

**THE DURBAN CITY COUNCIL AND "THE INDIAN PROBLEM":
LOCAL POLITICS IN THE 1940s (1)**

by

Jeremy Grest

I. Introduction

This paper looks at the "Indian Problem" of the 1940s in Durban as a way of asking some questions about the state at the local level in a period of transition. The focus on the Durban City Council (DCC) points to its role as a force intervening in local struggles accompanying rapid urbanization and class formation. It also sheds an interesting light on central-local relations and the parameters of local autonomy in this period. A third theme explored relates to the various strategies employed in the defence of the Indian community by its leaders.

Similar questions are being raised today in the context of the state's attempts to reorganize social relations in South Africa using the local level as one of the keys to its initiatives. This paper re-examines the struggles of the 1940s in a search both for new insights into that period and for the focus it provides on contemporary social processes.

This paper is not based on original research. There is already a fairly substantial body of material covering the period under review. (2) My aim has been to ask new questions of the material available in the light of contemporary concerns with the analysis of the local state.

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As a minority community formed in South Africa from diverse social origins, Indians came to occupy an intermediate position in the society, not recognized as a permanent part of it and subject to imposed political disabilities and economic attack. The earliest Indian political organizations formed reflected the interests of the trading class, and it was only in the 1940s that their political dominance was formally challenged by an alliance between the emerging industrial working class and the radical petty bourgeoisie.

The majority of South African Indians live in Natal, and by the 1920s a significant proportion of these were congregated around Durban, mostly living in shack settlements outside the municipal boundary with no sanitation or services. In 1922 the municipality took measures to prevent buyers of municipal land reselling to Indians. (3) In 1932 the boundaries of the Durban borough were extended, expanding its area to four or five times its former size. Incorporated into the added areas were the approximately 75,000 residents of the shack belt who effectively quadrupled Durban's former Indian population. (4)

The attitude of the City Council towards its new residents was that, since the bulk of the Indian population of Natal was going to be repatriated at some stage in the future, there was little point in spending money on the provision of services. Indians in Natal had been deprived of the municipal franchise in 1924 and so lacked any formal political access to the local mechanisms of power which could have been used to divert municipal resources into the provision of housing and services.

II. "Indian Penetration"

In the 1930s, the urbanization of Indians increased rapidly, placing greater pressure on the limited land resources available for Indian housing around Durban. (5) At the same time changes were occurring in the class composition of the population, with the development of secondary industry and the gradual spread of formal education. The shortage of housing, and the unattractiveness of what had become the de facto Indian areas, prompted a growing middle class to break into the property market in predominantly white suburbs, especially those adjacent to areas of predominantly Indian occupation. Purchases were made both for residential and investment purposes, the latter being encouraged by the liquidity experienced by merchants following the disruption of trade by war in 1939. (6)

The DCC led the attack on what was objectively a relatively small-scale phenomenon, but one which threatened to undermine its notions about race and property, by seeking to enlarge the powers it had gained in the 1920s.

The Indian leadership's response was to try to negotiate informal self-limiting arrangements to protect their vested interests. In 1936 A I Kajee of the Natal Indian Congress (NIC) entered into a "Gentlemen's Agreement" with the Natal Municipal Association, and in 1940 the Natal Indian Association (NIA) leaders agreed, in the face of strong opposition from the nationalist bloc, to sit on the Lawrence Committee of the DCC. (7)

The initiative for the creation of this committee came from central leadership committed to the war and sensitive to the likely impact of anti-Indian legislation on an important war ally, the Indian Government. The DCC was a reluctant participant in the exercise and effectively sabotaged the committee when its demands that it be given legislative "teeth" were refused.

