

Secretary of the Law Department(Justice). One month later he was given the additional position of Director of Prisons. He immediately began restructuring penal policy in the Transvaal. In 1910 Minister of Justice, J. Hertzog, invited him to become administrative Secretary for Justice and Director of Prisons for the Union as a whole. He served in this capacity for the next eight years after which he was appointed Auditor-General. Between the formative years of 1908 and 1918, he effected fundamental changes in South African criminology and penology.

Roos was seen and saw himself as a moderniser and a reformer, bringing South African criminal justice in line with international developments in the field. He spoke widely on his subject and wrote eloquent annual reports which were widely praised for their thorough, comprehensive and precise approach to the problems at hand. While not always a popular figure, partly because of the way he peopled the Prisons Department with 'any son of the soil as long as he was out of work',⁶ his ideas and work on criminal justice gained considerable public currency and acclaim during his period of office. His Prison staff were, however, increasingly attacked for not being 'men of good character and good education',⁷ especially where they had custody over juveniles. Although his approach and ideas remained influential, long after his departure from the Justice and Prisons Departments and provided the theoretical basis for the punishment and rehabilitation of the criminalised for many years after Union,⁸ they were contested from the start.

In Roos's penology, incarceration and the prison were the primary means for punishment. The main objective was the 'repression of crime' through the deprivation of liberty and the

⁶ Union of South Africa, House of Assembly Debates, February 1911, Patrick Duncan, col. 984.

⁷ Ibid., col. 985.

⁸ See D. Davis, 'Introduction: Criminology and South Africa' in D. Davis and M. Slabbert (eds.), Crime and Power in South Africa: Critical Studies in Criminology, (Cape Town 1985), pp. 1-14.

production of a disciplined and orderly regime within the institution. The central principles in this penology were those of classification and segregation of different kinds of offenders.

Yet the one great principle for which Roos gained universal recognition was that of 'reclamation' and rehabilitation of the prisoner.⁹ It went hand in hand with the correct classification and appropriate training of prisoners, and counter to the notion of punishment as retribution which was seen as belonging to a primitive and barbaric past. As he himself put it:

As Director of Prisons he finally abolished the treadmill, the stocks and the breaking of stones for native women as a punishment, from our gaols, and generally also humanized prison treatment, by introducing Prison Boards for keeping in touch with the convict, also educative forces and "reclassification" through the Prisoners' Aid Association when on release the prisoner has to join the ranks of society again. He also extended the reformatory system for juveniles and juvenile adults, introduced road camps outside prison for pass boys, and prison farms for open air work as a stepping stone to freedom. He was also responsible under the Minister for the introduction of Government Industrial Schools....¹⁰

The Prisons and Reformatories Act no 13 of 1911 was the work of which Jacob de Villiers Roos was proudest, as it contained 'some of the most modern principles of modern penology',¹¹ and placed

⁹ See for example Transvaal Archives Depot (T.A.D.), A739, de Villiers Roos Collection, vol. 11- 12, undated papers presented between 1911 and 1918 on: 'Prison Aid Work Past and Present'; 'Prisoners' Aid Work'; 'The Indeterminate Sentence in the Union'; 'The Prisons of the Union'; 'Prison Side Lights'; 'Crime and Punishment: Some Ancient Saws and Modern Instances'; 'Modern Penology'; 'Some Prison Science Developments'; 'Address to Benevolent Society on-Prisons'.

¹⁰ T.A.D., A739, Jacob de Villiers Roos Collection, vol. 16, 'Jacob de Villiers Roos, B.A. LLB - Controller and Auditor-General'.

¹¹ T.A.D., A739, vol. 16, Jacob de Villiers Roos Collection, 'Jacob de Villiers Roos, B.A. LLB-Controller and Auditor-General'.

South Africa in 'the van of progress'.¹² This was so because it embodied the principle of separation of juvenile from adult offenders through the establishment of reformatories and industrial schools.

The Act not only provided for racial and sexual separation, but also for the establishment of juvenile and juvenile adult reformatories (divided by race and sex - see chapter two) as well as industrial schools for white youth. Juvenile reformatories were for children not older than 16 convicted of a punishable offence. The offender could be ordered to be detained for no less than two, and no more than five years, but not after s/he had attained the age of 18. Juvenile adult reformatories were for offenders over sixteen and under twenty one, also for a period of no less than two and no more than five years. A person sentenced to imprisonment who was between the ages of twenty-one and twenty-five could, with the sanction of the Director of Prisons, be treated as a juvenile adult. The Director was also empowered to transfer inmates from one reformatory to another, from an industrial school to a reformatory, and from a reformatory to gaol.

The separation of juveniles from adults through provision of reformatories and industrial schools was cast in a language of reform. Their establishment was considered to be a humane and enlightened step. As one newspaper editor expressed it:

It is this last type of institution (the reformatory, L.C.) that, in our judgement, is most needed; because the younger you catch your potential criminal and convert him into a potential useful citizen, the more chance there is of success, and consequently of lightening the burden of crime in the country in the future.¹³

'Reclamation' of youth was perceived as a task of national importance. It would be achieved through institutionalisation. The industrial school would rescue children in danger of 'falling

¹² Transvaal Leader, 4 September 1911.

¹³ Transvaal Leader, 24 November 1911.

into crime' and thereby becoming a burden to the state. The reformatory would 'reclaim' the 'fallen' juvenile offender.

This notion of reclamation was clearly founded on the belief that individuals could be saved from corruption through exposure to an environment away from the corrupting effects of modern city life at a time when the social structure of the city itself was not stabilised. It was also a common approach taken to juvenile institutional reform internationally. The institution, set in the country, was seen as the means for regenerating the fallen and the degenerate. Placing the reformatory and industrial school in rather lovely country areas associated the entire enterprise with the work of salvation and wholesomeness from the start.¹⁴

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Roos's contribution lay not only in his penal policy. It also lay in his development of the field of study, criminology, in South Africa. Its effects were two-fold. First, it informed the pattern of juvenile penalty that developed through the reformatory and industrial school system in this period. Secondly, it provided the roots of the pro-state, consensus model of crime that dominates South African criminology to this day.¹⁵

Roos was less interested in the causes of crime than in their social dimensions and their solution. At different times, however, crime was caused by social conditions which included those in which individuals were tempted to 'sin' against the law of the land. Criminality, in Roos's work, symbolised sin, danger and disorder. He conceived of his work as a 'never-ceasing war'

¹⁴ See S. Gilman, Difference and Pathology: Stereotypes of Sexuality, Race and Madness (Ithaca 1985) for elaboration on this aspect of the theological model.

¹⁵ See D. Davis, 'Introduction: Criminology and South Africa', in D. Davis and M. Slabbert (eds.), Crime and Power in South Africa: Critical Studies in Criminology, (Cape Town 1985), pp. 6-8.

that was being conducted by the good citizen against a 'rushing, roaring tide of criminality' against which 'all the countries of the world who pretend to be civilized' were engaged.¹⁶ Metaphors of disease mixed freely with others. Not only did criminals constitute a flood-tide, an army; they were also 'a social sore on the social body' that was to be eliminated, and the social body restored to health. Most importantly, they were a sign of backwardness. 'Backwardness' itself was symbolic of a past, and of social practices which inhibited social and individual progress along lines required by a modernising and capitalising state. The primitive and the backward had to be controlled if the nation itself was to be modernised.

In theory, he addressed the 'problem' in two ways. In the first, he employed a positivist method and discourse of 'science' to establish a means of studying the criminal. Knowledge of crime and the criminal would define and make visible that section of the population, the backward, that had to be brought within the ambit of the law. Roos's annual reports were masterpieces of this new knowledge. Across the country, in the most obscure districts, in every section of the population, that section of the population which had broken the law was revealed.¹⁷ Through this method of demarcating every region to identify its backwardness, classify its crime and assess its degree of threat, Roos sought to map the terrain of terror, the mapping itself contributing to the neutralisation of the danger. Statistics, maps and charts all assisted in asserting the 'scientific' aspect of the enterprise and in providing knowledge of crime in the Union. In his office, Roos kept a chart, 'as one keeps a temperature chart to show the rise and fall of a fever patient in a hospital; (so) my chart shows the rise and fall of

¹⁶ Cape Archives Depot (C.A.D.), A2380, N.I.C.R.O. Collection, Address given by de Villiers Roos to the Pretoria branch of the South African Prisoners' Aid Association (S.A.P.A.A.), Minutes of Meetings, 1911.

¹⁷ See for example all Annual Reports of the Department of Justice between 1911 and 1917.

this fever of criminality in the Transvaal...'.¹⁸ The criminal, thus revealed, was 'objectified and denounced: exorcised in language and exorcised from power'.¹⁹

Consistent with his classical and legal justice framework, Roos was more interested in the crime than the criminal. But who was the assumed criminal? Roos's annual report for 1910, remarked one newspaper editor, 'is so largely concerned with the natives that a stranger might be pardoned for coming to the conclusion that if there were no natives there would be no crime in South Africa'.²⁰ The message it gleaned from the report, which it urged ought to be read and widely quoted 'in the interests of the lives and honour of white women and children, and in order to prevent the further spread of crime' was that:

The white man's burden in South Africa has many aspects including, as it does, a degree of responsibility for the physical as well as the moral welfare of millions....These are some of the problems the solution of which demands the closest co-operation of all white South Africans, and they are problems that will have to be solved before South Africa can seriously consider the prospect of elevating the native on the political plane.²¹

Thus in one part of the public mind, the report was amenable to an interpretation which conflated the danger of the criminal with the danger from blacks: it served to rally white South Africans in a common cause against the criminal, a subject conjoined with the 'native problem'.

If the entire black population seemed to be criminal by the tenor of Roos's writing, then there was also a section of the white population that was similarly revealed. Roos noted that

¹⁸ C.A.D., A2380, de Villiers Roos, 'Address' in South African Prisoners Aid Association (S.A.P.A.A.), Minutes of Meetings, 1911.

¹⁹ D. Pick, 'The Faces of Anarchy: Lombroso and the Politics of Criminal Science in post-Unification Italy', History Workshop Journal, Issue 21, Spring 1986, p. 75.

²⁰ South Africa, 18 November 1911.

²¹ South Africa, 18 November 1911.

while 'in nearly all crimes the native is in the majority', 'in indecency, immorality and illicit liquor selling the European leads the native'.²² Thus, the discourse maintained the distinction between the black and white proletariat, but also identified and distinguished the criminal white lumpen-proletariat from the respectable and non-criminal.

