

LWANDLE : CRIMINALISATION OF A COMMUNITY

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J SLOTH-NIELSEN

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I N D E X

	Page
INTRODUCTION	1
CHAPTER 1 LIFE AT LWANDLE	
1.1 CONTROLLING URBANISATION 1958-1986: THE HISTORY OF LWANDLE HOSTEL	3
1.2 THE SOCIAL COMPOSITION OF THE LWANDLE COMMUNITY - A COMMITMENT TO FAMILY LIFE	9
1.3 A MONUMENT TO APARTHEID - LIVING CONDITIONS AT LWANDLE	13
1.4 ASPECTS OF EMPLOYMENT AND OTHER ECONOMIC ACTIVITY AT LWANDLE	17
1.5 COMMUNITY AND POLITICAL ORGANIZATIONS AT LWANDLE	
- The Seeds of Unity	20
- Political Organization: The Men's Committee	21
- Political Organization and Gender: The Role of Women	26
- The Significance of Trade Unionism in the Hottentots Holland Area	28
- The Religious Community	29
1.6 CONCLUSION	30
CHAPTER 2 THE NEW LEGAL REGIME SURROUNDING THE ABOLITION OF INFLUX CONTROL	
2.1 REPEALING THE "PASS LAWS"	31
2.2 BECOMING A SOUTH AFRICAN CITIZEN: A NEW FORM OF INFLUX CONTROL?	34
2.3 THE NEW "DOMPAS"	38
2.4 SHIFTING THE ARENA OF CONTROL: THE PROVISION OF HOUSING AS THE NEW INFLUX CONTROL MEASURE?	40

	Page
CHAPTER 3 POTHoles IN THE REFORM PATH: POLICE ACTION AND OTHER INCIDENTS	
3.1 THE TRESPASS ARRESTS	43
3.2 THE MEDIA AND POLICE ACTION AT LWANDLE	45
3.3 THE SCHOOL VISIT	46
3.4 COMPETING STATISTICS ON LWANDLE: THE ROLE OF THE MILITARY IN RESEARCH	47
3.5 THE LAST FEW WEEKS: THE LUMPENPROLETARIAT TARGETED	49
3.6 CONCLUSION	50
CHAPTER 4 STALEMATE OR STRUGGLE: THE WAY AHEAD	51
BIBLIOGRAPHY	58

INTRODUCTION

This work tells the history of the current crisis facing the community of Lwandle, "the hostel by the sea" near Strand and Somerset West in the Western Cape. Despite all the media propaganda about consultation with "recognised and moderate leaders", despite government promises that legislation curtailing the free movement of blacks would be abolished, despite the State President's undertaking that apartheid would go, yet the people who live in this settlement have little hope of being able to remain there with their families for much longer. I will attempt to illustrate the socio-economic conditions which prevail in their community, to detail the background to the current stage in their struggle to promote family life at Lwandle and to place this in a broader perspective to state policy and apartheid reform in late 1987. Accordingly, Chapter 1 will look at the history of Lwandle hostel, the geographic environment, the demographic composition of the community and the social composition and community organisation that pertains there at present. Much of the information in this section was gleaned from my involvement with the community of Lwandle as the chairwoman of the local branch of the Black Sash and from my recurring meetings with sections of the community in order to try and resolve the question of their impending removal to another area (or, more recently, the removal of part of the community). Some information, too, emanates from an investigation by the Urban Foundation, conducted in 1987, into the feasibility of providing suitable family housing at Lwandle. During the preparation of this report, I did, however, liaise a great deal with the research team who compiled it, and (hopefully) succeeded in imparting some of the information now embodied in the report. In Chapter 2 a summary of legal developments relating to the abolition of influx control will be provided, and other enactments controlling the movement of peoples throughout South Africa examined. In this regard current government policy and stated objectives pertaining to both influx control and housing (with particular attention to single sex hostel accommodation) must be included in order to provide a basis for analysis in the final Chapter, Chapter 4. Chapter 3 will focus on the arrest in May 1986 of 158 women at Lwandle hostel on charges amounting to trespass. The involvement of the local branch of the Black Sash in the future of the Lwandle community was a reaction to the immediate need of those women who were arrested. Some specific case studies were completed and these will be discussed

