

SOUTH AFRICAN INSTITUTE OF RACE RELATIONS (INC.)  
SUID-AFRIKAANSE INSTITUUT VIR RASSEVERHOUDINGS (INGELYF)

P.O. Box 97

JOHANNESBURG

Posbus 97

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PRESS BULLETIN

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RACE RELATIONS' PRESIDENT SPEAKS OUT ON  
"PROMOTION OF BANTU SELF-GOVERNMENT BILL"

THE FOLLOWING STATEMENT was made this evening in Cape Town by Mr. Donald B. Molteno, Q.C., the President of the South African Institute of Race Relations:

"The Promotion of Bantu Self-Government Bill proposes, for the first time in the history of the Union, to deprive the African people of any representation in Parliament of any kind whatever.

"At the establishment of Union, Africans in the Cape Province were entitled to exercise the Parliamentary franchise on the same terms as people of other races. Although the franchise had never been enjoyed by Africans in the other provinces, so long as it was possessed by Africans in the Cape the principle of equality of political rights for properly qualified citizens was maintained in South Africa. This gave rise to what seemed to be the not unreasonable hope on the part of the African people that it would in time be extended throughout the Union. That, at all events, was how the African people and their leaders saw the position, and they consistently refused to agree to the substitution of any minority Parliamentary representation on a separate, or communal basis, of the Union African population as a whole.

"In 1936 the Cape African franchise was abolished and there was substituted the present system whereby the Africans of the Northern Provinces were represented by two Senators elected by them and those of the Cape by two Senators and three M.P.'s likewise elected by them. All the Senators and M.P.'s are required to be Europeans.

"Slender as this representation is, it at least upholds the principle of direct representation of the Africans in the Parliament which exercises absolute legislative powers over them. It also ensures that voices of protest will be raised in the highest councils of the land against measures unjustly discriminatory against Africans, and that African needs and grievances will be publicly ventilated. The African people have never accepted this form of representation, but they have used it for these limited purposes pending the achievement of effective political rights.

"Now, at a time when throughout Africa and Asia the non-White peoples of the world are achieving, or have already achieved, full democratic rights, the

Union Government is proposing the unprecedented step of total dis-franchisement of Union Africans. The Government claims that it is substituting local self-government for African parliamentary representation. So long as the Union Parliament legislates for all races in South Africa there can never be an effective substitute for Parliamentary representation of all races. Local self-government can never provide such a substitute because all organs of local government are subordinate to Parliament. But this Bill does not even provide for a genuine system of African local self-government. It adds a few minor powers to those of African territorial authorities established under the Bantu Authorities Act, 1951, and empowers the Government to delegate others. But these territorial authorities can be established only for tribal areas in the reserves - comprising a mere 12% of the area of the country where less than half the African people live. Approximately one third reside on European owned farms and about one quarter, which comprise, generally speaking, the most advanced and developed Africans, in the urban areas. All these are not included within the scope of the system at all. Moreover, these territorial authorities are not even organs of local self-government since the people have no right to elect them and they are constituted in such manner as the Government prescribes. Even in regard to the reserves, therefore, this system is a backward step as compared with that of election of local and general councils under the Native Affairs Act, 1920, which in the past was regarded as additional and supplementary to - not as a substitute for - such Parliamentary representation as the Africans possessed.

"The provisions in the Bill for the appointment of commissioners-general to represent the Government in the reserves and for the nomination of representatives of territorial authorities in the urban areas are administrative only and have no relation to African 'self-government'. Indeed the functions of these officials and nominees are of the vaguest and their utility highly dubious.

"The Institute exists to promote harmonious relations between the various racial communities. In discharge of its basic function, therefore, it conceives it to be its duty to issue the warning that good relations cannot exist between European and African so long as effective political rights are the monopoly of the former and are denied the latter. In no other country in the world is an attempt being made to solve the complex problems of a plural society on a basis such as this. For many years past race relations have continued to deteriorate in South Africa, to the grave detriment of all our peoples. An essential step towards halting this process is for the Government to cease imposing legislation upon the African and other non-White peoples without consultation with their leaders. We are convinced that the only wise course in this particular matter would be for the Government to abandon this legislation and to consult the African people through their leaders as to the course of their future political development."

