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THE LOCAL STATE AND RESIDENTIAL SEGREGATION

BRIJ MAHARAJ ^a

^a Department of Geography , University of Durban-Westville

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THE LOCAL STATE AND RESIDENTIAL SEGREGATION: Durban and the Prelude to the Group Areas Act

BRIJ MAHARAJ

ABSTRACT

Conventionally, residential segregation in South Africa is associated with the ascent to power of the National Party, and the Group Areas Act (1950). This paper argues that the local state in Durban had played an important role in influencing the segregation policies of the central state, and laid the foundation for the Group Areas Act of 1950. The focus is on Durban in the 1930s and 1940s, and attempts by the local state to segregate Indians by reducing their access to land and housing. Indians in Durban presented a threat to white economic dominance. The whites responded in racist fashion and demanded for compulsory residential segregation. They were actively supported by the local state in Durban. The central state, however, preferred voluntary segregation in order to avoid international condemnation. The local state in Durban deliberately sabotaged attempts at voluntary segregation which were initiated by the central state. In spite of opposition from the disenfranchised Indians, and reluctant central state support, the Durban City Council ultimately triumphed when the Ghetto Act was legislated in 1946. The Ghetto Act laid the foundations for the Group Areas Act which followed in 1950.

Introduction

In South Africa the apartheid state has been regarded as the architect of socio-spatial structuring, and this was associated with the ascent to power of the National Party in 1948. However, the National Party did not invent apartheid — it merely refined it. Furthermore, the development of apartheid has been conventionally associated with the central state, while the role of other state apparatus, particularly the local state, has been neglected in scholarly analysis. In fact “local and regional state apparatus scarcely received a footnote in the works of both the ‘liberal’ and ‘revisionists’ [social scientists] who dominated the critical intellectual agenda on South Africa during the 1960s and 1970s” (McCarthy, 1986:1). Although the apartheid state has frequently been referred to as a monolithic entity, it has also appeared as “a huge, sprawling, uncoordinated, internally divided machine . . . There have been several competing centres of power: central, provincial and local” (Atkinson, 1990:1).

Therefore, the nature of the apartheid state divisions and their implications for structuring socio-spatial relationships need to be examined. This can be done by analysing the historical development of urban segregation in specific local contexts. A start has been made with the analyses of the role of compounds and locations (e.g. Mabin, 1986; Robinson, 1990). However, the

process of urban space construction as it affected the dominated classes in other parts of South Africa e.g. in compounds and locations cannot be generalised for Durban because of the historical development of indentured Indian labour which constitutes a very significant part of the working class in Durban (Padyachee and Haines, 1985:20–21).

The Indian community, however, has had an “unrecognised or discounted role in the inception of segregation in South Africa as a whole” in scholarly analysis (Swanson, 1983:402–403).

This paper examines the role of the state in structuring socio-spatial relations, particularly the interaction between central and local levels.¹ It is the contention of this paper that attempts by the local state in Durban to segregate Indians since the turn of the century played a major role in leading to the formulation of the Group Areas Act (1950) at the central level.² The focus is on Durban in the 1930s and 1940s, and state attempts to segregate Indians by reducing their access to housing and land. The forces which influenced local state policy — central state directives; pressure from the white electorate; and the struggles of the dominated group — will be analysed. The failure of

voluntary segregation measures will also be discussed. Intensive historical analysis will reveal that the politics of local white interests were often at odds with the central state which preferred voluntary segregation, while the Durban City Council (DCC) demanded compulsory segregation. In spite of opposition from the disenfranchised Indians, and reluctant central support, the DCC ultimately triumphed.

The Indian Question

Indians had come to South Africa in 1860 as indentured labourers to work on sugar cane fields in Natal, and upon completion of their contracts they were expected to return to India. However, the demand for labour was so great that they were soon absorbed in skilled and semi-skilled activities in industry and commerce. They were followed by Indian traders, whose successful competition against white traders generated a great deal of conflict, and calls for their repatriation. The Indian question in South Africa featured prominently on the national and local political agenda for the greater part of this century. Parliamentary politicians from diverse parties and ideological backgrounds were unanimous on one issue — the Indian population in South Africa had to be reduced to the minimum possible. The main mechanisms to achieve this were constraints on tenure and occupation of land; severe limitations on trading rights; restrictions on immigration and registration; and denial of the franchise (Maharaj, 1992b).

Historical factors determined that 80 percent of the Indian population, which comprised only 2.5 percent of the total population of the Union, were concentrated in Natal (Webb, 1949a:1). This was compounded by the fact that provincial boundary restrictions prevented them from moving into other provinces.³ Changing occupational patterns, particularly the shift from primary to secondary activities, resulted in half of the Indians in Natal, and 41 percent of the total population in South Africa, living in and around Durban (Webb, 1949:5).

By 1896 there were about 8 000 Indians living in the city, owning about 200 plots of land and buildings worth about 80 000 pounds. In addition, they had 134 retail, 63 hawkers’ and 17 eating-house licences. Furthermore, 34 whites rented their houses (Mayor’s Minutes, 1896:50).⁴ However, the whites could not tolerate Indians who rose above working class status. Newspaper “editorials declared the ‘Asiatic trader’ a ‘parasite’, ‘dangerous and harmful’, ‘the real cancer that is eating into the very vitals of the community’” (Wyley, 1986:16–17). Basically, there was a

conflict between white and Indian capital. During the late nineteenth century, the main economic activity of Durban's white colonists was trade. The emergence of Indian traders during the 1870s presented a threat to white economic dominance (*ibid.*, p.46). Indian traders presented a threat to whites because of their more efficient operations, use of family labour and lower profit margins.

The DCC, representing the white ruling class, was at the forefront of calls for the repatriation and segregation of Indians. The whites of Durban were more concerned about the 'Asiatic menace' than the 'Native problem'.⁵ Natives were perceived as a passive threat, but Indians were regarded as a "sophisticated and active menace to their own position in colonial society, competing for space, place, trade and political influence with the imperial authority" (Swanson, 1983:404). The legal segregation of Indians preceded that of urban Africans by more than thirty years. In 1871 the Durban Town Council adopted a policy to create separate Indian locations. It represented the "first concerted attempt at group area segregation in Durban and one of the first in a major South African town" (*ibid.*, p.405). The scheme failed because the Governor refused to consent to it. However, the principle of separate residential locations for different race groups was enshrined (*ibid.*, p.406).

