

**ASIATIC LAND TENURE AND INDIAN REPRESENTATIVE  
ACT OF 1946 IN SOUTH AFRICA : THE ORIGIN  
AND IMPLEMENTATION OF; AND RESISTANCE  
TO THE ACT.**

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**SANJAY KUMAR MISHRA**



**CENTRE FOR WEST ASIAN AND AFRICAN STUDIES  
DIVISION OF SUB-SAHARAH AFRICA  
SCHOOL OF INTERNATIONAL STUDIES  
JAWAHARLAL NEHRU UNIVERSITY  
NEW DELHI—110067. INDIA**

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DECLARATION

This is to certify that the dissertation entitled  
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and may be placed before the examiners for evaluation.

*Anirudha Gupta*  
( PROF. ANIRUDHA GUPTA.  
SUPERVISOR )

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*Sanjay Kumar Mishra*  
21.7.88  
**SANJAY KUMAR MISHRA**

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## THE COMING OF INDIANS (1860)

### CHAPTER-I

Indian migration into South Africa started in 1860 with the arrival of first indentured labourers in Natal.<sup>1</sup> It was under the Natal law 14 of 1859, that their entry into the country had been legislatively passed.<sup>2</sup> The first batch of these indentured Indians arrived at the Durban harbour on 16th December, 1860 on the ship named S.S. Truro.<sup>3</sup> They had been recruited to work in the sugar plantations in the province of Natal, which had around 10,000 acres of land to be cultivated with this crop. They were also supposed to work in coffee and cotton plantations in the province.<sup>4</sup> The concentration of these labourers was around Durban and Pietermaritzburg. The city of Durban, thus has often been called as to have been 'absolutely built up by the Indian population'.<sup>5</sup> However, no such recruitment was seen as regards Transvaal and the Cape Province. The comparative prosperity of Natal between 1860 and 1866 thus led Sir Leige Hulett, the Prime Minister of Natal to say that, 'the coast had been turned into one of the most prosperous parts of South Africa.

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1. Fatima Meer-Indentured labour and group formations in apartheid society, *Race and Class*, XXVI, 4 (1985), p. 45.
  2. Naicker, N.P.-Indians in South Africa; *Indians Abroad: Asia and Africa*, Anirudha Gupta(ed), Orient Longman, 1971, p. 277.
  3. Naicker, N.P.-Indians in South Africa, *Indians Abroad: Asia and Africa*, p. 276.
  4. Naicker, N.P., in *Indians Abroad: Asia and Africa* (ed) Anirudha Gupta, p. 278.
  5. Naicker, N.P. in *Indians Abroad: Asia & Africa* (ed) Anirudha Gupta, p. 278.

They could not find in the whole of the Cape and the Transvaal what could be found on the coast of Natal'...<sup>6</sup>

The cause as put forward for the recruitment of Indian indentured labourer was shortage of indigenous labour. It was contended that an African 'was spoilt, both by his polygamous habits and by the land settlement made upon him by a doting British Government.<sup>7</sup> But a local magistrate in 1852 conveyed a contrary impression about the local African labour. "On a farm he does almost everything—he herds the cattle, milks the cows, churns the butter, loads it on the wagons, the oxen of which inspans and leads. He cuts wood, and thatch, digs sluits, and makes bricks and reaps the harvest, and in the house, invariably cooks. There is little that I ever saw a farmer do, but ride about the country. In the town, there are similar cases in which kafir labour is employed to a ridiculous extent: for in what quarter of the globe would male adults be found performing the offices of nurses to infants and children or as laundresses of female apparel."<sup>8</sup>

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6. Joshi, P.S.—Verdict on South Africa. The Tyranny of colour, Thacker and Co. Ltd., Bombay, 1945, p.46.
  7. Fatima Meer, p. 46.
  8. Fatima Meer, p. 46.

The abhorrence for African labour perhaps came out of the bargaining power that the blacks possessed and due to the mode of migrant labour being in its 'embryonic stage'.<sup>9</sup> The cheapness of Indian labour can be seen after the discovery of gold and diamonds - the unskilled wage rates had gone upto £ 3 - £ 4 per month, whereas an Indian labour in Natal got 10 shillings and £ 1 per month for men and 5 shillings for women.<sup>10</sup> By 1911, (the year when indenturing stopped) 452, 184 Indians had been imported to the country (62% men, 25% women and 13% children) and the Indian population in the colony exceeded the white by 3.2%.<sup>11</sup> Evenmore, had indenturing not come in, the emancipated slaves could have struck a bargain in terms of their own wage demands. But indenturing proved even more cheaper. The company of Billanders and Arbuthnot felt that, 'their cost is not half that of slaves'.<sup>12</sup>

The years of early 1880s saw an influx of another group of Indians who were called the 'passengers'. The exact year of their coming is not known, but the official date as given is 'early in 1883', when the plaintiff in 1898 declared so in a case of Tayob Hajee Khan Mohammed against the government.<sup>13</sup> These passengers had come from India and Mozambique

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9. Meer, p. 46.

10. Meer, p. 46.

11. Meer, p. 47.

12. Tinker, Hugh; A New System of Slavery (London, 1974). p. 63.

13. Pillay, Bala - British Indians in the Transvaal, Trade, Politics and Imperial Relations 1885-1906, Longman, 1970, p. 1 from cc 417/246, report on the case of Tayob Hajee Khan Mohammed, Fraser to Milner, 24 Aug. 1898.



and set up business houses as merchants and traders. By 1885 they were concentrated in Pretoria and Johannesburg.<sup>14</sup> The main concentration of these Indians even afterwards was in Durban in Natal & Transvaal mainly. The Cape province had very little Indians, where as in Orange Free State any Indian emigration was not tolerated.

What really demarcated these two groups of Indians i.e., the indentured and 'passengers' was their beliefs regarding the difference in status since 'passengers' were subjects of Her Majesty, and so according to the Pretoria convention of 1881 and the London Convention of 1884 they were to be treated as all other British subjects.

Article 14 of 1884 convention read as follows:

All persons, other than natives conforming themselves to the laws of the South African Republic (a) will have full liberty, with their families, to enter, travel, or reside in any part of the South African Republic, (b) they will be entitled to hire or possess houses, manufacturers, warehouses, ships and premises; (c) they may carry on their commerce either in person or by agents whom they may think fit to employ; (d) they will not be subject, in respect of their commerce or industry, to any taxes, whether general or local, other than those which are or may be imposed upon citizens of the said Republic".<sup>15</sup>

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14. Pillay, Bala, p.1.

15. Pillay, Bala, in his introduction p. XV.

But just a year after the London Convention, the Indians, specially the 'Arabs'<sup>16</sup> came across the first discriminatory legislation which ultimately left no demarcation between an indentured Indian and a 'passenger Indian'. From then on all Indians were 'coolies'. The law 3 of 1885 was the manifestation of a white fear. It was a fear which arose out of the Indian potentialities in business, specially retail business. The Pretoria Chamber of Commerce petitioned to the President and Volksraad to confine the Indians to special areas where their trading activities 'would not interfere with the established business of the European trader'.<sup>17</sup>

One of the causes, as referred to in a petition of 10th December, 1884 by the Pretoria Chamber of Commerce, for the 'expulsion of Indians' was the danger of the propagation of 'Mommadan religion' among the Burghers which could lead to a situation like to Sudan.<sup>18</sup> The reference was to the Mahdist Rebellion of Sudan.<sup>19</sup> Though the theme introduced in the petition had its emotive value, yet it clearly pointed out the Indians, against whom the petition was directed.

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16. The merchant or passenger Indians called themselves so, in order to demarcate between the indentured and free and the traders.

17. Pillay, Bala, p. 3.

18 . & Bala, Pillay, p. 3.

19.

The petitioners were also motivated by a concern for the welfare of the 'white race' and a reference was made to the Rustenburg Grondwet of 1858. The Articles 9 and 31 of the Rustenburg Gondwet of 1858 clearly forged an unequal relationship between the whites and the coloured.<sup>21</sup>

This emphasis of skin and colour led the white petitioners to find even newer causes to give a legitimacy to their superiority. One such cause was the need to safeguard public health. It referred to a report issued on 18th April, 1883 by the District surgeon of Pretoria which stated that if 'Arabs and coolies were permitted to live in midst of a white population this encouraged the development and spread of epidemic diseases (smallpox and bubonic plague) --- and it is apparent, whenever the Arabs and Coolies are separated and placed in their own locations apart from the white population, such epidemic diseases can be more speedily and effectually prevented, not only for the welfare of the Arabs and coolies but also for the white inhabitants.'<sup>22</sup>

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21. Article 9 permitted on equality between coloureds and whites either in church or in state; Article 31 barred coloureds and 'half-castes' from admission to any meeting of the Volsraad.

22. Pillay, Bala, p. 5 from EVR 126, Petition No. 89/84, 2a, p. 2.

Despite, different causes and counter causes put forward to legitimize the assertion of separate areas for the Indians, one basic cause remained behind all such discriminations - the economic potentialities of Indians, specially in retail business and in the 'informal sector'.<sup>23</sup> One look at the prices charged by the Indian trader as against his European counterpart and we find that the margin of difference is just half.<sup>24</sup> Some prices of commodities as published in De Volksstem, 4th September, 1888:

<u>Item</u>	<u>Retail price in European Store</u>	<u>Retail price in Indian Store</u>	<u>Quantity</u>
Coffee	2s0d	1s2d	1b
Tea	4s0d	2s6d	1b
Cheese	2s3d	1s10d	1b
Candles	2s0d	1s0d	packet
Tin Milk	1s6d	1s0d	tin
Sardines	2s0d	1s0d	tin
Matches	1s0d	6d	box
Rice	9d	4d	1b
White Sugar	1s0d	6d	1b

23. for reference, Ruth Tomaseli:- Indian Flower Sellers of Johannesburg: A History of People on the street, pp. 215-237 - Town and Country side in the Transvaal: Capitalist Penetration and Popular Response, Belinda Bossoli (ed), Ravan Press, Johannesburg, 1983, and Johannesburg's Indian Flower Seller: Class and Circumstances, Tomaselli R.E. & Beavon, K.S.O. Geo Journal, 12.2, pp - 181-189 D. Reidel Publishing Company, 1986.

24. from Pillay, p. 12.

Such trade jealousy and the precedences of racial discriminations through legislations thus gave the whites all the more reasons to curb Indian potentialities. The Law 3 of 1885, Law 21 of 1896 etc. were meant to stop the Arab Indians and the free Indians<sup>26</sup> from becoming a threat to European economic domination. As far as a coolie was concerned, he could be lawfully flogged under the Section 79 of Law 8 of 1889.