NOTE: Mr. Donald B. Molteno has been Honorary Secretary of the Cape Joint Council of Europeans and Bantu, 1935-37 - Honorary Secretary of the Continuation Committee of the Cape Town Conference on the Native Bills convened by the S.A. Institute of Race Relations, 1936 - Member of Parliament for the African constituency of Cape Western, 1937-48 - Member of the Executive of the S.A. Institute of Race Relations since 1936 - Vice-President of the S.A. Institute of Race Relations, 1951-53 - President of the S.A. Institute of Race Relations, 1958-59.

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EXTRACT FROM THE FINDINGS OF COUNCIL, JANUARY 1959

(In relation to the Proposed Legislation for Promotion of Bantu Self-Government)

(a) THE NEED FOR A NEW SYSTEM OF GOVERNMENT IN SOUTH AFRICA

South Africa is a multi-racial society, that is a plural society in which there are included in the same State population groups, based on racial divisions, such groups being of significant actual or potential political power.

At present actual political power is the monopoly of one race. That position is unjust and it cannot be perpetuated. The need for devising a means of peaceful change to a system of government in which political power is shared by all the races and in which each race has a real sense of participation in government is urgent. Unless this is achieved there can be no hope of a stable political order in South Africa. The ultimate aim must be to establish a form of society in which persons will have ceased to regard themselves primarily as members of a particular race and will have come to think of themselves as members of a single national community.

A system of government will be required based upon a constitution in many respects radically different from the present constitution, which was framed by members of one race only, fifty years ago. The task of drafting such a constitution will need the co-operation and goodwill of all the races. One of the main objects of that constitution will be to ensure that no section of our multi-racial society shall have power to dominate or oppress any of the other sections and that each section shall be free from the fear of domination or oppression as far as possible. A national convention, truly representative of all races, will have to be called together and entrusted with the business of drafting such a constitution.

One of the fundamental tasks of such a convention will be to determine the qualifications for the franchise, which, of course, will not be based upon race.

Whatever franchise may be agreed upon, the convention will have to define the individual rights which are to be regarded as fundamental and to devise means whereby effective protection is given to such rights. A Bill of Rights, suitably and adequately protected against legislative and executive invasion, will have to be framed. The best form of such protection is a rigid constitution safeguarded by an independent judiciary. Such a Bill of Rights, so protected, will be the cornerstone upon which peaceful and fruitful co-operation in a multi-racial society may be built.

The convention will also have to consider whether a measure of regional devolution is desirable. Such devolution, if decided upon, may as a result of the division of power, furnish further safeguards against domination.

(b) /.....

(b) RECENT LEGISLATION

1. In general, recent measures which flow from the Government's unswerving determination to implement its apartheid policy continue to follow the now familiar pattern. These measures place wide and arbitrary powers in the hands of the Executive, override the will of the local authority, invade individual and group freedoms, enforce racial separation in spheres which should be immune to interference by the State, and in general impose harsh and soul-destroying restrictions upon the under-privileged groups who are denied access to the normal machinery of consultation and consent. In consequence of this restrictive and repressive legislative process, we witness not only a steady deterioration in race relations, but, what is even more distressing, an erosion of those moral and spiritual values without which no civilised society can endure.
2. The Institute notes with approval the intention of the Government to introduce legislation incorporating progressive ideas and implementing certain recommendations of the Lansdown Commission which are in line with enlightened development in the field of penal and prison reform.
3. On the other hand, the closing of the Durban International Club and the exclusion of Africans from cinemas in the major cities are further deplorable examples of the Government's determination to eliminate all points of contact between members of the various racial groups, to curtail the already inadequate facilities for Non-European recreation, and to whittle away the powers of local authorities. In Johannesburg we have witnessed the unfortunate attempt of the Minister of Bantu Administration and Development to impose a ban on social gatherings, outside the Native urban areas, at which Africans may be present. We note that the Minister has denied that he intended the ban to be of general application, but nevertheless his threat to amend the Natives (Urban Areas) Act to enable him to impose such a ban without the consent of the City Council, indicates that the Government is prepared to discard the principle of co-operation and consultation as soon as its designs are questioned or thwarted.
4. In the field of University education, Council affirms the principles outlined by the Hon. A. van de Sandt Centlivres in his opening address - and stresses in particular the fact that true university training is based on the "universals" of our heritage, whose spirit is contradicted by narrow tribalism and ethnic grouping. Council records the fact that the Fort Hare University College has had a long and praiseworthy history and feels that its efforts to meet the needs of all Africans and other Non-Whites who desire true university education in a common institution in Africa South of the Sahara should be supported and furthered.
5. The Institute is emphatic that the present form of representation of Africans in Parliament is utterly unsatisfactory and inadequate, but is opposed to any legislation which will reduce even their existing rights. The Institute maintains that in keeping with current trends of political advancement in Africa all sections of the population must be adequately and effectively represented in both central and local governments.