in this Chapter. Further police action in Lwandle subsequent to May 1986 will, insofar as such details are known to me, also be mentioned. Finally, in Chapter 4 the problematic position in which the residents of Lwandle now find themselves will be outlined, and certain conclusions about the general political scenario that obtains at present in South Africa (with particular reference to criminological issues) will be drawn.

CHAPTER 1

LIFE AT LWANDLE

1.1 CONTROLLING URBANISATION 1958-1986 : THE HISTORY OF LWANDLE HOSTEL

Lwandle was originally proclaimed a Location and Township in terms of the Native (Urban Areas) Consolidation Act 24 of 1945 by Government Notice No. 71 of 17 January 1958. While it was in fact possible to develop a township on the 19 morgen (approximately 75 hectares) set aside for development, the local authority, in this instance the Stellenbosch Divisional Council, decided⁽¹⁾ to give effect to the Coloured Labour Preference policy which the State was articulating at that time; in keeping with this policy, it was preferred to limit the numbers of black workers in the Hottentots Holland area by constructing a single sex hostel only, and then only on a portion of the available land. Commencing in 1958 therefore, the Stellenbosch Divisional Council built 22 hostel bungalows, with two communal kitchens and outside "bucket system" ablution blocks. Housing was originally provided for 960 black men, but with the increase in the labour requirements of the Hottentots Holland basin in the 1960's as a result of a developing local economy, more of the same structures were built to accommodate approximately double the original number of men.⁽²⁾ The last of these bungalow structures was erected in 1970,⁽³⁾ almost two decades ago. There is no other legal residential area for blacks within a 25km radius of Lwandle, the nearest possibilities being at Kayamandi at Stellenbosch and Mfuleni at Kuilsriver. Since the dissolution of the Stellenbosch Divisional Council in July 1987, the functions relating to the administra-

1. Elias C.M. and Mpukumpa J. Where Reform is Not Reform S.A. Outlook August 1986 p.85.
2. The official number of beds in the hostel now is 1984.
3. Report of the Urban Foundation p.23.

tion of Lwandle hostel have been inherited by the Cape Provincial Administration, which exercises its powers through the Offices of Community Services.

The entire question of the establishment of what were then called Native Townships, the form that they took and the structure by which they were controlled must be seen as part of an overall State housing policy pre-dating the foundations of Lwandle in 1958. Housing, being an aspect of the means of collective consumption,⁽⁴⁾ was specifically and self-consciously shaped by the state at various junctures in South African history in an effort to maximise capital growth, yet at the same time control the influx of rural blacks to the urban areas. Housing and influx control must be seen as being inextricably linked; and indeed this link is all too evident in the central tenets of the Stallard doctrine spelt out in the Transvaal Local Government (Stallard) Commission report of 1921, which led to the formulation of the Native Urban Areas Act of 1923, the forerunner to the Native (Urban Areas) Consolidation Act 25 of 1945. The so-called Stallard doctrine established five principles,⁽⁵⁾ including the control of influx of black people into towns, the establishment and control of African townships by local authorities - which encompassed residential segregation, the self-financing of facilities and amenities by the inhabitants of the townships themselves and the limiting and eventual total curbing of land purchases by Africans in the urban areas - and the refusal of political rights to urban blacks. Underlying the provision and management of the housing process, therefore, was the State's changing influx control and labour policy.