Indian resistance to such legislations suffered on various accounts - (a) lack of organization, (b) distinction made between 'passengers' and indentured Indians, and (c) mis-understanding of Indians regarding their position according to Pretoria and London Convention. Till 1893<sup>27</sup> a leadership and organizational vacuum was evident in the Indian reaction. But even after 1893, the Indian resistance ran a parallel course to a broader black movement. It may be that Indian resistance was launched from the point of view of an 'interest group' or because 'Indians and Africans were separated from each other, and in separation, projected as dangerous to each other'.<sup>28</sup> The high watermark of such an Indian parallel resistance was the third passive resistance which started in 1946 and 'suspended' in 1948. However, it was during the Second Indian passive resistance of 1932 that 'Indian Views' (one of the two Indian newspapers) stressed on an Afro-Indian solidarity and said:

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25. According to the Section 98 of the law 'no coloured power person may be a licence holder or in any way connected with the working of the diggings except as a workman in the services of white', the Section 3 defined coloured person as 'every African, Asiatic native or coloured person, Coolie or Chinese'.
  26. erstwhile indentured labourer who was now free.
  27. The Natal Indian Congress was formed, of which M.K. Gandhi was the first Secretary.
  28. Meer Fatima, p. 54.

To Britain we say the curse of an oppressed people drag you to your doom. To India - spare us your sympathy, your delegations and your Round Table Conferences, to ourselves - purge yourself of every iota of the snobbery that keeps you aloof from the native, African - turn native. In this you are nothing more and nothing less than the native. Thicker than ties of blood are the ties of slavery - one common destiny, one common tyrant, one common hill of tyranny, ordains that the two of you shall merge and give battle to the oppressor as one.<sup>29</sup>

The passive resistance of 1946, thus becomes very important for the Indians in South Africa. A movement which ultimately leads to the realization 'Towards a Black Consciousness' for the Indians - why this shift occurred ?

The dissertation thus proposes to find out the reason while trying to analyse the background of the resistance movement of the two short years from 1946 to 1948. The years between 1937 to 1944 will be discussed in order to find out the background and the reasons that ultimately culminated into the promulgation of 'The Asiatic Land Tenure and Indian Representation Act of 1946'.

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29. Meer Fatima, p. 55.

## PRELUDE TO THE RESISTANCE CAMPAIGN (1937-1944)

### CHAPTER-II

The inter-war period (1919-1939) in South Africa has been attributed to the rise of 'whiteism' in the country.<sup>1</sup> The rural whites during this period were the most vocal and attracted to this 'purified nationalism' that was sweeping the country. The cause as put forward was in the 'collapse in commodity prices and the competitive cheapness of Native labour'.<sup>2</sup> And it was all due to the economic depression that had hit the world after the war of 1914-1919. However, the manufacturing industry during this period was not affected at all. Dr. D. Hobart Houghton in his book 'The South African Economy' published from London in 1973 analysed the economy based on Rostow's stages of development and identified the period between 1933 and 1945 as that of the 'take-off' into sustained growth. He agreed that the war of 1914-1919 gave an impetus to the industries because goods previously imported were no longer available and so both the volume and variety of goods manufactured in South Africa increased.<sup>3</sup>

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1. Ballinger, Margaret, p. 57, From Union to Apartheid, Praeger, New York, 1969.
  2. Ballinger, Margaret, p. 57.
  3. Barber, James - South Africa's Foreign Policy, 1945-1970, Oxford University Press, London, 1973, pp. 7-8.

The rural whites were the worst hit among the whites due to the fall in commodity prices and comparative cheapness of the native labour. The rise of 'purified nationalism' had thus been equated to 'poor whiteism'.<sup>4</sup> The formation of the Nationalist Party in 1934 by Dr. Daniel Franciose Malan was the manifestation of this economic grievance of the rural whites and the realization of the fact that whites as a race could sustain itself by becoming united.

The dissertation deals with the state of the Indians in South Africa, so the plight of just the Indians will be discussed here. Hostility to Indians under the new order of 'whiteism' started taking shape from 1937 onwards. It was however, very clear that 'whiteism' had very little to do with the claims of 'racial purity' and 'racial superiority'; the issue was economic and it was the basis of all the legis- lations that were enacted by the South African Union Government in the years of 1930s and 1940s. The enactment of the Asiatic Land Tenure and Indian Representation Act of 1946 was just a chain to the long list of discriminatory legislations that had set in after 1937. The whites 'would curse the Indians driving in good cars, and express horror if poor Indian flower sellers were seen standing with baskets of flowers at the gates of hospitals and cemeteries'.<sup>5</sup> What outraged the whites was the employment of the white girls by Asiatics and a few Indo-European Marriages. It was said - "from 1925 to 1935 there were forty six marriages between Asiatics and Europeans in the Union. There are no official figures available

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4. Ballinger, Margaret, p. 47.

5. Joshi, P.S.- Verdict on South Africa. The Tyranny of Colour, Bombay, thacker & Co. Ltd., 1945, p.228.



in respect of European girls employed by Indians, but the Reggingbond believes that they are between 250 and 300.)<sup>6</sup>

So the demand came for -

1. Total segregation of residential occupation.
2. Prohibition of employment of Europeans by Indians
3. Prohibition of mixed marriages.
4. Total segregation of trade.

The claim of 'racial purity' of the Afrikaners' could not be substantiated historically. Professor A.B. Keith's reference to this question was:

"Unhappy steadily rising tide of colour prejudice in South Africa --- since General Smuts has surrendered former principles for a share in power, set a barrier between Europeans and Indians by forbidding inter-marriages. This is contrary to the Cape Town agreement. That accord should have led to the grant of the franchise and the removal of all racial bars in their case. The new policy, while it affects but few individuals, is based merely on colour bar, the more inexcusable because notoriously among the Dutch population, many who rank as Europeans have some infusion of native or 'coloured' blood. The treatment of the most highly civilized Indians as unfit to marry Europeans, even of the humblest class, and an 'untouchables', falls below the standard of the meanest statesmanship."<sup>7</sup>

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6. Joshi, P.S. p. 231

7. Joshi, P.S. p. 232

The year 1937 saw four Bills affecting the Indians in the Statute Book. They were -

- (a) The Marketing and Unbeneficial Land Occupation Act.
- (b) The Industrial Conciliation Act
- (c) The Immigration Amendment Act
- (d) The Transvaal Asiatic Land Tenure Further Amendment Act.

One look at all these acts, one finds economic grievance against the Indians. However, the legislators seemed to have pretended that Indians were not affected by economic pressure that the country as a whole was facing. 'Whiteism' was convened for the poor whites and it was doing it by dispossessing one to let other possess. The only criteria for such possession remained the colour of skin.<sup>8</sup>

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- 8 (a) The first legislation affected the Natal Indians. It proposed to prohibit or regulate the imports or exports of any product into or from the Union.
  - (b) Clause 8 of the Industrial Conciliation Bill dealt with the constitution of trade unions and employers organizations.
  - (c) The third Act deprived persons born outside the Union; of parents domiciled in the Union of the same rights as those enjoyed by the South African born, Indians under the Act, such persons must enter the Union before June, 1937, to protect the birth right.
  - (d) The fourth Act was meant for further segregation of the Indians. It empowered the Council of a municipality to transfer land to Asiatic after a resolution of the subject was passed by both Houses of Parliament.

The year of 1937 also saw the Johannesburg City Council come out with its housing scheme for the poor whites and in the progress disposes the Indians and coloured under the Slums Act.<sup>9</sup> On 8th November, 1938, the Union Congress of the Nationalist Party met in Bloemfontein Town Hall, and Dr. Malan clearly remarked:

"Because of the Oriental's greater ability, he was a more deadly menace than any other non-European". Another Congress of the Nationalist Party on 16th December at Cape Town called:

- "(1) To prohibit all mixed marriages between Europeans and non-Europeans.
- (2) To put a stop to Europeans and non-Europeans living together in the same residential areas.
- (3) To make a punishable offence all miscegenation between Europeans and non-Europeans.
- (4) To carry out economic as well as political segregation between Europeans and non-Europeans".<sup>10</sup>

The year of 1939 remains very important from the Indian standpoint in South Africa. Two things proved to be of long term consequence in the Indian reaction -

- (a) The 'Nationalist bloc' inside the South African Indian Congress 'captured' the leadership of the Indian community, which had till now been in the hands of 'moderates like A.I. Kajeer and P.R. Pather (Though their presence was

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9. For reference Joshi, P.S. pp 238-239.

10. Joshi, P.S. pp. 249-250.

felt in Transvaal in June 1938, when the Indian delegates met in a provincial conference at Patidar Hall, Johannesburg) and

- (b) resolution by Indians to launch a great passive resistance movement from August 1, 1939 against the legislations passed by the government between 1937 and 1939. However, the passive resistance committee 'postponed' it on the request of M.K. Gandhi.

M.K. Gandhi's and the SAIC relations had not broken after his departure from South Africa in 1913-14. And M.K. Gandhi felt that an 'honourable settlement' could be reached on a governmental basis. It was on this belief that he pleaded -

" I do so because that I have some hope of an honourable settlement. I know that the Government of India, as well as the British Government are trying to obtain relief. I have put myself to touch with the Minister. In the circumstances, I think a brief postponement of the struggle is necessary.

" I am fully aware of the enthusiasm of resisters. They have proved their mettle before. They will do so again if it becomes necessary; but it is code of passive resisters to seize every opportunity of avoiding resistance if it can

be done honourably . Every cessation, in search of peace adds to the strength of the real fighters. Let them remember that the Smuts-Gandhi settlement of 1914 was the outcome of the cessation of struggle for the sake of peace".

"I hope the proposed cessation will lead to a similar result. Should it unfortunately prove to be otherwise, and should the struggle begin, let Dr. Dadoo and his fellow registers know the whole of India will at their back".<sup>11</sup>

The postponement of a great passive resistance in 1939 served the Nationalist bloc to consolidate its position among Indians. The old leadership was soon replaced by a new one comprising of G.M. Naicker in Natal, Yusuf Dadoo in Transvaal, Debi Singh, Nana Sita, Maulavi I.A. Cachalia, Manilal Gandhi, etc. And it also served the Indians not to look upon themselves as an 'Interest group', but as a part of the whole 'oppressed' section of South Africa. These leaders had and were to take part in agitations spearheaded by the blacks. In 1944, Dr. Dadoo was made the Vice-President of the National Anti-Pass Campaign, launched by the African National Congress. The formal seeds of Indo-African unity were thus sowed during these years.

The cooperator group among the Indians ceased to be in leadership on the 4th June, 1939. This was the day when the Transvaal Indians were supposed to gether at Osrin's Bioscope Hall, Johannesburg. The meeting saw a physical clash between the groups in which bottles, heavy clubs, bicycle chains, knuckle-dusters and knives were freely used'.

All the injured were members of the Nationalist bloc. Four days later one of the injured, Mr. Dayabhai Govindji died.<sup>12</sup> This incident sounded the death knell for the moderates.