Coloured Mission Stations and Reserves

The Council, in re-affirming the principles of freedom of worship, is strongly opposed to Regulation 88 of 25 October 1957, issued by the Minister of the Interior under the Mission Stations and Communal Reserves Act, No. 29 of 1909 as amended, as unduly limiting freedom of assembly and of worship in Coloured Mission Stations.

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FIRST INTERIM REPORT ON THE ESTABLISHMENT  
OF BANTU AUTHORITIES

POSITION AS AT 18 MARCH 1959

In view of the discussion about Bantustans, and of the possibility that the Bantu authorities system is to be substituted for the representation of Africans in Parliament, it is interesting to examine how far this system has so far been developed. Its merits or demerits are not at present under discussion, but merely its geographical extension.

By 18 March 1959, there had been set up 324 tribal authorities, 26 district authorities (these are all in the Transkei), 16 regional authorities, and one territorial authority (the old "Bunga").

TRANSKEI

The system has been developed furthest in the Transkei, as is to be expected in view of the fact that local councils previously existed in every district there.

123 tribal authorities have by now been set up, those in each magisterial district falling under a district authority. All of the old district councils are now functioning as district authorities.

Seven regional authorities have been established, and it would appear that only two or three more are needed (all in East Griqualand). These regional authorities are as follows:

<u>Districts served</u>	<u>No. of tribal authorities in these districts</u>	<u>Approx. no. of Africans under the control of the authorities<sup>(1)</sup></u>
<u>East Griqualand</u>		
Matatiele and Mount Fletcher	16	108,730
<u>Pondoland</u>		
Bizana, Flagstaff, Jabankulu and Lusikisiki	20	238,301
Libode, Port St. John and Ngqeleni	10	120,734
<u>Tembuland</u>		
Mqanduli, Umtata and Engcobo	12	186,675
Xalanga and St. Marks	8	77,813
<u>Transkei</u>		
Tsomo, Nqamakwe and Butterworth	3	102,835
Elliotdale, Idutywa, Willowvale and Kentani	23	185,989
	<u>92</u>	<u>1,021,077</u>

The remaining 31 tribal authorities are in the Umzimkulu, Mount Frere, Mount Ayliff, Qumbu and Tsolo districts of East Griqualand, where no regional authorities have as yet been established.

CISKEI

25 tribal and 6 regional authorities have been set up. The regional authorities are as follows:

<u>District served</u>	<u>No. of tribal authorities in the district</u>	<u>Approx. no. of Africans under the control of the authority</u>
Herschel	6	60,000
Victoria East	3	17,048
Keiskammahoek	2	18,015
Middledrift	2	24,797
King William's Town	6	59,202
East London	5	76,016
	<u>24</u>	<u>255,078</u>

The remaining tribal authority is in the Peddie area.

It would appear that at least four more regional authorities will be necessary, and many more tribal authorities. None at all have as yet been set up in the Glen Grey, Queenstown, Stutterheim, Komgha or Fort Beaufort districts.

It seems that, in general, in the Cape, the Africans who have been longest in touch with European systems of government are the least ready to adopt the Bantu authorities system.

(1) Information given by Minister of Bantu Administration and Development, Assembly 20 Feb. 1959, Hansard 4 col. 1212. Figures are based on 1951 census.

NORTHERN AREAS.