The second way in which Roos attempted to address the 'problem of crime' was by placing rehabilitation of the offender at the heart of penal reform. For Roos a penal policy based on punishment as well as rehabilitation was scientific and rational. The sinner could be saved, the dishonest person made honest, the illiterate and mentally deficient trained to habits of decency and discipline if removed from conditions conducive to crime to environments where they could, as in a hospital, be cured of their crime, and restored to social and individual health. Roos's solution was the institutional one. The institution itself would be turned into 'one great reforming school'.²³ Through its regime of work, religion and discipline it would 'remedy the defects produced by society'.

The object of the reformatory, as much as for the industrial school, was :

to teach the inmates to acquire habits of discipline and habits of work, to teach them a love of industry and an aversion to idleness and indifference, to equip them with some useful trade or calling by which they can earn an honest livelihood, and to prepare them generally to be good and thrifty citizens. the discipline is that of the family, the school, the workshop, and the farm, not that of the prison. The pupils are to be watched over as pupils rather than as criminals. The restraint shall be such as to develop good, and repress bad qualities. Self-instruction, self desire to labour and self-government shall be

²² T.A.D., Annual Report for Director of Prisons for the Year 1910, p. 17.

²³ T.A.D., A739, vol. 11-12, J. de Villiers Roos Collection, 'Modern Penology', n.d.

inculcated and encouraged as the best culture as well as the most effective discipline.²⁴

Moral reform, and not merely the infliction of corporal pain, was the aim, since crime was a 'sort of moral illness' produced by social conditions.²⁵ Punishment alone would not be able to guarantee 'public security' or re-establish social harmony, if it did not re-establish moral harmony in the heart of the offender.²⁶

The theoretical justification for this lay in the theory of the social contract which underlay Roos's professional training as a lawyer. Society was bound together by individuals coming together through a contractual agreement. Crime breached this contract; society had a right to be protected from crime since it violated the contract. Society had a right to have the wrong done to it redressed through punishment of the offender. There was no reason for punishment, however, to be 'excessive'; the punishment had to fit the crime and that alone. Punishment should be rationally calculated, in proportion to the nature of the offence. Forms of punishment relying on excessive torture of the body were outmoded, irrational and inhumane. Humane punishment fitted the offence and was geared to restoring the individual to his/her rightful and useful place in society. It necessarily involved a degree of education and training in work which would habituate the offender to social norms.²⁷

24 Government Notice No. 1595 of 1911: Regulations governing Juvenile and Juvenile Adult Reformatories.

25 T.A.D. A739, J. de Villiers Roos Collection, vol. 11-12, 'Prison Aid Work Past and Present', n.d. and 'Modern Penology', n.d.

26 T.A.D., A739, Roos, 'Modern Penology', n.d.

27 For further discussion of the intellectual roots of this approach, see H. Dreyfus and P. Rabinow, Michel Foucault (Sussex 1982), p. 148; C. Jeffery, 'The Historical Development of Criminology', in H. Mannheim (ed.), Pioneers in Criminology, (New Jersey 1972); J. Young, 'Thinking Seriously about Crime: Some Models of Criminology', in M. Fitzgerald, G. McLennan and J. Pawson (eds.), Crime and Society: Readings in History and Theory,

This belief in the plasticity of individuals was clearly to be most marked in relation to children and youth. Roos consistently maintained that 'to save the child and prevent the criminal' was an axiom of modern penology in which the Transvaal had previously been particularly backward. The panacea was institutionalisation. Here children could be reformed. Very early on, however, the contradiction between the repressive and humanitarian, rehabilitative goals exposed the institutions to criticism. Different notions of institutional reform also began to be posed. Institutionalisation itself began to be questioned.²⁸

Conclusion

The establishment of a set of new reformatories and industrial schools in terms of the social and political priorities of the new state created in the wake of the Anglo-Boer War, and provided for through the 1911 Prisons and Reformatories Act was examined above. The institutional solution set forth by Jacob de Villiers Roos was part of a process of erecting new institutions for the control and discipline of an industrial proletariat. He framed penal legislation for Union, and presented a national understanding of crime within a classical and legal justice framework. In his many speeches and reports there emerged also a metaphorical representation of crime and the criminal as part of the 'white man's burden' in South Africa to control blacks and uplift whites. The institutions as much as the ideology and discourse were integral to the establishment of an increasingly segregationist state dominated by mining in that it assisted in providing conditions for containing and regulating a black migrant and white labouring criminal class respectively.

Roos considered the task of the reformatory as being to prevent juveniles from becoming criminals by reforming them and

(London 1981).

²⁸ See Chapter Four.

turning them into useful citizens through teaching them a trade and habits of industry. Thus the reformatory, as much as the industrial school, was perceived as performing a national task of reclamation.

The discourse of reform in which the new criminology and penology was cast both legitimated the repressive functions of the actual penal system and provided the conditions through which a different form of power could be exercised through prisoners and children, a power exercised through the mind rather than exclusively through the body.

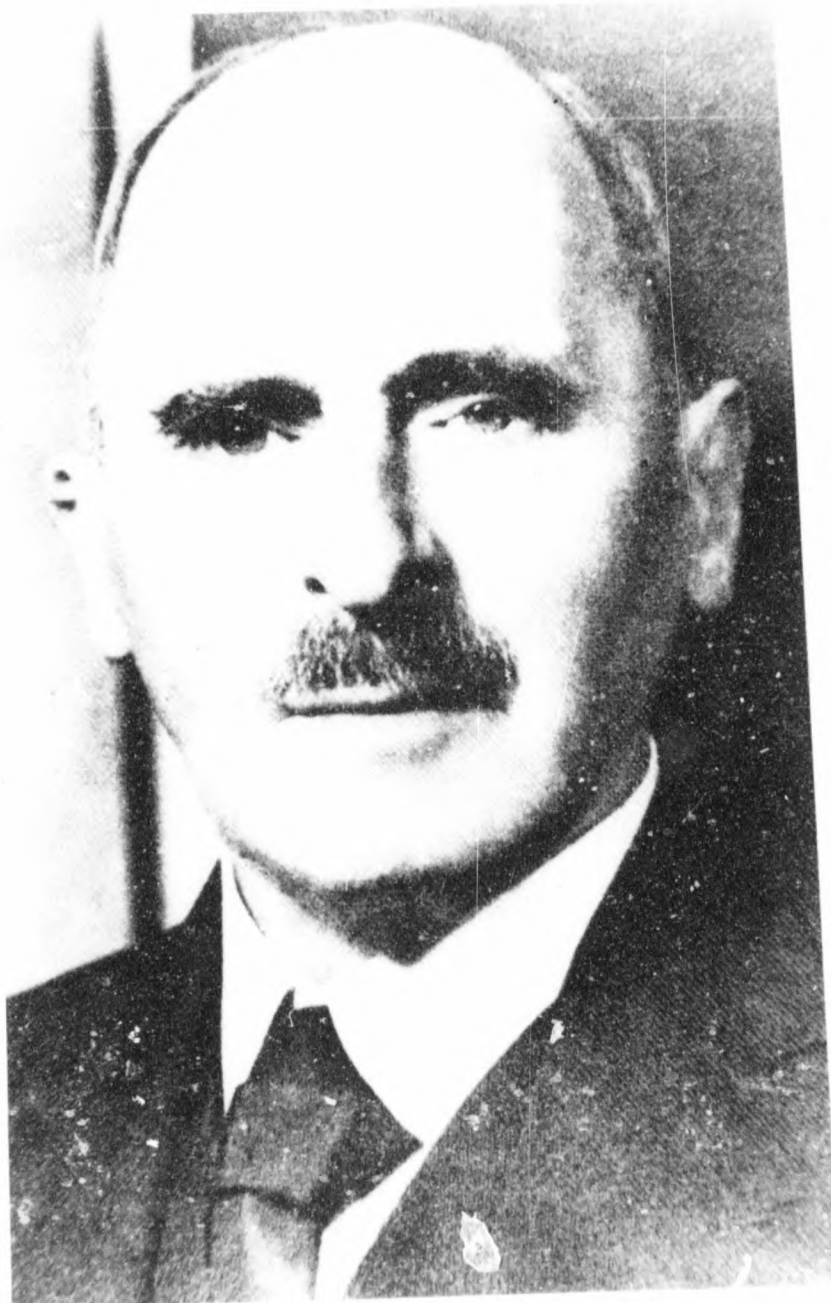


FIGURE 6

Jacob de Villiers Roos

CHAPTER FOUR

CONSTRUCTING AND MANAGING THE 'CHILD IN NEED OF CARE': IDEOLOGY AND PRACTICE OF THE CHILDREN'S AID SOCIETY 1909-1917.

Between 1911 and 1913, the legislative foundations for South African juvenile justice were laid down. The Prisons and Reformatories Act of 1911 formed the foundation of modern South African penal and children's legislation. Together with the 1913 Children's Protection Act, it entrenched the differential treatment of children in South Africa not only according to 'specific categories of need',¹ but also according to categories of class, colour and gender. The architect of the former was Jacob de Villiers Roos, a man whose impact was felt in all parts of the prison system after Union. With him, child welfare societies refashioned crucial sections of the 1911 Act to create, through the hand of Patrick Duncan,² then Member of Parliament for the turbulent working class suburb of Fordsburg, the 1913 Children's Protection Act. Its particular features will be

¹ J. Midgley, Children on Trial: A Study of Juvenile Justice (Cape Town 1975).

² Sir Patrick Duncan was born on 21st December 1870 at Fortrie, Aberdeenshire. Educated at Edinburgh University and Balliol College, Oxford, he was appointed at the age of 23 to a post in the Revenue Department in London and later became Private Secretary to Sir Alfred Milner. In March 1901 Lord Milner brought him to South Africa. Duncan was the senior member of Milner's Kindergarten. During Milner's administration Duncan was appointed Colonial Secretary in the Transvaal and in 1906 became Acting Lieutenant-Governor of that Colony. In 1907, when the Transvaal obtained self-government, Duncan returned to England and was admitted to the bar at the Inner Temple. He returned to SA in 1908 and practised as a barrister in Johannesburg. He was an active supporter of Closer Union and entered the first Union Parliament as the member for Fordsburg. He remained an active parliamentarian almost without break from 1910-1936 and held office as Minister of the Interior, Education and Public Works in General Smuts's cabinet from 1921-1924, and in the coalition cabinet he was Minister of Mines from 1933-1936. In 1937, nominated by General JBM Hertzog, he accepted the post of Governor General. He died in Pretoria on 17th July, 1943. See Patrick Duncan Papers BC 294, University of Cape Town Manuscripts and Archives.

related generally to state policy and particularly to the concerns of child welfare, as represented in the Children's Aid Society.