As a result of pressure from the DCC the Dealers Licence Bill was passed in 1897. In terms of this legislation the Council could appoint a licensing officer to issue or refuse trading licences at his discretion. The Licensing Officer for Durban was to later remark: "A European licence is granted almost as a matter of course; whereas the Indian licence is refused as a matter of course".⁶ This resulted in an absolute decline in the number of Indian traders. In 1897, licensed Indian traders comprised 55 percent of the total in Natal (523 out of 941). By 1900 this

was reduced to 27 percent (472 of 1 578) (Swanson, 1983:416).

Up to 1922 there were no statutory restrictions on the ownership and occupation of land by Indians in Durban. The DCC owned a considerable amount of land which was offered to the general public (including Indians) at periodic auctions. In 1922 whites protested against Indians bidding for such land. The DCC then requested the Natal Provincial Council to pass the Durban Land Alienation Ordinance No. 14 of 1922 which introduced an 'alienation' clause into the title deeds so that ownership and occupation was confined to one race group. This was effectively an anti-Indian clause (Maasdorp and Pillay, 1977).

The Indian community vehemently opposed the passing of the Ordinance. The trader dominated Natal Indian Congress (NIC)⁷ lodged protests with the Union Government that the DCC had unlimited powers with regard to the sale or lease of 'unalienated' land.⁸ The Government gave the assurance that in introducing racial restrictions into land sales the provincial Administrator should ensure that Indians were given an opportunity to acquire adequate residential sites.⁹ The DCC paid no heed to this assurance. In Durban land for the development of the Indian community was thus limited to the older, established settlements which were already overcrowded. This led to infiltration into white areas and the outrage against 'Indian penetration'.

Indian 'Penetration' in the 1930s

The inner city or Old Borough of Durban extended for twelve and half miles, between the Umgeni and Umbilo Rivers, and continued westwards from the sea shore to the Berea Ridge (Figure 1).¹⁰ This represented the industrial and commercial heart of the city. It is evident from Figure 1 that the Berea ridge was almost exclusively occupied by

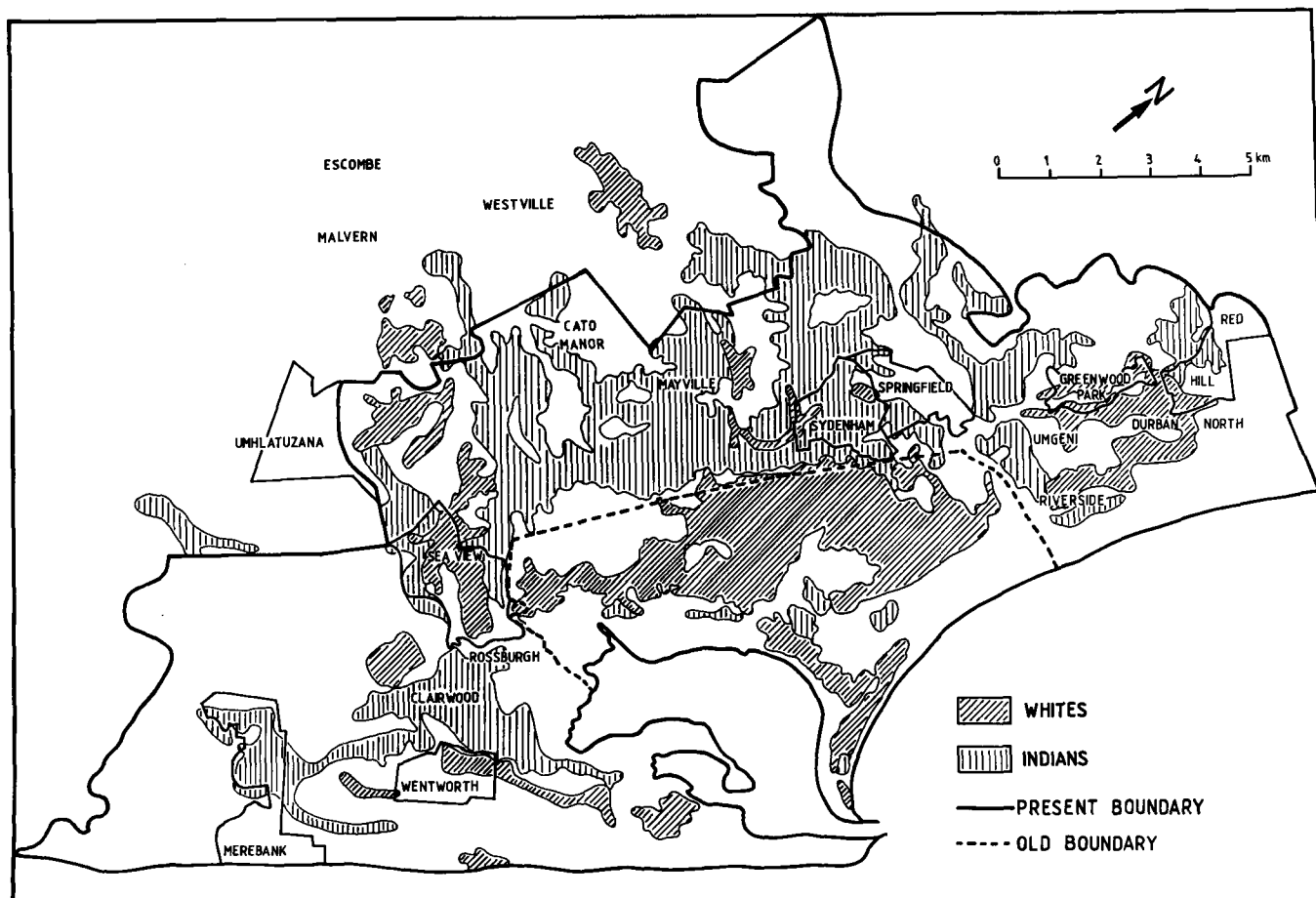


FIGURE 1: Predominantly White and Indian Areas in Durban.

whites, while Indians lived in the hilly inland area, outside the Old Borough boundary. In 1932 Durban's municipal boundaries were extended by the consolidation of nine peri-urban areas (Clairwood; Rosburgh; Umhlatuzana; Mayville; Sydenham; Umgeni; Greenwoodpark; Red Hill; Durban North) (Natal Regional Survey, 1952:19).