There is as yet only one regional authority in the Northern Areas - the Ndebele authority in the Potgietersrus district, with 7 tribal authorities and about 119,938 Africans under its control. About nine more regional authorities may be required.

There are another 78 tribal authorities, mainly in the Hammanskraal, Sibasa, Letaba, Pietersburg, Groblersdal and Barberton areas.

None have as yet been established in the Sekhukhuneland, Pilgrims Rest (Bushbuck Ridge) or Nelspruit areas. The reason, so far as the Bushbuck Ridge area is concerned, is that, in Dr. N.J. van Warmelo's words, the tribes are in "a remarkable state of ethnological confusion", and the Department is trying to sort the people out in such a way that the greatest number of each chief's subjects will belong to the same clan as himself.

ORANGE FREE STATE.

There are two tribal authorities at Witzieshoek, and one at Thaba 'Nchu. So far, no regional authorities have been established.

WESTERN AREAS

So far, 37 tribal and 3 regional authorities have been set up. At least another four regional authorities will probably be needed.

The regional authorities are:

<u>District served</u>	<u>No. of tribal authorities in the district</u>	<u>Approx. no. of Africans under the control of the authorities</u>
Pilanesburg (Rustenburg)	10	50,000
Taung	4	30,001
Hurutshe (Marico District)	6	?

The remaining tribal authorities are in the Ventersdorp, Mafeking, Vryburg, Postmasburg and Herbert areas.

Very little progress indeed has been made in the Lichtenburg area, the north part of Taung, and in Kuruman.

NATAL AND ZULULAND

Very little development has taken place in Natal and Zululand. There are, as yet, no regional authorities : and fairly large numbers may be required because the African areas are so scattered.

There are 51 tribal authorities, mainly in Ngwavuma, Ubombo and Nongoma in the north, Eshowe and Mtunzini in the centre, the Pietermaritzburg district, and Umzinto.

No tribal authorities at all have as yet been set up in most of the reserves. Large numbers will probably be necessary, as in most of the districts there are numbers of tribes, each owing allegiance to its own chief. At the time of the last Parliamentary election each of these constituted a separate electoral unit. There were, for example, 9 of these units in Ixopo, 7 in Alfred, and 6 in Estcourt. So far, there are no tribal authorities in these districts.

CONCLUSION

It is obvious that the Bantu authorities system will have to be developed a very great deal further before it can be said to cover all the Africans in the reserves.

So far, of course, it is not representative at all of urban Africans, nor of Africans in European rural areas.

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BANTU AUTHORITIES BILL

The Institute has examined the Bantu Authorities Bill and offers the following comments:-

General

1. So far as the Institute is aware, at no time have the African people been consulted about this Bill. The Institute considers that any such proposals should have been discussed with the people who are affected and it wishes to emphasize that should this Bill be enacted and applied, no change should be brought about without the very greatest degree of consultation with the people concerned and their agreement. The Institute regrets that a Bill of this importance was not published in time for discussion and comment by interested persons and bodies.
2. The basis of this Bill is the chief or headman and the tribe. The tribal council, from which the other authorities proposed are to be formed, may be appointed or selected. The Institute considers that provision should be made for an elective basis for the tribal authority.
3. Experience has shown that chiefs and headman are usually backward and conservative people who are anxious to preserve their customary rights and authority. They have often shown great ineptitude and tribesmen have often expressed dissatisfaction with the existing administration of chiefs and councillors. In such circumstances it will be difficult to bring into the administration enlightened Africans unless there is an elective basis, - which may make some allowance for the hereditary principle -, for the tribal authority.
4. The Institute considers that while in some areas it is possible to retain for some time a tribal pattern for local government, there are other areas where progress can only be obtained through the development of local councils. The Institute has always looked to an extension of general and local councils as the next stage in the growth of African local government for it considers that the impact of Western economy and culture will inevitably disrupt what remains of tribal life completely.
5. The Institute notes that provision is made in the Bill for the elimination of local and general councils. It deplores the possibility of this and considers that existing general councils should not be abolished except by a resolution of both Houses of Parliament.
6. The emphasis which the Bill places on the tribe will tend to exacerbate tribal feeling and jealousy. While local patriotism and pride is desirable for the proper development of local government, this could be secured more profitably through the development of the local council system. This latter is more calculated to contain a cross-section of the people than are the proposed tribal authorities.