The work of the early, voluntary welfare workers both practically and symbolically helped to constitute criminality in ways similar in content but different in form from that of de Villiers Roos. While he elaborated the elements of crime prevention in theoretical terms, welfare societies such as the Children's Aid Society did so at a common sense and practical level. The racialisation and sexualisation of crime, and explanations of criminality absorbed from the imperial context and transmuted in the South African context, were vital in providing the ideological conditions for social intervention. There were deep congruences between representatives in the state and voluntary welfare organisations. After examining these ideological processes, the practical, patriarchal model of rehabilitation supported by the Society, as an alternative to that proposed by Roos, will be explored.

L. Gordon has drawn attention to the limits of a social control approach, which only calls attention to the power of experts to label populations and define problems. In South Africa the racial and class definition of who was and was not eligible for 'welfare' was central in shaping the form it took. In this, social workers played an important role. But, as Gordon points out, 'the representation of poor people's behaviour by those whose self-definition is to be critical of that behaviour, coexists', she argues, 'with real family oppressions'.³ The power of the professional to define people and shape state intervention should be nuanced, she implies, by a perspective which also considers the active role of agency clients in negotiating agency support and intercession on their behalf.

³ L. Gordon, 'Feminism and Social Control: The Case of Child Abuse and Neglect' in J. Mitchell and A. Oakley (eds.), What is Feminism? (New York 1986), p. 81; see also R. van Krieken, 'Social Theory and Child Welfare: Beyond Social Control' Theory and Society, 15, 3, 1986, pp. 401-429.

Communities of the poor visited by the Children's Aid Society did see and use them in different ways. It is not unlikely that they were generally unpopular and seen as collaborating with the police in enforcing, amongst others, the liquor law. On at least one occasion, when the Secretary of the Society entered a building with a plainclothes policeman, the occupants of the tenements made their feelings plain by hurling a lemonade bottle at the visitor.⁴ Others used the Society for their own purposes, either as threat to family members,⁵ or as sources of help.⁶ The press was also not uniformly sympathetic to it, but represented it as 'philanthropic persons connected with the mining industry, amusing themselves by looking after the stray children that drop out' of the homes broken up by the liquor law, 'perorating at clubs and societies about the virtues of the mining leaders and their laws that make these reformatory waifs'.⁷

From the start of Union, the role of social workers and welfare in South Africa has been doubly contradictory. On the one hand, in attempting to ameliorate social conditions and reform the institutional base of welfare for one section of the population, they laid the basis for widening contradictions between that one and another. On the other hand, at the same time that social welfare practitioners in South Africa played a

⁴ Johannesburg Child Welfare Society Archive of the Children's Aid Society (henceforward C.A.S.), Newspaper Clippings Book, 'Slum Landlordism: How the Local Poor Live', Sunday Times, n.d., circa 1912. (The newspaper sources in this chapter were drawn from this source. Many reports were undated. Where this is the case, the article's headline is provided.)

⁵ Eleanor Smith, inmate at Standerton Industrial School during the mid 1920s, interview with author, Johannesburg, 3 June 1984. She herself confessed to using the industrial school as a threat to her own children.

⁶ Johannesburg, C.A.S., Historical Documents 1909, Letter from C.A.S. to H. Rose-Innes, Resident-Magistrate, Pretoria, 1909; see also Johannesburg, C.A.S., Annual Reports; Johannesburg Public Library (henceforward J.P.L.), C.A.S., Children and the Law: The Case for Legislation (Johannesburg 1913).

⁷ Johannesburg, C.A.S., 'Notes', The Evening Chronicle, 15 May 1913.

part in introducing legislation protecting children from cruelty, neglect, abuse and exploitation, they played a part in denying these same rights to children of a different colour. In the process of representing those requiring protection, they helped create ideological conditions for intervention in a racial and patriarchal way.

This is most clearly illustrated in the passage of the 1913 Children's Protection Act. While Roos had provided the framework for the legislation in the 1911 Prisons and Reformatories Act, the Children's Aid Society on the Witwatersrand with the assistance of the Society for the Protection of Child Life in Cape Town had prepared revisions to serve as the Children's Protection Act, 1913. Their main object as they saw it was 'to supply omissions and remedy defects in the existing laws of the Union affecting children'.⁸ Like Roos, the Children's Aid Society was concerned to bring South African law up to date with international developments by providing legal measures which would 'safeguard the interests of children, and prevent cruelty and neglect and prevent children being engaged in certain occupations under a certain age'.⁹ It based its re-drafting of the law on the 1908 Children Act of the United Kingdom. According to Patrick Duncan, the bill 'proposed to give the children a better chance in life'.¹⁰

The Act finally passed was written largely with white children in mind. The right-full 'child' was constituted in South African child welfare legislation as white. The Act both enshrined certain rights for children, from which black children were now effectively excluded, and it provided for the extension of state control over them. This was a state control which attacked patriarchal power by intervening on the side of weaker

⁸ J.P.L., C.A.S., Children and the Law: The Case for Legislation (Johannesburg, 1913).

⁹ Union of South Africa, House of Assembly Debates for 1913, col. 2654, Minister of Justice.

¹⁰ Union of South Africa, House of Assembly Debates for 1913, col. 2654.

family members. It made punishable cruelty, ill-treatment or neglect of a child (defined as a person under the age of 16); prohibited, under pain of penalty to the person who caused or permitted child begging and contained safe-guards against the presence of children in brothels. The patriarchal power of the state was strengthened against that of the working class family, whatever form it took. Children defined as being 'in need of care' were those considered destitute, uncontrollable, neglected or under improper control. These included those who associated with criminals or prostitutes, were in danger of being corrupted, had been charged with an offence, or had broken the conditions of a lawful contract of apprenticeship.

Children defined as being in need of the patriarchal care of the state could, in the parlance of social workers, be 'disposed' of in different ways. Non-institutional measures included leaving the child in the care of the parent, relative or society established to deal with children of criminal or immoral habits and 'certified' by the government as being a bona fide society. Alternatively, children could be committed to a range of different institutions which included industrial schools, 'certified institutions' and 'certified auxiliary homes'.¹¹

These provisions were, however, 'largely inoperative in the case of black and coloured juveniles (and) ... existed (ed) mainly for the benefit of white children'.¹² Apprenticeship was by far the most popular way of dealing with African and 'coloured' children under the Act.

The general reasons for the exclusions of black children from the social rights which now existed at least in the statute books for white children must lie in the wider exclusion of black people from the state, and their non-incorporation into civil state structures as opposed to the inclusion and incorporation of

¹¹ In terms of the Children's protection Act of 1913 a certified institution was an institution certified by the government as an institution to which children 'in need of care' could be committed.

¹² Simons, 'Crime and Punishment', p. 147.

whites. A more specific reason would also be the ideological concern of social workers about the fraternisation of black and white children, and the necessity to prevent the growth of common interests and concerns among them. Street trading was prohibited and disapproved of because 'it brings them (white children: L.C.) into intimate association with kaffirs'.¹³ 'Children who were neglected by their parents or guardians (and) had taken refuge in kaffir huts'¹⁴ needed the protection of the state. The imposition of penalties on guardians for neglecting their children, and the extension of state control over white children through the industrial school derived from this attempt to change the social position of 'poor white' children.

The work of social workers and the law did not only, however, impose limits or construct a system of binary opposition between state and parents/children and white/black. The process of elaborating different categories of children represented the insertion of the 'criminal' and 'delinquent child' into juridico-political discourse, a category signifying danger and abnormality. Through its creation of a typology of delinquents, each type and each individual with its own history and character, it constructed a 'normal' and 'abnormal', an obedient and a disobedient citizen. It did not so much 'invent delinquency',¹⁵ as re-distribute definitions of delinquent and law-abiding. The delinquent, as opposed to the juvenile offender and waif and stray, became opposed not so much to the Law, as to the Norm.¹⁶ The definition of the normal, law-abiding and obedient was

¹³ J.P.L., Children's Aid Society, Children and the Law: The Case for Legislation (Johannesburg 1913).

¹⁴ Transvaal Leader, October 1912; J.P.L., C.A.S., Children and the Law: The Case for Legislation (Johannesburg 1913).

¹⁵ R. Krut, 'Working Class "Youth" and "Delinquency" in Johannesburg, 1890-1913', Department of Education Seminar Paper, University of the Witwatersrand, 9 June 1982, p. 3.

¹⁶ Cf M. Foucault, The History of Sexuality: An Introduction (Harmondsworth 1976), Part IV.

revealed through the construction of its opposite. The normal child was not poor or black. The normal child did not form cross-racial contacts. The normal child was not exposed to sexuality. The abnormal, delinquent child was both sexualised and marked by his/her association with colour. Before examining this aspect of the work of social welfare, it is necessary to outline the origins and character of the C.A.S. This will help to cast some light on the social and political bases of these representations and differential rights.

1

The aftermath of the Anglo-Boer War had seen the growth of many welfare agencies concerned with child welfare, both nationally and in Johannesburg. On the Witwatersrand, they included the Rand Aid Association, the Ladies of Charity, the Jewish Helping Hand Society,¹⁷ the Zuid Afrikaansche Vrouwen Vereeniging (Z.A.V.V.) and others associated with the churches.¹⁸ The Children's Aid Society, founded in 1909, was one of the few directly concerned with industrial schools and reformatories through the courts. The Children's Aid Society was closely associated with charitable initiatives stemming from the Anglican Church and the mining industry in the first decade after the Anglo Boer War. The prime movers in establishing the Society, Patrick Duncan and

¹⁷ See R. Krut, 'Building a Home and a Community: Jews in Johannesburg 1886-1914', Ph.D., University of London, 1984, for a case-study of Jewish charitable work in Johannesburg.

¹⁸ Research on the important role of the Zuid Afrikaansche Vrouwen Vereeniging in child welfare is currently being conducted by Marijke du Toit as part of an M.A. in the Department of Economic History, University of Cape Town. Although the social and ideological roots and style of these women probably differed in important respects from that of the Children's Aid Society, they shared a similar class location and position vis a vis rehabilitation of 'poor whites'. See later.