The years of early 1940s were the years of the second world war and South Africa found Japan 'a more fundamental menace to South Africa.'<sup>13</sup> Apart from it, Whiteism rising in the 1930s had taken an ever more staunch discriminatory attitude in 1940s. By 1943, the cabinet started fearing 'riots' and under this pretext, change of policies and adoption of 'pegging' restrictions seemed to be necessary. The Minister of Labour, Mr. W.B. Madelay felt that 'the time was coming when Europeans would rebel —<sup>14</sup> And the cause for such a storm was found to be that the Indians had penetrated into European areas in Durban. However, the Broome Commission instituted in 1942 which gave its report in April 1942 stated that "The main desire for the penetration which has occurred is, in our opinion, nothing more than normal desire among Indians to acquire wealth --- Seeing that trade is their main occupation, it is not surprising that they should seek to go wherever trading prospects seem brightest."<sup>15</sup> The Indian population in Durban was 100,000, about 47% of the total population and the Commission found only 524 cases of penetration

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12. Joshi, P.S., p.280.

13. Joshi, P.S. p. 309, also, Vandendoorn Army; South Africa and the world the foreign policy of apartheid, the University Press, Kentucky, 1970, p. 108.

14. Joshi, P.S. p. 311.

15. Joshi, P.S. p. 309.

between 1929 and 1942 . (199 cases in 13 years since 1927 and 325 since October 1927). However, the Government was least impressed by the Commission report. The Trading and Occupation of Land (Transvaal and Natal) Restriction Act (No.35 of 1943) generally known as the 'Pegging Act' was passed in 1943 to impose restrictions upon Indians with regard to the occupation and acquisition of land in Natal. It prohibited the Europeans to enter into an agreement with an Asiatic for acquisition of land and vice-versa. All agreements made after 22nd March, 1943 were declared null and void. The issue of permits to occupy any land or premises was left to the "Minister's discretion". (The full text of the legislation in Appendix I). One cannot pinpoint the immediate cause for such a hasty legislation. Yet, one can certainly point out to the coming general elections of 1943, the bogey of a white 'riot' as feared by the Minister of Labour, Mr. W.B. Hadelay and 'a reply to the "Reciprocity Resolution" passed by the Indian Central Legislature'.<sup>16</sup>

The passage of the Asiatic Land and Occupation (Transvaal and Natal) Restriction Bill, 1943 met with unanimous opposition from the Indians in India and in the Union of South Africa. The passage of the Bill also set forth a chain for the ultimate culmination into a passive resistance of Indians in 1946.

The South African Indian protest called the Bill Unjustifiable for various reasons -

- (a) the local authorities had failed to provide adequate housing to Indians

- (b) the amount of penetration was small, and
- (c) the restrictions imposed on the Indian community were harsh and undemocratic.

The South African Indian Congress met at Johannesburg on 26th and 27th June, 1943. It was presided by Ahmed Ismail who said:

"The Bill establishes the principle of Dr. Malan's Class Areas Reservation Bill of 1925 which was rejected when the Cape Town Agreement was negotiated and ratified by Parliament and which agreement has not since been abrogated. The Cape Town Agreement implicitly repudiated the policy of segregation and recognised the Indians who were prepared to conform to western standards of life should be enabled to do so were to be accepted as part of the permanent population".

"Taken factually the position in Durban showed the passing of the Act was not justified even when viewed from the European's selfish point of view".

"The situation has been magnified out of all proportions. The value of property held by Indians in the old Borough is 4,000,000 pounds as against 35,000,00 pounds held by Europeans. Indians own 1783 sites as against 12,782 owned by Europeans. Of a total average area is 8,274, Indians hold 359 areas, 4% of the total".<sup>16(a)</sup>

The reaction of the Government of India was in the form of the introduction of a Bill in the Central Legislature



on 30th July, 1943 which sought to make the Receptivity Act even more effective which empowered the government to impose similar disabilities on South African nationals in India. The most scathing remark came from Dr. N.B. Khare who declared: "Had India been independent she would have considered this a casus belle against South Africa ---".<sup>17</sup> Fortunately enough, both the Congress Party of India and the Indian Muslim League seemed to concur after many years. Mr. Khan Nawabzade Liaquat Ali, the deputy leader of the Muslim League and Mr. Sayed Mohamed Padshah were the most vocal among the Muslim League members.

Meanwhile Lord Wavell had replaced Lord Linlithgow, as Viceroy of India and one finds an apathy in the British Government's reaction which was clearly aired by Sir Shafa'at Khan, the High Commissioner for India in South Africa who clearly said in Durban that: "Indians in the Union should settle their own problems and should not rely on the Government of India for assistance".<sup>18</sup>

The enforcement of the Pegging Act soon followed. The World War was raging on in 1944. The South African Indian leadership was in a fix, as to what could be their plan of action. Agitating abroad was not going to help due to the war conditions. Activity inside South Africa also seemed hard

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17. Josh, P.S. p. 320

18. Joshi P.S. p. 322

due 'to paper control, censorships and various emergency measures'. The European press too was not on their side. Thus a situation of dilemma prevailed - a situation 'to face the music with an outward courage and inward fear'.

The Natal Indian Congress met in Conference in Durban in 1944 and passed a resolution saying:

"That this Conference expresses its strong indignation at the passing of Act 35 of 1943, commonly known as the "Pegging" Act which it considers to be the negation of the most elementary human right and a violation of the principles of democracy and those underlying the Cape Town Agreement of 1927.

"The Pegging Act has been sponsored by anti-Asiatics with a view to strangling the Indian community economically, and this Conference is firmly of the opinion that there existed no justifiable ground for the Union Government to pass this most obnoxious legislation and hence demands the immediate repeal of the Pegging Act, and to give effect to this demand, resolves to carry on a mass campaign on the following lines namely:-

- (a) Hold mass meetings of protest in every part of Natal.
- (b) Sponsor the signing of mass petition and present same to the Union Government.
- (c) Seek the cooperation of Indian and other organisations in the Transvaal and the Cape Province.
- (d) Awaken world opinion particularly in India and Great Britain against the Act".<sup>19</sup>

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However, a Commission that was proposed by General Smuts was adhered to by the Indian in Natal, and a Commission was announced with a term of reference: The members were to be Justice F.N. Broome (Chairman), Mr. W.M. Power, M.E.C., Senator D.G. Stepstone, Mr. S.R. Naidoo and Mr. A.I. Kajee, Mr. J.A. De Gruchy was Secretary.

The term of reference was: "To inquire into and report on matters affecting the Indian Community of the Province of Natal, with special reference to housing and health needs, civic amenities, civic status and the provision of adequate residential, educational, religious and recreational facilities; and to make recommendation generally as to what steps are necessary further to implement the uplift clauses of the Cape Town Agreement of 1927, and on all matters affecting the well-beings and advancement of the permanent Indian population of Natal".<sup>20</sup>

The year of 1944 also saw the Government trying to woo the Indians. The Parliamentary Session of 1944 rectified several bills of the past which had affected the Indians. It validated certain marriages of Indians that had taken place between 1891 and 1941, under a new legislation called 'The Indian Marriages Validation Act'.<sup>21</sup>

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20. Joshi, P.S. p. 324.

21. (Under the Act - in 1891 the Natal had passed an Act authorizing the protector of Indian immigrant to marry certain Indians coming from Natal. The protector's power allowed him to marry only immigrant Indians and it had later been discovered that he had erroneously married passenger Indians to Immigrant Indians. in 1914, when Parliament tried to rectify the matter, it had omitted to validate the marriages, which this Bill now sought to do).

Another Bill called 'The Diplomatic Immunities Amendment Bill' was also passed which gave the right to foreign governments including Government of India to acquire and occupy land without having first of all to obtain permission to the Ministers. And a plea was also made by the Minister of Interior to settle problems between Europeans and Indians 'to the satisfaction of Indian and European, without any loss of self-respect for either'. A further move was also made by the Government on the need of Indian representation in Parliament about whom the Government felt that 'they are our people, they belong here'. The cause for such an appeasing stand as regards the Indians was the war that was going on and the Japanese advance in 1944 seemed to concern General Smuts. Apart from it the Indian question had made the Government of India and its representatives, apprehensive about the South African Government's intentions. The Government of South Africa wanted to pacify the Indians both outside and inside. The

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22. Gupta, Anirudha (ed), N.P. Naicker, p. 291.
23. Vandebosh, Army. South Africa and the World - Foreign Policy of Aarthied, the University Press, Kentucky, 1970, p. 108.

Pretoria Agreement of April 1944 was a step towards this cause. On the 29th March, 1944, the deputation of South African Indian Congress met General Smuts and suggested the annulment of the Pegging Act by proclamation and asked to create a committee to control residential occupation by licence as between Europeans and Asiatics. This suggestion in itself had the seeds of the willing attitude of the Indians to prevent their own penetration into European areas. The representatives of the SAIC were - A.I. Kajee, P.R. Pather, S.R. Naidoo, A.B. Moosa, T.N. Bhoola, Mohamed Ebrahim and S.M. Parik. They were all from Natal.

The Agreement declared: --- that the situation would best be met by the introduction of an Ordinance into the Natal Provincial Council. This ordinance would provide for the creation of a board consisting of two Europeans and two Indian members under the

chairmanship of a third European, who will be a man of legal training. The object of the legislation will be to create machinery for the board of control occupation by the licensing of dwellings in certain areas; and the application of the Pegging Act in Durban to be withdrawn by a proclamation on the passing of this ordinance".<sup>24</sup>

The Pretoria Agreement however, did not get its support from the majority of Indians. The Durban City Council disapproved the agreement because it was not consulted. The Colonial Born and Settler's Indian Association, the Nationalist Group of the Transvaal Indian Congress, Liberal Study Group, the Communist Party and the Anti-Segregation Council condemned the Agreement and called it a 'Shameful betrayal'. They felt that the Agreement accepted the principle of statutory residential segregation throughout Natal. That it served the interests of the rich Indians, and that the proposed licensing Board of Control European and Indian residential occupation was

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24. Joshi, P.S. p. 330.

more or less the justification of the Pegging Act. However, an agitation never started against the Agreement, as a general meeting of Indians was never called and the Committee of the Natal Indian Congress endorsed the Agreement by a majority on May 8, 1944.

