

## **Sate policy and juvenile crime in South Africa, 1911-1939**

*Linda Chisholm*  
*Education Policy Unit*  
*University of the Witwatersrand*

Recent writing by psychologists and social workers is curiously ahistorical. That historical analysis which does exist, apart from the work by Louw (1), replicates on the whole versions of history and theoretical approaches which do not contribute to uncovering for psychologists and social workers the historical roots of their practices. These shape the terrain on which psychologists and social workers operate to this very day. It is important that psychologists and social workers understand their own history theoretically if new ways of transforming the field in South Africa are to be developed.

This article will try to cast light on one aspect of the history of state policy and social welfare in South Africa. It argues that racially differential means for dealing with black and white juvenile delinquents were developed in the twenties and thirties through the development of institutional and non-institutional approaches. These 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 areas and apprenticeships to white farmers, for Europeans largely through the family and education. Both signified direct intervention by the state in labour control and discipline on the one hand, and labour reproduction on the other. 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 regulation and state surveillance of civil society (2). 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.

The development of a racially differential welfare system on the Witwatersrand was indirectly related to the development of the mining industry. Wolpe's work first linked the lack of development of welfare facilities for blacks to the low wages for blacks in urban area and the migrant labour system developed by the mining industry (3). 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. The effective "absolutism" imposed by the mining industry, through an accommodating state, over all aspects of South African society 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). 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 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 differential ways of dealing with black and white youth defined as delinquent in the twenties and thirties will reveal these trends.

### **WHITE YOUTH.**

There was a decisive shift in methods of "disposal" of European children appearing before the courts during the 1920s. The provisions of the Children's Protection Act (1913) and the Hostels Act no.46 of 1920 (an amendment of the Criminal Procedure and Evidence Act no.31 of 1917 - see Chapter Four) provided for a variety of custodial and non-custodial alternatives, other than reformatories. Under the Children's Protection Act minors under the age of 16 could be referred either to government industrial schools, "certified" institutions (homes, orphanages and refuges run privately for the reclamation of children in danger of falling into crime), non-certified institutions such as industrial schools, and private persons or they could be apprenticed, boarded out, or placed in the custody of a parent or guardian receiving a government grant. They could also be sent to reformatories or certified hostels under the Criminal Procedure Act no.31 of 1917 and in conjunction with the Prisons and Reformatories Act. A large majority of juveniles were also dealt with by non-institutional methods such as fines, warnings, suspended sentences, whippings, and so on (7).

Their use was considerably advanced after the Nationalist-Labour Pact government with its "civilised" labour policy took office in 1924 (8). The commitment to organised white labour assisted the further extension of

welfare services to the white working class and "poor whites". The services of child welfare organisations, probation officers and social workers, which had expanded considerably after Union, were employed more extensively than had previously been the case (9).

Between 1924 and 1934, important steps were taken in the co-ordination of welfare, and the professionalisation of social work in South Africa. The South African National Council for Child Welfare was formed in 1924 as a permanent national body to co-ordinate the work of existing welfare organisations. Although there was "a multiplicity of charitable organisations many of these organisations doing social and charitable work on the the Rand" (10), very few of their workers were paid or trained. The majority were voluntary social workers. In 1926 separate premises were made available for a children's court at Auckland Park, and a children's magistrate was appointed. By 1927 four state-appointed probation officers attended the children's court: H. Norman, Ella Clarry, J. Millar and C. Olivier. As the volume and complexity of work expanded, so the need began to be felt for greater co-ordination and rationalisation of services. The formation of the South African National Council for Child Welfare in 1924 provided a forum through which common strategies could be expressed and developed. The Great Depression of the late twenties and early thirties gave a further boost to welfare work. The **Carnegie Report on the Poor White Problem** and the development of University Departments of Sociology and Social Work stimulated the greater use of "more modern methods" and "training (of) social workers both theoretically and...also in practical work" (11).