Richard Feetham,¹⁹ were both members of Milner's kindergarten and active in founding the Unionist Party in 1908. This Party was openly imperialist, but sought closer Union. Its members were almost exclusively English-speaking, and it largely represented the interests of mining until 1921. Although the Children's Aid Society was nurtured by men close to the mining industry, it was not a direct arm of the mining industry in any simple sense, as illustrated in its funding. Between 1912 and 1919 the Society received a grant-in-aid from the provincial Administrator of £1 000 per annum. In 1919 this was increased to £2 000 per annum. In 1914 only 13.2% of the income of the Society was received from mining houses.²⁰ Other than this, it relied heavily on the Rand Daily Mail Christmas Fund, a local newspaper charity fund, subscriptions and donations from, amongst others, the South African Prisoners' Aid Association (S.A.P.A.A.), founded in 1910 by Roos, and the Miners' Pthisis Board.

Unlike their British and American counterparts between 1880 and 1930, the Johannesburg-based, English-speaking child welfare campaign was not linked with the women's rights movement.²¹ Some of the central figures of the Children's Aid Society were men who had cut their teeth on the social-engineering projects of the Milner administration. Richard Feetham, for example, had been a prominent member of the Transvaal Indigency Commission between

¹⁹ Richard Feetham came to South Africa in 1902 to work with Milner. After the Anglo-Boer War he became Deputy Town Clerk and in 1903 Town Clerk of Johannesburg's first Town Council. He resigned on his return to the bar in 1905 and was nominated as the member of the Transvaal Legislative Council in 1907, a post he held until Union. As the representative for Parktown he served in the Legislative Assembly from 1915 - 1923, being a front bencher of the Unionist Party. He became a Judge of the Supreme Court in the Transvaal in 1923 and ended his highly successful political career as Chancellor of the University of the Witwatersrand from 1949 - 1961.

²⁰ Johannesburg, C.A.S., Minutes of General Committee, 16 June, 1914; see also University of Cape Town, Manuscripts Library, Patrick Duncan Papers, File D5.1.1 - D5.6.17, Letter to Lady Selborne, 25 September 1910.

²¹ Gordon, 'Feminism and Social Control', p. 70.

1906 and 1908, while Patrick Duncan's interest in public education, introduced for Europeans in the Transvaal while he was Colonial Secretary in 1905, was deepened by his membership of a Select Committee on Education between 1910 and 1911. In the years immediately after Union both men helped promote specific non-institutional solutions to juvenile destitution and delinquency which echoed mining's interest in a stabilised skilled white working class family.

Not women, but men who, by virtue of their work in white working class areas saw these interests as paramount, occupied leadership positions in the Children's Aid Society. The work of the Society was conducted by three committees, each representing in embryo those areas in which the Society was to make social interventions: knowledge, probation and education. The Rescue and Investigation Committee was chaired by Patrick Duncan until his retirement in 1921 when he accepted a seat in the Smuts Cabinet as Minister for the Interior; the Home-Visiting Committee was chaired by Richard Feetham, and the Education and Recreation Committee was chaired by H. Thompson from the Transvaal Education Department.²² H. Thompson was only one of several educationists actively associated with the Society. Another was F. Mills, Principal of the Doornfontein Government School situated in the heart of Johannesburg's inner city slums.²³ He was a veteran of

²² Johannesburg, C.A.S., First Annual Report, for the Year ending 30 September 1911.

²³ F. Mills was Principal of Vrededorp school until June 1913. From July 1913 to 1922 he was Principal of the Doornfontein school on the Witwatersrand. In 1923, he was appointed Inspector of the Witwatersrand (Central) Circuit, which he held until his retirement.

F. Handel Thompson was one of four new inspectors appointed in Britain in 1903 and brought out to South Africa by Milner. He came as an Inspector of the Heidelberg and Vereeniging Circuit. In 1905, Standerton and Bethal were included in his circuit. Only a year later, in 1906, he became Inspector of the Witwatersrand Circuit. In 1909, he was seconded for six months to start a Normal College in Johannesburg. From 1912 to 1918 he was therefore inspector of the Central and West Rand Circuit. Thompson was also writer and editor of several school text books. Information obtained from the T.A.D., Transvaal Education

schools in notoriously unstable working class suburbs, having been Principal of the Vrededorp Government School until he became Principal of the school in Doornfontein. The ubiquitous Rev. L. Brandt²⁴, well-known for his social work amongst the Afrikaner poor, was associated with the Society until 1923.

While men occupied leadership positions in the Society, women constituted its rank-and-file workers. While they were foot-soldiers in the organisation, many of the women associated with it were the wives of local wealthy and prominent men. The Society was officially founded by Lady Selborne, wife of Lord Selborne, Milner's successor as High Commissioner, and Mrs Chudleigh, the wife of the Mayor of Johannesburg. Mrs. Chudleigh was one example of the class of woman drawn to the work of the Society: since her family had grown up, she informed the South African Ladys (sic) Pictorial in 1914, she had 'leisure for work'.²⁵ Welfare work was frequently depicted by the men leading it as being appropriately dominated by women: it constituted an extension of their work in the family with children.²⁶

Not all the women involved played the part of social conscience of their male counterparts, working in their spare

Department, Annual Reports, 1903 - 1930.

24 Born in 1873, L. Brandt studied theology at the University of Utrecht and became Minister at Nieziyl in the Province of Groningen. In 1902 he married Johanna van Warmelo, a daughter of the Rev. N.J. van Warmelo, of the Transvaal. In 1904 he came to the Transvaal and became Minister of the large Nederduits Hervormde parishes of Zoutpansberg and Waterberg. In 1908 he transferred to Johannesburg and served the entire Witwatersrand for several years, doing much for poor relief and child welfare, and working for the founding of the Faculty of Theology at the University of Pretoria. From 1916 - 1937 he was Chairman of the General Assembly of his church as well as Chairman of its Commission. In 1923 he moved to the parishes of Vereeniging and Heilbron, and in 1930 to the working class suburbs of Kensington-Turffontein in Johannesburg. He lived and worked here until he died in 1939.

25 'Lady Pioneers on the Rand: Mrs Charles Chudleigh', in SA Lady's Pictorial, July 1914.

26 Transvaal Leader, 17 November 1909; Rand Daily Mail, 26 October 1912.

time. Women such as Miss Clarry, close to H. Norman, worked indefatigably.²⁷ During 1912 alone the Rescue and Investigation Sub-Committee, whose members overlapped with the other sub-committees, had before it the cases of 557 children belonging to 314 families. This means that in the first three years of its existence this one sub-Committee had investigated a total of 1,155 children belonging to 676 families.²⁸

These children were invariably white, although separate work was done, in collaboration with the Rev. C. Phillips of the Congregational Church, to secure the establishment of a home for 'coloured' children.²⁹ Only in the 1920s, and under different conditions, did the Society become concerned with destitution amongst 'coloured' children, but then it sought a separate solution for them. In 1923 St Joseph's Home for destitute 'coloured' children was opened in an inner-city, largely black working class suburb, Sophiatown, and welcomed by the Society. From 1924 onwards it became interested in establishing a refuge for African children. Instead of industrial schools, the Society referred African children to mission schools. In the 1920s and 1930s the Society began working with the Joint Councils.³⁰ While

²⁷ U.W., C.P.S.A., H. Norman papers, Letter to Feetham, October 1956; Johannesburg, C.A.S., Historical Documents, 1909. Much more work needs to be done on these women.

²⁸ Johannesburg, C.A.S., Annual Report for the year ending 1912.

²⁹ Johannesburg, C.A.S., General Committee Minute Book, 1914 - 1917.

It should also be noted that there was some discussion on the constitution of the Society about whether the work of the Society should be with white children only or not: Children's Aid Society, Minutes of Provisional Committee, 31 August, 1909 - 24 September 1909 to General Committee, 15 October 1909 to 19 May 1911.

³⁰ After the failure of 'coloured' political organisations to make a significant impact on social and political policy in the Western Cape in the 1920s, many there also shifted attention to welfare work. As in the Transvaal, white and 'coloured' social workers worked together on Joint Councils in the early 1930s. See

it thus did not oppose work for and amongst black children, its own concern was primarily with the white working class. There was no thought but that white and black should be dealt with separately in separate institutions. As such the Society reflected dominant conceptions of an appropriate social order in South Africa developed under the (male) hegemony of mining.

The C.A.S. also played a part in separating boys from girls in industrial schools. Standerton Industrial School, founded in 1909 for both boys and girls, was administered by the Department of Prisons. Although the C.A.S. referred children to it, it had no rights in the management and running of the school. In 1911 it provoked a public scandal, likening the school to a prison, and called for both greater representation of its members on the Board of Management and transfer of the school from the prisons to the Union Education Department.³¹ As an immediate consequence, in response to the C.A.S.'s demand for a separate institution for boys and girls, boys were moved to an Industrial School at Emmasdale, leaving Standerton for girls only. Separation of girls from boys was seen as natural as separation of white from black.

There were two main aspects to the work of the Society. Firstly, through its investigations and case-work, it began to generate knowledge about child criminality. Its social analysis was structured by theories of urban degeneration and Social Darwinism, relying in the last resort on theological and moral premises. Its conception of poverty, crime or society was not particularly novel; these ideas were an extension of reconstructionist social engineering undertaken by Lionel Curtis

G. Lewis, Between the Wire and the Wall: A History of South African 'Coloured' Politics (Cape Town 1987). Much more research still needs to be done, however, into social welfare work by Africans and 'coloureds' in South Africa's main urban centres.

Joint Councils were a product of American intervention in 1921 in direct response to the African militance of 1917 and 1920. Joint Councils were inter-racial discussion societies designed to promote co-operation and racial harmony.