The Agreement thus once again postponed the chances of a resistance but it also became a point from which a silent simmering started getting manifested. The majority of Indians, specially the nationalists did not agree to the agreement and to the A.I. Kaje and P.R. Pather brand of politics of 'Moderation and memoranda'<sup>25</sup>. The whites also, specially the 'Deminionites' in Natal and 'The Malanites' were against the agreement and the proposed grant of representation to Indians in the Parliament. Mr. F.H. Acutt, a member of Parliament of the Nationalist Party declared:-

"Since the passing of the Pegging Act a new Minister had taken over Indian affairs and had been making speeches that had disturbed the minds of the European population. He had tried at Maritzburg on December 3, last year, to persuade municipalities to grant the vote to Indians. The history of Indians question in South Africa was long list of concessions to the Indians from the day they were introduced into the country. If things developed as they were, "It will only be a question of time before the Indians swallow up the whole of South Africa".<sup>26</sup>

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25. N.P. Naicker Indians in South Africa in Indians Abroad: Asia and Africa ed. Anirudha Gupta, Orient Longman, 1971, p. 292.

26. Joshi. P.S. p. 326.

The slogan given by the Nationalist Party of 'Let the Indians go back to India' had also gained ground. However, any major confrontation was not seen between the Indians and the Union Government and between the United Party and the Nationalist Party, between 1944 and 1945. But the situation was going to be different in 1946. Because then, there would not be a world war going on; there would not be the fear of Japanese advance in Asia and Africa. The world war going on had averted General Smuts from taking any step which would further deteriorate the relationship between Indians and the Union Government. But the passage of the Pegging Act, calling for 'Pegging' of Indians for 3 years in terms of land purchase and sale, and the signing of the Pretoria Agreement in 1944 between the 'moderate' Indians and General Smuts, laid down the seeds of Asiatic Land tenure and Indian Representation Act of 1946.



PROMULGATION OF THE 'ASIATIC LAND TENURE AND INDIAN REPRESENTATION ACT' AND THE INDIAN PASSIVE RESISTANCE OF 1946-48

CHAPTER-III

1946 to 1948 are the two years when the Third Passive Resistance of the Indians shook the Union Government and South Africa; and created enough embarrassment for General Jan Christiaan Smuts in the U.N.O. The immediate cause for the launching of this campaign was the legislation of 'The Asiatic Land Tenure and Indian Representative Act, 1946'. This Act had succeeded the 'Pegging Act' of 1943, according to which the sale and purchase of land by Indians had been 'pegged' for 3 years. According to the new Act it was sought to give the former act a permanency, thereby hindering the so called 'Indian penetration' <sup>1</sup> in Natal and elsewhere. One thing is however clear that, the 'Ghetto Bill' <sup>2</sup> was not the only cause of the resistance campaign. The events between 1939 and 1945 had given the Indians ample reasons to launch a campaign in 1946. The catalytic effect of the Act of 1946, in hastening the Passive Resistance can however not be side tracked.

It was in January 1946, that the Union Government decided to draft the Asiatic Land Tenure & Indian Representation Bill, but it was back in December 1945 that the Union Government started articulating it in terms to 'give Indians in Natal and the Transvaal representation in both Houses of Parliament and in the provincial councils of those provinces'. It also

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1. For reference please see Chapter-II 'Prelude to the Resistance Campaign 1937-1944.
  2. As the act was called by Indians and by the ANC in its resolution dated March 9, 1947.

felt that in the proposed Land Tenure Bill, provision for 'open or free areas in Natal, where ownership and occupancy will be open to everybody while in the rest of the province ownership and occupation will be controlled by a board composed equally of European and Indian representative's under an Official Chairman'.

'The Representation Bill will give the Indian three elected members in the house of assembly for Natal and one for the Transvaal. Natal and the Transvaal together will have one elected and one nominated senator in the senate. In the Orange Free State there are no Indians, in the Cape Province Indians have common and equal franchise with European under the existing arrangements. The franchise in Natal and Transvaal will be communal and will be based on education and income or property qualifications so as to exclude the lower classes of illiterates. The question whether representation should be through European or Indian members still remains open for further examination'.<sup>3</sup>

Had there been the A.I. Kajeer and P.R. Pather leadership of Indians, these proposals would have seemed good for Indians. Even during the earlier phase of the passive resistance of 1946 of the Indians A.I. Kajeer did not seem to have been very much influenced by the course of events. Hofmeyr's remarks to General Smuts about Mr. Kajeer gives us some hints:-

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3. Selections from the Smuts Papers, Volume VII (August 1945-October 1950), Van D er Poel, Jean (ed), Cambridge Press, 1976, p. 36.

"Kajee's own position will therefore become increasingly difficult. It is however clear that he realizes that extremism won't pay the Indian community here and must be modified. He also realizes that they can expect very little from U.N.O. It may be that at New York he will be able to help in building a bridge between yourself and the leaders of the Indian delegation".<sup>4</sup> But then, by now A.I. Kajee's influence over the Indians had waned. In Natal G.M. Naicker, medical practitioner and Gandhian, had taken over. In Transvaal Yusuf Dadoo, the left wing leader of the 'Nationalist bloc' within the Transvaal Indian Congress had come in. In 1944 Mr. Dadoo was the Vice-President of the National Anti-Pass Campaign, launched by the African National Congress. Other prominent Indians to come up during this period were Debi Singh, Secretary of the Anti-Segregation Council, M.P. Naicker, the Organising Secretary of the Anti-Segregation Council in Natal and Nana Sita and Mauloni I.A. Cachalia in Transvaal.<sup>5</sup> It was this leadership among the Indians which by 1945 had virtually rejected the Pretoria Agreement of 1944 and in its place had started demanding - 'equal rights, equal franchise on a common role', and all other economic items of their programme.<sup>6</sup>

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4. Smuts paper Vol. VII pp. 94-95.

5. N.P. Naicker - Indians in South Africa - in Indians Abroad - Asia & Africa ed: Anirudha Gupta p. 292.

6. It was the rejection of the communal franchises with property qualification, as proposed by General Smuts.

Even the famous Dadoo - Xuma - Naicker pact of March 9, 1947<sup>7</sup> between N.I.C., T.I.C. & the A.N.C. clearly stated that what the Indians wanted and how much had changed in the Indian demands in a few years after 1944. The demands as put forward were:

- 1) Full Franchise.
- 2) Equal Economic and Industrial rights and opportunities and recognition of African Trade Unions under the Industrial Conciliation Act.
- 3) The removal of all land restrictions against non-Europeans and the provision of adequate housing facilities for all non-Europeans.
- 4) The extension of free and compulsory education to non-Europeans.
- 5) Guaranteeing freedom of movement and the abolition of pass laws against the African people and provincial barriers against Indians.
- 6) And the removal of all discriminatory and oppressive legislations from the Union's Statute Book.<sup>8</sup>

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7. Full text in the Appendix.

8. From Protest to Challenge - A Documentary History of African Politics in South Africa 1882-1964, ed - Thomas Karis and Gwendolen M. Carter, Hope and Challenge Volume 2, 1935-1952, Hoover Institution Press, Stanford, California, 1973, p. 272.

The month of February in 1946, was important because the proposed Asiatic Land Tenure & Representation Bill in South Africa brought a strong disapproval from the Indian Central Legislature and was also discussed in the British House of Commons. On February 12, the N.I.C. unanimously rejected the proposed legislation and decided to send deputations to India, Great Britain and the United States. It was in this month that General Smuts turned down the Government of India's proposal for sending an Indian delegation to the Union Government. A clear indication was thus given by General Smuts that Indian Government's interference was not very acceptable and that the proposed bill would be placed in the Union Parliament. A confrontation between the Indians in South Africa and the Union Government was inevitable. Even J.H. Hofmeyr's pleas did not seem to deter General Smuts. In a letter written by J.H. Hofmeyr on 9th March, 1946, he wrote - "It seems to me that in the property clauses of the Bill we are making a surrender to European prejudice in Natal which I for one shall find it difficult to justify. In sticking to the colour bar as far as concerns Indian representation in assembly and senate we shall be making a further surrender. To impose in respect of the Natal provincial council a colour bar which does not exist today is yet one more surrender. I regard it as the last straw breaking the camel's back, and I cannot be a party to it".<sup>9</sup>

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9. Smuts paper Vol. VII p. 49.

It was on March 15, 1946 that the controversial Asiatic Land Tenure and Indian Representation Bill was introduced in the Parliament and was soon succeeded by India's three month notice to terminate trade relations with South Africa. Demonstrations against the bill took place in India and in South Africa and a delegation of South African Indians met the Viceroy and the Leaders of India.

The Bill that ultimately became the Act of 1946, replaced the 'Pegging act' which had been legislated for three years - tied together the two questions of land tenure and political rights. It established areas in the cities of Durban and Pietermaritzburg and in other parts of Natal where Indians could acquire and occupy property. Outside of these areas Indians could buy or occupy land only by permit from the Minister of Interior. The act further provided that the Indians in Natal and the Transvaal would be represented in Parliament by two senators, one elected by Indians and one appointed by the Governor General, and by three representatives in the House of Assembly, to be elected by Indians. Both senator and Representatives had to be white, as the constitution restricted membership in Parliament to Europeans.

The mirage of an equality of status thus vanished after 1946 and the 1948 elections sounded the death Knell for any such misconception among the Indians or regarding the Government's rhetoric anymore. The period between 1946 and 1948 is thus important for the realization of such a fact by the Indians ultimately. The bill was put on the statute book in May 1946 and on June 13 the Indians launched passive

resistance against the Act. The Natal Indian Congress resolution passed in Durban the same day stated that 'our campaign will begin with breaches of Asiatic Land Tenure and Indian Representation Bill and may later embrace defiance of other anti-Indian laws'.<sup>10</sup> On June 14, a meeting of 1,500 Indians was held in Durban and the first batch of 20 resisters 'led by Dr. G.M. Naicker pitched 5 tents in a controlled area at the junction of Gale and Umbilo Road'.<sup>11</sup> This was the start of the first phase of the passive resistance. In the meantime an appeal was also made to all Europeans<sup>12</sup> by Mohanlal Parekh to sympathise with the Indian cause. However, on June 14, a 'Council for Asiatic Rights' had been formed by some European scholars in Johannesburg, to sympathise and show solidarity with the resisters, under the Chairmanship of Mr. V.C. Berrange, a lawyer, Dr. J.B. Robertson, a professor of Chemistry in University of Witwatersrand was its Vice-Chairman.<sup>13</sup>

The Government and the police were not sure at the outset about the actions to be taken against the resisters. But on the night of June 20, some European youths attacked the resisters, leading Dr. G.M. Naicker to remark that, 'the raids are the best thing that could have happened to help our movement. Police inactivity in not arresting us was

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10. Times of India, June 14, 1946, p.3.

