Robert Moor and native affairs in the colony of Natal, 1893-1903' (unpublished M.A. thesis, University of Durban-Westville, 1980), p.48; Marks, *Reluctant Rebellion*, p.58.

70. Marks, *Reluctant Rebellion*, p.58; Welsh, *The Roots of Segregation*, p.240.

71. *Inkanyiso YaseNatal*, 29 December 1893.

72. *Ibid.*

What is clear is that the number of applications for exemption from native law increased as the laws which discriminated against Africans multiplied in the statute book. In the 1870s there were only 31 exempted Africans. Their number had increased to 396 in the early 1890s.<sup>73</sup> This trend suggests that, among other things, it was the desire to escape discriminatory laws which made exemption increasingly desirable among Africans.

There was hardly a meeting of the Executive Council in the 1880s and 1890s in which one or two petitions for exemption from native law were not considered.<sup>74</sup> The evidence indicates that an exempted African had to carry his exemption letter all the time to avoid arrest under native pass laws and under curfew regulations in the towns which prohibited Africans from being out in the streets between 9 p.m. and 5 a.m. Exempted Africans were stopped by police with demands for passes, in the same way as happened to unexempted Africans. An unidentified African, in a letter to the editor of *Inkanyiso YaseNatal* dated 5 May 1893, told how his exemption letter saved him from being found without a pass.

"... what he did, he rushed at me with his sticks and a lantern in one hand, he seized me with the collar and pulled me away before he said a word. I could not believe myself until he told me to go to a white Constable. What for, I did not know until he came himself and told me they wanted a pass from me. Having satisfied himself that I do not carry a pass, he left me;  
...<sup>75</sup>

The evidence indicates that from the early 1890s passes, and not only exemption letters, were also being demanded from exempted Africans, as will be seen below.

The government came up with a definition of a native in Law 14 of 1888 which excluded exempted Africans. The law defined natives as: "... all members of the

---

73. SNA, 1/1/236, Government Notice no. 172, 1895, List of Natives exempted from the operation of native law.

74. See the minutes of the Executive Council, EC, nos 10, 11, 12, 13, 1880-1898.

75. *Inkanyiso YaseNatal*, 5 May 1893.

Aboriginal Races and Tribes of African, south of the Equator, including liberated Africans commonly called Amandawo."<sup>76</sup> It is not clear how this definition excluded exempted Africans. However, in 1891 the law was amended and the definition of a native extended to exempted natives. The amendment extended the definition of a native in terms of Law 14 of 1888 to persons exempted from the operation of native law in terms of Law No. 28 of 1865.<sup>77</sup>

In an article entitled 'Native thoughts' of 19 March 1891, *Inkanyiso YaseNatal* commented on how Law 10 of 1891 (which amended Law 14 of 1888) was in conflict with the exemption law, which raised further questions as to what exactly the status of exempted Africans was.<sup>78</sup> In their resistance to subjection to pass regulations, some exempted Africans refused to recognize Law 10 of 1891 and continued to consider themselves to be exempted from the operation of native laws, particularly pass laws.

In March 1891, exempted Africans petitioned the government through the Legislative Council, asking for provision to be made for some badge to be worn by all exempted Africans to distinguish them from those who were still under native law.<sup>79</sup> This was probably in consequence of the inconvenience caused to exempted Africans by the police enforcing curfew and pass regulations. Such incidents were widely reported in *Inkanyiso YaseNatal*. In 1892 the government introduced a medal too big and too expensive to be acceptable to exempted Africans, who would have been satisfied with a "small and light badge".<sup>80</sup> There is abundant evidence to the effect that those who were entrusted with the duty of

---

76. Hitchens, ed., *Statutes of Natal*, vol. iii, p.3.

77. *Ibid.*

78. *Inkanyiso YaseNatal*, 30 April 1891.

79. *Ibid.*, 19 March 1891.

80. *Ibid.*, 4 August 1892.



implementing the laws of the colony, particularly the magistrates and the police, interpreted the exemption law, not in terms of its letter, but in terms of what they thought was the right policy in dealing with exempted Africans. In 1893 Lutuli, an exempted African, was arrested in Durban for being out in the street after 9 p.m. without a pass. He challenged the legality of the arrest in the Native High Court. The judge who presided over the case was reported to have ruled that exemption from the operation of native law did not entitle a native to be out after 9 p.m. without a pass.<sup>81</sup> Giving his interpretation of the actual status of exempted Africans, he argued that, "... because a leopard cannot change its spots, so the native cannot change his condition",<sup>82</sup> and ruled against Lutuli. In a letter to the editor of *Inkanyiso YaseNatal*, an exempted African, who was not named, quoted from the exemption law to the effect that exempted Africans were considered to be "withdrawn" from the operation of native laws. He added, "How the above quoted words agree with the recent ruling is for a better brain than mine to ask."<sup>83</sup>

In 1888, exempted Africans had formed the Funamalungelo Society to fight for their rights and to exert pressure on the government to recognize their actual status in terms of the exemption law.<sup>84</sup> After the formation of this organization the colonists began to see exempted Africans as a threat to their political domination. The original aim of the government had been to create a loyal class of exempted Africans at a time (i.e. before the Anglo-Zulu war of 1879) when the traditionalists or tribal Africans were perceived to be the main threat to the existence of white people in the colony. As part of its campaign for the rights of exempted Africans, Funamalungelo constantly protested against the subjection of Africans to pass

---

81. *Ibid.*, 29 December 1893.

82. *Ibid.*

83. *Ibid.*

84. Lambert, *Betrayed Trust*, p.125.

regulations. These protests were made at the meetings of Funamalungelo that were held from time to time.<sup>85</sup>

The pass system which, in exempted Africans' view, was unlawfully applied to them, was like a thorn in their flesh, not so much because of the inconvenience it entailed, but more so because it was debasing to their dignity and reduced them to the status of unexempted Africans.<sup>86</sup> *Inkanyiso YaseNatal* reported on a series of meetings that were held by Funamalungelo at which they voiced their grievances against the government.<sup>87</sup>

To the unexempted Africans, exempted Africans became objects of derision and ridicule for having allowed themselves to be misled by the Europeans. In a letter dated 9 February, 1894, to the editor of *Inkanyiso YaseNatal*, an African writer by the name of J. Jas Khanyile, ridiculed exempted Africans on the issue of passes:

*"Kade nganitshela ngati tatani ipasi njengami nizobotshwa bo; niti nina: ai tina sitengile, sitengile, tula wena awazi luto. Leyo mali enitenga ngayo loku kwenu umhlola wenu kulula mina ngitate ngiyotelela ngayo ibande lenja ..."*

(I have been telling you for a long time to take a pass like me because you will be arrested; you say never, we have bought the right, we have bought the right, you be quiet, you know nothing. The money with which you buy your thing, this mysterious thing of yours, it is easy for me to take it and buy a dog's collar ...).<sup>88</sup>

Another reader, who was not identified, criticized the exemption law, and stated that for an African to apply for exemption from native law was like moving from worse to worst. In metaphoric terms, he explained how exempted Africans were denied rights and privileges that were legally conferred upon them by the exemption law:

---

85. *Inkanyiso YaseNatal*, 26 May 1892; 26 January 1894.

86. *Ibid.*, 26 May 1892; 26 January 1894; 21 June 1895.

87. *Ibid.*

88. *Ibid.*, 9 February 1894.

"... *kufana nokukumulisa umuntu ibantshi lake, katisimbe ukwamuka umkako enye indoda ubekile ... ku ukupuma embizeni etshisayo nokuzifaka emalangabini omlilo; ...*". (... it's like forcing a person to take off his coat, or to have your wife taken away from you by another man while you are watching, it's like coming out of a hot pot and going into the blazing fire.)<sup>89</sup> Some of the officials remained adamant in their assertion that, "the exempted African was exempted from customary law only and not from various statutes that imposed on a discriminatory basis, restrictions on all Africans."<sup>90</sup>

As a result of their indistinct and ambiguous status in regard to the operation of native laws, as from the early 1890s exempted Africans began to see the exemption law as being of no benefit to them. In response to an enquiry by the Under-Secretary for Native Affairs as to the actual legal status of exempted Africans in relation to some of the native laws, particularly the pass laws, the Attorney-General, H. Escombe, made it clear in 1895 that, "for the purposes of native laws, exempted natives were not to be regarded as being natives".<sup>91</sup> This was the actual legal status of exempted Africans which some officials refused to recognize. *Ipepa loHlanga* (Zulu-language newspaper that was established in 1901) suggested in 1904 that the exemption law had to be abolished "rather than that things be carried on in this way."<sup>92</sup>

## 5.6 African responses

In discussing the grievances of African society under colonial rule, Welsh and Lambert identify two categories of people.<sup>93</sup> The traditionalists or tribal Africans,

---

89. *Inkanyiso YaseNatal*, 29 March 1895.

90. Welsh, *The Roots of Segregation*, p.240.

91. SNA, 1/1/302, Attorney-General to Under-Secretary for Native Affairs, 29 July 1895.

92. *Ipepa loHlanga*, 5 February 1904.

93. Welsh, *The Roots of Segregation*, pp.299-316; Lambert, *Betrayed Trust*, pp.177-189.

among others, included chiefs, homestead heads and their families, independent peasant farmers, tenants, migrant and town workers. The second category consisted of *amaKholwa* or Christian Africans, and, among others, included educated and uneducated, exempted and unexempted, teachers, clerks and church leaders, independent peasant farmers and *amaKholwa* chiefs.<sup>94</sup>

Each of the two broad categories above had its own grievances against the government. Some of the grievances were common to both traditionalists and *amaKholwa*, but the response they elicited in each category was, by and large, determined by each category's particular circumstances. All Africans were affected by the pass system, but the individual response to it was largely determined by the category he or she occupied in the society. For example, while on the one hand, the traditionalist Africans were less affected by the curfew and pass regulations in the towns of Pietermaritzburg and Durban, on the other hand, the *amaKholwa* urban Africans were less affected by the cattle pass laws. A further subdivision specially among the traditionalists, reveals that chiefs and homestead heads and their families often responded differently to the pass system.

In the 1890s and 1900s, some of the grievances which many Africans had been nursing since their first contact with whites, such as loss of land and the undermining of the authority of some of the chiefs, had multiplied to the point where there were signs of growing discontent among all classes of Africans.<sup>95</sup> Broadly viewed, the traditionalists' grievances included the shortage of land which resulted in the erosion of the homestead economy, the weakening of tribal authority, insubordination of younger men, women and wives, heavy taxation, debts as a result of rental and tax arrears, low wages, and pass laws.<sup>96</sup> Although *amaKholwa*

---

94. Welsh, *The Roots of Segregation*, pp.299-316; Lambert, *Betrayed Trust*, pp.177-189.

95. Marks, *Reluctant Rebellion*, pp.119-132; Lambert, *Betrayed Trust*, pp.177-189; Welsh, *The Roots of Segregation*, pp.299-302.

96. Welsh, *The Roots of Segregation*, pp.301-308; Colony of Natal: Native Affairs Commission, 1906-07: Report (Pietermaritzburg, P. Davis and Sons, 1907), pp.47-48.

shared some of these grievances with the traditionalists, like indebtedness, heavy taxation and pass laws, they had a number of other grievances which were peculiar to their class. These included the refusal of the government to allow them the same rights and freedom as whites in terms of the exemption law, the limits on the facilities available for the education of their children, difficulty in finding jobs commensurate with their training, and what they believed was unfair and unlawful subjection to pass laws.<sup>97</sup>

Little was said in the local press, both English and Zulu, about the views of non-literate Africans about the pass system. Besides the snippets of evidence that were given by traditionalist chiefs and their followers before the Native Affairs Commission (1906-1907) that was appointed after the rebellion of 1906, their views did not receive much attention from the press. The educated *amaKholwa* could make their voices heard by writing either to the press or directly to the government. The Zulu language press, *Inkanyiso YaseNatal* (1890-1896), *Ipepa loHlanga* (1901-1904) and *Ilanga* (from 1903 onward) was established mainly to advance the interests of *amaKholwa*.