³¹ T.A.D., Department of Justice, vol. 56; Pretoria Chronicle, 15 February 1911; De Volkstem, 17 February 1911; De Volkstem, 21 February 1911.

and Lord Milner in the Transvaal between 1902 and 1907. The importance of its role here lay in how its discourse opened up the area of juvenile delinquency for intervention. Regulation of the social domain through the individual, became central to the production of this new type of knowledge. Secondly, through its association with the courts, and through the courts with industrial schools and reformatories, the Society began to articulate a critique of these institutions in terms of their internal organisation and administration which revolved around the belief that '...it was questionable whether large institutions really were the best means for raising children who had been taken away from their parents....These cases should be dealt with not in large institutions, but in cottage homes, where the children would live as near as possible under home conditions'.³² In this regard, male social workers attempted to alter old, apparently failing patriarchal family and parent-child relations, and to replace it with a modern version of male supremacy.³³

The new image of the deviant represented by poverty and inter-racial contact which emerged from the response by the middle class to the social effects of industrialisation provided a focus for the re-definition of racial and class boundaries in South Africa. 'Immoral' and 'lascivious' girls and women, whether white with black or black with white, marked this boundary. Stigmatising as criminal those who crossed the boundaries of colour through liquor and sex, was not merely the expansion of social control, however; at an ideological level, it ultimately helped legitimise the 'normality' of segregated relationships.³⁴

³² Union of South Africa, House of Assembly Debates for 1911, 3 February 1911, Mr. P. Duncan, Column 985.

³³ Gordon, 'Feminism and Social Control', pp 74 and 80, shows that social workers' involvement was often to change existing family power relations.

³⁴ For an interesting examination of the way in which the response to the image of the sexual psychopath in America between 1920 - 1960 helped legitimise new sexual relations, see E.

At a social and political level, it assisted the process of intervening in and restructuring the white labouring and unskilled family.

Those constructing images of poverty, social pathology and deviance drew greatly on late nineteenth century theories of urban degeneration. By 1880, theories of urban degeneration had 'come to colour all social debate on the casual poor' in England.³⁵ It was generally believed that at the root of the condition of the poor lay the pressures of city life. Years of exposure to a decaying urban environment had bred a by now constitutionally-degenerate populace, 'unfit' to reach maturity and multiply their kind. The casual poor were seen to comprise this degenerate stratum of urban life. In varying forms, according to Stedman Jones, this theory was present in the social attitudes of every grouping from the Charity Organisation Society, on which the (South African) Rand Aid Association³⁶ and Children's Aid Society modelled itself, to the Social Democratic Federation.³⁷

Elements of the theory of urban degeneration were reflected in the class, colour and gender-defined representation of the 'child in need of care' by the Children's Aid Society. The 'child in need of care' was always to be found in slums where there was overcrowding, the 'mixture of the races', 'immorality' amongst

Freedman, '"Uncontrolled Desires": The Response to the Sexual Psychopath 1920 - 1960', The Journal of American History, 74, 1 June 1987, pp. 83 - 106.

³⁵ G. Stedman Jones, Outcast London: A Study in the Relationship between Classes in Victorian Society (Oxford 1971), p. 285.

³⁶ The Rand Aid Association was launched with the support and financial assistance of leading mine owners by Lord Milner and Lionel Curtis early in 1903. It was designed to co-ordinate the provision of temporary relief to skilled and semi-skilled workers facing short periods of unemployment. See C. van Onselen, 'The World the Mine Owners Made', Studies, vol. 1, New Babylon, p. 35.

³⁷ Stedman Jones, Outcast London, p. 288.

women and illicit liquor selling.³⁸ The combination of these three produced the image of 'degradation'.

Social Darwinism, that theory which applied Darwin's theory of evolution to human society and posited a hierarchy of races on a scale from the primitive to the civilised, was extremely powerful in South Africa.³⁹ Two aspects of Social Darwinist thought were most frequently reflected in child welfare work. First, that which reduced social conflict to a struggle by the 'superior' races over the 'inferior' races and second, that which saw the 'inferior' races as having a contaminating effect on the 'superior'. White children had to be 'rescued' from such contamination. The Principal of Doornfontein Government School, F. Mills, an active member of the Society, put it very succinctly, when he said:

The nation which is neglecting its children is sentencing itself to decay....A people untrained to work and to think will soon be left behind in the race. If South Africa continues to allow its children to become poor whites in ever-increasing numbers, it will in consequence become the poor white of the nations, the bywoner of civilisation.⁴⁰

Thus much of the work of the Society to find foster parents revolved around removing white children from 'coloured' foster

³⁸ See, for example, the speech by C. Crabbe, Secretary for the Children's Aid Society given to the Workers' Educational Association on 'Slums and Child Life in South Africa', and reported in The Rand Daily Mail and The Star, 13 January 1912; see also Johannesburg, C.A.S., History of Child Welfare, File 1/1/3, F.W. Mills, 'Report on Investigation and Rescue Work as done by the Children's Aid Society', 1917. For Mills the decay of the white family was linked to the 'economically inefficient family'.

³⁹ S. Dubow, 'Race, Civilisation and Culture: the Elaboration of Segregationist Discourse in the Inter-War Years', in S. Marks and S. Trapido (eds.), The Politics of Race, Class and Nationalism in Twentieth Century South Africa (London 1987).

⁴⁰ See F. Mills, 'Report on Investigation and Rescue Work', 1917.

mothers.⁴¹ Mrs Chudleigh herself was inspired in her work by 'the numbers of white children consorting with Kafirs, coloured people, coolies, etc, herded together in miserable shanties at Vrededorp, Fordsburg, and indeed other slums of the town'. Her great wish was to 'rescue such children'.⁴² Her, and the Society's sense of mission was deeply informed by Social Darwinist and social imperialist notions about uplifting, and maintaining the 'prestige of the white race'.⁴³

If poverty and the deterioration of the white working class family⁴⁴ were perceived as the root cause of delinquency, then it is important to note also that poverty at all times was associated with moral degradation. Reporters visiting Johannesburg's slums ventured in as moral warriors, to interpret them for their readership as 'of the lowest kind', 'possessing a peculiar degradation of their own', 'where, if sunlight penetrates, it is but to show the nakedness of moral pestilence and the utter absence of the poetry of life', where the 'moral environs are as bad as its physical aspects'.⁴⁵ Moral degradation was a consequence of the mixing of races. As Crabbe put it, whites 'assumed the colour of their surroundings...and became submerged'.⁴⁶ Thus poverty was criminalised and racialised.

Poverty and crime were also sexualised. 'Immoral' women were

41 Rand Daily Mail, 26 October 1912; Johannesburg, C.A.S., Annual Report for the year ending 1919, p. 11.

42 South African Lady's Pictorial, July 1914.

43 The Star, 9 February 1912; see also Johannesburg, C.A.S., History of Child Welfare, File 1/1/3, F. Mills, 'Report on Investigation and Rescue Work as done by the Children's Aid Society', 1917; The Star, 13 January 1916.

44 See Johannesburg, C.A.S., F. Mills, 'Report on Investigation and Rescue Work', 1917.

45 'Slum Landlordism: How the Local Poor Live', Sunday Times, n.d., circa 1912.

46 Ibid.

seen as eroding the moral fibre of men⁴⁷ and as corrupting children. Several of the cases from C.A.S. records in 1911 reveal that children sent to industrial schools were associated with 'mothers convicted of immorality'.⁴⁸ Much of the moral fervour with which the Society and its press described cases of interracial sex as 'terrible'⁴⁹ and 'sordid'⁵⁰ was concerned with defining the broken boundary in the context of 'black peril' hysteria in the post-depression era of 1909 - 1914.

Since the causes of white criminality and that of youth, in particular, were seen to lie in their poverty and thus their association with blacks, the solution, as far as the Children's Aid Society was concerned, was segregation and removal of blacks from mixed neighbourhoods. In 1912, in the midst of the 'black peril' scare in Johannesburg, Charles Crabbe, Secretary of the Society, in a public address to the Workers' Educational Association, suggested that:

The native must not be allowed to live in the same neighbourhood with the white population. Proper provision should be made for the native population apart altogether from the town area. There should be no possibility of a native renting a room next door to a white family.⁵¹

The provision of adequate white working class housing - 'well-

47 See K. Eales, 'Good Girls, Jezebels and Domestic Service, Johannesburg, 1912', M.A., University of the Witwatersrand, mimeo, January 1989, pp. 10/11.

48 Johannesburg, C.A.S. Annual Report for 1911.

49 Sunday Times, 5 July 1914; Transvaal Leader, 16 October 1911.

50 Transvaal Leader, 25 May 1911. See also Sunday Post, 30 June 1911; 'Slum Landlordism: How the Local Poor Live', Sunday Times, undated, circa 1912; The Evening Chronicle, 15 May 1913; Sunday Times, 5 July 1914; Sunday Times, 13 April 1914.

51 Rand Daily Mail and The Star, 13 January 1912; see also Report of the Relief and Grants-in-Aid Commission 1916, T.P., 5 - 1916.

lighted, properly ventilated, sanitary and comfortable.⁵² education and welfare, was a priority established during the Reconstruction era. If it was to be achieved, black and white needed to be segregated.

Koch has shown that the state was successful in segregating Johannesburg's inner-city slums of, especially Fordsburg, Ferreirastown, Marshalltown, City and Suburban and Old Doornfontein only after the mid-1930s.⁵³ Such segregation was the consequence, in part, he argues, of pressures from sections of the white working class.

In its calls for slum clearance and residential segregation of the white and black working class, the (middle class) Children's Aid Society also helped build an ideological climate for support of the moves by the Johannesburg City Council up to and after the passage of the 1923 Urban Areas Act to prise apart black and white in those inner city areas which '...had developed in a haphazard manner...(and) had a multiracial character'.⁵⁴

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The First World War set in motion a series of new developments. During and after the Great War South Africa proceeded to industrialise. Mining and agricultural production expanded, while simultaneously new industries started developing. Industrialisation was being achieved 'against a background of

⁵² Johannesburg, C.A.S., F. Mills, 'Report on Investigation and Rescue Work', 1917.

⁵³ E. Koch, 'Doornfontein and its African Working Class, 1914-1935: A Study of Popular Culture in Johannesburg', M.A., University of the Witwatersrand, 1983.

⁵⁴ N. Kagan, 'African Settlements in the Johannesburg Area, 1903 - 1923', M.A., University of the Witwatersrand, 1978, p. 22; for evidence of this 'multiracial' character, see Kagan, pp 17, 18, 19, 21, 22, 26, 27, 30, 31, 47-50, 88 and The Star, 5 November 1917.

war and strikes'.⁵⁵ While the war brought unemployment for many black workers, it was a boon to some Afrikaans-speaking workers who now replaced English-speakers who had gone to war. At the same time, the numbers of the white Afrikaans-speaking urban unemployed also grew. Their ranks were first swelled by the outbreak of war and then by the recession of 1916, brought about by a severe drought which left at least 826 former bywoner families and 4 220 individuals in a state of 'destitution'.⁵⁶ State strategy towards 'poor whites' between 1913 and 1916 saw a shift towards placing 'poor whites' in agriculture - through rural labour bureaux, land settlement schemes, agricultural schools, etc.⁵⁷ After 1916 there was a shift back to industry. Partly because of the degree of industrial development that began to take place during World War 1, the state began to expand its efforts to produce skilled artisan labour power from the ranks of the 'poor whites'.⁵⁸ One consequence was the establishment of Juvenile Affairs Boards between 1914 and 1916 in different centres. Juvenile Labour Bureaux directed white school leavers into forms of employment where they could receive apprenticeship training. By the passing of an Act in 1921 these Boards became an integral part of state policies towards 'poor whites'.