11. Times of India, June 15, 1946, p. 7.

12. Times of India, June 18, 1946, p. 8.

13. Times of India, June 15, 1946, p. 7.

a source of worry to us. Now things have livened up'.<sup>14</sup> The Natal Police had to come in action now, as such attacks were of 'considerable inconvenience' and asked the European to let them handle the resisters and the situation 'in their own way'.<sup>15</sup> But the attacks did not stop, leading to the first death of an Indian in the resistance; policeman Kristensamy Pillay thus became 'the first martyr to European hooliganism'.<sup>16</sup>

By July 5, 158 resisters were put into jail in Durban. A new phase was added to the campaign with the coming of 25 volunteers headed by Moulvi Saloojee from Transvaal and 100 volunteers from Cape Town. The campaign had thus spread into Transvaal and the Cape Province. A 'second front' was also opened on July 11 by sending 10 volunteers 'to pitch a tent in the corner of the Gilbert and Umgini Road'.<sup>17</sup>

But the campaign in this very short time had unfortunately, also brought to the front the divergent interests among the Indians, comprising mainly in Dr. Margaret Ballinger's terms - 'a comparatively small and rich stratum and a large and extremely poor stratum'.<sup>18</sup> The moderates in the SAIC, were in favour of a round table conference with the Union Government in order to create a 'good will, friendliness and mutual accommodation'.<sup>19</sup> This issue had become a bone of contention between

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14. Times of India, June 21, 1946, p. 3.
  15. Times of India, June 22, 1946, p. 7.
  16. Times of India July 3, 1946, p. 9.
  17. Times of India, July 12, 1946, p. 4.
  18. The Hindu, Oct. 19, 1946, p. 5.
  19. The Hindu, Oct. 7, 1946, p. 5.



the moderates led by A.I. Kajeer and P.R. Pather and the nationalists of the Joint Passive Resistance Council of Natal and Transvaal. It was believed by the nationalists that 'Indian people of South Africa cannot consider any proposal for a Round Table Conference as long as the Asiatic Land Tenure Act is still on the Statute Book'.<sup>20</sup> The condemnation of the SAIC, specially the moderates by the Joint Passive Resistance Council soon followed. The meeting of the JPRC on October 8, 1946 in Durban, condemned the SAIC's suggestion of a round table Conference and passed a no-confidence in the majority of the delegates appointed by the SAIC to advise Indian delegation at U.N.O. Mr. H.A. Naidoo and Sorabjee Rustomjee resigned from the membership of the delegation appointed by th SAIC, in respect. They were now to go to New York not as members of the SAIC delegation but were to be sent by JPRC as their members. Mrs. Margaret Ballinger's opinion on this issue was that, 'Indians in South Africa who had commercial and trade interests were prepared to come to an agreement for a round table conference and they were opposed by the Passive Resistance Council'.<sup>21</sup>

On October 10, 1946, Six Africans from Transvaal were arrested in Durban for tresspassing on Corporation land. This was the first time that Africans had taken part in passive resistance campaign. The participation was negligible yet

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20. The Hindu, Oct. 8, 1946, p. 5.

21. The Hindu, Oct. 15, 1946, p. 5.

it was realised by Dr. Alfred Xuma, the President of A.N.C. that any concessions given to Indians could pave the way for the blacks to demand concessions against discriminatory legislations. He declared, "we felt that freedom, justice and liberty are indivisible and if Indians get a break we think that there is a chance for us as well."<sup>22</sup>

Meanwhile on the 25th June India had ended its trade pact with South Africa. The end of the Trade Pact had its adverse impact on several commodities like soap & Jute. In his reply to Jawahar Lal Nehru's letter dated 7th May 1946, General Smuts clearly said that, "The Indian Government have severed trade relations with South Africa and unilaterally applied trade sanctions to the Union, to the great injury of South African interests..... It was, in fact, a hostile act, for which the Union Government would have been justified to involve the intervention of the Security Council".<sup>23</sup> But things had not stopped at that, Mr. Trygve lie, the Secretary General of the U.N.O. passed the text of India's request that the Indians question in South Africa should be considered by the General Assembly, to 'Mr. Andrews, the South African Minister in Washington'.<sup>24</sup> The U.N. General Assembly was to meet on the 23rd October at Lake Success. The Indian delegation was led by Mrs. Vijaya Laxmi Pandit with Sir Maharaj Singh, a former Agent General for India in the Union, Mr. Justice Chagla and Mr. Krishna Menon as its members. The South

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22. The Hindu, Sunday, November 3, 1946, p. 5.

23. Smuts Paper, Vol. VII, p. 148.

24. Joshi, P.S. - The Struggle for Equality, p. 145.

African delegation was led by General Smuts with Mr. Heaton Nicholls, High Commissioner for South Africa in England, Senator D.G. Shepstone and Mr. Douglas Forsyth, Secretary for External Affairs as members. So an issue about which both General Smuts and Mr. Malan felt it to be internal had got internationalised. And this provoked General Smuts to demean the U.N.O. by saying -

"Democracy without leadership is a sham, and U.N.O. seems to me a democracy without leadership, or with a leadership so divided that it is ineffective for all practical purposes. It may be that we shall soon have to face a thorough revision of the present set up, and have something more modest, but more real and effective than this general Aeropagus or talking shop in which the incompetents and misfits rule by counting of heads".<sup>25</sup>

Before going to the U.N.O. General Assembly General Smuts had this to write to M.C. Gillett which put forward his philosophy as to what was divine and what was inevitable. He wrote:-

"Colour bars are to them<sup>26</sup> part of the divine order of things. But I sometimes wonder what our position in years to come will be when the whole world will be against us. And yet there is so much to be said for the South African point of view who fear getting

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25. Smuts Paper, Vol. VII, p. 130.

26. (South African Whites).

submerged in black Africa. I can watch the feeling in my own family, which is as good as the purest gold. It is a sound instinct of self-preservation where the self is so good and not mere selfishness. What can one do about it when the Lord himself made the mistake of creating Colour'. I can but bow my head and accept the blows which comes in my way. Don't think I complain. I am just talking to you of the fleas that bit this dog".<sup>27</sup>

He was thus very sure as what was going to happen in the General Assembly. This could be seen in his handling of the Indian question before the steering Committee of the General Assembly on the 1st of November, 1946 when he tried to reject the whole question under the provisions of Articles 17 and 27 of the Charter which laid down that domestic matters like these were specifically excluded from discussion by the General Assembly.<sup>28</sup> But the Soviet Union delegate M. Vyshinsky felt that the problem was definitely within the scope of the U.N.

The day to day proceedings in the U.N. are not important here but 8th December, 1946 remains important because on that day the issue of Colour bar was decided in favour of human equality at the United Nations Assembly. The U.N. Assembly, passed the resolution, a French - Mexican proposal, asking

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27. Smuts Papers, Vol. VII, p. 110

28. Joshi, P.S. - The Struggle for Equality, p. 156.

the Governments of South Africa and India to report at the next session of the Assembly on the measures adopted to settle their dispute about the treatment of Indians in the Union. It was passed by 32 to 15 votes constituting a two-third majority. It was a victory for India and Mr. Henry Wallace, former Secretary for Commerce of the United States considered it 'almost as important as the adoption of the United Nations Resolution on Disarmament'.<sup>29</sup> But General Smut's speech of 20th December showed that according to him the verdict was a biased one and had been thrust over him by a non-European majority:-

"The U.N.O. is a Parliament of man, of nations in which the representatives of coloured races out number the white representatives. For the first time in history, you bring together the whole of mankind of whom two-thirds are coloured, into one body and the other one-third will have to sit up".<sup>30</sup>

Referring to Natal he declared: "I will stand by Natal as long as Natal stands by me".<sup>31</sup> All these statements by him were meant for the whites in South Africa who expressed shock at the verdict of the U.N, and the abilities and disabilities of General Smuts. The 'New Era' declared: "The

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29. Joshi, P.S. - The Struggle for Equality, p. 287.

30. Joshi, P.S. - The Struggle for Equality, p. 192.

31. Joshi, P.S. - The Struggle for Equality, p. 193.

boasted and boosted 'international figure' has availed South Africa very little and reliance on his reputation as such proved to be a snare and delusion".<sup>32</sup> The 'Forward', an organ of the Labour Party said: "we must revise somewhat our estimate of the man, and begin to doubt a little the wisdom of the sage, the astuteness of the lawyer, and the strategy of the Soldier".<sup>33</sup> The downfall of General Smuts had thus set in after December 1946.

Meanwhile, inside South Africa the total number of passive resisters sentenced during the struggle had reached 1,650 in February 1947. 25 more were sentenced by March 1947. The number of passive resisters sentenced during this period is not shocking, what is even more shocking was the open boycott meeting of Europeans in the Ermelo Town Hall in Transvaal, in March. The meeting issued on to every European parent to deem it a personal duty "to instil anti-Asiatic sentiment into his children and to emphasize to them that it is a down right disgrace to trade with, or to be seen in or near an Indian store".<sup>34</sup> This was clearly a manifestation of the cumulative white reaction arising out of:-

- a) the going on of the passive resistance,
- b) severing of trade relations between India and South Africa, leading to the shortage of various commodities in the market, and

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32. Joshi, P.S. pp. 191-192  
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34. Joshi, P.S. p. 288.

c) the U.N. verdict on the Indian question. The best way this reaction could be manifested was through boy-cotting Indian stores and business. This could stop the 'Indian penetration' into the European 'area'. Boycott of Indian trade was launched in the Western Transvaal by a reign of terror and the first Indian Boycott Congress met at Vereeniging in mid-March 1947. In the meantime the Europeans had also rejected the principle of giving Indians direct representation in the Durban City Council by a referendum at Durban. In May a Congress of the South African Protection Movement <sup>35</sup> adopted a constitution which aimed "to protect Western civilization in South Africa against Oriental undermining and domination, to end all Indian immigration into South Africa, and to remove Indians from the economic life of South Africa". <sup>36</sup> By July, even the British and Foreign Bible Society <sup>37</sup> and The Dutch Reformed Church's People's Congress started attacking the Indians and the U.N.O. and said that comprehensive policy of racial segregation was the only solution to,

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35. Indian Boycott Movement.

36. Joshi, P.S., p. 289.

37. Cape branch.

the conflict of interests between white and black in South Africa.<sup>38</sup> Thus a religious sanction had also been accorded to discrimination in South Africa. The number of passive resisters courting imprisonment had reached 1,752 by July 1947. And General Smuts had by now refused to accept the implementation of the U.N. resolution on the Indo-South African dispute. He, in course of his speech at Standerton in September 1947 declared:

"We will solve our Asiatic question. They may fight me in the United Nations, they may fight me in certain countries, but we will stand firm. I think we laid the foundation for that in Parliament last year. We laid down the principle then - no far and no further".<sup>39</sup>

The whole of the year of 1947 was a year of white reaction against the Indians. Slogans like 'Drive Indians into sea' and 'why worry about Indian licences? Shoot them' had added fuel to the fire. This led the Johannesburg Working Committee of the Transvaal Indian Congress to issue a statement saying that, "such disastrous activities can neither help European to ignore the decisions of the U.N. nor remedy the serious

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38. Joshi, P.S. p. 290.

