

CITIZENSHIP

—the consequences of its loss

by Sheena Duncan

IN 1970 the South African Government passed the Bantu Homelands Citizenship Act. This Act said that **every** black (African) South African is a citizen of one of the homelands. This applies to everyone even if they have always lived in the so-called white areas and have no knowledge of any homeland and no relatives in any homeland.

Which homeland a person belongs to is really decided by the language he or she speaks. If he speaks Zulu he is a citizen of Kwa Zulu. If he speaks Tswana he is a citizen of Bophuthatswana. If he speaks Xhosa he is a citizen of Ciskei or Transkei — and so on.

This Act made no practical difference to people's lives because the homelands remained part of South Africa and everything went on as before.

BUT when Transkei became independent in 1976, Bophuthatswana in 1977 and Venda in 1979, the intention of the 1970 Act became clear.

The Status Acts conferring independence on the bantustans, including the Status of Ciskei Act, say that every person who is a citizen of the bantustan in terms of any law 'shall cease to be a citizen of South Africa'.

This means that on the day of independence of Bophuthatswana all Tswana people in South Africa became foreigners — aliens in the land of their birth.

On the day of independence of Venda all Venda South Africans became foreigners.

On the day of independence of Transkei all Xhosa-speaking South Africans who were born in Transkei or who live there or whose ancestors came from there ceased to be South African citizens and became foreigners.

On 4 December 1981 when Ciskei becomes independent all other Xhosa-speaking South Africans will cease to be South Africans and will become alien in South Africa.

By the end of 1981 almost nine million black South Africans will have had their citizenship taken away from them.

CONSEQUENCES

1 The claim to political participation

While people are citizens of a country, they have the right to demand a vote in the central political institutions of that country. Foreigners have no such right. No country in the world gives the vote to aliens working in the country.

Black South Africans are being made alien in their own country and thus lose their claim to the vote in South Africa. They are supposed to vote only for representatives in the parliament of the bantustan they belong to.

2 The claim to a fair share of the economic wealth of South Africa

While people are citizens of a country they have the right to demand a fair and just distribution of the land, wealth and resources of that country.

Once the bantustans become independent, the people lose this right. They can no longer demand a just distribution of wealth as a right. They become beggars for the charity of the wealthy neighbour.

3 International travel

Foreigners have no right to claim a South African passport for purposes of international travel. Once their homeland is independent black South Africans are refused a South African passport and are told they must take a passport from their own country. But the rest of the world does not recognise the independence of the bantustans so it is difficult to travel on a bantustan passport.

Other countries in southern Africa will allow people carrying Transkei, Bophuthatswana and Venda passports to visit but may take the passport away at the border and issue a special permit. The passport must then be collected at the borderpost on return.

For travel outside southern Africa other arrangements can be made:

- (i) A person who has to carry a bantustan passport and who wishes to go to Europe or America can approach the Embassy or Consulate of the countries to which they wish to travel for a special visa.
- (ii) A person wanting to travel abroad can go to their bantustan government to ask for permission to apply for a South African passport. If their own government agrees the South African Government may issue a South African passport with the citizenship of the person shown as 'undetermined'. This will allow the persons concerned to travel abroad under the protection of the South African Government but does not affect their status as foreigners inside South Africa.

4 Rights of residence in urban areas

Those black people who are citizens of independent bantustans but who have Section 10 rights to be in town in 'white' South Africa retain these rights after independence. Thus those people, who have lived in one town since birth or who have worked for 10 years in registered employment in one town for one employer, or who have had a permit to live in one town for 15 years, and their wives and children, have a legal right to remain in that town. They do not lose this right when their homeland becomes independent but the children who are born **after** the date of independence of the parents' homeland have no such rights. They will only be allowed to remain in the town if they are given a Section 12 permit to be there.

Section 12 is the section which controls the presence of black persons from foreign countries in towns in South Africa. It allows for a permit and is **not** a legal right. The permit can be withdrawn at any time without reason being given and the person concerned cannot go to court to fight such a withdrawal because there is no **legal right** involved.

5 Leasehold title in urban areas

A black person in urban areas in South Africa can now obtain a 99-year lease on a site in a black township and may buy or build a house on that site. He has full ownership rights to that house. He can make a will and leave that house to anyone he likes. But if he is a citizen of an independent bantustan and his heir is born after the date of independence of the bantustan, the heir will inherit the house and have full rights of ownership to the house but he will not be allowed to occupy the house unless he is given a Section 12 permit to be in the town where the house stands. If he is refused the permit he will have to decide whether to sell the house or to rent it to someone who is allowed to be in the town where the house is.

6 General legislation

On independence the homelands take over the whole body of South African laws which then become the laws of the new country until they are amended or repealed by the homeland government after independence.

7 Pensions

After independence citizens of the independent homeland who live permanently in South Africa and are lawfully resident on white farms or in the towns will continue to get their pensions as usual from the South African

Government and should apply at the local Commissioner's office.

Those who live inside the homeland must get their pensions from the homeland government and apply at the local Magistrate's office. After independence the homeland government has full power as the government of an independent country to change the pension legislation and to increase or decrease the amount of the pension payable.

On resettlement a pension paid to a person living in South Africa is cancelled and a new application must be made to the homeland government after resettlement. There is no transfer of a pension because different governments are concerned.

Pensions paid by employers and private Pension Funds will remain payable in the usual way irrespective of where the person is resident on retirement.