As mentioned above, the original motive behind the exemption law had been to create a loyal class of Africans on whose support the government could count in the event of an attack on whites by the traditionalists whom it distrusted. The defeat of the Zulus in 1879 and the annexation of Zululand first to Britain in 1887 and later to Natal in 1897, had resulted in a change of attitude on the part of the colonists where the *amaKholwa*, with their demands for equality and franchise, were now perceived to be more of a threat to white political domination than tribal Africans. The rebellion of 1906 represented an expression of anger and frustration on the part of many Africans as a result of a multitude of disabilities and injustices to which

---

97. Welsh, *The Roots of Segregation*, pp.295-300; Report of the Native Affairs Commission, 1906-07, pp.48-49.

they had been subjected over the years. The pass system represents just one of the wide range of grievances which the African people had against the government.

One of the general complaints about pass laws which was made by both traditionalist and *amaKholwa* was the way in which Africans were informed of them. *Inkanyiso YaseNatal* criticized the government's policy of disseminating important notices about pass laws through Resident Magistrates.<sup>98</sup> Such information did not reach the majority of Africans, and this resulted in many Africans having to endure arrest for the contravention of pass laws and regulations about which they knew nothing. A petition which had been presented by Joseph Zulu and 65 other Africans in 1892, requesting the publication of government notices to Africans in the Zulu press, was refused by the government.<sup>99</sup> It mentioned the expense such an undertaking would involve, and the fact that very few African families could read as reasons for refusing the petition.<sup>100</sup> By this time *Inkanyiso YaseNatal* had already taken it upon itself to publish important notices about pass laws for the benefit of African readers. In its edition of 16 June 1892 information about pass law No. 10 of 1876 was published. "*Ukuquba izinkomo, Abantu abamnyama bangeziquba izinkomo bengepete ipasi elilotshiweyo*" (Driving of cattle. Black people are not allowed to drive cattle without a written pass).<sup>101</sup> In 1893, *Inkanyiso YaseNatal* questioned the government's sincerity and fairness in expecting Africans to obey laws about which they were not notified. "If this is not absurd and childish, it is worse", it concluded its editorial of 3 February 1893 on the matter. Pass regulations in terms of Law 48 of 1884, as revised from time to time, were from then onward published for the benefit of its readers.<sup>102</sup>

---

98. *Inkanyiso YaseNatal*, 16 December 1892.

99. *Ibid.*, 7 July 1892.

100. *Ibid.*, 16 December 1892.

101. *Ibid.*, 16 June 1892.

102. *Ibid.*, 22 February, 1895; 8 March 1895; 22 March 1895; 29 March 1895.

Another general complaint about passes was the inconvenience caused by the long delays at magistrates' offices where they were issued. For example, Africans who travelled by train from Johannesburg were expected to disembark at Charlestown, where they entered Natal, for the purpose of taking out an inward pass in terms of Law 48 of 1884. Because of the long delay in taking out these passes, the train would simply leave them behind when the time came for it to depart. "*Banele ukufika kona amapoyisa nonongqayi bati hehlani. Behle njalo abantu esitimeleni. Kutiwe tatani amapasi, bati bengakawa tati isitimela sisuke sihamba.*"<sup>103</sup> (On arrival there, white policemen and black policemen would order them to disembark. The people would get off the train. They would be ordered to take out a pass, before they could do so, the train would depart). *Ipepa loHlanga* also reported on Africans' complaint about the delays in magistrate offices. Under the article '*Ipasi lesiyana*' ('Identification pass'), the editor states: "*Kubonakala ukuti kukona uhlupo osalubonakele ukuti lukona lokuba abantu basuke bayekugugela ezinkantolo befuna amapas'* (It appears that there is a difficulty that exists when people go to the courts for passes and they wait there for long periods of time).<sup>104</sup> In its edition of 11 September 1903, *Inkanyiso YaseNatal* reproduced a letter from Chas. F. Parsons (about whom nothing more was said), to *The Natal Mercury*, in which he stated that Africans had indeed a cause for complaint about the long hours they spent at magistrates' offices to obtain passes.

"I now understand, from experience, why Kafirs complain so much of waiting long hours at the Pass Office to obtain what the law compels them to get - but does not provide the means for obtaining".<sup>105</sup>

African witnesses who gave evidence before the Native Affairs Commission (1906-1907) also highlighted the inconvenience of having to take out a pass. Nkantolo, an African from Richmond, "referred to the necessity of natives having to go to the

---

103. *Inkanyiso YaseNatal*, 12 June 1903.

104. *Ipepa loHlanga*, 15 May 1903.

105. *Inkanyiso YaseNatal*, 11 September 1903.

Court House and take out a pass for driving merely a single goat".<sup>106</sup> Bongoza, a headman from Klip River Division, made the same complaint that "... natives going from one kraal to another, it might be to convey a message respecting some person who was ill, were summarily arrested on the road."<sup>107</sup> From the evidence examined above, traditionalists and *amaKholwa* alike shared concerns about the inconvenience which the pass system entailed.

The cost of taking out passes was another general complaint that was made by both traditionalists and *amaKholwa*. Africans were made to pay for passes in order to contribute towards the administrative costs of the colony. The failure of the attempt by the Legislative Assembly in 1894 to raise the fee for an outward pass from one shilling to one pound to discourage Africans from leaving the colony was applauded by *Inkanyiso YaseNatal*. The paper described the attempt as "absurd and oppressive", as it would have meant an additional financial burden on Africans who were already heavily taxed.<sup>108</sup> Chief Mkize from Lion's River Division, giving evidence before the Native Affairs Commission, expressed concern about the hardship of having to pay for passes.<sup>109</sup> This was echoed by Twala, a headman from Klip River Division. Referring to the payment of one shilling for an outward pass, he stated that it added to the costs incurred by Africans who wanted to go out to work.<sup>110</sup>

As mentioned above, *amaKholwa* (exempted and unexempted) could make their grievances known by writing either to the press or directly to the government. In 1883, the Edendale *amaKholwa*, Timothy Gule, Stephenus Mini, Samuel Kumalo

---

106. *Colony of Natal: Native Affairs Commission, 1906-07: Evidence* (Pietermaritzburg, P. Davis and Sons, 1907), Nkantolo, p.776.

107. *Ibid.*, p.733.

108. *Inkanyiso YaseNatal*, 1 June 1894.

109. Evidence before the Native Affairs Commission, 1906-07, Chief Mkize, p.716.

110. *Ibid.*, Twala, p.730.



and Lucas Kumalo, all unexempted at the time, wrote a letter of protest to the Secretary for Native Affairs in which they asked to be freed from the operation of pass laws. Although the letter was written by educated *amaKholwa*, their opposition to the pass system reflected to a large degree general African opinion about it:

"We are very much troubled about these passes which we are obliged to take with us whenever we go within or beyond the boundaries of Natal ... We wish to be freed from passes when we go about our business within the boundaries of Natal, its alright enough that we should carry passes with us when going beyond the boundaries."<sup>111</sup>

In 1898, exempted Africans petitioned the government through the Legislative Assembly, asking to be excluded from the provisions of the Cattle-Stealing Bill and the bill relating to the administration of justice that were then being debated. In both bills the word 'native' meant all Africans, whether exempted or not.<sup>112</sup> The petitioners stressed that in terms of the exemption law, they were, like Europeans, subject to the ordinary laws of the colony.<sup>113</sup> In 1906, in an article entitled 'An address to the Zulu people', the editor of *Ilanga LaseNatal*, commented on a number of grievances the Africans had against the government, including the pass system:

"We are not allowed to travel without a pass. We are not allowed to drive a beast, sheep or even a goat without a pass. We are not allowed to be in town without a pass. Even if we are driving a beast to sell on the market, or be it anything else, we reach the place after business is over through waiting on the authorities for the passes; and they enjoy themselves at our expense. A friend of ours would even die with a doctor close to whilst we were in search of a pass to travel with a sick person through the town."<sup>114</sup>

---

111. SNA, 1/1/64, Timothy Gule and others to the Secretary for Native Affairs, 7 June 1883.

112. Legislative Assembly, Sessional Papers, 2nd session, 2nd Parliament, L.A. no. 24, 25 July 1898, pp.147-148.

113. *Ibid.*

114. SNA, 1/1/340, An English translation of an article in *Ilanga LaseNatal* of 4 May 1906.

We have seen in the above survey that pass laws were numerous and that each pass was issued for a particular purpose. The multiplicity of passes was another source of grievance for Africans generally. Richard Zulu from Port Shepstone, described only as a 'native', giving evidence before the Native Affairs Commission (1906-1907), remarked:

"The passes one had to take out were numerous. He thought that if he were to attempt to count them, they would amount to ten. There was the identification pass, the cattle pass, the horse pass or licence, the pass or licence for practising as a medicine man, the pass or licence for working as a tog boy in Durban, the outward and so on."<sup>115</sup>

The same concern about the multiplicity of passes was expressed by Chief Mlotshwa from Alfred Division: "On every possible pretext, a pass was rendered necessary, whatever they did, and wherever they went, men, women or child, a pass was required".<sup>116</sup>

Other documents, such as receipts for payment of hut tax, dog tax and poll tax also served to control the movements of African people. For example, an African driving cattle to the Cape Colony was required to carry the following documents: an identification pass in terms of Law 49 of 1901, a cattle pass in terms of Law 1 of 1899, an outward pass in terms of Law 48 of 1884, a hut tax receipt, a poll tax receipt if he was unmarried, and, if he had dogs with him, a dog tax receipt in terms of Law 27 of 1875. It was for this reason that some of the Africans who gave evidence before the Native Affairs Commission suggested the institution of one general pass.<sup>117</sup> (See appendix 7).

The evidence examined suggests that the majority of Africans were opposed to the pass system. However, some chiefs and elders in the countryside had reason to

---

115. Evidence before the Native Affairs Commission, 1906-07, Richard Zulu, p.802.

116. *Ibid.*, Chief Mlotshwa, p.792.

117. *Ibid.*, p.802.

support it. Some of them had lost control over the young men and women who went to the towns to work or to the diamond and gold fields as migrant workers. These chiefs and elders complained of insubordination on the part of these young men and women and that the chiefs' powers were consequently weakened.<sup>118</sup> The young men and women who became financially independent of their parents started resisting their authority as well as that of the chiefs.<sup>119</sup> It was for this reason that some chiefs and elders supported the restrictions that the pass system placed on the movements of African people. For example, when the Ladysmith police in 1903 expelled from town all those who were without passes, this action was appreciated by some of the elders in the countryside. In a letter to the editor of *Ipepa loHlanga* dated 17 July 1903, D.D. Melase [sic] of Craigieburn Farm, expressed satisfaction with the enforcement of pass laws

*"Ngite ngelinye ilanga ngike Mnambiti ngafundekelwa zimfiliji nekositina kwabufigofigo, lite liya utyona elangakusasa ilanga kwabe sekute nya lowomsindo; kanti uRulumeni wakiti [wati] mababanjwe bonke abengenawo ama Pasi (passes) amakosi abo bonke, zinsizwa nezintombi, namadikazi kwapinda emuva. Ngiyabonga ngoba loku kubuyise nabasebeneminyaka babunguka setuke sibabona ngenxa yalomteto omuhle, ekwaku loku kutiwa bayosebenza kanti akusetyenzwa luto, sibabuze imali bati hau! satyona, sahlauliswa izimali."*<sup>120</sup>

(One day when I was at Ladysmith my ears were greeted by the irritating sounds of a mouth organ and a concertina, but by the time the sun went down the following day all that noise had disappeared. In the meantime our Government had ordered that all those who were without passes be arrested the chiefs of all of them, young men and women, and married women, were sent back to their homes. I am grateful because this made even those who had deserted their homes for some years to return home. We were surprised to see them return because of this good law, people who were said to have gone to work whereas they were not working. We ask them for money; they say we lost our money; we had to pay fines.)