In a further move to engage the bureaucracy at the local level, and to conciliate local ruling interests, the Broome Commission was appointed in May 1940 to investigate the whole question. (8) The nationalist blocs of both the NIC and the NIA called for a boycott of the commission but this did not prevent the accumulation of a vast amount of evidence. (9) In Durban, the City Council and the accommodationist leadership of the NIA and NIC argued in considerable detail over the accuracy of technical memoranda submitted by the Council, which claimed to be a neutral body in the matter. The main points at issue, in the end, turned on the definition of "penetration". The DCC argued that ownership of property rather than its occupation should be the key criterion, whilst the Indian organizations sought to defend ownership from this attack. Ultimately the commission's position on this point favoured the Indian organizations' view, and gave little ammunition to the DCC.

The commission report was released soon after the collapse of the Lawrence Committee, and was followed by council elections in Durban in which the Labour Party influence was supplanted by Dominion Party and Independent candidates elected on overtly racist tickets. The new city council, claiming that the rate of penetration had actually increased since the publication of the Broome Report, succeeded in having a second commission created in 1942 to examine its extent since 1940. The NIA withdrew participation in protest at the narrow terms of reference, but Kajee's NIC gave evidence. The second Broome Commission found that penetration had taken place

in this period. (10) The impact of the report on white public opinion in Durban and the strains the issue placed on the ruling alliance near national elections were sufficient to bring the legislative response sought by the DCC.

III. The "Pegging Act", 1943

The "Pegging Act" was designed to freeze the position of land ownership and occupation in Durban for three years from March 1943. (11) Its effect was to intensify the struggle in Durban as the dominant local interests sought to consolidate their gains into a more permanent solution, and the divided Indian organizations attempted to formulate strategies to counteract the defeat they had experienced.

Following the 1943 election, and recognizing the role played by the municipality in the creation of a housing crisis in Durban, pressure was placed on the DCC to implement proposals for an eight-year housing programme, originally submitted to the Central Housing Board in 1939. The scheme had involved the expropriation of Indian-owned property in several areas of Durban and had been resisted by the NIC and the NIA as an attack on Indian property in the guise of a town planning proposal. (12)

In 1943 the DCC, in evidence to the Provincial Post-War Works and Reconstruction Commission, had submitted a comprehensive plan for racial zoning of the city, arguing that separate housing was in the best interests of all sections of the city's population. When the central government proposed, in 1944, to amend the Housing Act to speed up the provision of housing, it set out expropriation procedures by local authorities which potentially gave the DCC the powers it wanted to go ahead with its 1943 racial zoning proposals. The amended Act would have provided a powerful weapon for the DCC in its attack on Indian landowners.

In Natal, the Pegging Act was an impetus for Indian unity moves. Expelled nationalist bloc leaders re-entered the NIA, and the former NIA and NIC merged into one body, the reconstituted NIC. The new organization contained within it disparate political tendencies and its unity was fragile.

Following the passage of the Pegging Act, the accommodationist leadership of the NIC pursued negotiations with the NMA which laid the groundwork for the Pretoria Agreement of April 1944. This agreement envisaged the removal of the powers exercised by municipalities over Indian affairs. It was planned that these powers would be vested in the Province, and that a Board including Indian members would be created at that level to control occupation of property by Indians. (13)

The effects of this agreement were felt at a number of levels. It precipitated a breach in the NIC with the creation once again of an Anti-Segregation Council led by Dr Naiker. The radical bloc in the NIC succeeded, after a hard struggle, in winning control of the organization from an accommodationist leadership which had run the organization for many years with no popular mandate and was thoroughly discredited in the aftermath of the Pretoria Agreement.

The DCC, outraged at its exclusion from the deal and the clear intent to reduce its powers, rapidly mobilized to block the agreement at Provincial level. There, the strongly autonomist Administrator, Heaton Nichols, linked the housing expropriation issue with the Pretoria Agreement in a way which made it clear that he envisaged Provincial control over the licensing of residential occupation as a method of introducing racial zoning schemes throughout the Province. He also used the housing issue to claim greater Provincial autonomy. The episode ended with Heaton Nichols being posted to London as ambassador and suspension of the Property

Regulation Ordinance prepared by the Provincial Council. It illustrates how it was possible for locally based interests to mobilize sufficient power to modify central initiatives and subvert their intent to the service of specific local goals. (14)