It is evident from Table 1 that with the extension of Durban's boundaries there was a drastic change in the racial composition of the city. In the Old Borough Indians comprised only 15 percent of the population in 1932, and whites 47 percent. In 1933, after the extension of the boundaries, whites decreased to 36 percent while Indians increased to 32 percent. It is important to note that the DCC desired to extend its boundaries since the early 1920s. One of the ostensible reasons for this was the unsanitary conditions under which the Indians were living immediately outside the Municipality's perimeter (*ibid.*). Concern was also expressed about the shortage of land for Indian occupation in Durban. However, the primary aim was to control and regulate Indians and their activities. There was no improvement in their living conditions after incorporation into the Borough of Durban (*ibid.*). Reflecting the popular white view that Indians should ultimately be repatriated, the DCC contended that it would be unreasonable "to spend money on an alien population, a large but unknown proportion of which was likely, at any time to be removed to their own country".¹¹

TABLE 1: Racial Composition of Durban: 1932 – 1933¹²

RACE	1932	Percent	1933	Percent
European	59 480	47	79 600	36
Coloureds	4 290	3	4 910	2
Indians	18 500	15	69 610	32
Africans	43 750	35	64 610	30
TOTAL	126 020	100	219 830	100

There was a serious shortage of land for Indian housing. The DCC developed thousands of acres in the newly acquired areas, (five of which, including Westville, Sea View, Malvern and Escombe, were predominantly Indian), for modern white townships. In the process vast tracts of land on the periphery of the city, which had been owned and occupied by Indians for decades, was bought off by whites. Hence a "comparison . . . of Indian and European purchases in Natal would weigh heavily against the European" (Singh, 1946:20-21). The Government appointed Central Housing Committee stated that this appropriation of Indian owned land, and "the unreasonable exercise of powers by the Durban Council in the disposal of unalienated land exclusively to Europeans" was a breach of the undertaking given to the central state by the DCC.¹³ Burrows (1952:54) aptly summarises the residential circumstances of Indians in the 1930s:

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

Since there was no suitable housing for those in the higher income groups, who were mainly engaged in commerce and the professions, they began to move into predominantly

white areas. Many hundreds of whites living in the Old Borough of Durban, which was a former elite area in decay, sought to dispose of their deteriorated dwellings in order to procure houses in the new townships. They found ready buyers in the rapidly growing Indian population, and it was against these acquisitions that the whites agitated (Pather, n.d., p.4).

In November 1939 the DCC urged the Government to grant it powers to restrict Indian penetration, and requested the appointment of a commission to enquire into the extent of penetration and to determine a method to stop it (DCC Minutes, 10/11/39). However, the Second World War had commenced, and Smuts was anxious to assure Indians that no segregation legislation would be introduced during this period. His basic concern was not to upset India and the other Allies involved in the war effort (Mukherji, 1959:123). The central state, therefore, preferred a system of voluntary segregation, and it attempted to persuade the protagonists in Durban to support such a scheme.

This period was also characterised by a shift in Indian politics. Up to 1939 Indian politics was dominated by the trading and commercial elite. The NIC, for example, served vested commercial interests, and was controlled by the affluent merchants and professional elites (Singh and Vawda, 1988:4). In 1933 the Colonial Born and Settlers Association (CBSIA) was formed to oppose the elite ideology of the NIC (Padyachee *et al.*, 1985:142).¹⁴ In 1939 a new generation of more militant political activists began to contest leadership positions in the NIC, and facilitated a merger between the NIC and the CBSIA to form the Natal Indian Association (NIA). However, the more conservative elements continued to operate under the NIC banner, lead by A.I. Kajej (*ibid.*).

After a meeting with the Minister of the Interior to discuss penetration, the NIA resolved that while it was opposed to segregation, it was prepared to persuade Indians not to purchase properties in predominantly white areas in order to maintain peace between the two communities (DCC Minutes, 10/11/39). This step, the NIA believed, would enable the DCC to obtain a better insight into the problems facing the Indian community, such as the housing shortage and inadequate civic amenities (*ibid.*).

The DCC responded that, based on its past experience with the NIC, it would be futile to work with the NIA. Rather, it emphasised the need for a judicial Commission of Inquiry to which the Government acceded (*ibid.*). In the interim, the Minister of the Interior, Mr. H.G. Lawrence, appealed to the DCC to establish a Joint Committee, comprising of its representatives and those from the NIA, to monitor the penetration situation in a spirit of goodwill and co-operation. This committee was known as the Lawrence Committee.

Voluntary Segregation I — The Lawrence Committee

The Lawrence Committee was formed on the 14 March 1940, and comprised six representatives from the DCC and NIA, respectively. The primary function of the Committee was to prevent the acquisition of property by Indians in predominantly white areas by joint consultation.¹⁵ Minister Lawrence emphasised that allegations of penetration and the "question of housing and civic amenities for the Indian Community . . . are inextricably bound up" (Natal Mercury, 15/3/40). The NIA was severely criticised for participating in the Lawrence Committee as this represented an acceptance of voluntary segregation without establishing the facts of the alleged penetration, and was tantamount to an admission of guilt without a trial.¹⁶

A notable feature of all the cases brought before the Committee was that there were many wealthy Indians who wanted to acquire properties with scenic views and good amenities, which were in predominantly white areas. The NIA was able to dissuade them in anticipation that suitable alternate sites would be provided by the DCC. However, this hope was not realised.¹⁷ The NIA therefore inferred that the DCC was intent upon thwarting the attempts of the central state to resolve the penetration controversy on a non-statutory basis. It maintained that the DCC had treated the Government and a significant section of its population with deep contempt, and this was unprecedented in the history of the Union.¹⁸ A deadlock was reached, and in spite of Ministerial intervention on two occasions, the DCC withdrew its members and intentionally destroyed the Lawrence Committee.¹⁹ Allegations of Indian penetration continued.