---

118. Lambert, *Betrayed Trust*, pp.135-136; Report of the Native Affairs Commission, 1906-07, pp.47-48.

119. *Ibid.*

120. *Ipepa loHlanga*, 24 July 1903.

Some of the chiefs who gave evidence before the Native Affairs Commission showed strong support for a policy that would help them exercise more effective control over their people, though sometimes without making specific reference to the pass system. Chief Mveli of Umgeni Division, "... considered that greater powers of control should be given to parents, and that when children ran away from home, the police should be instructed to arrest them and bring them back".<sup>121</sup> Other chiefs recommended that the pass laws should be enforced more strictly to check on their children who ran off to the white people.<sup>122</sup>

The above survey shows that by the first decade of the 20th century the colonists of diverse interests could speak with one voice regarding the need for the implementation of a pass system for security of their persons and property, and for the extraction of labour from Africans. The official view about passes changed and the government began to implement a pass system to help the colonists to extract more labour from Africans and to retain what they already had. Social and economic conditions in the colony led to the implementation of a pass system to apply to all African workers throughout the colony. The up-country farmers who employed their tenants as workers and had all along been opposed to the pass system were bound to change their views during this period. Before they had supported it for security of persons and their property and not for the extraction of labour from Africans. Social and economic conditions now necessitated the establishment of a certain degree of control over the movements of their labour-tenants, who were also attracted to the diamond and gold fields.

---

121. Evidence before the Native Affairs Commission, 1906-07, Chief Mveli, p.766.

122. *Ibid.*, p.802.

## CHAPTER SIX

### CONCLUSION

We have seen in chapter one that African people were accustomed to certain controls over their movements before contact with whites. Controls of movement in African society were exercised at different levels of authority. Firstly, controls of movement were exercised within the homestead by the *umnumzane* or homestead head. Secondly, they were exercised within the chiefdom by the chief. Thirdly, after the Zulus had established indirect domination of Natal, new requirements, though few, were imposed by the Zulu monarchy in so far as controls of movement of people were concerned. Research into this area reveals that controls of movement were exercised for different reasons, some of which were similar to the reasons why controls of movement were exercised by whites during the period of colonial rule. The evidence suggests that controls of movement during the pre-colonial period were exercised for orderly and peaceful living and as customary practices. Young men, women and married women could not simply go off to visit friends and family without the permission of the head of the homestead. We have also seen that it was taboo for women to walk in certain areas within the homestead, such as the cattle-kraal. Control of movement for the extraction of labour from the people was exercised by the chief or king when people were called upon to do tribute labour.

During the period of Voortrekker rule, attempts were made by the Volksraad administration for a number of reasons to control the movements of Africans. The Voortrekker pass system, like that of the British later, was designed to serve multiple purposes, all of which had a direct bearing on the concerns of the Voortrekkers to obtain an adequate supply of labour, to establish peace and stability, and to prevent crime. Refugees from the Zulu kingdom were regarded by the Voortrekkers as both a threat to their security and that of their property, and a potential source of labour supply. The pass law of 1842, though never fully

implemented, was designed to deal with these twin aspects, security and labour. There is no evidence as to how African people responded to attempts to control their movement by the Volksraad, as there was no efficient administrative machinery to carry out its laws.

During the period of British rule from 1845 to 1855, pass laws were implemented for the security of colonists and their property, and to check cattle-stealing. The pass system was used in conjunction with other measures, such as vagrancy, squatting and master and servant's laws which were designed partly to control and regulate the movements of African people. As we have seen above, the colonists' view about passes was divergent. Absentee landowners who depended on rents paid by their tenants were opposed to the implementation of a pass system. Up-country farmers who employed tenants as workers on their farms supported the implementation of a pass system for their security and that of their property, but not for the extraction of labour from Africans. White merchants in the towns, together with the sugar planters, supported the implementation of a pass system, partly to try to ensure security of their persons and property, but mainly to try to extract labour from Africans.

The government at this time supported the implementation of a pass system for the security of colonists and their property but not for the extraction of labour from Africans. Indirect forced labour that the pass system envisaged was in conflict with the government's aims of promoting independent African producers and a 'free' wage-labour force.

In 1856 Natal was granted representative government, and a struggle began for control over native affairs between the Legislative Council and the Executive Council. The official view about passes remained basically unchanged. The major concern of the government remained the security of colonists and their property. It

did not hesitate to introduce pass legislation in this area. With the discovery of diamonds in Griqualand West in 1867, the government introduced pass regulations for foreign workers. It remained ambivalent regarding the implementation of a pass system for African workers throughout the colony. The government's ambivalence in this regard may be attributed to its preoccupation with a Zulu invasion and a lack of the necessary administrative machinery to carry out the pass system. During this period, the sugar planters, who seem to have been satisfied with the importation of labourers from southern Mozambique and from India, began to identify with the official view that the implementation of a pass system for the extraction of labour from Africans was not necessary.

The evidence examined suggests that in the 1880s the reasons for the adoption of a pass system shifted from the need for peace and security, more to the need for an adequate supply of labour. When the Zulus were defeated in 1879, the security concerns of the colonists considerably diminished. With the discovery of gold in 1886, which led to the outflow of labour supply to the gold fields, the implementation of a pass system to discourage local African workers from emigrating to the gold fields came to the forefront. The sugar planters were bound to change their views about the pass system when local and migrant labourers were attracted to the gold fields. While the government did not hesitate to take the initiative to introduce measures that were designed to restrict the movements of Africans out of the colony, it remained ambivalent about the implementation of a pass system to extract labour from local Africans. It mentioned lack of finances and weak administration as reasons for its reluctance to adopt a pass system. Among colonists (i.e. employers of labour) only up-country farmers remained opposed to the implementation of a pass system for the extraction of labour from Africans. But after 1895 up-country farmers were bound to change their views about the implementation of the pass system when more and more of their labour-tenants deserted them to seek work on the diamond and gold fields.

During the period of colonist rule (1893-1910), the government changed its views about the implementation of a pass system for the extraction of labour from local Africans. The social and economic changes at play were responsible for this change of policy. The up-country farmers, who were also losing workers to the gold fields, began to support the implementation of a pass system for the extraction of labour from local Africans and to retain the labour they already had. The crisis of social dislocation in African society, that was characterized by drunkenness, cattle-stealing and insubordination of young men and women to their elders, was, in the government's view, a good reason for exercising greater control over the movements of Africans. Ultimately, during the first decade of the 20th century, the government implemented a pass system for local African workers throughout the colony. The colonists of diverse interests (the up-country farmers, the sugar planters and urban business people), pushed together by the social and economic changes at play, began to speak with one voice regarding the need for the implementation of a pass system for the extraction of labour from Africans and to retain what they already had. The evidence indicates that with the discovery of gold in 1886 and the annexation of Zululand first to Britain in 1887 and later to Natal in 1897, the need for the implementation of a pass system to obtain more labour from Africans and for colonists to retain the labour they already had far overshadowed the need for the implementation of a pass system for the security of colonists and their property.

From the 1890s onward control of movement of Africans through the pass system became a major and inextricable part of African administration, and was constantly reviewed to suit new political, social and economic conditions until the end of colonial rule in 1910. By this time the pass system had permeated almost every aspect of Africans' life so much so that even a dog tax receipt could be used as an instrument of social control in that failure to produce one on demand by a policeman anywhere in the colony rendered an African liable to arrest and punishment in terms of the relevant dog tax legislation. We have also seen above that pass laws were



implemented not only to control the movement of people. They were also implemented to check cattle-stealing, discourage drunkenness among Africans, and raise revenue for the government. However, control of movement of people, particularly Africans, remained the main objective of pass laws.

The pass system applied mainly to Africans. By 1910, Indians, Coloureds and whites had also in varying degrees been subjected to the pass system. It was, however, Indians and Africans who were obliged to carry a pass all the time when going about their daily business in the colony. Coloureds were obliged to carry a pass if they were employed in terms of Law 21 of 1888 within the boroughs of Pietermaritzburg and Durban. Whites were only obliged to carry a pass in terms of Law 1 of 1899 when driving cattle beyond a certain distance as stipulated in the law.

We have also seen above that Africans responded differently to the pass system. Although one can find little evidence on this (i.e. in African responses to the pass system), those who were opposed to it probably constituted the majority. These included people from both *amaKholwa* and traditionalist categories. Exempted Africans' major complaint about passes was that pass laws should not apply to them because in terms of the exemption law they were to be regarded not as Africans but as 'Europeans'. It was degrading to them to have to be compelled to take out passes like ordinary unexempted Africans. Unexempted Africans (both educated and traditionalist) had a number of grievances about the pass system which included the inconvenience the system entailed, the cost it involved and the multiplicity of passes they had to take out. Those who supported the pass system were mainly some chiefs and elders in the countryside. They supported the pass system because it helped them to exert their authority over young men and women, and their wives who otherwise simply ran away from them to work for whites in town. When the Union of South Africa was formed in 1910, the power to make pass

laws shifted to the central government in Pretoria. But Natal had continued enforcing existing pass laws until after the end of the first World War, by which time the central government was able to develop a uniform national pass system.<sup>1</sup>

---

1. Hindson, *Pass Controls and the Urban African Proletariat in South Africa*, pp.32-38.

## APPENDIX 1

Secretary for Native Affairs Circular to Resident Magistrates,

28 September 1859.<sup>1</sup>Circular  
to the MagistratesOffice of Secretary for N.A.  
September 28. 1859.

Sir,

It has hitherto been the practice that all Natives desiring to remove from one County or Division to another have applied to the Magistrate under whom they reside for a permit, which they produce to the Magistrate within whose jurisdiction they are desirous of placing themselves, this course has not secured any record of these removals in this Office or furnished any information regarding them to the Lieutenant Governor and it has also happened that disturbances of the peace have occurred. The Lieutenant Governor has been pleased to direct that in future all applications for permission to remove from one County or Division to another, be referred for His Excellency's decision through this Office, the full particulars of the request must of course be embodied in the reference.

I have  
S<sup>d</sup> J. Shepstone  
Sec<sup>y</sup> for N.A.

1. SNA, 1/8/7, Letter Book, 28 September 1859.

## APPENDIX 2

The Togat Minute of 1874<sup>2</sup>

Vol. XXVI.

PIETERMARITZBURG, TUESDAY, MARCH 31, 1874. No. 146

## Proclamation,

By His Excellency Sir BENJAMIN OHILLY CAMPBELL PINE, Knight Commander of the Most Distinguished Order of St. Michael and St. George, Lieutenant-Governor of the Colony of Natal, and Supreme Chief over the Native Population thereof.

WHEREAS it has become necessary to check certain serious evils arising out of the practice now becoming general among the Native Labourers in the Boroughs of Pietermaritzburg and Durban, of refusing employment, except as jobbers or day labourers; and whereas, these evils prejudicially affect not only the security of property in the said Boroughs, and the comfort and well-being of the inhabitants of both races therein, but the good government and proper control of the Native Population of the Colony generally:

Now, THEREFORE, I do hereby proclaim and make known, that, from and after the Fifteenth day of April next, in the Borough of Durban, and from and after the First day of May next in the Borough of Pietermaritzburg, the following rules and regulations shall be in force:—

1. No Native shall be allowed to live in the Boroughs of Pietermaritzburg or Durban, including Addington and the Point, unless he be the proprietor or renter of any house or land within the Borough, or is in the monthly or yearly service of a proprietor or renter, or accepts the position, wears the badge that indicates it, and pays the monthly License of a jobber, "togt" man, or day labourer. Lying in town shall mean any stay exceeding five days which the Secretary for Native Affairs or the Magistrate shall deem it to be unnecessary for the professed object of the visit.