Locally, as the three-year deadline on the Pegging Act approached, campaigns were mounted by the DCC, the Natal Municipal Association, and the Joint Wards Association for a definitive response from central government to their demands. The ruling party was put on the defensive by opposition claims that its leader, Smuts, was more interested in compromise in the face of pressure from the Indian government and internationally than in satisfying its own electorate. The alliance itself was under strain, and there was dissent in the party caucus. (15)

IV. The "Asiatic Act" and the Franchise

The Asiatic Land Tenure and Indian Representation Act of June 1946 dealt with property and franchise rights in two chapters. The land tenure section was similar to the Pegging Act in its provisions. The form of representation laid down provided for a communal parliamentary franchise for adult males in the Transvaal and Natal, and in addition for provincial representation in Natal. Franchise rights at the local level were excluded from the 1946 Act and left instead to the Natal Provincial Council to implement after discussion with local authorities.

The introduction of a franchise for Indians at all levels assumed importance in the face of the international criticism directed at the government from 1946; thus local authorities were prodded by the central government to consider the matter. Durban put forward two sets of concrete proposals in January 1947. Proposal No 1 envisaged the election by Indians, on a communal roll with a qualified franchise, of three European councillors to represent them on the DCC. A further proposal, subject to a £2 million grant from central government, involved the immediate start to the construction of an Indian satellite town, under the control of the DCC, with its own elected local authority and Indian officials. Proposal No 2 envisaged the retention by Durban of its wholly European city council, elected solely by Europeans, and the creation of a parallel Indian body to be known as the Scheduled Areas Assembly, elected by popular vote of those Indians living in the Scheduled Areas. (16)

When the Administrator attempted to move things on by announcing to the NMA that he proposed to introduce an Ordinance providing for municipal franchise rights, he was blocked by two resolutions: one calling for referenda to establish support for the idea, the other for the establishment instead of Indian boards in urban areas to deal with health and housing issues. The DCC and other local authorities then proceeded with their pre-emptive referenda on the local franchise issue, in which a large majority of voters expressed themselves against the idea. Durban and Pietermaritzburg City Council lawyers then drew up a draft ordinance proposing the Indian Boards idea. Frustrated in their attempts to introduce a municipal franchise for Indians, Smuts and Mitchel, the Natal Administrator, allowed the draft to stand in abeyance.

The NIC led a mass campaign against the "Asiatic Act", using tactics aimed at forcing the authorities to arrest large numbers of resisters and focussing international pressure on the government. The new leadership also moved to forge a closer working alliance with the ANC. The failure of the campaign to force the government to repeal the Act, coupled with the unsuccessful boycott of the 1947 Royal Tour and the new working relationship with the ANC, weakened the NIC's position and emboldened the accommodationists to create a rival body, the Natal Indian Organization. The NIO resumed negotiations with the government on the implementation of the "Asiatic Act".

V. The Group Areas Act, 1950

The Nationalist victory undercut the accommodationist position and rendered it untenable. Section II of the 1946 Asiatic Act, dealing with representation, was repealed, in line with the position that Indians were a "foreign element" in the country, and in 1949 a Bill was introduced amending the Act by incorporating business premises within its ambit and providing for wide ministerial discretion on the issue of permits, thus laying the groundwork for a direct attack on the commercial interests of the Indian bourgeoisie and petty bourgeoisie.

The 1949 Durban Riots were widely used as justification for the introduction of the Group Areas Act. The question of the role of the local state in mediating relations between the various classes-in-formation of the African and Indian population of Durban is raised very starkly in the case of the riots. A major source of the inter-communal antagonism was the lack of adequate housing for Durban's growing African population and the conditions experienced in the shack settlements such as Cato Manor and the single-sex hostels. The operation of the self-financing Native Revenue Account under the "Durban system" of Native administration served, in effect, to limit the provision of municipal housing for Africans and to encourage the growth of slums. Many of these developed on Indian-owned land, where a system of "shack-farming" by the landowners developed.