One of the consequences of the growth of welfare and social work was that institutionalisation was no longer seen as an effective way of re-building the white working class family. Regulation **within**, rather than removal from the community was becoming constructed as the dominant strategy for regulation of white delinquency (12).

While the infrastructure of welfare services geared towards the white working class was being set in place, the poor within the white community itself was making greater demands on the state for relief. The Influenza Epidemics of 1918 and 1919 combined with the recession of the early twenties and growing unemployment of these years greatly increased the numbers of children eligible for committal to industrial schools under the "destitution" clause of the Children's Protection Act. Many parents availed themselves of this clause, and discharged the burden of unwanted or

neglected children onto the state. Extension of welfare thus did not simply take the form of spreading a network of state control over the white working class; it was, in some cases, actively sought by the poor (13).

The shift to the use of non-custodial sanctions was first seen in the 1920 Hostels Act, which provided for an institution less rigidly custodial than a reformatory, and in the amendment to the Children's Protection Act in 1921. The latter provided for the committal of a "waif and stray" to the care of its mother, grandmother or near relative. Government maintenance grants allowed for this development. These "mother's pensions" worked as a form of poor relief, with industrial schools being used as alternatives. As can be seen from Table 3, there was a substantial increase in the numbers of children looked after privately and by mothers between 1923 and 1925. By the early 1930s, such committals formed an important dimension of the work of children's courts, alongside committals to private institutions and industrial schools.

TABLE 3

WHITE CHILDREN UNDER THE CHILDREN'S PROTECTION ACT

Year ended	Indust. schools	Cert.* Instit.	Private	Mothers	Apprenticed
31.12.20	725	998	737	Nil	627
31.12.21	870	1412	816	269	711
31.12.22	973	1860	963	919	771
31.12.23	1068	2136	1071	1645	847
31.12.24	1224	2758	1317	1998	832
31.12.25	1332	2925	1490	2287	837
	6192	12089	6394	7118	4625

Total Number of Children falling under Children's Protection Act, 1920-1925, excluding numbers Boarded out (total: 3237) and Protected Infants.

\* In terms of the Childrens Protection Act of 1913 a certified institution was an institution certified as an institution to which children could be committed under the Act. An uncertified institution was thus not a recognised one for the purposes of dealing with children "in need of care".

The Table also shows the number of methods the state had of disposing with destitute white children: the industrial school was only one method, along with apprenticeship, and of lesser importance than the non-institutional method. Excluding certified institutions, it is clear that there was a significant increase in state expenditure on and care of destitute white children. Thus the industrial school itself was assimilated into a wider network of welfare facilities.

State expenditure on white welfare rose in the period of heightened crisis before and after the Rand Revolt of 1922 which precipitated the Nationalist-Labour Pact government in 1924. In 1920 the total expenditure on the maintenance of children with mothers and private persons, in institutions and industrial schools was £92,992 and increased to the large figure of £188,960 in 1925, while the number of children under the Acts for the respective years rose from 5,444 to 10,777. The biggest increase in expenditure was in respect of maintenance grants for children in institutions and with private persons other than with mothers. It increased from £32,600 in 1920 to £81,909 in 1925, whereas the number of children in respect of which such expenditure was incurred rose from 1,735 in 1920 to 4,415 in 1925 (14). By 1934 only 24.28% of white juveniles appearing before the courts were institutionalised; the remainder were in some form of community care. 64.82% were under supervision in their own homes, while 10.90% were in foster care (15).

Imprisonment and probation work with mother's pensions stood at opposite ends of the spectrum of available alternatives in the field of penality for juveniles. A range of intermediary institutions using different degrees of external and internal discipline existed between these two poles. All however, constituted distinctive means of regulation and surveillance by the state. For Europeans, the preferred sanction from the 1920s onwards, was clearly non-institutional, within the community and within the family. It was clearly related to a process of maintaining a stable white working class family in the face of economic hardship. As van Schalkwijk expressed it in 1934, non-institutional treatment was equated with "family care" and the family, "the home (is) the unit on which the state is based" (16).