During this period, the activities of the Children's Aid Society became more focused on turning industrial schools into places where artisan training could take place. As far as the Society was concerned, administration of such schools by the Prisons Department was the major stumbling block to the appropriate education and training of 'poor white' children. At the outset of the War, a year after the passage of the Children's Protection Act, and in the context of the 1913-1914

⁵⁵ R. Christie, Electricity, Industry and Class in South Africa (London & Basingstoke 1984), p. 50.

⁵⁶ Davies, Capital, State and White Labour in South Africa, p. 99.

⁵⁷ Davies, White Labour, p. 110.

⁵⁸ Ibid., p. 111.

strikes, the Children's Aid Society began to press on the state their vision of how children in industrial schools ought to be reformed. This brought them into direct conflict with the state, and in particular Jacob de Villiers Roos, over the treatment of children in industrial schools and reformatories, and the administration of these institutions. In the process they supported and inter-posed industrial schools and reformatory training with that developed by H. Norman in his hostel system. 'There can be no question', wrote Duncan to Roos in 1916 'of the superiority' of the hostel system. It represented 'the modern treatment of disease', while the reformatory system under Roos was 'the brimston treacle of Mrs Wackford Squeers'.⁵⁹

The thrust of the criticisms made by the C.A.S. was that penal discipline as exercised in reformatories and industrial schools was repressive and antagonistic to the reforming principles underlying their establishment. Between 1914 and 1917, the Children's Aid Society wrote to Roos several times, requested that he see them, and even sent a delegation to speak to him. The substance of its demands included recommendations which it felt would provide sounder conditions for the rehabilitation of children. These included suggestions for an adequately trained staff, on the grounds that the children at industrial schools constituted a particular 'type' and required a 'higher grade teacher' than the Prisons Department could supply; representation for the Society on the Board of Management at Standerton; increased and improved accommodation at Standerton and Emmasdale; vacations for the children; adequate supervision of apprentices; and restrictions on sending very young children to industrial schools.⁶⁰ By 1915, it was making representations that the schools be removed from the administration of the Prisons Department to the Union Education Department.

⁵⁹ University of Cape Town, Manuscripts Library, Patrick Duncan Papers: BC 294, File A2.1 - A2.34, Ref. BC 294 A2-18, Letter from Duncan to de Villiers Roos, 22 March 1916.

⁶⁰ Johannesburg, C.A.S., General Committee Minutes, 1914-1917.

The Society was assisted in its task by the direct access it had to Roos through Messrs Duncan and Feetham, and by its constitution in terms of the law as an agency through which a resident magistrate could send children to industrial schools. The argument that industrial schools ought to be equipping their charges with skills suitable for the labour market was also incontestable in the face of wider state policy towards 'poor whites'. It was, in the end, only a matter of time before the schools would be transferred to the Union Education Department which could exercise the appropriate supervision and control. In 1917 the schools were transferred. It would take seventeen more years before reformatories were transferred. Not only did it include children of different racial groups; it also included white youth sent there from industrial schools as punishment, and who were therefore less amenable to training.

In the forefront of both the critique of reformatories and presentation of a viable alternative was H. Norman. The model of rehabilitation which he and the Society advocated was one which reflected the marginalised status of girls in the labour market, their relegation to homes for 'fallen women' and the Society's male-centric and patriarchal concept of the family and social relations. Norman's work brought him into conflict with Roos and the S.A.P.A.A., neither of whom saw any need for reform for the reasons cited above.

The S.A.P.A.A. was founded by Roos in Pretoria in 1910.⁶¹ Branches were rapidly established in Johannesburg, Cape Town, Durban and Pietermaritzburg.⁶² The formation of the S.A.P.A.A. saw the institutional extension of the rehabilitative ideology of incarceration. Imprisonment was more acceptable, its punitive dimension legitimated if it was also associated with care. The

⁶¹ See T. Toussaint Van Hove, 'History of the South African National Institute for Crime Prevention and Rehabilitation of Offenders (N.I.C.R.O.) 1910 - 1985' (mimeo); 'The Rehabilitation of Adult White Offenders', D.Phil., Stellenbosch, 1962.

⁶² T.A.D., Department of Justice, Director of Prisons, Annual Report for 1911, U.G. 56-12.

task of the Prisoners' Aid Association was to take care of prisoners after their release, and to help re-integrate them into society. The S.A.P.A.A. was thus more closely integrated with the state than, for example, the Children's Aid Society, even though the work of both involved a demand for the extension of state supervision over a criminalised population. The workers of the S.A.P.A.A. were, however, also white, voluntary and largely female.⁶³ Their work was mainly with white male prisoners and black and white female prisoners, often those convicted of selling liquor to Africans,⁶⁴ although a large part of it was also devoted to juvenile offenders.⁶⁵ In 1913, the Johannesburg Branch of the S.A.P.A.A. took over the running of the Witwatersrand Lads' Hostel for youth between the ages of 16 and 25, of which Norman was Superintendent.⁶⁶ Norman used the way the hostel system had developed under his tutelage to launch his attack on the reformatory regime.

The hostel system itself was not a uniquely South African invention, as some claimed, although important elements were shaped by its beginnings in Norman's own home,⁶⁷ and by its semi-private and thus independent nature. The hostels were conducted under the aegis of the Prisons Department until 1934, when they were transferred to Education and in 1937 to Social Welfare. Before this, they were privately administered institutions. Staffing for the Lads' Clubs and hostel was done

⁶³ In 1935 the S.A.P.A.A. and the Probation Association of South Africa, founded in 1932, amalgamated to become the Social Services Association of South Africa.

⁶⁴ C.A.D., A2380, N.I.C.R.O., File 1/1/1.

⁶⁵ C.A.D., A2380, N.I.C.R.O., S.A.P.A.A., Cape Town Branch First Annual Report for 1910-1911.

⁶⁶ C.A.D., A2380, N.I.C.R.O., S.A.P.A.A., Annual Report for 1914.

⁶⁷ Pretoria Central Prison (henceforward P.C.P.), Department of Prisons, Report of the Department of Social Welfare for the period 1 October 1937 - 31 March 1949; U.W., C.P.S.A., H.E. Norman Papers.

through 'a small but virile community centred in and around the Church of England Men's Society'.⁶⁸ Unlike industrial schools and reformatories, it also had a close relationship with the mining industry which supported Norman's work financially and assisted in finding employment on the mines for boys under Norman's care.

Its development was, however, also modelled on the experimental farm colony for delinquent children in Dorset, the Little Commonwealth, which Norman had been sent to investigate by the mining industry in 1913.⁶⁹ Under the superintendence of the social reformer, Homer Lane, in England, methods of training had been devised, including a large measure of self-government, designed to inculcate responsibility and self-control.⁷⁰ In practice hostels provided a 'most useful via media between fines, canings, the suspended sentences and reformatories',⁷¹ equivalent eventually to the detention centre with its 'affectional discipline' as it developed in Britain and the United States.⁷² As an institutional sanction it was from the outset a 'half-way station between institutional treatment provided in reformatories and the practice of suspended sentence under supervision of a probation officer'.⁷³

⁶⁸ U.W., C.P.S.A., H.E. Norman papers, H.E. Norman, 'Notes on Contacts with Michael Furse in Social Work in Johannesburg', 1956; see also J.P.L., L. van Schalkwijk, Lads' Hostels at Norwood and Cottesloe, Johannesburg, South Africa (1932).

⁶⁹ U.W., C.P.S.A., A881/B11, J.H. Pim Papers, Correspondence between H.E. Norman and J.H. Pim, 1 December 1913.

⁷⁰ V. Bailey, Delinquency and Citizenship (Oxford 1987), p. 49; E. Bazeley, Homer Lane and the Little Commonwealth (London 1928); J. Lawson and H. Silver, A Social History of Education in England (London 1973), p. 399.

⁷¹ J.P.L., Lads' Hostel Committee, Handbook, n.d., p. 7.

⁷² V. Bailey, Delinquency and Citizenship; S. Schlossman, Love and the American Delinquent: The Theory and Practice of Professional Juvenile Justice 1825-1920 (Chicago 1977).

⁷³ P.C.P., Department of Prisons, Report of the Department of Social Welfare for the period 1 October 1937 to 31 March 1949.

The superiority of the hostel over the reformatory system was argued by obscuring the institutional, punitive nature of the hostel system and by presenting it as a more natural and normal alternative to that provided by the reformatory. The discipline of the 'normal' family and of the world of work was said to govern the hostel; the discipline of the prison the reformatory. As Norman expressed it in a letter to the Relief and Grants-in-Aid Commission in 1914:

The success of the hostel system is due to its simplicity. The household consists of a 'father', one or two native servants, and, beginning with five sons in 1911, has fluctuated between that number and 25. The family live a common life, sleeping, feeding and playing in common rooms, receiving night school instruction, attending the local church, and mixing freely in local social life. In every detail of this life the 'father' joins, and fulfils the ordinary duties of a natural father. As each son is 'fit' for employment, work is found for him wherever it may be obtained in the town or on the mines, and the 'son' starts off with a packet of lunch from 'home' each morning together with the other lads of the neighbourhood. Each working 'son' has entire control of his own earnings; he contributes a proportion towards his own maintenance, buys his own clothes.⁷⁴

For Norman, the hostel differed from the family only in one respect, and that was in the regulations and details of the general conduct and behaviour of the inmates. To a large extent these were arranged and carried out by the boys themselves through the medium of a 'parliament'. Inmates themselves meted out punishment through a 'court of justice' in which the most senior and trustworthy inmate acted as a 'magistrate'. At no time in this arrangement was the father absent: 'the whole policy and conduct and discipline is directed and supported by the unobtrusive and continual influence of the "father"'.⁷⁵ The success of the hostel regime thus depended on the personal influence and authority of the Superintendent.