39. Joshi, P.S. p. 291.



situation created by the Indian embargo on the export of hessian jute products to South Africa".<sup>40</sup> The boycotts of Indian stores and trading places were not accepted by the moderates and Mr. P.R. Pather in order to save the Indians from such boycotts suggested for the suspension of the campaign as 'a gesture by the Indians'.<sup>41</sup> This was rejected by the Nationalists in the JPRC. However, it was once in November that the JPRC had suspended the campaign due to the rains, which had avoided the police to come and arrest the resisters.<sup>42</sup>

A new phase of the passive resistance campaign had begun in January 1948 with the crossing of provincial borders in violation of the 1913 Immigrants Regulation Act, leading to Dr. G.M. Naicker and Yusuf Dadoo's imprisonment for 6 months with hard labour. The resistance campaign went on. Groups of Indian men and women, gathered every night on a vacant municipal plot in Durban 'Each night they were arrested, charged in court with trespass and, pleading guilty and refusing fines, served their sentences and returned to trespass again'.<sup>43</sup>

By January 1948, it had become very clear that the aggressive nationalism under Dr. Daniel Francoise Malan had gained enough support. The attacks of the Nationalist Party

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40. The Hindu, Tuesday, January 21, 1947, p. 5.

41. The Hindu, Tuesday, January 21, 1947, p. 5.

42. The Hindu, November 4, 1946, p. 1.

43. Freda Troup, p. 280.

had now become two pronged. The Indians and Natives were the main targets, but General Smuts and specially Mr. J.H. Hofemeyr were also not spared. Mr. Hofemeyr till the end of the elections of 1948 was opposed to P.O. Sauer's 'apartheid' policy and called it as being unpractical and dangerous, which would largely remain a fiction. But Nationalist Party's manifesto stated that its policy of separation of the races was based on the "Christian principles of justice and reasonableness". The elections of 1948 were thus fought on just one issue and that was the question of the Indians and natives and the divinity of the white supermacy. The Nationalist Party manifesto on the eve of the May elections clearly called Indians as 'foreign and outlandish elements'. It further said that 'No Indian immigrants will be allowed to enter the country',<sup>44</sup> On the Asiatic Land Tenure and Indian Representation Act of 1946 it said:

- "a) No representation will be given to Indians in the legislative bodies of the country.
- b) Indians will be established in separate areas and will not be allowed to reside or own fixed property in the European areas.
- c) Europeans will not be allowed to reside or trade or to own fixed property in Indian areas...."

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44. Joshi, P.S. p. 206.

"The Cape Province must be properly protected against penetration by Indians, especially in regard to the ownership of fixed property and trade, family allowances for Indians must be abolished".<sup>45</sup>

The South African Party and the Reverend, Hiles Cadman's Central Party called for the deportation of the Indians'. An Indian mass repatriation plan was also given:

"All Indian girls and women between the ages of five and fifty should be given a bonus of 600 pounds to leave the country, 200 pounds should be given to every male accompanying them. Such a scheme would cost about 2,000,000 pounds".<sup>46</sup>

The Indians knew that a Nationalist Party win could be fatal to the passive resistance and to their cause. In such a situation General Smuts and J.H. Hofemeyr were lesser evils for them. The report of the Joint Secretaries of the Transvaal Indian Congress presented to the Provincial Conference in Johannesburg on April 25, 1948 stated that a victory for the Nationalist Party would put the clock back. On the contrary the United Party's colour policy was at least 'iron hand under the glove of racial tolerance'.<sup>47</sup>

The results of May 26, 1948 came as a shock to the South African Indians<sup>48</sup> because the victory of the Nationalist

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45. Joshi, P.S. p. 209.

46. Joshi, P.S. p. 210.

47. Joshi, P.S. p. 212.

48. The Times of India, May 29, 1948, p. 1.

Party was the endorsement of the policy of 'apartheid' by the whites. The free Press Journal said: 'South Africa has gone fascist defacto as well as de jure'.<sup>49</sup> The Indians had thus 'fallen out of the frying pan into the fire'.

After becoming the Prime Minister, Dr. Daniel Francois Malan in his first broadcast to the nation declared that they would not tolerate any interference from any country, or institution to determine their destinies. Soon Dr. T.E. Donges, the Nationalist Party member of Parliament announced the Government's intention not to proclaim the second chapter of the Asiatic Land Tenure and Indian Representative Act which dealt with the representation of Indians in Parliament.

In a situation where no space for agitation was given, the passive resistance campaign soon was floundering. The Joint Passive Resistance Council of the Natal and Transvaal Indian Congress decided formally to temporarily suspend the agitation. The decision was taken in June but the agitation had diluted in May before the elections. The cause as given was 'not to embarrass Smuts'.<sup>50</sup> But the Indian leaders had also come to understand the futility of a long drawn stalemate. The support from the blacks and the coloureds was not substantial. The ANC had formally declared its support for the passive resistance campaign in March 1947, and that was it. However, some blacks, coloureds and whites also offered satyagraha, but the appeal remained only with the Indians.

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49. Joshi, P.S. p. 215.

50. Troup, Freda - South Africa, An Historical Introduction, Eyre Methuen, London, 1972, p. 280.

After all the campaign had not started on an issue that affected all, the particularity of the agitation narrowed its base. The gains for the Indians what so ever, were nil in terms of concessions in these two years of agitation, but it certainly helped to internationalise their plight and as well as of the blacks. The worst outcome of the agitation was that it crystalised 'apartheid', in the form of the rise of aggressive nationalism in these two years among the whites and in the form of Nationalist Party's win. But this outcome also helped the Indians and Blacks to come closer. The anti-Indian riots in 1949 by the Blacks cannot be taken as any indication of a major schism between the two.<sup>51</sup> A new phase in South African history had thus started with the Nationalist Party's win.

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51. For reference N.P. Naicker in Anirudha Gupta (ed) Indians Abroad: Asia & Africa, p. 293, also P.S. Joshi - Struggle for Equality, p. 232.

## CONCLUSION

### CHAPTER-IV

The legislation of the Asiatic Land Tenure and Indian Representation<sup>ve</sup> Act of 1946, was not something new as a manifestation of discrimination against Indians in South Africa. It was rather a chain to the long list of legislations and acts which started with the Law 3 of 1885. However, the impact that it had both inside and outside South Africa made it, and the ensuing passive resistance campaign the turning point in the history of Indians in South Africa. The immediate consequence of the resistance was the fall of General Smuts. And this fall had its seed of the future institutionalisation of the policy of 'apartheid'. The Nationalist Government under Dr. Malan ushered in an era of harsher apartheid policy after 1948. These were all the negative outcomes of the resistance. But these negative outcomes also acted as catalysts in forging a permanent Indo-black unity which ultimately became the 'Black Consciousness'.

The agitation also drove home the realization among the Indians, "that south Africa was the home of the Indian people, that freedom for them was impossible outside the context of a complete overthrow of racism and that this could only be achieved by a joint onslaught against oppression by all sections of the oppressed".<sup>1</sup>

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1. N.P. Naicker in Anirudha Gupta (ed) Indians Abroad: Asia & Africa, p. 293.

Apart from it, the amount of publicity that it got in the international forums, specially the U.N.O., certainly put South Africa on a defensive for some period. But the condemnation that South Africa suffered in the U.N.O. gave rise to the anti-Indian Boycott Movement among the whites. This boycott had its economic connotation which clearly stated and appealed to all whites to boycott Indian shops and stores. The issue against Indians had always been economic though under the garb of 'Sanitation Syndrome', 'public health', 'white superiority' etc. Till the 1880s, the whites had known no economic competition, but the induction of 'passenger' Indians or the 'Arab' Indians into South Africa created problems for the whites. The 'penetration' could be felt way back in 1885. Had these 'passengers' not come into South Africa, the 'indentured' Indians would have then easily and quickly assimilated with the black majority and within themselves. Because, according to the Wragg Commission Report in 1885, it was said that one-fifth of Indian marriages between 1873 and 1886 were mixed.<sup>2</sup>

The coming of M.K. Gandhi in 1893 to South Africa helped the Indians to organize themselves and agitate against the discriminatory legislations. But it also made them look like an 'interest group' and made them think in three directions as pointed by Hugh Tinker in his paper 'Indian Emigration' Restriction and Rejection presented in University of London Institute of Commonwealth Studies. First, the Indians

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2. Meer, Fatima - Indentured Labour and Group formations in apartheid Society, Race and Class XXVII, 4 (1985), p.51.

thought of themselves as equal to the whites in their capacity of being British citizens. And when this failed, they fell back upon their mother country. When this also failed the third direction remained to be placed under a total white supermacy.<sup>3</sup> But the third direction was the one which had its support among the 'moderate' Indians only, who had considerable business interest at stake. To them a situation of 'goodwill, friendliness and mutual accommodation' was the best compromise. This attitude was not liked by the majority of Indians, specially the 'Nationalists'. But till 1939, the 'Nationalists' did not have a say in the proceedings of the SAIC. It was only after 1940 that the influence of the 'moderates' started waning. The campaign of 1946-48 brought to the fore the schism that had existed for many years. This schism became more intense with the coming in of a new generation of Indian lawyers, doctors and academicians into the leadership of the Indian people. They were the sons and daughters of the erstwhile 'indentured' Indians. It was during these two years, that these 'Nationalists' came out openly to condemn the 'moderates' and found their policies to be 'suicidal.....', thus jeopardising the passive struggle.<sup>4</sup> And this new leadership also found out that oppression and the white regime could be fought better if Indians, blacks and the coloureds joined hands.

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3. Tinker, Hugh Indian Emigration: Restriction and Rejection, University of London, Institute of Commonwealth Studies, p. 1.

4. The Hindu, Saturday, October 19, 1946, p.5.



However, to say that the passive resistance of 1946 and its 'suspension' drew the Indians and the blacks closer and it also led to the resurgence of 'Afrikanar aggressive nationalism', would not be wholly correct. The rise of 'whiteism' in the inter-war periods started in mid 1930s and with the formation of the Nationalist Party in 1934. The promulgation of the Act of 1946 and the ensuing resistance campaign of the Indians had just its catalytic effect in hastening both the processes. And the earlier process was also helped by Government of India's stand after the independence of 1947. Nehru's speech in Lok Sabha on 8th March, 1948 hinted to India's stand regarding the Indians residing elsewhere:

"Now these Indians abroad, what are they? Are they Indian citizens? Are they going to be citizens of India or not? If they are not, then our interest in them becomes cultural and humanitarian, not political. That interest, of course, remains".<sup>5</sup>

If one sees into the events between 1885 and 1948 in South Africa pertaining to the Indians, one will find no or very little participation of the blacks and coloureds in them. And this is true about the events between 1946 and 1948 also. A resolution commonly known as Dadoo-Xuma - Naicker Pact of 1947, however says of an ANC support to the passive resistance campaign. This apathy was due to

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5. Tinker, Hugh, p.7.

the particularity of causes over which the Indians agitated. During the 1946-47 agitation 'a branch of ANC in Durban took part in the campaign' and 'representatives of the African and Indian people, led by Dr. Xuma, petitioned jointly at the United Nations on behalf of their people'. The support of the ANC to the campaign came out of the anticipation that any concessions to the Indians could give the blacks a break and give them a chance to demand for concessions for themselves. At least, Dr. Xuma felt so, "we feel that freedom, justice and liberty are indivisible and if Indians get a break we think that there is a chance for us as well".<sup>6</sup>

The passive resistance of the Indians in South Africa had a positive effect on the blacks. It aroused the blacks to a 'political consciousness' from where they could take lead against 'aparthied'. The formation of the ANC was very much influenced by the tactics and strategies of the Indian agitations in South Africa and was formed more or less on the same lines of Natal Indian Congress.