### **BLACK YOUTH.**

Both the custodial and the non-custodial options for destitute, "pre-delinquent" children were much more limited for black children and youth

than for white: they were sent more often to prison than whites, and less often than whites to state-supported welfare institutions. At the end of 1929, certified institutions and auxiliary homes numbered 66 in the country at large. Of these, only 13 provided for "non-european" children, while 6 of the 41 non-certified institutions were for "non-europeans" and 1 for all races (17).

The history of maintenance grants is an index of the greater importance to the state of the stabilisation of the white working class family, the impact of the post-War recession and 1929-1932 depression, and the significance in the history of child welfare of a conception of rights applying differentially to people variously defined racially. Between 1913 and 1917 maintenance grants were laid down at the rate of £2 and £1.10 per month for European children in inland and coastal provinces respectively, and 15/- per month for Africans and "coloureds". In 1917, new rates were prepared. From January 1919 the rates of £2 and £1 per month were laid down respectively for European and coloured children in certified and other institutions and with private persons. These were increased until, in April 1921, the magistrates, Child Welfare Societies and certified and non-certified institutions were informed that in view of the serious position of the Union's finances, the Department had decided to reduce the existing rates of maintenance by 5/- per month. In July 1923 parents were enjoined to make some contribution towards the cost of maintaining their children in institutions. Many grants were stopped; maintenance grants were further reduced. By 1927 they had hit an all-time low. Simons thus correctly described the situation in 1931 as one in which the most important welfare provisions of the Children's Protection Act were "largely inoperative in the case of black and coloured juveniles" (18).

That child welfare for blacks was closely tied to state policy of allocating labour to the agricultural sector is demonstrated in the use that was made of specific provisions in the Children's Protection Act. A significant proportion of black, and especially "coloured" juvenile offenders were apprenticed to white farmers (19). The Western Cape, in particular, had a long history of indenturing black children to white farmers under Master and Servant laws. This practice was continued when Porter Reformatory was established in 1882, and formed part of the sentence of offenders. Both the Prisons and Reformatories Act (1911) and the Children's Protection Act (1913) incorporated this labour coercive technique derived from an earlier period in South African agrarian history into their methods of dealing with destitute youth and juvenile offenders. In

practice, it was predominantly applied to "coloured" youth. By the end of 1929, the total number so apprenticed was 1 012. Of these only 33 were Europeans (20). In a paper read to a Child Welfare Conference in 1924, a social worker, one Miss M Elliot, outlined the position as follows:

"In dealing with the coloured children, this difficulty (of placing uncontrollable children: L.C.) is almost greater, as little or no provision is made in institutions for them, and 'places' outside have to be found. The maintenance grant given is inadequate to provide a home life for them. Some of them have to be left where they are under the supervision of kindly and friendly persons. Others are apprenticed by the Probation Officer to farmers or to private persons, either living in the country or towns. This method answers all right if the child fits into the 'place' which has been found for it" (21).

Regulations entitled apprentices to 3/- per month up to the age of 10 years; 1/- per month yearly increasing until the amount of 6/- was reached; then 7/6 per month for one year, and 2/6 per month yearly increase thereafter until the age of 18 was reached. An eighth of the monthly payment was to be given to the apprentice for pocket-money, the rest put into a Savings Bank. It is small wonder then that **The Select Committee into Porter Reformatory** revealed in 1921 that the local "coloured" community looked upon the system as one of providing "cheap labour" for white farmers. By 1939 the system was still in force and, as the Principal of the Tokai Reformatories, W Marais, nervously reported:

".. is used by coloured leaders as an example of the oppression of the coloured. Such a leader even provided protection to one of the pupils who absconded from his employer. This spirit of opposition is also spreading to the pupils and it is obvious that the pupils who hear about this agitation won't be willing to stay with employers" (22).