The First Penetration Commission

Shortly after the formation of the Lawrence Committee, the Minister of the Interior appointed a Commission of Inquiry on 15 May 1940, chaired by Mr. Justice Broome, to investigate the extent to which Indians had acquired properties in predominantly European areas and the reasons for such acquisition.²⁰ In Durban only 512 subdivisions acquired by Indians were accepted as prima facie cases of penetration, of which only one hundred and fifty were occupied by Indians.²¹

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

- i) The DCC's neglect and the inadequate provision of housing and civic amenities in Indian areas.
- ii) The failure of the DCC to provide suitable sites for wealthier Indians, which led to them acquiring the desired residential quality in European areas.

iii) Accommodation in Indian areas had not kept pace with the increase in population, and hence expansion into contiguous areas was inevitable.²²

The DCC conceded that it had not provided sites for wealthy Indians, but maintained that it was not dutybound to do so.²³

The Commission concluded that the main reason for the acquisition of property was a desire to obtain investments. This was supported by the fact that 362 or 70 percent of the properties were not occupied. Furthermore, the two main avenues of investment for wealthy Indians were trade and property acquisition.²⁴ Other reasons included the shortage of housing, inadequate amenities in Indian areas, and the increase in the Indian population.²⁵

Generally, the Commission's report showed that the penetration agitation was exaggerated. After reading the Report it would be difficult to believe that Indians presented a threat to white supremacy, culture or the economy, especially as the DCC had not complained about penetration in trading areas (Calpin, 1949:168). Nor would it be possible to introduce legislation to enforce segregation. However, the anti-Indian agitation continued and there were claims that penetration had increased significantly between 1940 and 1942. Whites clamoured for some form of state intervention, and ambitious Natal politicians as well as Durban City Councillors exploited their fears (DCC Minutes, 5/12/41). Prime Minister Smuts was forced to appoint a second penetration commission.

The Second Penetration Commission

The Second Penetration Commission was confined to the Old Borough of Durban, and it investigated the extent to which Indians "have, since the 30 day of September, 1940 . . . acquired sites in those areas which the previous Commission found to be predominantly European on the first day of January, 1927".²⁶ It revealed that the total

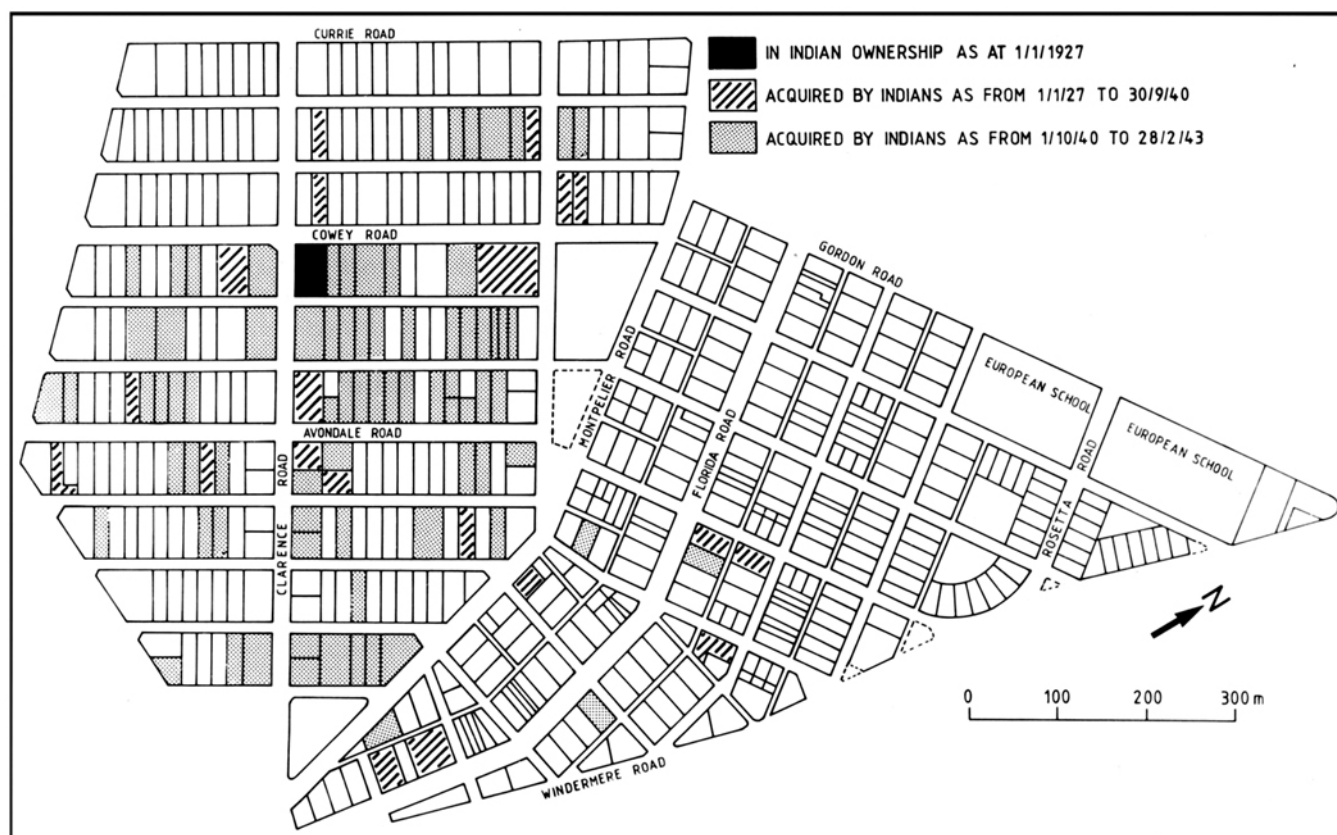


FIGURE 2: Indian Penetration in Block AL.

number of Indian acquisitions in predominantly white areas between 1940 and 1943 was 326.²⁷ The Commission referred to the area known as Block AL to illustrate the extent of penetration during the period under review (Figure 2). In January 1927 there were only two Indian acquisitions in the area, and it could be described as a middle-class European residential area. Between this period and 30 September 1940 there were 25 Indian acquisitions. Indians acquired 78 properties in Block AL between October 1940 and February 1943. Mr. Justice Broome felt that to comment on the situation would be 'superfluous'. However, he emphasised that what was happening in Block AL was not characteristic of the whole Old Borough.

The NIC²⁹ and the NIA³⁰ asserted that it was unfortunate that the Commission was precluded from inquiring into the reasons for purchases in Block AL. If it had done so, a major portion of the blame would be attributed to the DCC for its chronic neglect in the provision of land and housing for Indians. According to the NIA some of the purchasers of properties in Block AL had previously been persuaded by its representatives on the Lawrence Committee not to buy in European areas, in anticipation that the DCC would provide them with suitable plots.³¹ This view was corroborated by the fact that only 3 of the 78 plots in Block AL had been purchased before the DCC sabotaged the Lawrence Committee. The NIA further charged that if the 78 properties in Block AL were omitted any Commission of enquiry would find that the agitation of penetration did not have any substance.³² In spite of the various reasons advanced by politicians for restricting Indian land acquisitions, an important factor ignored by both commissions was "a desire on the part of the Government and European politicians to stem the growing economic expansion of the Indian people" (Singh, 1946:20).