Communal resentment over the role of Indian traders emerged as the flash-point of the riots. The impediments placed upon the development of an African petty bourgeoisie by Indian competition and the withholding of trading rights by municipal control led to a situation where a frustrated African petty bourgeoisie was ready to mobilize. The riots provided such an opportunity through the destruction of Indian stores and the disruption of trade. Following the riots, the DCC moved to foster the development of an African petty bourgeoisie in proclaimed African areas, at the expense of the Indian traders. (17)

Urban transport was another field of interaction between Africans and Indians mediated by the local state which became a battleground during the riots. After the shops, Indian-owned buses were the next most frequently attacked target. Following the riots, the DCC moved its own buses into areas previously serviced by Indian operators, and also actively sponsored the development of African bus operators. The attempt to foster an African petty bourgeoisie in the motor transportation field was unsuccessful, however, and by 1960 there were no African operators left in the Durban area. (18)

In general terms, it would be true to say that the aggressive stance adopted towards Indians by the dominant White group, and the role played by the DCC in the creation of a hostile climate in the 1940s, contributed in large measure to the structuring of local African perceptions that Indians were an unwanted element in the community and thus "fair game".

The Group Areas Act was a legislative expression of the outcome of the struggles at the local level in Durban in the 1940s. Much of the technical groundwork for its implementation had already been prepared by the DCC and was embodied in its 1943 plans. Further details were added and refinements made by the technical sub-committee given the task in 1950. (19)

Conclusion

The Durban City Council, historically, has been in the forefront of the development of compulsory urban segregation and this paper has described the particular combination of forces which led to the drive to segregate Indians in the 1940s. The

"Indian Penetration" issue, involving a struggle over the private housing market on the Berea, became the testing ground for a move towards a more definitive solution to the "Indian Problem" as defined by local ruling interests. That the drive to segregate Indians in Durban only developed its full momentum in the 1940s is probably due to the relatively late entry of Indian buyers into the private housing market on the Berea, where ruling local interests were most directly challenged. The threat was both ideological, in the sense that it directly challenged dominant notions of the racial hierarchy, and economic, to the extent that it presaged greater competition in the housing market which was an important source of accumulation locally.

The role played by the DCC in the struggles of the 1940s suggests that the access to bureaucratic power provided by the local franchise predetermined the outcomes to a very large extent. The dominant local interests were able to utilize this access in order to augment the power of the state locally to intervene in day-to-day processes of social reproduction and accumulation and ultimately to define the parameters of national legislation. Because Indians had been deprived of this access in the 1920s, the bureaucratic contestation adopted by the accommodationist leadership was always conducted on unequal terms, despite the legalistic form these struggles took. Reliance on informal approaches and bargaining may have provided some form of class defence but was no substitute for access, and it was certainly not able to gain results which would win mass support.

When the issue of the municipal franchise was raised, the local ruling interests were able to prevent its implementation in the form desired by the central government, and in effect laid down the framework for local representation which was subsequently developed under the Group Areas Act in the 1960s. The form of representation has been of a highly subordinate nature, but it has provided direct bureaucratic access to the DCC and to the central structures developed specifically to deal with "Indian affairs". It is these forms of representation, now extended to the national level, that the latter-day accommodationists now control.

The radical bloc of the NIC which gained control of the organization had no informal access to local state structures and relied on mass mobilization and boycott, organized from outside. The tactics of the 1940s have persisted as a powerful model for action in the present conjuncture where local state forms are being retooled.

In the 1940s the state was responsive, both locally and nationally, to the organized electoral expression of interests. Local class interests were articulated through the party system at the various levels of the state, and were often sufficiently powerful to modify substantially central initiatives. It can be argued that there was a degree of autonomy at the local level in the 1940s which permitted this to occur - within limits. Since then, local state autonomy has been curtailed by the creation of local branches of the central state apparatus which have taken over previous local state functions. The state itself is no longer the exclusive preserve of the ruling white alliance, and increasingly the democratic forms of representation which characterized the state at all levels are being replaced by bureaucratic forms of mediation based on nominal representation of blocs of votes. It is in the context of these changes at the local level that the struggles of the 1940s bear careful re-examination.