Apprenticeship was also a favourite sanction in the courts of the Witwatersrand. Liberal attention became concentrated on conditions in which black children lived on the Rand in the aftermath of the 1918 and 1920 strikes and anti-pass law campaign. A minor scandal blew up over the apprenticeship of black children in 1921 when it emerged that the courts had been sentencing black youth predominantly to corporal punishment and apprenticeship. The Magistrate of Johannesburg and a labour recruiting agency for the Heidelberg-Standerton Farmers' Union were discovered at that moment to be in the process of arranging the

indenture of black juvenile offenders to white farmers.

When the Secretary for the Native Affairs Department raised the question of facilities with the Union Education Department, its unsurprising response, on 11th March 1921, was that: "... it would seem an inversion of the proper order to concentrate efforts on provision for their needs while hundreds of European children are growing up in similar conditions and cannot be rescued owing to lack of accommodation at existing institutions" (23). In the absence of social, economic and institutional alternatives, and in line with the Stallard doctrine that Africans were "temporary sojourners" in urban areas, magistrates (in addition to whipping, apprenticing and sentencing a small percentage to reformatories), were also resorting to repatriating black juvenile offenders to the rural areas (24). This practice began to be challenged by the Joint Councils, who argued that the solution to black juvenile delinquency lay in the wider sphere of the recognition of the permanence of blacks in urban areas. What was needed, it maintained, was compulsory education for black children up to the age of 14 years; the establishment of a Juvenile Affairs Board and Juvenile Employment Bureaux; the establishment of an Agricultural School for blacks in the Transvaal; the formation of a Native Children's Aid Society; the appointment of a European Probation Officer and a Juvenile Court for black juvenile offenders (25).

The appointment of a black social worker to the courts in 1923 signified a grudging recognition that existing measures were strained to breaking-point, and also provided an opportunity by liberals to attempt to regulate relations within the urban black community. In this work, Charlotte Maxeke, a stalwart of the Joint Councils and a leading figure in the Bantu Womens League, provided invaluable assistance: "her intimate knowledge of many of the Natives charged, enabled the magistrate to dispose of the cases in a manner both in the interests of the delinquent, and to the advantage of the state" (26). Her efforts, however valuable in pressing for recognition of the immense social problems on the Rand, only scratched the surface of the problems. In the case of very young children without a previous record of crime, for example, both of whose parents were dead and who seemingly had no friends or relatives, the problem of finding accommodation was often insuperable. Missionary schools could not function at one and the same time as orphanages, schools and refuges.

Probation work had, by this stage, become skewed in a way that later defined the segregated way probation and welfare was to develop. In 1916

H Norman was appointed to the Johannesburg courts as probation officer. In the recessionary post-war years the number of juveniles appearing before the courts expanded, but they remained largely under-staffed and under-paid (27). This was despite the fact that juvenile work at courts had become so important that by 1935, 87.4% of cases dealt with by the Johannesburg Probation Staff consisted of minors. In the entire country, there were only 11 probation officers; of these, only one was a woman, Miss Ella Clarry (28), Norman's assistant since the days of the Lads' Clubs. Five of the 11 officers were stationed in Johannesburg, while three were in Cape Town, two at Durban and one at Pretoria. In addition, there were a number of voluntary officials. The pressure of work was enormous. It was work, however, geared to alleviating conditions in the white rather than the black working class. "Probation officers", it was noted in 1932, "are so heavily burdened with work relating to European cases as to be unable to attend to non-Europeans" (29). From 1923 to 1930 Charlotte Maxeke was the only paid, black social worker appointed by the Native Affairs Department and based in Johannesburg.

In 1930, Charlotte Maxeke was discharged, the relinquishing of her services a sign of both cost-cutting exercises in the context of the Great Depression as well as the steadily hardening segregationist programme of non-recognition of the right of Africans to be in urban areas. Her departure brought the problems which, in the context of rapid and dramatic black urbanisation and impoverishment in Johannesburg, were by now acute, to a head. Numbers appearing before the courts had swollen with the tide of economic destitution that deposited juvenile offenders there. In 1926, for example, a total of 778 black males appeared before them, as opposed to 95 white (30). Not all of these could be sent to prison or to missionaries, the latter being the only rather limited form of non-institutional provision existent in the urban areas for black children.