The second penetration report was immediately followed by unprecedented calls for statutory restrictions on Indian land ownership and occupation in Durban. Even prior to the release of the report, United Party M.P.s from Natal presented the Prime Minister with details of 278 cases of alleged Indian penetration in white areas. On the eve of a general election, they urged the Government to peg the present position, pending forthcoming legislation (*Natal Mercury*, 3/3/43).

Central State Amelioration — The Pegging Act

In terms of the Pegging Act of 1943 Indians were allowed to retain properties purchased up to March 1943, and thereafter it was illegal to acquire or occupy premises in predominantly white areas. Whites and Indians could not engage in any transaction relating to the acquisition or occupation of property unless a permit was issued by the Minister of the Interior. The restrictions embodied in the Act only applied to the Durban municipal area.³³ This was mainly in response to the mass hysteria of whites in Durban, who "threatened racial riots if Indians were not restricted from acquiring landed properties" (Choudree and Pather, 1946:6).

The Pegging Act was to operate for three years, and within this period it was envisaged that a solution to the problem would be found. The Government acknowledged that Indians in Durban had a very convincing case for improved housing and civic amenities. The Minister of the Interior stated that in the interim the DCC would be placed on trial. If the DCC did not meet its obligations to the Indian community, then the protection afforded by the Pegging Act would be withdrawn.³⁴ According to the

Minister, if all sections of the community were provided with adequate housing and amenities by DCC, it would lead to a process of natural segregation. The Government would then be obliged to withdraw the pegging legislation.³⁵ The Minister of the Interior also announced that a judicial commission of enquiry would be appointed to investigate problems experienced by Indians in Natal, with specific reference to housing, civic amenities, health and educational facilities (*Natal Mercury*, 14/4/43).

Voluntary Segregation II — The Pretoria Agreement

In order to unite opposition to the Pegging Act, the NIC and NIA merged to form a newly constituted NIC in 1943 (Padyachee, et al, 1985:142).³⁶ In an accommodating gesture, the NIC attempted to address the irrational prejudices of whites towards residential integration by advocating a system of voluntary control, similar to that of the Lawrence Committee. The NIC suggested that the Pegging Act should be replaced, temporarily, in anticipation of the Judicial Commission's enquiry, by a board or committee comprising of two whites and two Indians, chaired by someone with a legal background. The function of the committee would be to issue residence permits in areas where there was a distinct racial pattern with regard to occupation. Its jurisdiction would be confined to Durban. When making its decisions, the committee would have to consider factors of contiguity and natural population increase, as well as the relative needs of the different race groups in terms of housing, amenities, and recreational facilities.³⁷

At a meeting held in Pretoria on 18 April 1944, the Government accepted the NIC's proposal, and this became known as the Pretoria Agreement. In terms of the Agreement the Pegging Act in Natal was suspended. It was to be replaced by an ordinance of the Natal Provincial Council which would embody the proposals advanced by the NIC (*Daily News*, 20/4/44). The main advantage of the Pretoria Agreement was that it eliminated statutory residential segregation. It was, however, a compromise and none of the protagonists would be entirely satisfied. Whites would no longer enjoy the protection afforded by the Pegging Act. Indians would still be subject to some control.³⁸ However, Indian militants viewed the agreement as the NIC's acceptance of statutory race discrimination. Ultimately, the Government and the NIC were seen to be promoting the interests "of the wealthy section at the sacrifice of the common well-being and potential rights of the mass of the Indian population".³⁹ This was supported by the fact that the South African Indian Congress (SAIC)⁴⁰ stated clearly that the "immediate provision of building sites for the **middle class** and housing . . . will ultimately solve the problem [of segregation] without compulsion".⁴¹

The local state protested vigorously against the Government's decision to withdraw the Pegging Act from Durban. The DCC was particularly peeved that, as the only local authority where the legislation applied, it was not consulted when the Act was suspended. It stated that the removal of all restrictions on the acquisition of property by Indians in Natal was not in the best interests of the city nor Natal (*Daily News*, 24/4/44). The DCC's views were supported by white civic associations which declared that with the repeal of the Act Indians would have uncontrolled access to land in the province. This would lead to their dominating Natal, and would result in the subordination of whites and ultimately, their political and economic destruction.⁴²

It was impossible to translate the Pretoria Agreement into an ordinance which was acceptable to both the Indians and the DCC. The Government announced that the status quo reverted to the position prior to 18 April 1944.⁴³ The Pegging Act would remain in force, but there was no guarantee that it would lapse with the passage of time as provided for in the Act.⁴⁴ On 30 March 1945 Prime Minister Smuts stated in the House of Assembly that he still preferred a system of voluntary segregation.⁴⁵

Local Conquest and Central Acquiescence — The 'Ghetto' Act

After the abortive Pretoria Agreement the Government had stated that it would await the report of the Judicial Commission investigating problems experienced by Indians in Natal, before implementing any further measures. The Judicial Commission recommended that enforced residential segregation should be avoided at all costs, and called for an urgent round table conference between the Union and Indian Governments, before any further legislation was considered.⁴⁶ In spite of this, Prime Minister Smuts announced on 21 January 1946 that the Asiatic Land Tenure and Indian Representation Act would replace the Pegging Act (Singh, 1946:27). This was mainly in response to pressure from the whites of Durban. At a meeting with Prime Minister Smuts on 12 October 1945 in Pretoria, the Durban Joint Wards Committee stressed that "racial zoning should be a condition precedent to any consideration of the grant of representation in any form".⁴⁷

Compared to the Pegging Act the new legislation was to apply to the whole of Natal and Transvaal, permanently. The Act covered two main issues which affected Asians — ownership and occupation of land and the franchise.⁴⁸ With regard to the ownership and occupation of property, the Act introduced controls which were far more severe than any of the previous measures. The Act created two kinds of areas — uncontrolled and controlled or exempted areas. In the uncontrolled areas there were no restrictions on ownership and occupation of property. These areas were generally owned and occupied by Indians. The controlled areas were reserved for European ownership and occupation only, and all inter-racial property transactions were prohibited (Pather and Choudree, 1946:7–8).