2. Every Native resorting to the townships of Pietermaritzburg or Durban to work for wages, and whose presence therein is not necessary for judicial purposes, or by some authority or circumstance, the sufficiency of which shall be decided by the Secretary for Native Affairs or the Magistrate, shall be bound, within five days of his arrival in such township, to enter the monthly service of a proprietor or renter, or take up the calling of jobber, "togt" man, or day labourer.

3. Every such Native who objects to be a jobber, "togt" man, or day labourer

shall be registered in a book, to be carefully kept for the purpose, in which shall be legibly entered his name, and such other particulars as may be required by the Secretary for Native Affairs, for the purpose of identification, together with his registration number.

4. Every such labourer shall be provided with a badge, on which shall be shown, in large figures, his registration number; and he shall be bound always to wear such badge in some conspicuous part of his person; and any labourer knowingly exchanging his badge with, or lending it to, another person shall, in addition to the contravention of this regulation, be responsible for any act done by that person while wearing such exchanged or lent badge.

5. He shall be bound to pay in advance a monthly sum of 2s. 6d. for the privilege of wearing such badge, and of following the calling of a jobber, "togt" man, or day labourer.

6. He shall be required to render his services to any householder who may demand them for the day or any unexpired portion thereof, at the current rate of daily pay, if unemployed, or not under engagement to work on the day, when such demand is made.

7. The Magistrate shall from time to time notify the minimum rate of daily wages to be paid for the different kinds of labour performed under these regulations, upon the offer of which the labourer shall be bound to work.

8. Whenever any labourer wearing a badge under these Regulations ceases to follow the occupation indicated by such badge, by entering monthly service as aforesaid, or by leaving the town, he shall be bound to hand back his badge to the Officer appointed to register hereunder, and an entry of the return of such badge shall be made in the Registration Book, after which the returned badge may be issued to another, under the same conditions as those imposed upon the original issue thereof.

9. Any contravention of these Regulations, or any of them, by a native, or by a native licensed labourer thereunder, may be punished by the Magistrate, acting in his capacity of Administrator of Native Law, by fine not exceeding twenty shillings, or imprisonment with hard labour not exceeding one month for any first offence, and by fine not exceeding sixty shillings, or imprisonment with hard labour not exceeding three months for any subsequent offence, with power to

imprison until the fine is paid, in case where fines only are inflicted; and the Magistrate may in addition prohibit such native from being allowed to follow the calling of a licensed labourer, and may banish him from the town.

10. Any native who shall give such information as shall lead to the conviction of any native of a breach of one or other of the Rules 1, 2, 3, 4, 5, and 8 foregoing, shall be entitled to receive two shillings and sixpence from the fund created by these Regulations, in addition to any portion of the fine inflicted, should any be inflicted, as the Magistrate may adjudge.

And I do hereby authorise and empower the Mayor and Town Council for the time being of each of the two Boroughs aforesaid to carry out the above Regulations from and after the dates fixed for their coming into force in the two Boroughs respectively, and to demand and receive the monies accruing thereunder.

Provided, however, that all revenue so received by the Mayors and Town Councils aforesaid shall be expended exclusively in and about the carrying out these Regulations, such as the cost of supervision, pay, maintenance, and clothing of the necessary additional police, and any other matter required to secure the effective working thereof, and that all Expenditure of Revenue, accruing under the provisions of this Proclamation, shall be subject to the approval of the Lieutenant-Governor. And further, that upon the coming into force of these regulations, and while so in force, each Corporation shall employ at least ten additional native Police, and one white Constable, capable of speaking the Native Language if possible, who shall be charged with the duty of carrying out these Regulations. And provided, further, that to secure the harmonious acting together of the Police appointed hereunder and the ordinary Police Force of the Borough, and the zealous and accurate discharge of the Registration and other duties required by these Regulations, the persons acting for the time being in the office of Superintendent of Police be respectively charged with the supervision of all matters connected therewith, and be held specially responsible to the Mayor and Council for the proper carrying out of said Rules by those under them, for which they shall each receive a monthly payment of Five Pounds over and above their ordinary Borough pay.

## The Togh Minute of 1874 (Cont.)

And I hereby charge and direct the two Borough Magistrates respectively, acting in their capacity as Administrators of Native Law, to take notice of these Rules and Regulations and to guide themselves thereby in all their decisions on matters brought before them relating thereto.

All fines and imprisonment, adjudged under these rules, shall be recovered and carried out according to the usual practice of the Colony under Native Law.

And I direct the publication herewith of so much of the Memorandum of the Secretary of Native Affairs, dated May 26th, 1873, and of his answers to the suggestions made thereon by the Corporations of the two Boroughs as may be necessary to explain the intended bearing and scope of the Regulations aforesaid.

*God Save the Queen!*

Given under my hand and the Public Seal of the Colony, at Durban, this Twenty-seventh day of March, One Thousand Eight Hundred and Seventy-four.

(Signed) BENJ. C. C. PINE.

By His Excellency's command,

T. SHEPSTONE,  
Secretary for Native Affairs.

APPENDIX 3

Law No. 48, 1884<sup>3</sup>

*Vide Law 53, 1887.*

*To provide for the better regulation of the passing and repassing of Natives between Natal and the Neighbouring States and Territories.*

Preamble.

WHEREAS it is expedient to make provision for regulating the entry of Natives of the Neighbouring States and Territories into the

Colony of Natal, and the return of the same, and for the departure from Natal or return thereto of Natives residing, or who had been resident in the Colony :

Be it therefore enacted by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows :—

1. The Governor in Council may from time to time and at all times frame, make, and issue such Rules and Regulations as may be considered necessary for the purpose of regulating and making provision for the entry of Natives into this Colony, their sojourn therein, and their return therefrom, and to amend, alter, vary, or annul any such Rules and Regulations.

*Governor in Council may make rules regulating entry of Natives into Colony, sojourn therein, and return therefrom.*

2. It shall also be lawful for the Governor in Council from time to time and at all times to frame, make, and issue such Rules and Regulations as may be considered necessary for the purpose of regulating and making provision for the departure beyond the boundaries of Natal, or return thereto, of Natives residing or who had been resident in the Colony.

*Governor in Council may make rules regulating departure from or return to Natal of Natives resident in the Colony.*

3. Any person who shall harbour any Native contravening any of the Rules or Regulations made under this Law, or who shall in any way aid or abet any Native in violation of this Law or the Rules and Regulations made hereunder, shall be deemed guilty of a contravention of this Law and the Rules and Regulations issued in virtue thereof.

*Person harbouring or aiding Native in violation thereof to be deemed guilty of a contravention.*

4. Any person or persons knowingly contravening any of the Rules made under this Law shall be liable to pay a fine not exceeding £10, or in default of payment thereof to imprisonment for a term not exceeding Three Months, with or without hard labour, or both : Provided that one-half of the penalty imposed may be awarded by the Court before which the case is tried to the informer through whose information such person or persons shall have been convicted.

*Penalty for contravention of rules. Penalty may be awarded to informer.*

5. All contraventions of the Rules or Regulations made under this Law shall be prosecuted before the Court of the Resident Magistrate for the County, Division, or District in which such offence shall have been committed, in the case of Europeans, and before the Court of the European Administrator of Native Law in the case of Natives.

*Contraventions not prosecuted.*

6. Nothing in this Law contained shall affect or be deemed to affect, or in anywise repeal, the regulations made in terms of Ordinance 3, 1870, regarding refugees coming into the Colony of Natal.

*This Law not to be deemed to affect refugees regulations under Ordinance 3, 1870.*

7. This Law shall be in force and extend only to such Divisions, Counties, or Districts, as the Governor, by and with the advice of his Executive Council shall, by Proclamation, declare to be under the operation of this Law, and for such period only as from time to time may be deemed expedient and necessary.

*This Law only to extend to parts of the Colony declared by Governor in Council to be under its operation.*

8. This Law shall not come into operation unless and until the Officer administering the Government notifies by Proclamation that it is Her Majesty's pleasure not to disallow the same, and there-

*Commencement of Law.*

after it shall come into operation, upon such day as the Officer administering the Government shall notify by the same or any other Proclamation.

Given at Government House, Natal, this 8th day of November, 1884.

By command of His Excellency the Governor,

(Signed) C. B. H. MITCHELL,  
Colonial Secretary.

3. Hitchins, ed., *Statutes of Natal*, vol. ii, pp.5-6.

## APPENDIX 4

Law No. 21, 1888<sup>4</sup>

"To facilitate the Registration of Native Servants and Servants belonging to Uncivilised Races within the Boroughs of Pietermaritzburg and Durban."

WHEREAS it is desirable to assist the Town Councils of the Boroughs of Pietermaritzburg and Durban to effect a registration of Native Servants and Servants belonging to Uncivilised Races within the said Boroughs :

BE IT THEREFORE ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows :—

1. In construing this Law the term "Native" shall mean a Native as defined in the Law No. 14, 1888. The term "Uncivilised Races" shall include all barbarous or semi-barbarous races, and all Indians introduced into this Colony as indentured labourers, but who shall not at the time being be serving under such indenture or a renewal thereof.

2. The Town Councils of the Boroughs of Pietermaritzburg and Durban, constituted under Law No. 19, 1872, shall be and the same are hereby authorised to establish a system of registration of Natives, or persons belonging to uncivilised races, resident, and employed by the day or month, or any longer period, or seeking employment, within their respective Boroughs.

3. Such system of registration shall be by By-laws, to be made and confirmed as other By-laws of the said Boroughs, under the provisions of the "Municipal Corporations Law, 1872."

4. Any person contravening any of the By-laws made under the provisions of this Law shall be liable to pay a fine not exceeding £2, or in default of payment to be imprisoned with or without hard labour for any period not exceeding two months.

5. All prosecutions for any such contraventions may be instituted before the Magistrate having jurisdiction in such Borough, by or on behalf of the Town Council.

6. The police or other proper officers of the Borough are hereby empowered summarily to arrest all persons contravening any of the said By-laws, and to lodge them in the station-house of the Borough for the purpose of being brought to trial at the first available opportunity, such period not to exceed 24 hours: Provided that it shall be lawful for such police or other officers to release any person from such custody upon reasonable bail to appear and answer to the charge to be brought against him.

7. Provision may be made by the said By-laws for such a reasonable charge for each entry in the register as shall be approved by the Governor in Council.

8. Provision may be made by the said By-laws for the registration of contracts between masters and servants who may wish to register such contracts.

9. Any person residing where this Law is in operation, employing a Native, or person belonging to any uncivilised race, not provided with a registration ticket, shall be liable to a fine not exceeding £2, or in default of payment to imprisonment for seven days.

10. All fines and money penalties taken under the provisions of this Law shall form a portion of the revenues of the respective boroughs.

11. The cost of maintaining in prison any person imprisoned under the provisions of the fourth section of this Law shall be defrayed by the respective Corporations.

12. None of the provisions of this Law shall apply to European servants or servants of European descent.

Given at Government House, Natal, this Twenty-fourth day of October, 1888.

By command of His Excellency the Governor,

(Signed) T. S. HADEN,  
Colonial Secretary.

4. Hitchins, ed., *Statutes of Natal*, vol. ii, pp. 1-2.

## APPENDIX 5

Law No. 49, 1901<sup>5</sup>

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Commence-  
ment.

1. This Act shall not come into force unless and until the Governor shall, by Proclamation in the *Natal Government Gazette*, notify that it is His Majesty's pleasure not to disallow the same, and thereafter it shall come into operation on such date as the Governor may appoint by the same or any other Proclamation (a).

Interpretation  
of terms.

2. In this Act:—

"Servant" shall mean any native employed for hire, wages, or other remuneration to perform any handicraft or engage in any bodily labour in agriculture or manufactures or otherwise, or in domestic service, or as a boatman, porter, miner, driver, herd or other occupation of a like nature (b).