Recognising this, C Olivier, Probation Officer for Johannesburg, wrote to the Magistrate of the Juvenile Court at Auckland Park, pleading for a replacement for Charlotte Maxeke on the grounds that community solutions were needed to resolve social problems amongst blacks on the Rand, and that Maxeke's work was indispensable. During the first eight months of 1930, he pointed out, 263 African males and 42 females under the age of 18 had come before the court. During the preceding 12 months the numbers were even higher, at 375 and 93 respectively. In the majority of cases neither corporal punishment nor committal to a reformatory was a satisfactory answer (31). Only an African social worker, he argued, had

the necessary knowledge of the black community to make suitable recommendations. Such a welfare worker could also exercise closer supervision and provide better assistance than a white welfare worker. This approach was supported by the African National Congress and the Industrial and Commercial Workers' Union. On 17 June, delegates from the two organisations met Major H S Cooke, Native Commissioner for the Witwatersrand, with a view to securing the appointment of welfare officers at all police stations and in court. It would be their task, they argued, to provide every assistance the prisoner might need (32).

In 1931 there was a minor crisis. The number of cases appearing before the magistrate again increased drastically (33). A "very high percentage" of these cases were dealt with not in terms of the Children's Protection Act, but according to criminal procedure (34). The Magistrate, frustrated with the inadequacy of existing measures in preventing recidivism, remarked that:

"It would appear that the administering of cuts to juveniles as a deterrent is more or less futile, particularly as regards the Native. The fear of a caning is a better deterrent than the actual infliction. Boys who have been caned are constantly being brought back to the court for minor offences such as touting on railway premises, contravention of Municipal By-laws and other minor offences. Some of these boys have been caned from 1 - 4 times .... It is useless fining them as they very seldom have money to pay a fine and if an alternative of imprisonment is given, there is no place to detain them. There are no native hostels, they cannot be sent to reformatories (in all cases) .... The same remarks apply to Native girls .... We have tried apprenticing, sending them out to farms, postponed or suspended sentences, returning them to their parents under committal orders, returning them to the districts from which they came. All these expedients have proved useless as these youngsters either run away from the employers or disappear from their homes or return here in less than no time" (35).

This magistrate did not, however, see the appointment of a probation officer as an answer, since this would have implied a commitment to dealing with urban social problems in their context. Instead, he argued that, since numbers were so enormous and the staff so small, such an officer would be unable to provide the necessary individual attention. The remedy, as far as he was concerned, was to have the detention house declared a gaol under the Prisons and Reformatories Act. This would

enable him to sentence larger numbers to terms of imprisonment. This was the short-term punitive solution. The long-term alternative was endorsing "surplus" blacks out of the urban areas.

The magistrate proved to be more powerful than the probation officer, a "native policy" committed to territorial and political segregation stronger than one which sought recognition of the large African proletariat in the urban areas, and the depression and commitment to white "upliftment" more pressing than extension of welfare facilities to blacks. In 1932 the *Report of the Carnegie Commission of Inquiry into Poor Whites* recommended that a state bureau for Social Welfare be created. As a result of the work of the Poor White Conference called in 1934 by the Dutch Reformed Churches, a Union Department of Social Welfare was created on 1st October, 1937. One consequence was that no black probation officer was appointed for a period of 6 years. When such an officer was finally appointed, the requirements were phrased in the Stallard-ite language of the 1920s, and embodied the direction taken by the new South African Party in the Hertzog "Native" Acts which removed Africans in the Cape from the common voters roll, reinforced territorial segregation through the Land Act and tightened influx control. What was needed was a person with "a sound knowledge of the pass laws and conditions on the Reef" (36). The process of repatriation, and using the courts as a means of policing a black proletariat on sufferance in the urban areas, was continued as the primary purpose of the juvenile court. The post of probation officer was firmly linked to "native policy". As the Director of Native Labour expressed it: "Such an officer might be of invaluable assistance in what I consider should be a policy of endeavouring to discourage detribalisation and settlement in urban areas, and for that reason alone I think he should be a sympathetic official with some understanding of the native mind" (37). By 1938 this task could not be adequately performed by the new appointee, one E A Kernick, who had only a working knowledge of Xhosa. It was accordingly decided, on the prompting of the South African Institute of Race Relations through its Director J D Rheinallt Jones, who had found Mrs Maxeke in dire financial straits, to re-employ her in a temporary capacity at £12 per month: her own destitution was a mark of the course of state welfare in excluding Africans from civil society.