As regards the coloureds, the scepticism regarding the resistance remained. To them, the resistance campaign was meant for Indian's 'political and civil freedom' and that they were not included in it. Even the petition and debate in the U.N.O. spearheaded by the Government of India 'never mentioned the coloured people'. Referring to the U.N. proceedings

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6. Appendix II.

Mr. George J. Golding, Chairman of the Coloured Advisory Council, said:

"I wish to issue a serious warning. When the Government of India put up a strong case for the rights of Indians in this country, the Indian delegation never mentioned the coloured people in their plea for political and civil freedom, although it may be claimed that they included them in the general term 'Non-European'. The case put forward by the Indian delegation claims citizenship rights for Indian and Asiatics exclusively and the coloured people must not be misled by those who tell them that the fight was for their rights also. Judging from past experiences it would be correct to say now that if any concessions are derived from the U.N., they would be for Indians only, who will grab them eagerly and who would not be magnanimous enough to refuse them on the ground that their one time friends, the coloured people, are not being similarly considered".<sup>7</sup>

Though the resistance campaign of 1946 failed to bring any concessions for the Indians it certainly did help the Indians in realizing, certain truths; the truths like 'freedom for them was impossible outside the context of a complete overthrow of racism and that this could only be achieved by a joint onslaught against appression',<sup>8</sup> were certainly not small. A new chapter started after it in the history of struggle against apartheid in South Africa.

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7. The Hindu, Sunday, November 3, 1946, p. 5.

8. The Hindu, Saturday, January 11, 1947, p. 5.

APPENDIX I

The full text of the "Pegging" legislation reads as follows:- Be it enacted by the King's Most Excellent Majesty the Senate and the House of Assembly of the Union of South Africa, as follows:-

Definition 1. In this Act -

"Asiatic" has the meaning assigned to that expression by section eleven of the Asiatics (Land and Trading) Amendment Act (Transvaal), 1919 (Act No. 37 of 1919), and includes any Asiatic company as defined in the said section: Provided that for the purposes of this definition an interest which is held on behalf of or for the benefit of an Asiatic shall be deemed to be held by an Asiatic; "European" includes a company which is not an Asiatic company in terms of the preceding definition; "fixed date" means, in relation to the municipal area of Durban, in the Province of Natal, the twenty-second day of March, 1943 and in relation to any other area in respect of which the provisions of section six apply, the date as from which the said provisions have by the relative proclamation under section eight been applied in respect of that area;

"Minister" means the Minister of the Interior or any other Minister of State to whom the Governor-General has assigned the administration of this Act or any other Minister of State acting on behalf of any such Minister; and "premises" includes any room or apartment in any building.

Amendment of Section I 2. Section one of the Asiatics (Land and Trading) Amendment Act (Transvaal), 1919, of Act 37 of 1919 as amended by section 6 of Act 35 of 1932, Section 7 of Act 30 of 1936, section 1 of Act 32 of 1937, sec. 1 of Act 28 of 1939, and section 1 of Act 28 of 1941. is hereby amended by the substitution in sub-section (3) for the words "the thirtieth day of April, 1943", of the words "a date to be fixed by the Governor-General by proclamation in the Gazette".

Amendment of Sec. 2 3. Section two of the Asiatics (Transvaal of Act 28 of 1939 as Land and Trading) Act, 1939 is hereby amended by sec. 2 of Act 28 of 1941. amended -

(a) by the deletion in sub-section(1) of the words "and before the first day of May 1943" and

(b) by the deletion in paragraph (a) of sub-section (2) and in sub-section(3) of the words "at any time before the first day of May, 1943".

Amendment of sec. 3 of Act 28 of 1939 as amended by sec. 2 of Act 28 of 1941.

4. Section three of the Asiatics (Transvaal) Land and Trading) Act, 1939, is hereby amended by the deletion in sub-section (1) of the words "and before the first day of May, 1943".

Restriction on certain agreements relating to certain land in Natal.

5. (1) No European shall, except under the authority of a permit issued under section seven, enter into any agreement with a Asiatic in terms of which any party to the agreement acquires or purports to acquire -  
(a) any land or premises in any area in respect of which the provisions of this section apply in terms of section eight; or

(b) any right to occupy or to allow any other person to occupy any such land or premises for an indefinite period or for a period of ten years or longer or for a period which, together with any period or periods for which the holder of such right is entitled to renew the agreement, equals or exceeds a period of ten years; or

(4) In this section any reference to a European or an Asiatic includes a reference to any person acting for the benefit of a European or Asiatic, as the case may be.

Restriction upon  
occupation of certain  
land in Natal.

6.(1) No European shall occupy and no person shall allow any European to occupy any land or premises in any area in respect of which the provisions of this section apply in terms of section eight, which was not on the fixed date occupied or deemed under subsection (2) to have been occupied by a European, and no Asiatic shall occupy and no person shall allow any Asiatic to occupy any such land or premises which was not on the said date occupied or so deemed to have been occupied by an Asiatic, except under the authority of a permit issued under section seven.

(2) If after the fixed date any building is completed, erected or extended in any such area, or if at the

fixed date any premises in any such area are occupied, the Minister shall, on the written application of the owner of such building or premises, by written notice to such owner, determine whether such building or such extended portion of any such building or such premises, as the case may be, shall for the purposes of sub-section (1) be deemed to have been occupied at the fixed date by a European or by an Asiatic.

- (3) The provisions of sub-section (1) shall not render it unlawful for any person to occupy any premises as a bonafide guest in an hotel or to reside as an employee on any premises owned or occupied by his employer.

Permits.

- 7.(1) The Minister may, in his direction, direct that a permit be issued to be signed by an officer thereto appointed by him, authorising any agreement referred to in section five or the occupation of or the granting of permission to occupy



any land or premises in respect of which the provisions of section six apply.

- (2) In exercising his powers under sub-section (1), the Minister may take into consideration the relative needs of Europeans and Asiatic in the area concerned in regard to housing, the amenities of life and educational and recreational facilities, and any other matters which in his opinion are relevant to the question whether or not any permit applied for should be granted.

Areas in respect of which sections 5 and 6 apply.

- 8.(1) The provisions of sections five and six shall apply in respect of the municipal area of Durban in the Province of Natal, and in respect of any other area in the said province in respect of which they may be applied by the Governor-General by proclamation in the Gazette.

(2) The Governor-General may by proclamation in the Gazette declare that the provisions of section five and six shall cease to apply in respect of the said municipal area, or in respect of any area in respect of which they have been applied under sub-section (1).

(3) The Governor-General shall not issue any proclamation under sub-section(1), unless a commission appointed by him has investigated the expediency of issuing such proclamation, and has made a report to him in regard thereto.

Penalties and  
ejectment orders.

9. (1) Any person who contravenes the provisions of sub-section (1) of section five or of sub-section (1) of section six, shall be guilty of an offence and liable to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding six months or to both such fine and imprisonment, and in the case of a continuing contravention, to a fine not exceeding five pounds for every day during which such contravention is continued.

(2) The court which has convicted any person of a contravention of subsection (1) of section six, may make an order for the ejectment of the person convicted from the land or premises in respect of which the conviction took place.

Duration of sections 2 and 3 of Act 28 of 1939 as amended, and of sections 5 to 9 of this Act.

10. Section two and three of the Asiatic (Transvaal Land and Trading) Act, 1939, and sections five to and including nine of this Act shall cease to have effects on the thirty-first day of March, 1946; Provided that the operation of any of the said section may, after due enquiry and consideration, from time to time be extended by resolution of both Houses of Parliament for such period or periods as may be specified in such resolutions.

Short title.

11. This Act shall be called the Trading and Occupation of Land (Transvaal and Natal) Restriction Act, 1943.

APPENDIX II

Document 39. "Joint Declaration of Cooperation"  
Statement by Dr. A.B. Xumar of the A N C, Dr. G.M. Naicker  
of the Natal Indian Congress, and Dr. Y.M. Dadoo of the  
T I C, March 9, 1947.

This joint meeting between the representatives of the  
A N C and the Natal and Transvaal Indian Congresses, having  
fully realised the urgency of Cooperations between the non-  
European peoples and other democratic forceo for the attainment  
of basic human rights and full citizenship for all sections  
of the South African people, has resolved that a Joint Declaration  
of Cooperation is imperative for the working out of a practical  
basis of cooperation between the National Organisations of  
the non-European peoples.

This Joint Meeting declares its sincerest conviction  
that for the future progress, good will, good race relations,  
and for the building of a United, greater and free South Africa,  
full franchise rights must be extended to all sections of the  
South African people, and to this end this Joint Meeting pledges  
the fullest cooperation between the African and Indian peoples  
and appeals to all democratic and freedom loving citizens  
of South Africa to support fully and cooperate in this struggle  
for:

- 1) Full Franchise
- 2) Equal Economical & Industrial rights and opportunities  
and the recognition of African Trade Unions under  
the Industrial Conciliation Act.

- 3) The removal of all land restrictions against non-Europeans and the provisions of adequate housing facilities for all non-Europeans.
- 4) The extensions of free and compulsory education to non-Europeans.
- 5) Guaranting freedom of movement and the abolition of pass laws against the African people and the provincial barriers against Indians.
- 6) And the removal of all discriminatory and appressive legislations from the Unions' Statute Book.

This Joint Meeting is therefore of the opinion that for the attainment of these objects, it is urgently necessary that a vigorous campaign be immediately launched and that every effort be made to compel the Union Government to implement the United Nation's decisions and to treat the non-European peoples in South Africa in conformity with the principles of the United Nation's Charter. This Joint Meeting further resolves to meet from time to time to implement this declaration and to take active steps in proceeding with the campaign.

from protest to Challenge - A Documentary History of African Politics in South Africa 1882-1964 ed-Thomas Karis and

Gwendolen M. Carter, Hope and Challenge, Volume 2, 1935-1952, Hoover Institution Press, Stanford, California, 1973.