"Master" shall mean any person employing for hire, wages, or other remuneration any native servant. For the purposes of this Act the word "Master" shall mean and include any body corporate, company, society or individual.

Act 49, 1901.

"Service," "Contract of Service," and the like expressions shall be understood in reference to the foregoing definitions.

3. This Act is not to apply to natives rendering service to a landlord in lieu of rent, when such service is rendered upon the farm on which the natives live, nor to any other service performed on the land on which they live (c).

Exclusion of natives rendering farm service in lieu of rent.

4. A pass granted to any Native under Law No. 48, 1884, or under any Law or Act for regulating the introduction of labourers into Natal, shall be a sufficient identification pass for all the purposes of this Act, for so long as such pass remains in force.

Pass under Law 48, 1884, to suffice for purposes of this Act.

5. No native shall after the commencement of this Act enter into a contract of service, or offer himself for engagement as a servant in this Colony, or (save as is hereinafter excepted), continue in any employ as a servant, or be registered as a tog labourer, or under Law No. 21, 1883, unless he shall have obtained the pass provided for in this Act, and every person intending to engage a native as a servant shall first require the native to produce his pass.

Obligation upon natives to obtain pass before taking service.

Such pass is in this Act referred to as an identification pass.

6. Any native who is in service at the date of the commencement of this Act, or who, during a term of service loses his identification pass, may obtain a temporary pass, as hereinafter described, from the office of the Magistrate of the Division where he is employed.

Temporary passes.

7. One of the officers attached to each Magistrate's Office in the Colony shall be appointed by Government as a Pass Officer for the purpose of signing and issuing identification passes and temporary passes. In his absence, or if he be prevented from attending, any other officer of the Department may, with the Magistrate's written approval, sign and issue such passes on his behalf.

Pass Officers.

8. The officer shall attend daily during the ordinary office hours to receive applications for passes.

Attendance of Pass Officer.

9. For the purpose of obtaining an identification pass a native shall attend before the Pass Officer of the Division in

Application for pass.

5. R.L. Hitchins, ed., *Statutes of Natal: Being a Supplement, 1900-1906* (London, A. & F. Hitchins, 1907), pp.348-357.



MASTER AND (NATIVE) SERVANTS.

Act 49, 1901. which he resides, and shall furnish to the Pass Officer the particulars necessary to be entered in the register.

Enquiry And decision.

10. Before granting an identification pass or temporary pass the Pass Officer shall in every case satisfy himself, so far as the circumstances seem to require, that the application is proper, and may in his discretion withhold the issue of a pass until he is satisfied that it ought to be granted. In case of doubt the officer may require the native to be accompanied by his kraal head, or by some accepted person, to testify to his identity, and the correctness of the information given.

Women and children.

No such pass shall be granted if the Pass Officer is satisfied that the applicant is already under a contract of service (a).

11. The Pass Officer shall not issue a pass to any woman, or to any female child, or to any male child appearing to him to be under the age of fifteen years, without the consent of the husband, parent or guardian, as the case may be.

Identification passes: particulars of:

12. Identification passes, with their counterfoils, shall be in the form of Schedule A, printed on durable material, and bound in books.

to be kept by native and exhibited.

They shall be numbered consecutively year by year, and the register thereof shall be kept in such manner as may be prescribed by the Secretary for Native Affairs.

Every native to whom an identification pass is issued shall keep it always in his possession, and shall exhibit it whenever called upon to do so by his master, or by a police officer or constable.

Master to keep labour book.

Every master employing a native servant, other than a registered togt labourer, shall keep a labour book, in which he shall copy the identification pass of every native whom he may employ.

Master not to keep pass.

The master shall on no pretext keep a servant's identification pass, unless with the consent of the Native.

Form And Duration of temporary pass.

13. [Repealed by Act No. 3, 1904.]

14. A temporary pass shall be in the form of Schedule B, and the period thereof shall in no case exceed six months, but it may be renewed upon the Pass Officer being satisfied that the former contract of service still subsists.

A temporary pass shall not be available for the purposes of any new contract of service.

New pass to replace lost pass.

15. A native who has lost his identification pass may obtain a fresh pass from the office in which the former pass was issued, upon satisfying the Pass Officer of the fact, and upon payment of a fee of one shilling.

(a) See addition to this sec. enacted by Act No. 3, 1904, sec. 3, post. 350

MASTER AND (NATIVE) SERVANTS.

This payment shall not be required in the case of a Act 49, 1901. temporary pass to take the place of an identification pass lost during service.

16. If any native who has obtained an identification pass in one Magisterial Division shall change his residence to another Division he shall present his pass to the Pass Officer of the Division into which he has removed. The Pass Officer shall record the pass, and inform the officer by whom the pass was issued, who shall record the change of residence.

Change of residence.

17. If a native who is in service is convicted of any of the crimes to which this section applies, the Clerk or Registrar of the Court shall, as soon as conveniently may be, inform the Pass Officer by whom the pass was issued of the particulars of the conviction and sentence, and such officer shall record the same, and shall make a note thereof against the entry of registration.

Record by Pass Officer of convictions of certain crimes.

This section shall apply to all crimes of the following classes or akin thereto:—Theft, fraud, rape, and all crimes of indecency.

18. The Governor in Council may from time to time make rules for the purpose of carrying out the provisions of this Act, and for regulating any matters necessary for giving full and complete effect to the same. All such rules shall be published in the Natal Government Gazette.

Rules.

19. Any native who shall after the first day of January, 1902, enter into a contract of service, or be or continue in service without having an identification pass, as required by this Act, shall be guilty of a contravention of this Act.

Offence of being in service without a pass.

20. The following shall also be contraventions of this Act:—

Other Offence

- Making any false statement or pretence for the purpose of obtaining or assisting anyone to obtain an identification pass, or a duplicate or copy thereof.
- Using a false pass, or one belonging to another person, for the purposes of deceit.
- Using any deceit for the purpose of evading the provisions of this Act.

The withholding of a native's identification pass.

21. All contraventions of this Act, or of any Rules thereunder, shall be cognisable in the Courts of Magistrates, and shall be punishable according to the ordinary criminal jurisdiction of the said Courts.

Jurisdiction over offences.

SCHEDULES.

[Repealed by Act No. 3, 1904.]

APPENDIX 6

Law No. 3, 1904<sup>6</sup>

"To amend Act No. 49, 1901, entitled Act 'To facilitate the Identification of Native Servants.'"

[28th March, 1904.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Principal Act to apply to others as to servants.

1. Act No. 49, 1901, shall apply to Natives of the under-mentioned classes in the same manner as to servants:

- Policemen,
- Persons in service as messengers.
- Natives engaged in washing and laundry work.
- Jobbers.
- Ricksha pullers.

Amendment of Section 13 of principal Act.

2. Section 13 of Act No. 49, 1901, is hereby repealed, and the following section is enacted in lieu thereof:

If any master employs a native servant without such

servant having produced his Identification Pass he shall be guilty of a contravention of this Act. Act 3, 1904.

3. The following shall be added to Section 10 of Act No. 49, 1901: Addition to Section 10 of principal Act.

The Secretary for Native Affairs shall have full authority and discretion in any case to order that an Identification Pass shall be granted or refused.

4. Notwithstanding the provisions of Section 3 of Act No. 49, 1901, in cases where a Native tenant has agreed with his Landlord to render service to the Landlord, it shall be lawful for either party to require the other, on reasonable notice, to attend, and he shall be bound to attend, before a Magistrate, and when the Magistrate shall have ascertained the agreement between the parties, he shall destroy any existing Identification Pass and issue to the Native a new Identification Pass, endorsing on such new Pass the period during which the Native is to render service to the Landlord, and during such period no person other than the Landlord shall be entitled to hire the services of such Native. The appearance of the Landlord before the Magistrate may be by himself or by an Agent, or by delivery of the Landlord's statement in writing of the terms and period on and during which the Native has agreed to render service. It shall be the duty of the Magistrate to satisfy himself that the Native agrees to the terms. Any notice under this section by a Landlord to a Native shall not be taken to have been effectually given unless personally served or unless left at the kraal of such Native at a time when the Native is on the farm where his kraal is situated. Issue of Passes to Native tenants under obligation to render service in lieu of rent.

Whenever a Native shall cease to reside upon private land he shall, on giving satisfactory proof and on surrendering his endorsed Pass to a Magistrate, be entitled to obtain a new Identification Pass, and whenever a Native shall move from the land of one private owner to another the Native appearing before the Magistrate with the new Landlord shall, upon the surrender of his existing Pass, be entitled to the issue of a new Pass with the endorsement of the period, if any, during which the Native is to render service to the Landlord.

6. Hitchins, ed., *Statutes of Natal: Being a Supplement*, pp.352-354.

## Law No. 3, 1904 (Cont.)

5. Schedules A and B of Act No. 49, 1901, and the references thereto in the Act, are hereby repealed. Passes shall be in such form as may be prescribed by rules. Repeal of Schedules.

6. Upon the conviction of any person for having obtained or used a Pass in contravention of Act No. 49, 1901, the Magistrate may declare such Pass to be null, and order it to be produced to him and cancelled. Cancellation of Pass upon conviction.

359

**Act 3, 1904.**

Punishment for contravention of Sections 2 and 4.

7. If any person contravenes the provisions of Sections 2 or 4 hereof, he shall be liable to a fine not exceeding Five Pounds (£5) Sterling, failing payment of which he shall be liable to imprisonment for a period not exceeding one month, with or without hard labour.

8. This Act and Act No. 49, 1901, shall be read and construed together as one Act.

## APPENDIX 7

An identification pass issued in terms of Law No. 49, 1901<sup>7</sup>APPLICATION FOR RENEWAL OF  
IDENTIFICATION PASS.

FROM TO  
PASS OFFICER, PASS OFFICER,  
M. A. Dept. Division. Umvoti Division.

Application is made by the undermentioned Native for a renewal of his Identification Pass.

*W. J. Malosh*  
Pass Officer.

Name and Surname (isibongo) Guwaza Dhladhlala  
Name of Father Zitulele  
Name of Kraalhead D. C.  
Name of Chief Jozi  
Place of Residence Location  
PERSONAL DESCRIPTION: Sex male Apparent Age 25 yrs  
Height 5 6 1/2 Build med. Complexion brown  
Marks (if any) scar under right eye

An inward pass issued in terms of Law No. 48, 1884<sup>b</sup>

SCHEDULE A.

PASS.

No. 40888.

Law 48, 1884.

*Muzumbe* Office,

25.11.1897.

Name *Konzi*

Chief *Ryca*

Where from *Pond*

For what purpose *work for P.C. Hawkins*

Duration of visit *one*

*Williamson*  
*Magistrate or Officer.*

NOTE.—The duration of the pass must be carefully explained to the Native.