Liberal intervention in welfare work did not end here. At the same time that Charlotte Maxeke was given such short shrift, the view was growing amongst welfare workers, missionaries and the Union Department of

Social Welfare, that Africans should be responsible for the "work of rehabilitation of their own people". In 1940 the Jan Hofmeyr School of Social Work for Non-Europeans was founded in inner Johannesburg by Ray Phillips, an active liberal and missionary of the American Board Mission. It was a direct consequence of the recommendations of the Conference on Native Juvenile Delinquency held in Johannesburg in 1938 for the training of black social workers. A committee appointed by the Young Mens Christian Association began a training school which grew into the Jan Hofmeyr School, and was headed by Dr Ray Phillips from 1940 to 1957 (38). More widely, it was made possible by the changed conditions wrought by war, the growth of manufacturing industry, the continuing deterioration of the reserves and the rapid urbanisation of blacks, all of which briefly strengthened the hand pressing for recognition and stabilisation of a settled urban African working class.

The juvenile court, in the case of African youth, as demonstrated above, acted as a repressive arm of the state in its expulsion of black youth from the urban centres, and their allocation as labourers to the agricultural sectors. In sentencing young black boys and men to apprenticeship it played a part in re-enforcing labour coercive techniques in agriculture. Apprenticeship was the method of control used most extensively in the Transkeian Territories (39). By 1934, however, the failure of this method led magistrates increasingly to call for a reformatory in these areas (40), even though it was not provided for several years.

The state attempted to use tribal authorities in the rural areas as an adjunct to the courts in urban areas. The growth of juvenile crime in Durban in the early 1930s had led to experimentation with repatriation under the care of approved chiefs and headmen (41).

Native Commissioners were required to obtain and keep a list of all chiefs, headmen and other "responsible natives" who would be prepared to accept juveniles on committal. The Department of Education would pay a grant of 5/- per month to the custodian of a committed child by way of maintenance. To ensure proper supervision the guardian was required to report quarterly to the Native Commissioner who would prepare a report. The proposed scheme, which was based on the principle of tribalism, proved so popular with the Native Affairs Department, that extensive investigations were made into the suitability of chiefs in other parts of the country for this purpose. It eventually proved impracticable. Some areas, where people lived on farms, where there were no chiefs in the area or

where chiefs were "generally unsuitable", as in large parts of the Transvaal, Orange Free State and some parts of the Cape Province, chiefs simply could not be used in the desired way. Together with doubts about the abilities of chiefs to control the "sophisticated urban juvenile delinquent", these were sufficient grounds for the abandonment of the scheme (42).

## CONCLUSION.

The reformatory and industrial school were but one form of institutional sanction used by the state against black and white, and especially male juvenile offenders between 1911 and 1934. The range of sanctions employed, at different times and over time, was related less to the aim of reforming offenders than to the relation of the state to white and black labour. Juvenile and children's courts sentenced black male children to imprisonment, apprenticeship, caning, fines and repatriation to the rural areas. By contrast, white children were exposed to a wider range of welfare provisions. Whereas the concern with the white working class and "poor white" child was re-education and re-socialisation within a reconstituted and stabilised working class family, the concern with the black child was discipline and control. Whereas the role of the children's court vis a vis European children appears to have been mainly ideological, in displacing the locus of control from itself to civil society through the construct of the family, especially after the Pact government's "civilised policy" from 1924 onwards, the role of the juvenile court was central to the state apparatus of helping to exclude blacks from civil society and instead, to police and destabilise, through repression, a settled, urban working class. It was kept weak and insecure, jostled from rural to urban and from the urban to the rural areas. For the black child, the reformatory existed alongside the prison, as a form of control over movement and labour; for the European, the industrial school and reformatory existed alongside the school, for the re-allocation and re-socialisation of the children of the urban unemployed.