7. The relationship of the authorities to administrative officers is not clear. Will they be bodies independent of the Native Commissioners?
8. The Institute considers that the abolition of the Natives Representative Council breaks an undertaking which was made at the time of the 1936 Representation of Natives Act, when the Cape Native Franchise was abolished. The conferences proposed in the Bill are no substitute for the Natives Representative Council. The past history of such conferences shows that they are no more likely than the Natives Representative Council to be acceptable to the government of the day. The Institute wishes to emphasize that the need will soon become apparent for a national central body for African opinion.
9. Finally the Institute wishes to emphasize that the system envisaged in the Bill is for local government only and that it can be no substitute for the political representation of the African people.

#### Detailed Comments

##### Clause 2

Under this clause, tribal authority may be imposed upon persons who have had no chief for many years and they will almost certainly resent any such imposition. It is also considered that much trouble may arise should chiefs and headmen be appointed over other chiefs or headmen with whom they have no affinity and who have entrenched interests. This will give rise to extremely inflammable situations.

This clause also states that no regional or territorial authority will be established in any area except after the Minister has "consulted" the Africans of the area concerned. The Institute wishes to emphasize again the imperative need for consultation not only at this level but also at the tribal level. The Bill should more clearly define what is meant by consultation - does it mean that agreement is to be secured or is merely a public announcement of intention?

##### Clause 3

It is not clear whether the councillors are to be appointed, selected, or elected. The Institute considers that while initially it might in some areas be necessary to appoint, the general pattern should be election, with provision made where necessary for the hereditary principle. If election is the method then section four of this clause must be eliminated. This latter section empowers the Minister to dismiss any member of a regional or territorial authority. If such member is elected then there is a clash between the will of the electorate and the will of the Minister and if the object of the Bill is to train Africans in local self-government, this object will be defeated by such interference in the rights of election.

##### Clause 4

The powers of the tribal authority are very vague and could with advantage be more clearly defined.

##### Clause 5

Regional authorities will provide for education, hospitals, clinics, roads, bridges, dams, etc. The clauses must be read in conjunction with clause 10, which provides for the funds which will accrue to the regional authority. In addition to the levy prescribed in Clause 6, and fines and

fees, Parliament may make allocations to the regional authority. If such regional authorities are to function successfully, then appropriations from the Native Trust, provincial, and general revenue will be essential. The regional authorities will not be able to carry out their duties unless grants are specifically made from e.g. the Departments of Health, Education, Agriculture, Social Welfare and from Provincial authorities.

Clause 6

This clause permits a regional authority to make a levy of £1 on every male African adult ordinarily resident in the particular area. Is this to be in addition to taxes already levied? The Bill does not make clear if this levy is to be substituted for the existing local tax, nor does the Bill indicate what relation these authorities and their funds will have to the Native Trust and its work. Will the rural African be able to bear this additional levy?

Clause 12

This clause provides for the substitution of regional authorities for local councils and of territorial authorities for general councils. It presumably means that the Transkeian system, sixty years old, which was established with the intention of giving the people more say in local government, may be abolished. That is, this sixty-year old policy will be reversed. It would surely be in the interests of African development to encourage the existing general councils, allocating more revenue, functions, etc., and so having these councils as patterns on which local government in other areas could progressively model itself. This clause in effect gives the Minister power to abolish existing general councils and the Institute considers that this should only be done by a resolution of Parliament.

Clause 14

Under this clause, if any laws conflict with the Act, or if such conflict gives rise to "administrative difficulty", the Governor-General, and not the courts of law, shall decide which law shall apply. This is a very sweeping power and is bad in principle.

Clause 15

Empowers the Governor-General to summon general conferences of Africans at his discretion. These presumably are meant as a substitute for the Natives Representative Council which is abolished in Clause 18, and as pointed out such conferences are not likely to be more amenable than the Natives Representative Council.

Clause 18

This clause abolishes the Natives Representative Council and provides no substitute so Africans will have no statutory national body representing them.

In conclusion the Institute wishes to emphasize again that the system of local government envisaged by the Bill is no substitute for political representation.

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