8. SNA, 1/1/267, Minute Papers, 1897.

**LIST OF SOURCES**

This list is divided into the following categories:

- A. UNPUBLISHED OFFICIAL PAPERS**
- B. OFFICIAL PRINTED SOURCES**
- C. NEWSPAPERS AND PERIODICALS**
- D. PUBLISHED WORKS**
- E. UNPUBLISHED THESES AND SEMINAR PAPERS**

## A. UNPUBLISHED OFFICIAL PAPERS

Natal Archives, Pietermaritzburg

### (i) *Secretary for Native Affairs (SNA)*

#### Minute Papers

vois.	1/1/19 - 1/1/20	1869-1870
	1/1/59 - 1/1/62	1883
	1/1/64 - 1/1/68	1883
	1/1/70 - 1/1/74	1884
	1/1/82 - 1/1/88	1885
	1/1/89 - 1/1/95	1886
	1/1/97 - 1/1/103	1887
	1/1/104 - 1/1/111	1888
	1/1/112 - 1/1/121	1889
	1/1/137 - 1/1/150	1891
	1/1/152 - 1/1/164	1892
	1/1/165 - 1/1/179	1893
	1/1/180 - 1/1/196	1894
	1/1/200 - 1/1/2/2	1895
	1/1/215 - 1/1/235	1896
	1/1/236 - 1/1/276	1897
	1/1/279 - 1/1/281	1898
	1/1/284 - 1/1/288	1899
	1/1/289 - 1/1/290	1900
	1/1/291 - 1/1/294	1901
	1/1/295 - 1/1/298	1902
	1/1/299 - 1/1/307	1903
	1/1/308 - 1/1/315	1904
	1/1/316 - 1/1/332	1905
	1/1/333 - 1/1/347	1906
	1/1/383 - 1/1/388	1907
	1/1/389 - 1/1/404	1908
	1/1/444 - 1/1/453	1909
	1/1/454 - 1/1/480	1910

#### Reports, Memoranda and Passes

vol. 1/7/9 1870 - March 1878

#### Letter Book

vol. 1/8/7 November 1859 - April 1862

(ii) *Colonial Secretary's Office (CSO)*

## ACTS

vol. 2711 1900-1904

## LAWS

vols. 2703 - 2704 1882-1885  
2706 1888-1889

## PROCLAMATIONS

vols. 2656 - 2657 1874  
2667 - 2668 1885

(iii) *Government House Records (GH)*

## Outgoing Dispatches

vol. 1212, No. 88, Scott to Stanley, 30 December 1858.

## Incoming Dispatches

vols. 128, No. 89, Secretary of State for Colonies to Bulwer,  
28 February 1883

129, No. 202, Secretary of State for Colonies to Bulwer,  
22 March 1884

144, No. 82, Secretary of State for Colonies to Havelock,  
15 June 1887

181, No. 97, Secretary of State for Colonies to Hely-Hutchinson,  
12 November 1897.

210, No. 52, Secretary of State for Colonies to McCallum,  
15 November 1901.

(iv) *Natal Parliamentary Papers (NPP)*

vols. 246, Select Committee Report, No. 19, presented on 26 July 1865.

251, Select Committee Report, No. 8, presented on 26 August 1868.

260, Select Committee Report, No. 9, presented on 13 November  
1872.

272, Select Committee Report, No. 10, presented on 27 July 1877.

265, Select Committee Report, presented on 25 February 1880.

290, Select Committee Report, No. 15, presented on 28 August  
1883.



(v) *Minute Book of Executive Council (EC)*

vols. 10 - 13, 1880-1898

**B. OFFICIAL PRINTED SOURCES**

Natal Archives: Pietermaritzburg

(i) *Natal Blue Books (NBB)*

Blue Book, 1884-1893

Departmental Reports, Blue Book, 1893-1900

Supplement: Departmental Reports, Blue Book, 1884-1893

(ii) *Natal Government Gazette (NGG)*

8 March 1853  
 20 February 1855  
 31 March 1874  
 16 February 1876  
 4 April 1876  
 1 August 1863  
 30 October 1883  
 20 May 1884  
 15 September 1885  
 3 July 1888  
 30 October 1888  
 17 November 1891  
 2 March 1897  
 26 April 1898  
 1 November 1898  
 21 February 1899  
 11 April 1899  
 21 May 1901  
 7 June 1904  
 1 March 1910

## B. OFFICIAL PRINTED SOURCES (Cont.)

(iii) *Natal Government Notices and Proclamations* (NGNP)

1848-1883

(iv) *Books*

Cadiz, C.F. ed., *Natal Ordinances, Laws and Proclamations* (Pietermaritzburg, Vause & Slatter & Co., vol. i, 1879; vol. ii, 1880).

Broome, N. ed., *The Laws of Natal*, vol. iii, 1879-1889 (Pietermaritzburg, N.M. Watson, 1890).

Hitchins, R.L. ed., *Statutes of Natal, 1845-1899* (Pietermaritzburg, P. Davis & Sons, vol. 1, 1900; vol. ii, 1902; vol. iii, 1902).

Hitchins, R.L. ed., *Statutes of Natal: Being a Supplement, 1900-1906* (London, A. & F. Hitchins, 1907).

*South African Archival Records: Records of the Natal Executive Council*, nos. 1, 2, 3, 4 (Cape Town, Office of the Director of Archives, 1960, 1962, 1963, 1964).

(v) *Legislative Council Debates* (LCD)

vol. vi	-	1883
vol. vii	-	1884
vol. viii	-	1885
vol. ix	-	1886 - 1887
vol. x	-	1887
vol. x and xi	-	1888
vol. II	-	1894
vol. III	-	1895
vol. IV	-	1896
vol. V	-	1897
vol. VI	-	1898
vol. VIII	-	1899
vol. X	-	1901
vol. XI	-	1903
vol. XIII	-	1904

## B. OFFICIAL PRINTED SOURCES (Cont.)

(vi) *Legislative Assembly Debates (LAD)*

vol. XXII	-	1894
vol. XXIII	-	1895
vol. XXIV	-	1896
vol. XXV	-	1897
vol. XXVI and XXVII	-	1898
vol. XXVIII	-	1899
vol. XXX	-	1901
vol. XXXI and XXXII	-	1902
vol. XXXIII and XXXIV	-	1903
vol. XXXV	-	1904

(vii) *Colony of Natal: Votes and Proceedings of the Legislative Council, 1857-1892*

(viii) *Colony of Natal: Votes and Proceedings of the Legislative Assembly, 1893-1906*

(ix) *Legislative Council: Sessional Papers, 1874-1892*

(x) *Legislative Assembly: Sessional Papers, 1893-1910*

(xi) *Government Commissions*

*Report of the Native Locations Commission, 1846-1847.*

*Report of the Lands Commission of 1848*

*Proceedings and Report of the Commission Appointed to Inquire into the Past and Present State of the Kafirs in the District of Natal, ... 1852-1853 (Pietermaritzburg ?, Vause, Slatter & Co. ?, 1853 ?).*

*Report of the Natal Native Commission, 1881-82 (Pietermaritzburg, Vause, Slatter & Co., 1882).*

*Colony of Natal: Native Affairs Commission, 1906-07: Evidence (Pietermaritzburg, P. Davis, 1907).*

*Colony of Natal: Native Affairs Commission, 1906-07: Report (Pietermaritzburg, P. Davis and Sons, 1907).*

### C. NEWSPAPERS AND PERIODICALS

<i>Ilanga LaseNatal</i> ,		1903-1910
<i>Inkanyiso YaseNatal</i> ,		1890-1896
<i>Ipepa loHlanga</i>	May-August,	1901
		1903-1904
<i>Natal Witness</i>	February,	1846
	October,	1846
		1847-1849
		1852-1854
		1855
		1860
		1868-1888
		1894-1895
		1899-1904
		1908

*The Natal Almanac, Directory and Yearly Register, 1867-1887.*

### D. PUBLISHED WORKS

#### (i) *Bibliographies and Bibliographical Guides*

Liebenberg, B.J., Spies, S.B. and Smith, K.W. (ed.), *A Bibliography of South African History, 1978-1989* (Pretoria, Sigma Press, 1992).

Muller, C.F.J., Van Jaarsveld, F.A. and Van Wijk, T. (compilers), *A Select Bibliography of South African History: A guide for historical research* (Pretoria, Heer Printing Co., 1974).

Radebe, T. (compiler), *Natal and Zululand History Theses*, Publication Series, No. 5 (Pietermaritzburg, University of Natal Library, 1990).

Verbeek, J., Nathanson, M. and Peel, E. (compilers), *Webb's Guide to the Official Records of the Colony of Natal: An Expanded and Revised Edition* (Pietermaritzburg, University of Natal Press, 1984).

## D. PUBLISHED WORKS (Cont.)

*(ii) Books and Chapters in Books*

Agar-Hamilton, J.A.I., *The Native Policy of the Voortrekkers, 1836-1858* (Cape Town, Maskew Miller, 1928).

Armstrong, J.C. and Worden, M.A., 'The slaves, 1652-1834', in *The Shaping of South African Society, 1652-1840*, eds. R. Elphick and H. Giliomee (2nd ed. Cape Town, Maskew Miller, Longman, 1989), pp.109-162.

Ashworth, W., *A Short History of The International Economy since 1850* (4th ed. London, Longman, 1987).

Atkins, K.E., *The Moon is Dead! Give Us Our Money: The Cultural Origins of an African Work Ethic, Natal, South Africa, 1843-1900* (London, James Currey, 1993).

Ballard, C., 'Traders, trekkers and colonists', in *Natal and Zululand from Earliest Times to 1910: A New History*, eds. A. Duminy and B. Guest (Pietermaritzburg, University of Natal Press, 1989), pp.116-145.

Barnett, P.A. and Sweeney, G.W., *Natal: The State and the Citizen* (London, Longmans, 1904).

Becker, P., *Rule of Fear: The Life and Times of Dingane, King of the Zulu* (London, Longman, 1964).

Beinart, W. *et al.* eds., *Putting a Plough to the Ground: Accumulation and Dispossession in Rural South Africa, 1850-1930* (Johannesburg, Ravan Press, 1986).

Bhana, S. and Brain, J.B., *Setting down Roots: Indian Migrants in South Africa, 1860-1911* (Johannesburg, Witwatersrand University Press, 1990).

Bird, J. ed., *The Annals of Natal, 1495-1845*, vol. i (Pietermaritzburg, P. Davis and Sons, 1888).

Booth, A.R., ed., *Journal of the Rev. George Champion: American Missionary in Zululand, 1835-9* (Cape Town, Struik, 1967).

## D. PUBLISHED WORKS (Cont.)

- Brain, J., 'Natal's Indians, 1860-1910: From cooperation, through competition, to conflict', in *Natal and Zululand from Earliest Times to 1910: A New History*, eds. A. Duminy and B. Guest (Pietermaritzburg, University of Natal Press, 1989), pp.249-274.
- Brookes, E.H., *The Colour Problem in South Africa: Being the Phelps-Stokes Lectures delivered at the University of Cape Town* (Lovedale, Lovedale Press, 1934).
- Brookes, E.H., *White Rule in South Africa, 1830-1910: Varieties in Government Policies Affecting Africans* (Pietermaritzburg, University of Natal Press, 1974).
- Brookes, E.H. *The History of Native Policy in South Africa from 1830 to the Present Day* (Cape Town, Nasionale Pers, 1924).
- Brookes, E.H. and Webb, C. de B., *A History of Natal* (Pietermaritzburg, University of Natal Press, 1st ed. 1965, 2nd ed. 1987).
- Brown, J.T., *Among the Bantu Nomads* (New York, Negro Universities Press, 1969).
- Brownlee, C., *Reminiscences of Kafir Life and History* (Lovedale, Lovedale Mission, 1896).
- Bryant, A.T., *Olden Times in Zululand and Natal* (London, Longmans, Green and Co., 1929).
- Bryant, A.T., *The Zulu People as They Were before the White Man Came* (Pietermaritzburg, Shuter and Shooter, 1949).
- Buell, R.L., *The Native Problem in Africa*, vol. i (New York, Macmillan, 1928).
- Bulpin, T.V., *Natal and the Zulu Country* (2nd ed. Cape Town, Books of Africa, 1969).
- Bundy, C. *The Rise and Fall of the South African Peasantry* (1st ed. Cape Town, David Philip, 1979).
- Burger, J., *The Black Man's Burden* (London, Victor Gollancz, 1944).
- Child, D., *A Merchant Family in Early Natal: Diaries and Letters of Joseph and Marianne Churchill, 1850 to 1880* (Cape Town, Balkema, 1979).