APPENDIX III

CHRONOLOGY OF COLOUR BAR IN SOUTH AFRICA

Notable Colour Events in South Africa before the  
Formation of the Union

- 1652 Landing of Van Riebeeck. Encouragement to inter-marriage between white and black.
- 1654 Introduction of Asiatic Convicts.
- 1658 Importation of west African slaves.
- 1663 European, Hottentot and Slave children learn together without racial discrimination.
- 1799 Mirza Abu Taleb Khan, distinguished author of Travels in Asia, Africa and Europe visits Cape and is welcomed by Europeans as an honoured guest.
- 1804 The Dutch Government forms a Malay Artillery Corps, which two years later wins praise for valiant action against British forces.
- 1806 Oceanic slave trade in British conquered territories abolished.
- 1828 Ordinance No.50. "Magna Charta of the Native People." All free non-European people placed on political equality with whites.
- 1831 Raja Rammohan Ray touches Cape Town en route to England. He preaches in a Unitarian Church at Cape Town. He subscribes to the South African College, now University of Cape Town.

(Representative Government in the Cape, 1834)

- 1834 Liberation of the slaves. The Secretary of State for the British Colonies disallows a draft Vagrancy Ordinance which attempted to restrict Hottentot freedom.
- 1836 Great Boer Trek.
- 1838 Mantatee, A Bechuana native, acts as a librarian to the European community in a rural centre at the cape.
- 1841 Masters, Servants and Apprentices Ordinance rejects differentiation in law between Hottentot and European.
- 1846 During the Great Xosa War on "the War of the Knief". armed Malay volunteer corps assist the colonists in protecting the frontier.
- (Parliamentary Rule at the Cape, 1854)
- 1855 Sir George Grey, the Governor, announces a policy of assimilation for the Natives to become "a part of ourselves".
- 1857 Kafir Employment Act.
- 1863 European pay cricket matches against Africans.
- 1867 Natives granted equal legal status in the Cape.
- (Responsible Government at the Cape, 1872)
- 1878 Disarmanent Act (repealed in 1882).

- 1879 Act No. 40 - Native Locations Act.
- 1886 2075 Native trained in industrial institutions without racial discrimination.
- 1887 Parliamentary franchise extended to Transkei Natives.
- 1894 Glen Grey Act. Provision for limited Self-government to Natives.
- 1906 Immigration Act. Restrictions against Indian immigration.

Notable Colour Events in the Transvaal (1852-1908).

(Britain's recognition of the independence of the Boers in the Transvaal, 1852).

- 1853 Establishment of the South African Republic in the Transvaal. Provisions regarding occupation of farms by Natives.
- 1858 The constitution of the South African Republic adopted. It proclaimed: "There shall be no equality between white and black either in church or state". Trading in firearms and horses with Natives prohibited.
- 1860 Instructions to missionaries to report conspiracies against the State by coloured persons.
- 1870 Taxation on Natives.
- 1871 Congregation by coloured persons in towns prohibited.
- 1876 Provision for locations.
- 1880 Relative rights and duties of masters and servants and apprentices regulated.



- 1881 Native tribes beyond the borders prohibited from squatting in the South African Republic.
- 1885 First anti-Asiatic Legislation. Law 3 of 1885. Formulation of a native policy.
- 1888 The South-African Republic rejects a British Indian petition and places the Asiatics in the same category as the Natives.
- 1897 Regulation of marriages on the grounds of colour.
- 1898 Law 15 of 1898 (Discrimination against Indians).
- 1899 Regulations for towns.
- (The South African Republic becomes a British Colony 1902).
- 1903 The Immorality Ordinance.
- 1904 Importation of Chinese indentured labour for mines.  
(Responsible Government in the Transvaal, 1906).
- 1906 Johannesburg Municipal Ordinance.
- 1907 Arms and Ammunition Act.  
Immigration Act (No. 15 of 1907).  
Education Act (No. 25 of 1907).  
Vrededrop Stands Ordinance.  
Workmen's Compensation Act (No. 36 of 1907).
- 1908 Law 16. Immorality Amendment Ordinance.  
Act 19. Public Service and Pensions Act.

- Law 34. Townships Amendment Ordinance.
- Law 35. The Gold Act.
- Law 36. Asiatic Registration Amendment Act.
- Notable Colour Events in Natal (1838-1910).
- (The Dutch establish a Republic in Natal in 1838.  
The British take over the country in 1843).
- 1843 Queen Victoria's proclamation. Equality for all races.
- 1847 Possessory segregation.  
Formulation of a native policy.  
(Nominated Legislative Council in Natal, 1848).
- 1854 Advocacy of the Location Scheme.
- 1855 Sir George Grey approves the importation of Indian labour. He pledges treatment "on a par with Europeans".  
(Natal becomes a separate colony, 1856).
- 1859 Law 14 of 1859. Government empowered to import Indian labour.
- 1860 First importation of indentured labour from India.
- 1865 Parliamentary franchise for Natives.
- 1870 Law 2 of 1870. Grant of land to indenture-expired Indians.
- 1874 The door to Indian immigration re-opened.
- 1875 The British Government re-affirms equal privileges for Indian settlers.

- 1878 The Indian Education Law of 1878.
- 1891 Law 25 of 1891. Commencement of racial discrimination in Natal.
- (Responsible Government granted to Natal, 1893).
- 1894 Discrimination against Natives. Act 40 of 1894.
- 1895 Discrimination against Indians. Act 17 of 1895.
- 1896 Discrimination against Indians. The Franchise Act.
- 1897 Discrimination against Indians. Dealers' Licensing Act No. 18 of 1897, and Immigration Restriction Act.
- 1899 • Discrimination against Natives. Act 15 of 1899.
- 1900 Discrimination against Indians. Act 1 of 1899.
- 1902 Discrimination against Natives. Act 28 of 1902.
- 1903 Discrimination against Natives. Act 48 of 1903.
- Discrimination against Indians. Immigration Restriction Act.
- 1906 The Zula Revolt (due to discriminatory Acts of 1894, 1899, 1902 and 1903 against the Native people).
- 1910 Discrimination against Indians. Public Servants Superannuation Act. Teachers Pensions Act.
- Notable Colour Events in the Orange Free State (1854-1906).
- (Establishment of the Orange Free State Republic, 1854).

- 1891 The Statute Law of the Orange Free State. It prohibits an Arab, a Chinaman, a Coolie or any other Asiatic coloured person from carrying on business or farming in the O.F. State. All Indian business men deported from the State without compensation.
- 1906 Responsible Government in the O.F.S.
- Discriminatory Legislation against Non-European People in the Union of South Africa, 1910-1950
1. South Africa Act, 1909 (Sections 26, 35, 44, 147 and 151).
  2. Act 12 of 1911. Mines and Works Act (Natives).
  3. Act 15 of 1911. Native Labour Regulation Act.
  4. Act 1 of 1912. Natal Native Trust and Native Administration Amendment Act.
  5. Native Disputes Act, 1912.
  6. Act 13 of 1912. South African Defence Act.
  7. Act 12 of 1913. Maclear and Elliott Districts Further Provision Act (Natives).
  8. Act 22 of 1913. Immigrants Regulation Act (Indians).
  9. Act 27 of 1913. Natives' Land Act.
  10. The Indian Relief Act, 1914.
  11. Act 17 of 1915. Dipping Tanks Further Provisions (Natives) Act.
  12. Act 1 of 1916. Native Reserve Locations (Cape of Good Hope) Further Amendment Act.

13. Act 28 of 1918. Factories Act.
14. Act 37 of 1919. Restriction on ownership of fixed property by Indians in the Transvaal.
15. Act 23 of 1920. Native Affairs Act.
16. Act 24 of 1920. Native Registered Voters (Cape) Relief Amendment Act.
17. Act 9 of 1921. Natal Native High Court Act.
18. Act 18 of 1921. Native Advances Regulation Act.
19. Act 21 of 1923. Natives (Urban Areas) Act.
20. Act 7 of 1924. Native Chiefs' Jurisdiction (Transvaal) British Bechuanaland Act.
21. Act 11 of 1924 - Industrial Conciliation Act.
22. Act 28 of 1924. Moroka Ward Land Relief Act (Natives).
23. The Townships Franchise Ordinance, 1924. (Indians in Natal).
24. The Rural Dealers Control Ordinance, 1924. (Indians in Natal).
25. The Durban Land Alienation Ordinance, 1924. (Indians in Natal).
26. Act 27 of 1925. Minimum Wages Act.
27. Act 28 of 1925. Native Lands (Natal and Transvaal) Release Act.
28. Act 41 of 1925. The Colour Bar Act.
29. General Dealers Control Ordinance, 1925 (Transvaal).
30. Act 26 of 1926. Masters and Servants Law Amendment Act.

31. Act 28 of 1926. Native Taxation and Development Amendment Act.
32. The Local Government (Provincial Powers) Act, 1926.
33. Native Affairs Further Amenment Act, 1927.
34. Native Lands Further Release and Acquisitioin Act, 1927.
35. Native Administration Act, 1927.
36. The Asiatics in the Northern Districts Act, 1927.
37. The Nationality and Flag Act, 1927.
38. Act 22 of 1928. The Old Age Pensions Act.
39. Act 30 of 1928. The Liquot Act.
40. Act 9 of 1929. Native Adminsitration Amendment Act.
41. The Industrial Conciliation Act, 1930.
42. Wage Amendment Act, 1930.
43. The Riotous Assemblies Amendment Act, 1930.
44. The Native (Urban Areas) Amendment Act, 1930.
45. Women's Enfranchisement Act, 1930.
46. The Immigration Amendment Act, 1930.
47. The Coloured Persons Settlement Areas (Cape) Act, 1930.
48. Act 24 of 1932. Native Service Contract Act.
49. Transvaal Asiatic Land Tenure Act, 1932.
50. Act 24 of 1933. Pensions (Supplementary) Act.
51. Act 7 of 1933. Industrial Conciliation Amendment Act.
52. Transvaal Asiatic Land Tenure Amendment Act, 1934.

53. Act 7 of 1934. Births, Marriages and Deaths Registration Amendment Act.
54. Act 56 of 1934. Public Service Pensions Amendment Act.
55. Act 59 of 1934. Workmen's Compensation Act.
56. Act 60 of 1934. Miners Phthisis Amendment Act.
57. The Slums Act, 1934
58. Transvaal Asiatic Land Tenure Amendment Act, 1935.
59. Rural Dealers Licensing Ordinance, 1935 (Indians in Natal).
60. Act 11 of 1936. Blind Persons Act.
61. Act 12 of 1936. Native Representation Act.
62. Act 18 of 1936. Native Land and Trust Act.
63. Act 34 of 1936. Native Representation Act.
64. Transvaal Asiatic Land Tenure Amendment Act, 1936.
65. Act of 1937. Native Administration Amendment Act.
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