8 Unemployment Insurance

People who work inside the Ciskei will no longer be eligible to belong to the South African Unemployment Insurance Fund after independence. Unless Ciskei establishes a Fund of its own such people will have no protection against unemployment.

Ciskeian citizens permanently and legally resident in that part of South Africa outside Ciskei will continue to be covered by the South African Unemployment Insurance Fund.

Ciskeian citizens who work outside the Ciskei on one-year contracts will cease to be contributors to the Fund when the contract on which they are engaged at the time of independence expires. They will still be able to claim benefits from the South African Fund if they become unemployed within three years of independence day. After that three years expires, they will be entitled to no benefits whatsoever, however much money they may have contributed to the Fund before independence.

The above also applies to commuters. A commuter is a person who lives in the bantustan but travels each day to work in white South Africa, eg, workers who live in Mdantsane and work in East London or who live in Zwelitsha and work in Kingwilliamstown, etc. Because they are not resident in South Africa they will no longer be eligible to belong to the Unemployment Insurance Fund.

9 Workmen's Compensation

Workers who work outside the bantustan will continue to be entitled to Workmen's Compensation if they are injured at work. Those

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who work inside the bantustan will not be entitled to compensation unless the bantustan government establishes a Workmen's Compensation Fund.

10 **Deportation**

All those black South Africans who cease to be South Africans on the day of independence of the homeland to which they are deemed to belong become 'aliens' in South Africa. As such they have no protection against deportation, even if they have Section 10 rights to be in town. Aliens can be deported from South Africa at any time without trial.

11 **Renunciation of bantustan citizenship**

There is provision in law for citizens of independent homelands to renounce their citizenship of the bantustan and to apply for South African citizenship. In order to do this the applicant must apply to the government of a non-independent homeland for citizenship of that homeland. If this is agreed to the person applies to the South African Government through the local Commissioner to be accepted as a South African citizen by birth. In practice these applications are rarely granted and are only successful where a person can show that a mistake was made in their original ethnic classification when a birth certificate or Reference Book was issued to them, or in cases where a wife is a citizen of an independent homeland but is married to a man who is a citizen of a non-independent homeland who is therefore still South African. In our experience we know no cases where the application has been granted simply because the person wished to remain South African.

12 **Identity documents**

In theory all citizens of independent homelands are supposed to be in possession of a travel document issued by the homeland government within two years of independence. In practice this requirement has not been enforced and people who are resident in 'South Africa' continue to use Reference Books. However, children applying for a first Identity document at age 16 years are refused a Reference Book and are forced to take a passport or travel document.

The bantustan governments encourage/insist that those living in the bantustan apply for such travel documents if they wish to go away to work. Those travel documents are used in South Africa outside the bantustan in exactly the same way as a Reference Book and must be produced on demand.

The passport continues to be a 'dompas' and any black person in the so-called white areas must have the pass stamped with a permit to be where he is.

21 November 1981

An appreciation

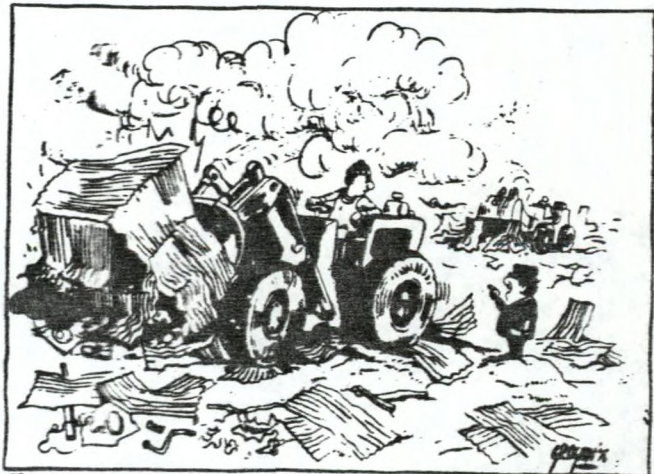
JOYCE HARRIS' presidency of the Black Sash is characterised by her total devotion to the Sash, and to every aspect of its work in which she perceived a role for herself. Every other organisation or individual with whom the Sash has worked has also come to know her as a dedicated and seemingly tireless worker and thinker. Only when she was away out of South Africa was the relentless pressure lifted from her shoulders.

She is a very courageous woman who has grown in stature with each day of her term of office. Let it now be told though that she was initially apprehensive about undertaking the position. Her perseverance, courage, truthfulness, fortitude, and above all her dedication to duty have made a firm mark on the Sash all over the country. Even when the work of the national office had to take a back seat, or be regarded as less important than the several overwhelming difficulties with which South Africans have been assailed over the last few years, Joyce has not only carried on her duties as President but been in the forefront of the thinking and action and above all the writing and publicity undertaken by the Sash.

Where there has been criticism of her viewpoint by others more radical in their thinking, she has shown the courage of her unwavering deeply-held convictions and well merits the great regard in which all sections of the Sash and its supporters hold her.

She is not only these things but also a very good friend to all who work with her. Her group of thinking South Africans can testify to this as can every member of the Transvaal committee and indeed every member of the Sash. We salute a great and good woman.

Gita Dyzenhaus
on behalf of the National Committee



"See that you bash down these ponds in an orderly, sympathetic way. We have an agreement with the Transvaal Government."

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