These developments were a direct consequence of the impact of a labour-repressive, migrant labour-based economy developed under the hegemony of mining capital, the segregationist political solution advanced by the state, and the racial conception of rights that, as a consequence, dominated thinking on social policy in urban areas. Alternative strategies were increasingly advocated by liberal bodies such as the Joint Councils from 1921 onwards, which sought extension of probation services for blacks in urban areas. Until 1930 these were assured of limited state support, in the form of recognition of the services of a black social worker.

As the Depression began to cut into budgets, the limits of this support were felt. The first to be axed were those whose services, in terms of state policy, were inessential.

The process of diversification, differentiation, categorisation, classification and surveillance which marked the development of new forms of social regulation in the metropolitan countries, under determinate social conditions, in a slightly earlier period, 1890-1914 (43), were repeated in South Africa, scarcely a decade later. They were, though, given a particular character by the political and economic form taken by South Africa's industrial revolution, based predominantly on a black migrant labour force and a fully-proletarianised white working class. Their welfare needs were accordingly framed within a social policy structured by recognition of a white but not a black working class, and stamped by a racial conception of welfare rights. Whereas the courts were used in the period of primitive accumulation during the English industrial revolution to batter a newly-proletarianised peasantry into shape, they were used in South Africa in the first part of the twentieth century to frustrate the growth of a permanent black working class and to allocate and tie labour to different sectors of the economy.

#### NOTES.

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6. Davies, **White labour.** (pp 55-65).
7. T.A.D., U.E.D., vol. 1153, File E50/26, Notes from L. van Schalkwijk to the Secretary of Education, 5 March 1935 on the Reformatory Services Act.
8. By 1925 there were, for example, 7 industrial schools in existence. T.A.D., Department of Social Welfare (V.W.N.), vol. 869, File sw 176/24 vol. 1; E201/2, Under-Secretary for Education to Secretary for Union Education Department, "Re: Maintenance Grants under Children's Protection Acts", 21 January 1927.
9. See Malherbe, E (ed) (1934) **Handbook on Education and Social Work in South Africa.** Pretoria, (pp33-79).
10. Ibid., p39.
11. Ibid., p35.
12. Hall, S & Schwartz, B, op. cit., pp7-32.
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14. T.A.D., V.W.N., vol. 869, File sw.176/24 vol. 1, E201/2.
15. **Report of the Interdepartmental Committee on Destitute, Neglected, Maladjusted and Delinquent Children and Young Persons, 1934-1937,** U.G. 38, 1937, p8.
16. **Report of the Provincial Committee of Inquiry into Social and Charitable Work on the Witwatersrand, 1934,** T.P. 5-34, p16.
17. T.A.D., Transvaal Education Department (T.E.D.), Annual Report for 1929, pp77-78.

18. Simons, H (Jack) (1931) Crime and punishment with reference to the Native Population of South Africa. Unpublished MA thesis, UNISA, (p129).

19. C.A.D., A2380, N.I.C.R.O., Parris, H "The Apprenticeship of Juvenile Inmates of Prisons and Reformatories", South African Prisoners' Aid Association, Minutes of Triennial Congress, 1920; see also **Report of the Interdepartmental Committee on Destitute, Neglected, Maladjusted and Delinquent Children and Young Persons, 1934-1937**, U.G. 38, 1937 - "Apprenticeship to farmers is used very extensively in the case of coloured children in the Cape and the Committee is of opinion that this system is a useful one .... (except) .... when a Cape coloured child is sent to live amongst natives on a Transvaal farm" (p53).