## D. PUBLISHED WORKS (Cont.)

- Cloete, H., *Five Lectures on the Emigration of the Dutch Farmers from the Colony of the Cape of Good Hope, and Their Settlement in the District of Natal* (Cape Town, Solomon, 1856).
- Cooper-Omer, J.D., *The Zulu Aftermath: A Nineteenth-Century Revolution in Bantu Africa* (London, Longman, 1966).
- Cory, G.E., ed., *The Diary of the Rev Francis Owen* (Cape Town, Van Riebeeck Society, 1926).
- Cubbin, A.E., 'An exposition of the clash of Anglo-Voortrekker interests at Port Natal leading to the military conflict of 23/24 May 1842', *Publication Series of the University of Zululand*, Series B68 (1987).
- Davenport, T.R.H., *South Africa: A Modern History* (1st ed. Johannesburg, Macmillan, 1977).
- De Kiewiet, C.W., 'The period of transition in South African policy, 1854-1870', in *Cambridge History of the British Empire*, vol. viii, 1st ed. eds. A. Newton and E.H. Benians (Cambridge, Cambridge University Press, 1936), pp.391-427.
- Delius, P., *The Land Belongs to Us: The Pedi Polity, The Boers and the British in the Nineteenth-Century Transvaal* (Johannesburg, Ravan Press, 1983).
- Du Plessis, A.J., 'Die republiek Natalia', in *Archives Year Book for South African History*, Part 1, eds. C.G. Botha *et al.* (Cape Town, Office of the Chief Archivist, 1942), pp.101-238.
- Duminy, A. and Guest, B., 'The Anglo-Boer war, and its economic aftermath, 1899-1910', in *Natal and Zululand from Earliest Times to 1910: A New History*, eds. A. Duminy and B. Guest (Pietermaritzburg, University of Natal Press, 1989), pp.345-372.
- Duminy, A., 'Towards union, 1900-10', in *Natal and Zululand from Earliest Times to 1910: A New History*, eds. A. Duminy and B. Guest (Pietermaritzburg, University of Natal Press, 1989), pp.402-427.
- Duminy, A. and Ballard, C., eds., *The Anglo-Zulu War: New Perspectives* (Pietermaritzburg, University of Natal Press, 1981).
- Elias, T.O., *Government and Politics in Africa* (2nd ed. London, Asia Publishing, 1963).

## D. PUBLISHED WORKS (Cont.)

- Ellis, B., 'The impact of white settlers on the natural environment of Natal, 1845-1870', in *Enterprise and Exploitation in a Victorian Colony*, eds. B. Guest and J.M. Sellers (Pietermaritzburg, University of Natal Press, 1985), pp.71-97.
- Elphick, R. and Malherbe, V.C., 'The Khoisan to 1828', in *The Shaping of South African Society, 1652-1840* (2nd ed. Cape Town, Maskew Miller, Longman, 1989), pp.3-50.
- Etherington, N., 'Christianity and African society in nineteenth-century Natal', in *Natal and Zululand from Earliest Times to 1910: A New History*, eds. A. Duminy and B. Guest (Pietermaritzburg, University of Natal Press, 1989), pp.275-301.
- Etherington, N., 'The "Shepstone system" in the colony of Natal and beyond the borders', in *Natal and Zululand from Earliest Times to 1910: A New History*, eds. A. Duminy and B. Guest (Pietermaritzburg, University of Natal Press, 1989), pp.170-192.
- Eybers, G.W. ed., *Select Constitutional Documents Illustrating South African History, 1795-1910* (London, George Routledge and Sons: New York, E.P. Dutton, 1918).
- Gardiner, A.F., *Narrative of a Journey to the Zoolu Country in South Africa* (Cape Town, Struik, 1966, first published London, 1836).
- Gibson, J.Y., *The Story of the Zulus* (London, Longmans, Green and Co., 1911, first published Pietermaritzburg, 1903).
- Giliomee, H. and Schlemmer, L. eds., *Up Against the Fences: Poverty, Passes and Privilege in South Africa* (Cape Town and Johannesburg, David Philip, 1985).
- Gluckman, M., 'The kingdom of the Zulu of South Africa', in *African Political Systems*, eds. M. Fortes and E.E. Evans-Pritchard (London, Oxford University Press, 1940), pp.25-55.
- Grout, L. Rev., *Zulu-Land; or Life Among the Zulu Kafirs of Natal and Zulu-Land* (London, African Publication Society, 1861, new impression, 1970).
- Guest, B., 'Towards responsible government', in *Natal and Zululand from Earliest Times to 1910: A New History*, eds. A. Duminy and B. Guest (Pietermaritzburg, University of Natal Press, 1989), pp.233-248.



## D. PUBLISHED WORKS (Cont.)

Guest, B., 'The new economy', in *Natal and Zululand from Earliest Times to 1910: A New History*, eds. A. Duminy and B. Guest (Pietermaritzburg, University of Natal Press, 1989), pp.302-323.

Guy, J., 'Ecological factors in the rise of Shaka and the Zulu kingdom', in *Economy and Society in Pre-Industrial South Africa*, eds. S. Marks and A. Atmore (London, Longman, 1980), pp.102-119.

Guy, J., 'Gender oppression in Southern Africa's pre-capitalist societies', in *Women and Gender in South Africa to 1945*, ed. C. Walker (Cape Town, David Philip, 1990), pp.33-47.

Guy, J.J., 'The political structure of the Zulu kingdom during the reign of Cetshwayo ka Mpande', in *Before and After Shaka: Papers in Nguni History*, ed. J.B. Peires (Rhodes University, Institute of Social and Economic Research, 1981), pp.49-73).

Guy, J., *The Destruction of the Zulu Kingdom: The Civil War in Zululand, 1879-1884* (1st ed. London, Longman, 1979; 2nd ed. Pietermaritzburg, University of Natal Press, 1994).

Hance, G.R., *The Zulu Yesterday and To-day: Twenty-Nine Years in South Africa* (New York, Negro Universities Press, 1969, first published New York, 1916).

Harries, P., 'Kinship, ideology and the nature of the colonial labour migration: Labour migration from the Delagoa Bay hinterland to South Africa, up to 1895, in *Industrialization and Social Change in South Africa, 1870-1930*, eds. S. Marks and P. Rathbone (London, Longman, 1982), pp.142-166.

Hattersley, A.F., *The British Settlement of Natal* (Cambridge University Press, 1950).

Hindson, D., *Pass Controls and the Urban African Proletariat in South Africa* (Johannesburg, Ravan Press, 1987).

Holden, C., *History of the Colony of Natal* (Cape Town, Struik, 1963, first published London, 1855).

Ingram, J.F., *The Colony of Natal: An Official Illustrated Handbook and Railway Guide* (London, Causton, 1895).

## D. PUBLISHED WORKS (Cont.)

- Isaacs, N. ed., *Travels and Adventures in Eastern Africa*, vol. i, ed. L. Herman (Cape Town, Van Riebeeck Society, 1937).
- Jabavu, D.D.T., *The Black Problem: Papers and Addresses on Various Native Problems* (2nd ed. Lovedale, Lovedale Press, 1920).
- Jenkinson, T.B., *AmaZulu: The Zulus; Their Past History, Manners, Customs and Language* (London, W.H. Allen and Co., 1882).
- Junod, H.A., *The Life of a South African Tribe* (London, Macmillan and Co., 1927).
- Kahn, E., 'The pass laws', in *Handbook on Race Relations in South Africa*, ed. E. Hellmann (London, Oxford University Press, 1949), pp.275-291.
- Katzenellenbogen, S.E., *South Africa and Southern Mozambique: Labour, Railways and Trade in the Making of a Relationship* (Manchester, Manchester University Press, 1982).
- Khan, S.A., *The Indian in Natal* (Durban, Pioneer Printing Works, 1943).
- Kimble, J. 'Labour migration in Basutoland, 1870-1885', in *Industrialization and Social Change in South Africa, 1870-1930*, eds. S. Marks and R. Rathbone (London, Longman, 1982), pp.119-141.
- Krauss, F., *The Natal Voortrekkers and Their War with the Zulu*, (place, publisher and date of publication unknown, reprinted from *Historia*, vol. 14, no. 1, 1969, translated from German by O.H. Spohr and A.W. Crowhurst), pp.22-42.
- Krige, E.J., *The Social System of the Zulus* (2nd ed. Pietermaritzburg, Shuter and Shooter, 1950, first published by Longmans, 1936).
- Laband, J. and Thompson, P., 'The reduction of Zululand, 1878-1904', in *Natal and Zululand from Earliest Times to 1910: A New History*, eds. A. Duminy and B. Guest (Pietermaritzburg, University of Natal Press, 1989), pp.193-232.
- Lambert, J., *Betrayed Trust: Africans and the State in Colonial Natal* (Pietermaritzburg, University of Natal Press, 1995).
- Leslie, D., *Among the Zulus and AmaTongas: With Sketches of the Natives, Their Language and Customs; and the Country, Products, Climate, Wild Animals* (Glasgow, Gilchrist, 1875).

## D. PUBLISHED WORKS (Cont.)

- Leverton, B.J.T., 'Government finance and political development in Natal, 1843-1893', in *Archives Year Book for South African History*, vol. i, 1970, eds. J.H. Esterhuysen *et al.* (Johannesburg, Office of the Director of Archives, 1971).
- Lowie, R.H., *Primitive Society* (London, Routledge and Kegan Paul, 1921).
- Lucas, T.J., *The Zulus and the British Frontiers* (London, Chapman and Hall, 1879).
- Lugg, H.C., *Life under a Zulu Shield* (Pietermaritzburg, Shuter and Shooter, 1975).
- Mackeurtan, G., *The Cradle Days of Natal (1497-1845)* (New edition. London, Longmans, 1930).
- Macmillan, W.M., *The Cape Colour Question: A Historical Survey* (Cape Town, Balkema, 1968, first published London, 1927).
- Mann, R.J., *The Colony of Natal: An Account of the Characteristics and Capabilities of this British Dependency* (London, Jarrold and Sons, 1859).
- Marks, S., *Reluctant Rebellion: The 1906-1908 Disturbances in Natal* (London, Clarendon, 1970).
- Marquard, L., *The Native in South Africa* (Johannesburg, Witwatersrand University Press, 1948).
- Marshall, K., *David Goes to Zululand* (London, Thomas Nelson and Sons, 1935).
- Mason, G.H., *Life with the Zulus of Natal South Africa* (London, Class, 1968, first published London, 1855).
- Masondo, T.Z., *Amasiko EsiZulu* (Pietermaritzburg, Shuter and Shooter, 1940).
- Maylam, P., *A History of the African People of South Africa: From the Early Iron Age to the 1970s* (Cape Town, David Philip, 1986).
- Methley J.E., *The New Colony of Port Natal: With Information for Emigrants* (London, Houston and Stoneman, 1850).
- Morris, D.R., *The Washing of the Spears* (London, Cape, 1965).
- Osborn, R.F., *Valiant Harvest: The Founding of the South African Sugar Industry, 1848-1926* (Durban, The South African Sugar Association, 1964).