⁷⁴ Report of the Relief and Grants-in-Aid Commission 1916, T.P. No. 5-1916, Letter from H.E. Norman, pp. 73-76.

⁷⁵ Ibid.

From here flowed the criticism of the reformatory: it was too big to be able to perform its task properly; it encouraged a 'very unpleasant and unhealthy moral atmosphere', and it failed to instil habits of industry. The reason lay in the absence of 'confidential and direct personal influence upon the lads', and in the lack of 'weaning houses' or 'after-care hostels' for helping boys to re-adjust to the outside world.⁷⁶

In a report on a visit to Houtpoort Reformatory in 1916, H. Norman and G. Clark charged the administration and staff for being imbued with the prison spirit: 'there is no reason', they wrote, 'why the State should keep its premises and children in a worse condition than they would keep a kraal or a beast'.⁷⁷ They also criticised the fact that boys in the reformatory were not adequately classified according to age and mental capacity, and objected to the inadequacy of the training provided. 'If the boys are to be re-absorbed into society', they reported, 'it is necessary that their life should approximate to that in which they will be called upon to live'.⁷⁸

Norman's outspoken criticisms of the reformatory were not welcomed by Roos. In 1916, either to co-opt him, or in recognition of his services as a probation worker, Roos suggested that Norman abandon his work with the hostels, which would be administered by Hostels Committees made up by the S.A.P.A.A., and take up a post with the Prisons Department as probation officer for Johannesburg. Norman accepted the post. But if his criticisms of the reformatory were unwelcome, the relentless criticism of industrial schools and reformatories bore fruit, and his hostel system was widely embraced. In 1917 industrial schools were transferred to the Education Department; Norman's recommendations for staff and different educational methods on

⁷⁶ Report of the Relief and Grants-in-Aid Commission, pp. 73-76.

⁷⁷ C.A.D., A2380, N.I.C.R.O., 'Report of Visit to Heidelberg', 16 March 1916.

⁷⁸ Ibid.

the hostel model could now allegedly be implemented. In 1920 Parliament passed legislation which gave official recognition to hostels as certified institutions under the Prisons Department, leaving reformatories intact, as a 'last resort' for the 'incurable offender'. The Act also empowered the courts to commit young people awaiting trial to hostels instead of consigning them to the common gaol, and also authorised similar commitment of convicted boys and girls in lieu of imprisonment or as a condition of suspension of sentence.

The hostel system became a highly popular one after it was transferred to the Education Department. Hostels and individualised supervision had the backing of the Union Education Department, most notably in the form of Louis van Schalkwijk,⁷⁹ a key bureaucrat in the Union Education Department, who saw them as the:

best place to teach them (white delinquents) social adaptation. (The reformatory) is like teaching a person to swim on dry land. As soon as he enters the water, he sinks. The environment of a hostel on the other hand is more like that of a free home in the community....There is an atmosphere of freedom and it is only possible to teach the right use of freedom in an atmosphere of freedom.⁸⁰

When reformatories were transferred to the Union Education Department in 1934 there were five hostels in Johannesburg - the Good Shepherd Home founded for 'fallen women' during Reconstruction, and the G.D.A. Hostel for European females; Cottessloe Lads Hostel; Norwood Lads Hostel and Annexe no. 3 for European boys. Pinetown, Natal, sported another for boys, while Retreat was the location for the Mountain View Hostel, for non-

⁷⁹ Dr. L. van Schalkwijk returned to South Africa in April 1921 having studied abroad, and joined the Union Education Department as Organising Inspector. In his studies he paid particular attention to the teaching and education of children who had difficulty in adjusting to society. His thinking in later years revealed the influence of Cyril Burt's The Young Delinquent (London 1925).

⁸⁰ T.A.D., Union Education Department (U.E.D.), vol. 1153, File E50/26, Correspondence between L. van Schalkwijk and Secretary of U.E.D. on the Reformatory Services Act, 5 March 1935.

European males. After transfer, permission was given for the establishment of four more, one for European males in the Cape Peninsula, one for European and two more for non-European females in Johannesburg. Although hostels numbered eleven by 1934, still no provision was made for a hostel for 'native males'.⁸¹ By 1937 there were 17 hostels, only 7 of these being for 'coloured' children. The Union Education Department, in the person of van Schalkwijk, justified this expansion of individualised treatment for whites only on the grounds that 'the hostel method is (un)suitable for Native males, especially juvenile adults, and in this view I am supported by persons who have intimate knowledge of Native mentality'.⁸²

The hostel system was geared to socialising and training white boys for membership of the 'respectable' and skilled white working class: the patriarchal working class family and home, 'the unit of civilised life',⁸³ was re-created in the hostel. Language governing disciplinary relations in the hostel was an important part of the boys' wages for the running of the hostel. Training and respect for regular working class employment was instilled by ensuring that there was 'no break in the lad's freedom', or 'industrial life'. The aim, as Norman emphatically expressed it in a letter to Patrick Duncan, was not only that the unemployed must be supplied with work, but that they 'be taught to work, taught how to work and taught why (they) should work'.⁸⁴ Leisure-time was also moralised through the cultivation of a variety of recreational interests: games, dancing, music, acting,

⁸¹ T.A.D., U.E.D., vol. 1153, File E50/26, Notes from L. van Schalkwijk to the Secretary of Education on the Reformatory Services Act, 5 March 1935.

⁸² T.A.D., U.E.D., vol. 1153, File E50/26, Correspondence L. van Schalkwijk and Secretary of U.E.D., 5 March 1935.

⁸³ University of Cape Town, Manuscripts Library, Patrick Duncan Papers: BC 294, File A2.1 - A2.34, Ref BC 294 A2.33, Letter Chairman of S.A.P.A.A., to Roos, 29 February 1916.

⁸⁴ University of Cape Town, Manuscripts Library, Patrick Duncan Papers: BC 294, File A2.1 - A2.34, Ref. BC 294 A2.10, Letter from H.E. Norman to Patrick Duncan, 7 April 1917.

reciting and social gatherings.⁸⁵ The principle embodied in hostel training was individualisation, while the call for after-care hostels was a demand for extension of state supervision over white criminalised youth.

Conclusion

The Children's Protection Act of 1913 created conditions for the protection of children from abuse and neglect. Its major deficiencies were related to the political and economic context in which it was produced, and the social interests responsible for it. The first major deficiency was its concern with white children only. As such it was the outgrowth of a society and state in which power was concentrated in white hands as well as a child welfare movement ideologically close to and responding favourably to wider state policy to 'rehabilitate' 'poor whites' both economically and socially. The second major deficiency was the concern not only with protection of children from abuse, and their reclamation in industrial schools designed for the 'rescue' of 'poor whites', but also from social conditions which, through being racialised and sexualised, were criminalised.

The state, and child welfare, intervened on the side not only of white children, but also an entire social order. The upshot was the introduction of welfare legislation of-a-piece with wider attempts by the state to equip 'poor whites' for an increasingly racially-structured industrial labour market, support for residential, social and sexual segregation, and the promotion of institutional rehabilitative models justified by the ideology of the patriarchal nuclear family. The latter, in the form of the privately-financed hostel system pioneered in South Africa by H. Norman, was advocated from about 1914 onwards coterminously with

⁸⁵ Ibid; see also C.A.D., A2380, N.I.C.R.O., S.A.P.A.A., Johannesburg Branch Annual Report for 1914, especially p. 9; by 1931 the Prisons Department was contributing only 62% to the maintenance of the Institutions. The rest came from the boys: J.P.L., L. van Schalkwijk, Lads Hostels at Norwood and Cottosloe, Johannesburg, South Africa (1932).

expanding attempts by the state to train, educate and reassign 'poor whites' to new and different places in the social division of labour. It was counterposed to existing state institutions and advocated as the best means for reconstituting in microcosm the conditions for a productive, stable and respectable working class. Norman's scheme was directed solely at boys, and reflected both the marginality of girls in the labour market as well as the overall gender orientation and bias of early child welfare movements. The efforts to have white children placed in industrial schools not administered by the Prisons Department, and in hostels, were not achieved automatically or smoothly; they entailed considerable campaigning and lobbying.

Their struggles and ultimate success were due, however, to the way in which the organisational forms of welfare societies like the C.A.S. existed outside the state, but many individuals, like the M.P. Patrick Duncan, school Principal F.W. Mills and Inspector Handel Thompson, worked inside it. Not only were these reforming, voluntary child welfare societies closely integrated with the state at an individual level; they were also closely tied to associations more directly connected with the state - most notably the South African Prisoners' Aid Association and magistrates. H. Norman, for example, was an active member of both the C.A.S. and the S.A.P.A.A. in his capacity as probation officer at the Johannesburg courts. The social welfare movement thus worked inside as well as outside the state. As Clarke, conceptualising the role of such groups by drawing on Gramsci has argued, they formed the intellectual 'general staff' of an ideology: their task was to produce a new stratum of 'intellectuals' whose task it would be to embody the modernising and 'progressive' vision of reformers within the state. In so doing they created a new conception of the relation of the state to delinquent youth. They also sought to win the state to a child-centred pedagogy - in the parliamentary domain, in the bureaucratic apparatus, and in the practices of state agents in

the schools and the courts.⁸⁶ In South Africa the 'progressivism' of welfare took its meaning from its relation to an economy dominated by mining capital and a segregationist state, and from its advocacy in South Africa of a child-centred approach to delinquency.

⁸⁶ J. Clarke, 'Managing the Delinquent: The Children's Branch of the Home Office, 1913 - 1930', in M. Langan and B. Schwartz (eds.), Crises in the British State 1880-1930 (Birmingham 1985).

CHAPTER FIVE

SEGREGATION, PUNISHMENT AND WELFARE FOR JUVENILES 1911-1939: AN OVERVIEW

In 1931, H. Simons argued that the high crime rate amongst blacks in South Africa was due to

the disabilities under which the Native labours ...(and the) mass of discriminatory legislation....The effect of it all is to increase enormously for the Native the number of laws of which the contravention entails criminal liability. He is prohibited the use of intoxicating liquors; he is required to observe pass laws and curfew regulations; he is obliged, under pain of criminal punishment to fulfil contracts of service entered into with his employers. It is significant that the number of natives convicted for breaches of such laws which apply to them only form a considerable proportion of those convicted for all classes of crime.¹

In answer to why these provisions were deemed necessary, he argued that 'the European requires a constant and reliable supply of Native labour; that the industrial system would be disorganised if steps are not taken to ensure the fulfilment of contracts of service by employees'.² This analysis has been refined by different writers. On the one hand, H. Wolpe has linked the low wages for blacks in urban areas with the migrant labour system developed by the mining industry. Wages were kept low, and workers controlled through the compound system, on the grounds that subsistence and welfare needs would be augmented by the subsistence economy in the reserves.³ The effective 'absolutism' imposed by the mining industry, through an accommodating state, over all aspects of South African society

¹ H. Simons, 'Crime and Punishment with reference to the Native Population of South Africa', M.A., U.N.I.S.A., 1931, pp. 5-6.