Notes

- (1) The term was used by Durban's mayors in the 1940s and aptly expresses ruling conceptions of the day.
- (2) For general works, see: G H Calpin, Indians in South Africa (Shuter and Shooter: Pietermaritzburg, 1949); B Pachai (ed), South Africa's Indians: the evolution of a minority community (University Press of America, 1979); M Palmer, Natal Regional Survey, Vol X. The History of the Indians in Natal (OUP: Cape Town, 1957).
- (3) The Durban Land Alienation Ordinance No 14 of 1922. The relevant clause referred to "persons of European descent, Asiatics or Natives ..." but was used against Indians, and became known as the Anti-Asiatic Clause.
- (4) The attraction of these areas, apart from the lack of building standard controls, was their exemption from rates and taxes.
- (5) Between 1904 and 1936 the proportion of Indians over 15 years of age engaged in agriculture fell from nearly 50% of the population of working age to only 25%. In industry there was an increase from 6% to almost 37% in the same period. H R Burrows, Indian Life and Labour in Natal (1952), p 10.
- (6) Report of the Second Indian Penetration Commission, UG 21/1943, p 4 - in L Kuper, M Watts and R Davies, Durban: a study in racial ecology (Jonathan Cape: London, 1958).
- (7) The NIC, founded by Gandhi in 1894, split over the issue of the colonization proposals resulting from the Cape Town Agreement of 1927. The break-away group founded the Colonial Born and Settlers Indian Association (CB & SIA). The policy differences between the two organizations in the 1930s were not notable and the split seems to have been perpetuated by the factionalism of the leadership. An attempt at unification of the NIC and the CB & SIA in 1939 led to the creation of a new body to represent Indians - the Natal Indian Association. Kajeer remained outside of this body with his faction of the NIC. Between 1939 and 1943 the NIA and the NIC competed with each other.
- (8) The First Broome Commission reported in July 1941: UG No 39/1941.
- (9) The evidence runs to 53 volumes and includes material from the Transvaal and Natal. The most complete description of the evidence is in D R Bhagwandeem, "The Question of 'Indian Penetration' in the Durban Area and Indian Politics 1940-1946", unpublished PhD, UND, 1983.
- (10) UG No 21 of 1943. An interesting feature of the Indian Penetration issue is the role played by Building Societies. They agreed in May 1942 not to advance loans for the purchase by Indians of property in predominantly White areas. Their continued advance of loans to finance Block AL sales was advanced as evidence that this area was not considered predominantly European. See G Maasdorp and N Pillay, Urban Relocation and Racial Segregation: the case of Indian South Africans (UND, 1977), p 88.
- (11) Its full title was The Trading and Occupation of Land (Transvaal and Natal) Restriction Act.
- (12) Bhagwandeem devotes a chapter of his thesis to the expropriation issue (pp 125-160). The issue involved the DCC, the Central Housing Board, the NIA and the NIC, and various ratepayers' organizations, and was the subject of a struggle which was only finally decided by the Group Areas Act of 1950.
- (13) W B White, "The Evolution of Policy Towards the Indians in Natal, 1943-1948", unpublished MA, UND, 1981, p 39.

- (14) Ibid., pp 53-62.
- (15) Ibid., pp 75-79.
- (16) Ibid., p 116.
- (17) E C Webster, "The 1949 Durban 'Riots' - a case study in race and class" in P L Bonner (ed), Working Papers in Southern African Studies, African Studies Institute, University of the Witwatersrand, Johannesburg (1977), p 46. On the riots, see also L K Ladlau, "The Durban Riots (1949)", unpublished BA Hons essay, UND (1974).
- (18) On the transport issue, see L Torr, "A Ticket to Drive: the struggle over African bus services in Durban 1930-1960", Paper presented to a Conference on the History of Natal and Zululand, UND, July 1985.
- (19) See The Durban Housing Survey, Department of Economics, Research Section, University of Natal (1952), pp 405-8, for a summary.