## D. PUBLISHED WORKS (Cont.)

- Plaatje, S.T., *Native Life in South Africa, Before and Since the European War and the Boer Rebellion* (2nd ed. London, King and Son, n.d. (1916)).
- Preston-Whyte, E., 'Kinship and marriage', in *The Bantu-Speaking Peoples of Southern Africa*, ed. W.D. Hammond-Tooke (2nd ed. London, Routledge and Kegan Paul, 1974, first published London, 1937), pp.177-203.
- Radcliffe-Brown, A.R., *Structure and Function in Primitive Society* (London, Cohen and West, 1952).
- Roberts, R., *The Zulu Kings* (London, Hamish Hamilton, 1974).
- Rubin, L. and Weinstein, B., *Introduction to African Politics: A Continental Approach*, (2nd ed. New York, Praeger Publishers, 1977).
- Samuelson, L.H., *Zululand: Its Traditions, Legends, Customs and Folk-Lore* (Natal, South Africa, Mariannahill Press, [19-?]).
- Samuelson, R.C.A., *Long, Long Ago* (Durban, Knox Printing and Publishing Co., 1929).
- Schapera, I. and Goodwin, A.J.H., 'Work and wealth', in *The Bantu-Speaking Tribes of South Africa: An Ethnographical Survey*, ed. I. Schapera (Cape Town, Maskew Miller, 1966, first published London, 1937), pp.131-170.
- Schapera, I., 'Political institutions', in *The Bantu-Speaking Tribes of South Africa: An Ethnographical Survey*, ed. I. Schapera (Cape Town, Maskew Miller, 1966, first published London, 1937), pp.173-195.
- Shooter, J., *The Kafirs of Natal and The Zulu Country* (London, E. Stanford, 1857).
- Simons, H.J. 'The origins and functions of the pass laws' (*South African Institute of Race Relations*, memo, 1961).
- Stuart, J., *A History of the Zulu Rebellion of 1906 and of Dinuzulu's Arrest, Trial and Expatriation* (London, Macmillan and Co., 1913).
- Stuart, J. and Malcolm, D.M. eds., *The Diary of Henry Francis Fynn* (Pietermaritzburg, Shuter and Shooter, 1950).
- Sullivan, J.R., *The Native Policy of Sir Theophilus Shepstone* (Johannesburg, Walker and Snashall, 1928).

## D. PUBLISHED WORKS (Cont.)

*The South African Natives: Their Progress and Present Condition*, edited by The South African Native Race Committee (London, John Murray, 1908).

Theal, G.M., *The Yellow and Dark-Skinned Peoples of Africa South of the Zambezi* (London, Swan Sonnenschein and Co., 1910).

Theal, G.M., *The Republic of Natal: The Origin of the Present Pondo Tribe; Imperial Treaties with Panda, and Establishment of the Colony of Natal* (Cape Town, Saul Solomon and Co., 1886).

Theal, G.M. ed., *Records of the Cape Colony*, vol. iii (London, William Clowes and Sons, 1898).

Theal, G.M. ed., *Records of the Cape Colony*, vol. xxxv (London, William Clowes and Sons, 1905).

Thompson, L., 'Co-operation and conflict: The Zulu kingdom and Natal', in *The Oxford History of South Africa: South Africa to 1870, vol. i*, eds. M. Wilson and L. Thompson (Oxford, Clarendon Press, 1969), pp.334-373.

Thompson, L., *A History of South Africa* (London, Yale University Press, 1990).

Thompson, L., 'Co-operation and conflict: The highveld', in *The Oxford History of South Africa: South Africa to 1870, vol. i*, eds. M. Wilson and L. Thompson (Oxford, Clarendon Press, 1969), pp.391-424.

Thompson, L. ed., *African Societies in Southern Africa: Historical Studies* (London, Heinemann, 1969).

Van der Horst, S.T., *Native Labour in South Africa* (London, Frank Cass & Co., 1971).

Walker, E.A., *A History of Southern Africa* (3rd ed. London, Longmans, 1957, first published under the title *A History of South Africa*, London, 1928).

Webb, C. de B. and Wright, J.B. eds., *The James Stuart Archive of Recorded Oral Evidence Relating to the History of the Zulu and Neighbouring Peoples*, vols. 1-4 (Pietermaritzburg, University of Natal Press, 1976-1986).

Welsh, D., *The Roots of Segregation: Native Policy in Natal, 1845-1910* (Cape Town, Oxford University Press, 1971).

## D. PUBLISHED WORKS (Cont.)

Wright, J.B., 'Control of women's labour in the Zulu kingdom', in *Before and After Shaka: Papers in Nguni History*, ed. J.B. Peires (Rhodes University, Institute of Social and Economic Research, 1981), pp.82-99.

Wright, J.B. and Hamilton, C., 'Traditions and transformations: The Phongolo - Mzimkhulu region in the late eighteenth and early nineteenth centuries', in *Natal and Zululand from Earliest Times to 1910: A New History*, eds. A. Duminy and B. Guest (Pietermaritzburg, University of Natal Press, 1989), pp.49-82.

Young, L.M., 'The native policy of Benjamin Pine in Natal, 1850-1855', in *Archives Year Book for South African History*, vol. ii, eds. C. Beyers *et al.* (Cape Town, Office of the Director of Archives, 1951), pp.209-346.

*(iii) Pamphlets*

Alan Paton Centre: University of Natal, Pietermaritzburg.

PC/2/4/6/1. Anti-Pass Campaign and Work Permits: The Pass Laws.

PC/2/4/6/1. Anti-Pass Campaign pamphlet: Issued by the Human Relations Committee.

PC/2/4/6/1. Hill, D., Anti-Pass Campaign and Work Permits: Brief Historical Survey of Pass Laws, No. 69.

PC/2/4/6/1. Questions and answers concerning the administration of The Pass Laws.

Memorandum on the application of the Pass Laws and Influx Control: *The Black Sash*, January 1971 (Johannesburg, The Black Sash, 1971).

Memorandum on the application of the Pass Laws and Influx Control, vol. 16, no. 8, February 1974 (Johannesburg, *The Black Sash*, 1974).

Thirty-First Annual Council meetings of the South African Institute of Race Relations held in Cape Town. 17-20 January 1961 (Johannesburg, *South African Institute of Race Relations, Research Reports*, no. 1-186, 1961).

## D. PUBLISHED WORKS (Cont.)

Pitje, G.M., The effect of the Pass Laws in African Life: Institute Council meetings 1961, *South African Institute of Race Relations*, 17-20 January 1961, Cape Town. RR 4/6/1.

*(iv) Articles*

Atkins, K., "'Kafir time": Pre-industrial temporal concepts and labour discipline in nineteenth century colonial Natal', *Journal of African History*, vol. 29 (1988), pp.229-244.

Atkins, K., 'Origins of the *amaWasha*: The Zulu washermen's guild in Natal, 1850-1910', *Journal of African History*, vol. 27 (1986), pp.41-57.

Ballard, C., 'Migrant labour in Natal 1860-1879: with special reference to Zululand and the Delagoa Bay hinterland', *Journal of Natal and Zulu History*, vol. 1 (1978), pp.25-42.

Ballard, C., 'The role of trade and hunter-traders in the political economy of Natal and Zululand, 1824-1880', *African Economic History*, no. 10 (1981), pp.3-21.

Bird, J., 'Natal: 1849-1856', *Natalia*, no. 1 (1971), pp.7-22.

Cope, R.L., 'Political power within the Zulu kingdom and the 'Coronation Laws' of 1873', *Journal of Natal and Zulu History*, vol. viii (1985), pp.11-31.

Cope, R.L., 'C.W. de Kiewiet, the imperial factor, and South African "Native Policy"', *Journal of Southern African Studies*, vol. 15, no. 3 (1989), pp.486-505.

Davenport, R., 'African townsmen? South African natives (urban areas) legislation through the years', *African Affairs*, vol. 68 (1969), pp.95-109.

De Villiers, R., 'The pass laws: allocation and control, 1760-1979', *South African Labour Bulletin*, vol. 5, no. 4, November 1979, pp.87-104.

Etherington, N., 'Labour supply and the genesis of South African confederation in the 1870s', *Journal of African History*, vol. 20 (1979), pp.235-253.

Gluckman, M., 'The individual in a social framework: The rise of King Shaka of Zululand', *Journal of African Studies*, vol. i, no. 2 (1974), pp.113-144.

## D. PUBLISHED WORKS (Cont.)

- Gump, J., 'Ecological change and pre-Shakan state formation', *African Economic History*, no. 18 (1989), pp.57-71.
- Guy, J., 'Analysing pre-capitalist societies in southern Africa', *Journal of Southern African Studies*, vol. 14, no. 1 (1987), pp.18-37.
- Hall, M., 'The myth of the Zulu homestead: Archaeology and Ethnography', *Africa* vol. 54, no. 1 (1984), pp.65-79.
- Harries, P., 'Plantations, passes and proletarians: Labour and the colonial state in nineteenth century Natal', *Journal of Southern African Studies*, vol. 13, no. 3 (April 1989), pp.372-399.
- Harries, P., 'Slavery, social incorporation and surplus extraction: The nature of free and unfree labour in south east Africa', *Journal of African History*, vol. 22 (1981), pp.309-330.
- Lambert, J., 'Africans on white-owned farms in the mist belt of Natal 1850-1906', *Journal of Natal and Zulu History*, vol. 10 (1987), pp.32-76.
- Maphalala, S.J., 'Aspects of Zulu rural life during the nineteenth century', *University of Zululand Publication*, Series B, no. 55 (1985).
- Ramdhani, M., 'Taxation without representation: The hut tax system in colonial Natal 1849-1978', *Journal of Natal and Zulu History*, vol. 9 (1986), pp.12-25.
- Rex, J., 'The compound, the reserve and the urban location: The essential institutions of southern African labour exploitation', *South African Labour Bulletin*, vol. 1, no. 4, (July 1974), pp.4-17.
- Slater, H., 'Land, labour and capital in Natal: The Natal Land and Colonisation Company 1860-1948', *Journal of African History*, vol. 16 (1975), pp.257-283.
- Swanson, M.W., 'The urban factor in Natal native policy, 1843-1873', *Journal of Natal and Zulu History*, vol. 3 (1980), pp.1-14.
- Wright, J., 'Pre-Shakan age-group formation among the northern Nguni', *Natali a*, no. 8 (1978), pp.22-30.



**E. UNPUBLISHED THESES AND SEMINAR PAPERS**

- Atkins, K.E., 'The cultural origins of an African work ethic and practices: Natal, South Africa, 1843-1875' (Ph.D., University of Wisconsin - Madison, 1986).
- Comrie, M.H., 'The ministry of Harry Escombe 1897' (B.A. (Hons), University of Natal, 1965).
- Dhupelia, U.S., 'Frederick Robert Moor and native affairs in the colony of Natal, 1893 to 1903' (M.A., University of Durban-Westville, 1980).
- Dreyer, M.E., 'The establishment of locations in Natal, 1846-1852' (M.A., University of South Africa, 1947).
- Flanagan, B.A., 'Henry Cloete in Natal, 1843-1855' (M.A., University of Natal, 1946).
- Gasa, E.D., 'The native question in Natal, 1880-1893: An inquiry with reference to the struggle for constitutional reform in the colony' (M.A., University of South Africa, 1974).
- Hindson, D., 'The pass system and the formation of an urban African proletariat: A critique of the cheap labour power thesis,' (Ph.D., University of Sussex, 1983).
- Lambert, J., 'Sir John Lambert and responsible government, 1863-1897: The making of the first Prime Minister of Natal' (M.A., University of Natal, 1975).
- Leverton, B.J.T., 'The Natal cotton industry, 1845-1875: A study in failure' (B.A. (Hons), University of South Africa, 1963).
- Riekert, J.G., 'Natal master and servants' laws' (L.L.M., University of Natal, 1983).
- Rowlands, M., 'The Zulu family in transition' (B.A. (Hons), University of Natal, 1973).
- Shiels, R., 'Newton Adams, 1835-1851' (B.A. (Hons), University of Natal, 1963).
- Theunissen, A.B., 'Natal under Lieutenant-Governor Scott, 1856-1864' (M.A., University of Natal, 1936).
- Williams, B.O., 'The dispute between Lieutenant-Governor Keate and the Legislative Council: Natal, 1867-1872' (M.A., University of Natal, 1935).

**E. UNPUBLISHED THESES AND SEMINAR PAPERS (Cont.)**

Wolfson, F., 'Some aspects of native administration in Natal under Theophilus Shepstone: Secretary for Native Affairs, 1857-1875' (M.A., University of Witwatersrand, 1946).

Wright, J.B., 'The dynamics of power and conflict in the Thukela-Mzimkhulu region in the late 18th and early 19th centuries: A critical reconstruction' (Ph.D., University of Witwatersrand, 1989).

---