² *Ibid.*, p. 13.

³ H. Wolpe, 'Capitalism and Cheap Labour Power: From Segregation to Apartheid', *Economy and Society*, 6, 4, 1972, pp. 424-456.

extended in the years after Union and during the 1920s into both the influential agricultural sector and secondary industry, bringing about a rigid state control over the entire working class population.⁴ A. Stadler has, in addition, related paltry welfare rights for Africans to a social policy defined by the Stallard Commission of 1922 which effectively excluded Africans from membership of civil society by a conception of social rights of different racial groups. In this view the rights of Africans in urban areas were linked only to the labour services they performed.⁵ Whereas mining capital and the state thus washed their hands of Africans, white workers gained substantial welfare concessions and rights. This was as a consequence of a number of different issues. First, their position in the economy was that of fully-proletarianised and not migrant workers. The cost of their reproduction was thus higher than that of black migrant workers. Second, they enjoyed political rights such as the franchise. Third, the social struggles conducted by them and culminating in the Rand Revolt of 1922 had a significant impact on state policy. Finally, various sectors within the ruling class including capital, the state and the churches had an interest in a stabilised white working class.⁶

The meagre welfare facilities for blacks developed during the 1920s and 1930s on the Witwatersrand, following on the expansion of manufacturing industry and the growth of a non-migrant African working class, were largely the result of missionary and liberal interventions through the Joint Councils formed in 1921. These initiatives were stimulated by the growth of African militance in the urban areas in the post-World War One years, and the desire to channel this radicalism into de-politicised activities and forms of organisation. While not questioning the

⁴ S. Trapido, 'South Africa in a Comparative Study of Industrialization', Journal of Development Studies, 7, 3, 1971, p. 316.

⁵ A. Stadler, The Political Economy of Modern South Africa (Cape Town & Johannesburg 1987), pp. 108-110.

⁶ Davies, White Labour, pp. 55-65.

forces underlying the system of labour coercion itself, liberals and social workers in the Joint Councils and South African Institute of Race Relations formed in 1929 sought to ameliorate the harsh conditions under which Africans were compelled to live in urban areas. They frequently found themselves in conflict with the state over the terms of the segregationist policy to be pursued, and the provision or not of welfare services in urban areas. The gradual development of welfare facilities for black and white youth between 1917 and 1932 reflected these trends. While there was, on the one side, a massive increase in the scope and nature of welfare for white youth, this was not the case for African children. A review of the place of the reformatory in the overall system that took shape during this period could illustrate these trends.

1

When the reformatory system was expanded in 1911, it was created as part of a wider system of control, rather than of care, for both black and white juveniles. This was symbolised by the separate provision made by the Children's Protection Act(1913), the beginning of state involvement in welfare in South Africa, for children 'in need of care'. The Act was not drafted with African children in mind, and even though all children were brought within its purview, only some of its provisions extended to them.⁷

The immediate purpose of the reformatory was to separate juvenile from adult offenders; to prevent, and provide an alternative to, the imprisonment of children and youthful offenders. The establishment of the reformatory was cast in the discourse of reform. Imprisonment of juveniles was presented as harshly punitive, corrupting of youthful innocence, and out of synch with the reforming impulse of a modern state. The reformatory was projected as a humane alternative which aimed at

⁷ See Chapter Four.

curing by reforming the juvenile offender. Whereas the prison environment schooled the young offender in the arts of crime, the reformatory was intended to nurse the juvenile offender through a special rehabilitative programme of work and education back to 'useful citizenship'. In reclaiming youth for the labour market by turning them into productive workers, the reformatory, it was hoped, would lighten the costly burden of crime to the state, thus performing the 'national service of recovering as an asset to the state the life of a citizen who had become a national burden'.⁸

A sub-theme of this chapter is the argument that the establishment of the reformatory did not signal the diminution of repressive control over youth; it was not the harbinger of an enlightened age. Nor did it help reduce crime or prevent recidivism.⁹ The reformatory and industrial school were not the only means developed to deal with errant members of the lumpen-proletariat and working class. They were used by the courts as alternates to imprisonment, fines, whipping, apprenticeship and probation. These institutional and non-institutional approaches represented the differentially repressive and ideological means by which social relations in South Africa were regulated: for blacks largely through the prisons, repatriation to the rural

⁸ C.A.D., A2380, N.I.C.R.O., H. Norman, 'The Amendment of the Constitution with a view to bringing preventive work within the scope of the Association', South African Prisoners' Aid Association, Minutes of Triennial Congress, 1923, p. 9.

⁹ In 1929, for example, no less than 38% of the European juvenile-adults (between the ages of 16 and 21) and 45% of the 'coloured' admissions to the reformatory in Cape Town had served terms of detention in hostels, industrial schools or reformatories, or had criminal records. In 1930 the percentage of European juvenile adults in the reformatory and who had served previous terms of detention, had risen to 47,6%. The figure for Diepkloof, in the period between 1911 and 1929, was 15%. Of those who had completed their sentences at the reformatory, 23,4% were considered to have 'failed'. P.C.P., Department of Prisons, Annual Report for 1929, U.G. 42-1930, pp. 24-26.

areas and apprenticeships to white farmers; for Europeans largely through the family and education. Both signify direct intervention by the state in on the one hand, labour control and discipline and, on the other, labour reproduction. In the case of Europeans, the shift in the 1920s to the use of probation, maintenance grants known as 'mother's pensions' and industrial schools formed part of the wider state strategy to intervene in the 'poor white' and working class family. As much as these were concessions to the white working class, and rights won by women, their development also saw the expansion of agencies involved in direct state regulation and surveillance of civil society.¹⁰ In the case of blacks, the absence of welfare facilities and the reliance on coercive techniques and procedures such as imprisonment, apprenticeship and repatriation to the rural areas was directly tied to the state's amenability in meeting the labour needs of agrarian and mining capital.

11

There were no state-controlled institutions other than reformatories to which to send black juveniles appearing before the courts during the 1920s. Whereas the number of institutions and industrial schools increased considerably for white 'waif and stray' children between 1911 and 1929, only one such institution existed for 'coloured' children, an industrial school at Mountain View in Retreat, Cape Town.¹¹ The hostel system established by H. Norman came into being specifically to help integrate white children into the industrial labour market; again, no such institution related to the courts had come into being for black children.

¹⁰ The relationship between the development of probation and state surveillance of civil society is dealt with illuminatingly by S. Hall and B. Schwartz, 'State and Society, 1880-1930', M. Langan and B. Schwartz (eds.), Crises in the British State 1880-1930 (Birmingham 1985), pp. 7-33.

¹¹ See Chapter Four.

The majority of both black and white juveniles and juveniles adults appearing before the courts between 1911 and 1939 were discharged with warnings, whipped, fined and given suspended sentences. Far more were also sent to prison rather than to the reformatory. The Inter-departmental Committee of 1934-1937 revealed that between 1934 and 1937, of the 6,000 (European) cases dealt with by the courts, 23% were discharged with warnings, 24% were caned, 17% were fined, and 10% were given suspended sentences. Only 4% were sent to prison and a miniscule 1.6% to reformatories and hostels.¹² The majority of prosecutions of children under 16 years of age were 'in respect of municipal and police regulations'; various forms of theft constituted the second most frequent ground for court action.¹³

Table 1 shows the numbers sent to reformatories between 1911 and 1937. The numbers remained relatively stable between 1923 and 1937, reflecting available space in institutions, rather than an accurate assessment of delinquency in the Union. A relationship can be seen between numbers of committals and periods of economic distress, for example the jump in 1921 and again between the depression years of 1929 and 1932.

A comparison with Table Two is instructive. The proportion, or disproportion, between the total number of inmates in reformatories and prisons is striking. It is clear, as Grobler pointed out in 1939, that a study and treatment of reformatories alone would touch only the fringes of the history of juvenile justice in South Africa.¹⁴

A comparison of Table 1 and Table 2 reveals that more juveniles were sent to prison between 1911 and 1937 than to reformatories. In 1920, for example 9th highest figure for

¹² Report of the Interdepartmental Committee on Destitute, Neglected, Maladjusted and Delinquent Children and Young Persons, 1934-1937, U.G. 38/1937, p. 27.

¹³ Ibid, p. 27.

¹⁴ J. Grobler, 'Juvenile Delinquency in South Africa', Ph.D., University of Cape Town, 1939, p. 64.

TABLE 1

DAILY AVERAGE NUMBER OF INMATES IN UNION REFORMATORIES 1911-1937

Year	European		Native & Coloured		Asiatic		TOTAL
	M	F	M	F	M	F	
1911-12							271
1918							849
1919							813
1920							996
1921							1055
1922							911
1923							851
1924							880
1925							834
1926	134	3.8	573.7	67.7	24.7	0.8	804.70
1927	155	6.3	561.2	64.1	25.4	1.0	813
1928	171	8.1	540.8	74.0	19.4	2.7	816
1929	190.9	8.5	551.5	83.0	12.7	1.7	848.30
1930	193.3	10.0	558.7	80.1	16.2	0.4	858.70
1931	191.8	12.3	554.1	77.1	19.8	-	855.10
1932	188.4	13.8	524.1	81.6	19.9	0.2	828
1933	170.7	13.0	528.9	89.3	16.5	0.1	818.50
1934							822
1935							838
1936	218	32	684x	112x			1046
1937	286		877				1163

Sources: Department of Prisons, Annual Reports 1911-1933, supplemented by Auditor-General Annual Reports; Department of Education, Annual Reports 1934-1937.¹⁵

¹⁵ John Alexander Grobler, 'Juvenile Delinquency in South Africa', Ph.D., University of Cape Town, 1938, p. 60.

Table 1 refers to reformatories at Tokai (European and 'coloured' male), Houtpoort (European male), Diepkloof (African male), Eshowe (female black and white), Fort Glamorgan (African male) and Durbanville (white female).

Separate figures were not available for the early years.

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