The Indian community was outraged by the Act and dubbed it the 'Ghetto Act'. The SAIC asserted that the Ghetto Act embodied the essence of segregation which had always been an anathema to Indians.⁴⁹ It referred to the Industrial Legislation Commission of 1935, which had concluded that restrictions on the employment, trading, and property owning rights of Indians were likely to exacerbate the 'problem'.⁵⁰

Prime Minister Smuts replied threateningly, (revealing the true reasons for the legislation), that

there would be considerable trouble and that the Indians would suffer if they turned down these proposals because there would be, in the end, hell for all of us. This problem had to be settled. The Europeans of Natal were very restless and there was grave disquiet. They feared that they were going to be undermined. They were afraid of the Indian's economic competition. The Government had to face the facts and therefore these proposals were going to be enacted as a matter of policy.⁵¹

The SAIC contended that the Government was bowing to the wishes of whites because they had the vote. Indians were judged to their disadvantage on the basis of findings of commissions which were initiated by baseless white agitation. Furthermore, the DCC's negligence in the provision of housing and amenities for Indians had not been

addressed.⁵² Ultimately, the Act was a surrender to political expediency and was in breach of good faith.⁵³

Participation in the Pretoria Agreement resulted in the moderate leadership of the NIC being discredited. After a great deal of grassroots mobilisation of working class Indians, the radicals ousted the accommodationists and took control of the NIC in October 1945. With a more radical leadership, the NIC embarked on a massive passive resistance campaign to protest against the Ghetto Act. The campaign was launched on 13 June 1946 and suspended on 31 May 1948. Resistance took the form of occupying properties in defiance of the Act. The state responded by arresting the resisters, and many prominent Indian leaders were sent to prison. The state also auctioned the properties of passive resisters to defray fines.⁵⁴

However, there was very little evidence of mass working class support for the passive resistance campaign, as this group was not immediately affected by the Ghetto Act, which seriously affected wealthy Indians who could afford to purchase land in white areas (Johnson, 1973:78). In fact the question of housing for the underclasses "living in shackland settlements was not raised with any force by either the NIC or NIA, since elements within the Indian merchant class were extensively involved in rack-renting to the Indian and African working class" (Bailey, 1987:48). However, there were repercussions for the working class as rents and property prices escalated in predominantly Indian areas. The poor were forced into high density 'slums and near slums', and landlords demanded outrageous 'key money' or 'goodwill' for the right to rent a dingy room (Swan, 1987:191).

Predictably, the DCC welcomed, and defended, the Act. The DCC and the Durban Joint Wards Committee claimed that the Ghetto Act represented a sincere attempt to solve a perplexing and endemic problem, "and to provide a means whereby two races fundamentally different in character and tradition may dwell together in peace and harmony".⁵⁵ They maintained that the much maligned Act conferred a status upon Indians which they did not previously possess. Indians were accepted as permanent South African citizens and granted political representation at parliamentary level.⁵⁶

The implementation of the Ghetto Act in Durban is illustrated in Figure 3.⁵⁷ The inequitable manner in which the Act was applied was highlighted in the case of the Old Borough of Durban, which had a population of 25 000 whites and 65 000 Indians. About 350 acres of land were allocated to Indians and 2 940 acres were owned by whites. In addition, about 1 121 acres were earmarked by the DCC for whites and would never be sold to Indians (Choudree and Pather, 1946:7).

The Indian Government was enraged by the passing of the Act and the Union Government's refusal to a round table conference. It withdrew the Indian High Commissioner from the country, imposed trade sanctions against South Africa, and placed the treatment of South African Indians on the agenda of the United Nations as it constituted a violation of human rights (Webb, 1949b:211).

General Smuts denied that South Africa had violated human rights. Furthermore, he claimed that the matter was an internal, domestic issue, beyond the jurisdiction of the United Nations. The United Nations resolved on 9 December 1946 that the two governments should meet and discuss measures to implement the terms of the Cape Town Agreement. However, the South African Government ignored the resolution.⁵⁸ Smuts emphasised that his Government had no intention of revoking or moderating the Ghetto Act, which he considered "an anchor to South Africa and to Natal in particular".⁵⁹