20. T.A.D., T.E.D., Annual Report for 1929, p36.

21. C.A.D., A2380, N.I.C.R.O., Elliot, M (1924) Child placing. 6th Child Welfare Conference, **Report of Proceedings**, (p26).

22. T.A.D., U.E.D., vol. 942, File e36, vol. 2, Principal Tokai Reformatories to Secretary of U.E.D., 1939.

23. T.A.D., U.E.D., vol. 942, Saayman, R B Secretary for Union Education Department to Secretary for Native Affairs Department, 11 March 1921. Another deputation from the Child Welfare Societies was sent to the Union Education Department in 1921, but the Secretary for Education insisted that financial stringency put their request out of the question.

24. T.A.D., U.E.D., Correspondence between Native Affairs Department and Secretary for Native Affairs, 4 August 1921 and 3 February 1922.

25. See for example, T.A.D., Department of Justice, vol. 171, File 1/320/12, Pretoria Joint Council of Natives and Europeans, "Conditions Prevailing amongst Native Juveniles in the Urban Areas of Pretoria", n.d.

26. T.A.D., Native Affairs Department (N.A.D.), vol 7601, File no 9/329: "Mrs Maxeke: Native Welfare Officer", C. Olivier, Probation Officer for Johannesburg to Magistrate of the Juvenile Court, Auckland Park, 16 September 1930.

27. T.A.D., V.W.N., vol. 860, File sw 176/24 vol. 1: Commissions and Committees, Delinquency, General, L van Schalkwijk, "Transfer of Probation Officer to the Union Education Department", n.d.

28. See Chisholm op. cit.

29. T.A.D., N.A.D., vol. 7601, File no. 9/329, Extract from an Inspection Report by Public Service Inspector to Director of Native Labour, June 1932.

30. T.A.D., Department of Justice, vol. 170, File: 1/320/12, Part 1, Secretary of Justice to Magistrate, Johannesburg, 16 September 1926.

31. T.A.D., N.A.D., vol. 7601, File No. 9/329: "Mrs Maxeke: Native Welfare Officer", Correspondence dated 16 September 1930.

32. T.A.D., N.A.D., vol. 7601, File No. 9/329.

33. 2 596 cases were dealt with, involving 3 040 individuals, or an increase of 1 372 cases. Of these there were 422 Africans under the age of 16, 432 between the ages of 17 and 18, and 416 between 19 and 21 years of age. See T.A.D., N.A.D., vol. 7601, File No. 9/328, Annual Report for 1931, Magistrate of the Juvenile Court.

34. **Report of the Interdepartmental Committee on Destitute, Neglected, Maladjusted and Delinquent Children and Young Persons, 1934-1937, U.G. 38, 1937, p53.**

35. T.A.D., Department of Native Affairs, vol. 7601, File no. 9/328, Annual Report for 1931, Magistrate of the Juvenile Court.

36. T.A.D., N.A.D., vol. 7601, Director of Native Labour, B W Martin to the Secretary for Native Affairs, 12 February 1936.

37. T.A.D., N.A.D., vol. 7601, B Martin to Secretary for Native Affairs, 25 February 1937. The strategy of "retribalisation" was "clear and growing" in the Native Affairs Department throughout the 1920s, see Dubow, S Segregation and "Native Administration" in South Africa 1920-1936, Unpublished DPhil thesis, University of Oxford, (p219).

38. U.W., C.P.S.A., Ray Phillips Papers, Box No: 1444 - 1446 (File 2); see also C.P.S.A., Rheinallt Jones Collection, G6/5.

39. T.A.D., N.A.D., vol. 7642, File No. 7/331.

40. T.A.D., N.A.D., vol. 7642, File no. 7/331.

41. T.A.D., N.A.D., vol. 7642, File No. 8/331.

42. T.A.D., Department of Justice, vol. 171, File no. 1/320/12, Part 4.

43. Garland, D (1985) **Punishment and Welfare: A history of penal strategies**. Gower; see also Katz, M (1986) **In the shadow of the poorhouse: A social history of Welfare in America**. New York.