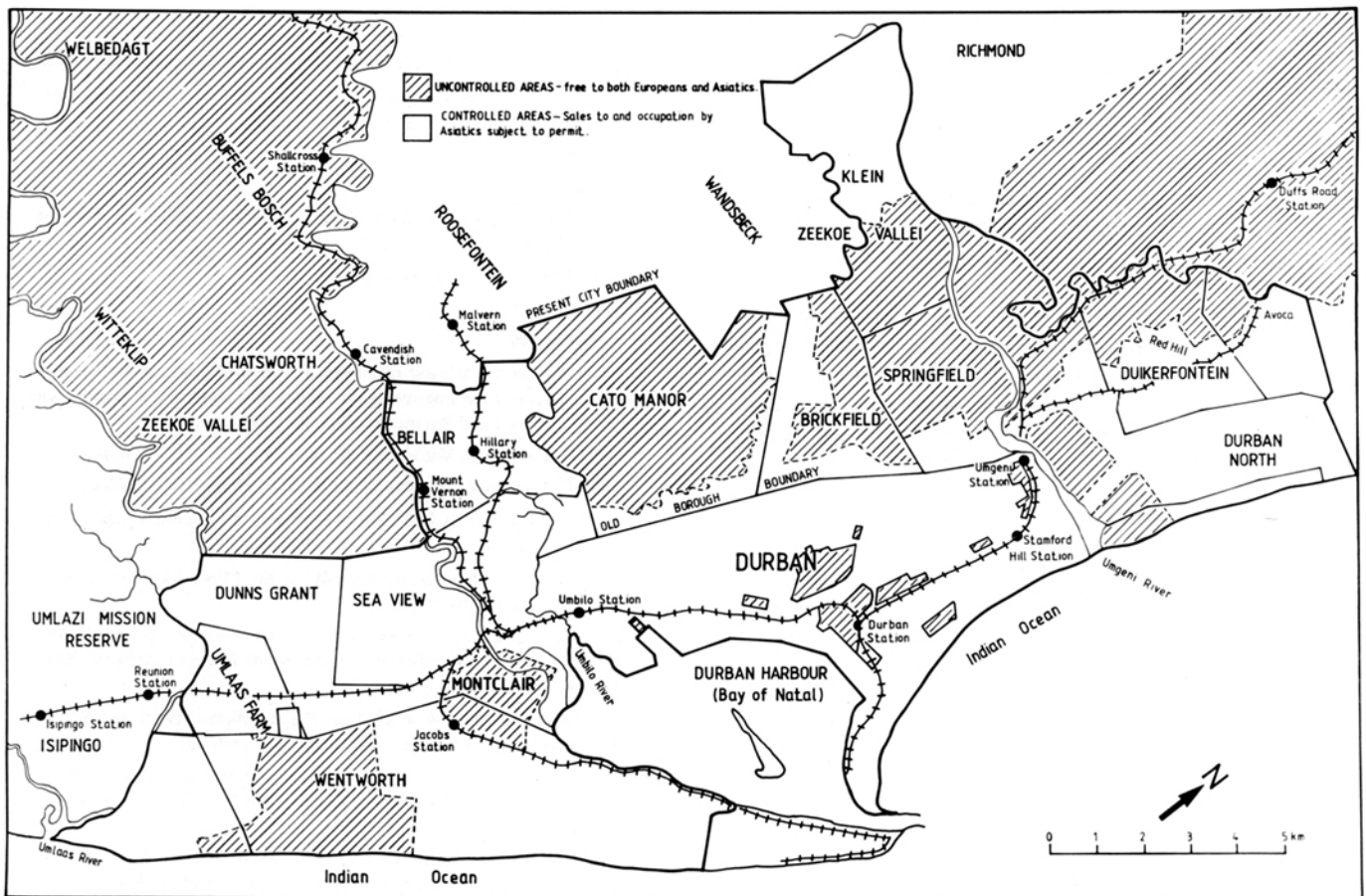


FIGURE 3: Controlled and Uncontrolled Areas in Durban in 1946.

On 26 May 1948 Dr. Malan's National Party came into power. The principal policy of this party was apartheid or the separation of the different race groups in all spheres. The essence of its Indian policy was compulsory segregation, which was entrenched in the Group Areas Act of 1950.

Conclusion

An assessment of segregation measures which preceded the Group Areas Act (1950) reveals a trend from isolated, localised measures in the 1880s to progressively more systematic, comprehensive and all embracing legislation in the 1940s. This paper revealed how local imperatives and contingencies in Durban led to demands for segregation, which were ultimately adopted by the central state and implemented nationally. Restrictions on Indian land and trading rights dated back almost since their arrival in South Africa. The constraints on the economic activities of Indians were underpinned by a consistent policy of racial residential segregation, pursued most vigorously by the local state in Durban, which often went against central state initiatives.

The central state was reluctant to introduce statutory residential segregation because of international repercussions, particularly its relations with India. As far as was possible it preferred voluntary residential separation. These attempts by the central state were consistently thwarted by the local state in Durban, which demanded statutory separation. The major statutory measures introduced by the central state, the Pegging and Ghetto Acts, were in response to pressure from the DCC and its white citizens. The racist discourse and anti-Indian sentiment consolidated a political alliance between the local state and the white electorate in Durban. An analysis of social relations and spatial structures in Durban revealed that residential segregation in Durban represented the territorial dimension of racism.⁶⁰

In South Africa, prior to 1948, the local state was viewed as an agent of the central state, with a measure of administrative autonomy (Grest, 1988:90). However, this paper suggests that in developing measures to segregate Indians the central state was responding to initiatives from the local state. The local state was "generating 'autonomous initiatives' and 'pursuing its own strategies and goals independently of other social actors to a significant degree'" (Swanson, 1983:401). Hence, the South African state can hardly be viewed as a 'monolithic entity'. In the new South Africa the powers and functions of the different tiers of government are being restructured. This paper suggests that the local state is most likely to work in the interests of its electorate than any other apparatus of the state. The greater the intensity of support for its actions, the greater is the capacity of the local state to force the central state to acquiesce to its demands (Clark and Dear, 1984:180).

The paper contributes to the historiography of South African Indians. It drew attention to Indian protest and resistance to segregation. In an atmosphere of increasing hostility and intolerance Indian political organisations utilised peaceful measures to expose the injustice and violation of human rights in South Africa, which included recourse to the law, passive resistance and appeals to India and the United Nations. However, although they claimed to represent the Indian community, there was very little evidence of mobilisation of the working class. Political action mainly "consisted of constitutional protest: letters, petitions and deputations" to government officials in South Africa or India (Swan, 1987:192). These organisations were, in fact, primarily concerned with protecting trading and middle class interests. The major players in Durban, the NIC and NIA, had access to central state structures, and both adopted accommodationist strategies of negotiating

with the state to protect their commercial, residential and investment interests. The NIA had served on the Lawrence Committee, and the NIC was party to the abortive Pretoria Agreement. Significantly, both attempts at voluntary segregation and co-operation were destroyed by the local state.

In 1948 the National Party won the general election, and given its support for stringent segregation policies, there was little doubt about what was in store for Indians. The Ghetto Act of 1946 had in fact laid the foundations of the Group Areas Act (1950), which extended residential segregation to all groups throughout the country. Percy Osborn, a former mayor, was to later claim that apartheid “was the traditional policy of the burgesses of Durban and their municipal representatives long before the nationalists came to power” (*Sunday Times*, 13/10/57).

NOTES:

- ¹ The data for this paper was derived from a variety of primary documentary sources, ranging from official central and local government records and newspaper reports, to memoranda prepared by extra-parliamentary organisations.
- ² This argument is especially relevant as the residential segregation of Africans was entrenched in terms of the Urban Areas Act of 1923. For more information on the Group Areas Act (1950), see Maharaj (1992a).
- ³ In terms of the Immigration Restriction Act of 1905, and the Immigration Act of 1906, Indians were prohibited from entering the Transvaal and Cape Colony, respectively, without permits. They were completely barred from the Orange Free State.
- ⁴ See also Meer, 1975; Padyachee and Morrell, 1991.
- ⁵ However, Durban was also at the forefront of calls for the segregation of Africans. See Swanson, 1976; Mesthrie, 1984; Maylam, 1990.
- ⁶ ‘The Truth about the Indian in South Africa’, a reply to ‘Meet the Indian in South Africa’, (The South African Government’s Illustrated Brochure), issued by the SAIC, n.d., p. 11.
- ⁷ The NIC was a political organisation formed in 1894 by Mahatma Gandhi.
- ⁸ Swami Bhawani Dayal, President of the NIC, interview with the *National Call* of Delhi, 2/4/39, p. 6.
- ⁹ *Ibid.*, p. 8.
- ¹⁰ Source of Figure 1: Natal Regional Survey, 1952; and Green, 1953.
- ¹¹ ‘The Indian in Natal — is he the victim of oppression?’, pamphlet issued by the DCC and Durban Joint Wards Committee (1946).
- ¹² Adapted from Kuper *et al*, 1958: 117.
- ¹³ Swami Bhawani Dayal, Interview with *National Call*, p. 6.
- ¹⁴ The formation of the CBSIA resulted from the dissatisfaction arising from the NIC and SAIC participation in the “Colonisation Enquiry Commission to look into possible countries to which the masses could be despatched . . . participation and support for the commission were seen as lacking in sensitivity and concern for the masses” (Bhana and Mesthrie, 1984: 127).
- ¹⁵ *U.G. No. 39 – 41, Report of the Indian Penetration Commission* (South Africa, 1941), p. 70.
- ¹⁶ ‘Penetration Assurance and Segregation’ — Swami Bhawani Dayal’s statement, (Durban, 8 March 1940).
- ¹⁷ Memorandum by Indian representatives on Lawrence Committee in regard to provision of choice residential sites, 29 May 1940.
- ¹⁸ ‘A Refutation of the European Agitation against ‘Indian Penetration’ by the NIA’, supplement to the *Indian Opinion*. 16/4/43, p. 7.
- ¹⁹ *Ibid.*
- ²⁰ *U.G. No. 39 – 1941, op. cit.*, p. 1.
- ²¹ *ibid.*, pp. 67–68.
- ²² *ibid.*, p. 69.
- ²³ Memorandum of the DCC to the Chairman and Members of the Commission of Enquiry regarding possible Indian Penetration, for Trading or Residential Purposes, of predominantly European areas in Natal and Transvaal, 27 July 1940, p. 4.
- ²⁴ *U.G. No. 39 – 1941, op. cit.*, pp. 74–75.

- ²⁵ *ibid.*, p. 76. One of the terms of the Cape Town Agreement reached between India and the Union Government was that the latter give attention to the “Upliftment of the Indian Community” in South Africa.
- ²⁶ *U.G. No. 21 – 1943, Report of the Second Penetration (Durban) Commission* (South Africa, 1943), para. 1.
- ²⁷ *ibid.*, para. 16.
- ²⁸ *ibid.*, para. 20.
- ²⁹ NIC Memorandum submitted to the Second Penetration Commission, paras. 23–25.
- ³⁰ ‘A Refutation of . . .’, *op. cit.*, para. 47.
- ³¹ *ibid.*, para. 45.
- ³² *ibid.*, para. 46.
- ³³ Statement on the alleged question of Indian Penetration to the Hon. The Minister of the Interior by the NIC with a copy of the Trading and Occupation of Land Restriction Bill, 10/4/1943.
- ³⁴ Mr H.G. Lawrence, Minister of the Interior, *Daily News*, 14/4/43.
- ³⁵ Mr H.G. Lawrence, Minister of the Interior, *Daily News*, 26/4/43.
- ³⁶ It appeared that the CBSIA also continued to function independently for a short period.
- ³⁷ Memorandum submitted by the NIC to the Prime Minister of South Africa, 18 April 1944, para. 2.
- ³⁸ *U.G. No. 22–45, Interim Report of the Commission of Enquiry into matters affecting the Indian population of the Province of Natal* (South Africa, 1945) para. 24.
- ³⁹ Resolutions adopted at a meeting of the Colonial Born and Settlers Indian Association held on 23 April 1944 in Durban.
- ⁴⁰ A co-ordinating body formed in 1923, comprising the Natal Indian Congress, Transvaal Indian Congress, and the Cape British Indian Council (see Mesthrie, 1985).
- ⁴¹ Memorandum submitted by the SAIC to the Prime Minister of the Union of South Africa, 29/3/44, paras. 1–2 (emphasis added).
- ⁴² Pamphlet issued by the Durban Joint Wards Committee, 9 August 1945; Pamphlet issued by the Action Committee of the Combined Ratepayers Association (Durban, n.d.).
- ⁴³ Further observation and Submission of the NIC on the Note of the Prime Minister dated 30/11/44 (10/10/45), para. 5.
- ⁴⁴ *ibid.*, para. 4.
- ⁴⁵ Petition submitted by the SAIC to the Honourable the Speaker and Members of the House of Assembly of the Union of South Africa, 26/3/46, para. 19.
- ⁴⁶ *U.G. No. 22–19945, op. cit.*, para. 74.
- ⁴⁷ “The South African Indian Problem and its Solution”, pamphlet issued by the Durban Joint Wards Committee, 12/11/45.
- ⁴⁸ The Act conferred a form of communal franchise to Indians, whereby they could elect 2 Europeans to represent them in the Senate, and 3 Europeans in the House of Assembly. For more information, see Pachai, 1971.
- ⁴⁹ ‘Petition submitted by SAIC’, 26/3/46, para. 5.
- ⁵⁰ ‘Congress addresses the Union Parliament’, document no. 64, in Bhana and Pachai, 1984.
- ⁵¹ Report of the SAIC deputation that waited on the Honourable General Smuts on 11/2/46, para. 19.
- ⁵² *ibid.*, para. 20.
- ⁵³ Press Statement issued by the President of the SAIC, 28/3/46, Cape Town.
- ⁵⁴ Report of the Passive Resistance Council. Source: NIC Agenda Book (Durban, 1947).
- ⁵⁵ “The Indian in Natal — is he the victim of oppression?” pamphlet issued by the DCC and the Durban Joint Wards Committee (Durban, 1946).
- ⁵⁶ “The Indian in South Africa”, pamphlet no. 2 issued under the joint auspices of the DCC and the Durban Joint Wards Committee, (Durban, 1946), original emphasis.
- ⁵⁷ Source: The Durban City Council.
- ⁵⁸ Treatment of Indians in the Union of South Africa — Report by the Government of India on the Resolution passed by the United Nations General Assembly on 8/12/46. Published by the South African Passive Resistance Council (Durban, 1947).
- ⁵⁹ *ibid.*, p. 4
- ⁶⁰ This idea has been developed by Jackson (1987).

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Brij Maharaj
Department of Geography
University of Durban-Westville