4. Bloch R. and Wilkinson P. Urban Control and Popular Struggle: A Survey of State Urban Policy 1920-1970. 1982 Africa Perspective p.2 define the means of collective consumption as "the field in which active state intervention takes place to ensure the continued existence of a labour force sufficient, ready and able to meet the demands of the capitalist economy for labour power. The field includes the provision of those goods and services whose consumption is regulated not through the operations of the free market system but by the state apparatus e.g. housing, education and health services."
5. Bloch R. and Wilkinson P. supra p.4; direct management vested in municipalities and other local authorities, which can be seen as a "deflecting strategy by the state", ibid p.28.

In the Western Cape, the Coloured Labour Preference Policy held sway until 1985.⁽⁶⁾ Coloured workers were given preference in employment opportunities and blacks would be permitted south of the imaginary line only insofar as an employer could demonstrate a need for black labourers. The required number of workers could then be recruited as migrant labourers through the labour bureaus in the Homelands.⁽⁷⁾ Blacks were not allowed freehold rights to land, and (apart from the operation of the influx control laws themselves) the provision of single sex hostel accommodation only would effectively prevent families from entering an area along with their menfolk. Furthermore, by linking the costs of the reproduction of labour to the family unit in the Homelands, the cost of labour power to the industries of the Western Cape that employed black men would be kept as low as possible. The commitment to the Stallardist doctrine that blacks were to be permitted in white areas only so long as they served the needs of the white man, was a central tenet of the Nationalist Party's election campaign, which led to their being voted into power in 1948. This party, no more than its predecessor, could ill afford to ignore the structural crisis which required the state to involve itself in the reproduction of labour power;⁽⁸⁾ a rethink on housing policy was required. The solution, according to Bloch and Wilkinson,⁽⁹⁾ was a restructuring of the provision of state housing which linked more directly the formulation and implementation of housing policy to the programme of apartheid. In this way, full control over urban blacks could be maintained, and, similarly, surplus blacks who did not seek or find an honest living in the cities could be eliminated.⁽¹⁰⁾ It

6. Elias C.M. and Mpukumpa J. *supra* p.65.

7. For more detail on the operation of the labour bureaus, see Sher M. in *Crime and Power in South Africa*, Davis D. and Slabbert M. (eds), David Philip 1985 p.84.

8. Bloch R. and Wilkinson P., *supra* p.21.

9. *Ibid*, p.23.

10. By means of s 29 of the Native (Urban Areas) Consolidation Act 25 of 1945 which granted an "authorised officer" the power to endorse out of an area any African deemed redundant, "idle and undesirable" or "detrimental to peace and order". See further in this regard Sher M. in *Crime and Power in South Africa*, *supra* p.75.

is against this general background that the establishment of a single sex men's hostel at Lwandle must be seen. The hostel would provide a separate residential area for black workers who were needed in the area; this area would be proximate enough to the local industrial area, yet physically distanced from the three neighbouring towns of Strand, Somerset West and Gordons Bay. In keeping with state housing norms the hostel itself would be surrounded by large portions of the available land in order that these might serve as buffer strips.⁽¹¹⁾ Access to and from the complex could be fully controlled, in view of the fact that there was but a single entrance/exit road. Lwandle would be the only legal residential area in the Hottentots Holland Basin. A large number of black families who squatted in the basin at Waterkloof, between Somerset West and Sir Lowry's Pass Village, were moved to the township of Mfuleni near Kuilsriver in the 1960's. Many of these people were, and are still, employed in the region, despite the fact that it is more than 25km away from their place of abode. By the structure of the provision of housing, however, effective curtailment of the influx of black people to the area was maintained. Only in 1980 would the cracks in this system begin to appear, and even then, only in 1987 has it been necessary for the state apparatus to confront the problem of housing for blacks in the Hottentots Holland area once again. The reasons for this need to readdress the housing question will appear from ensuing sections.

Bloch and Wilkinson have identified a second element as being of crucial importance to the process by which the post 1948 Government regulated and restructured housing policy.⁽¹²⁾ The state endeavoured

11. The area of the site for Lwandle hostel is 75.18ha. "The hostel area is 16.3ha of which 12.0ha is developed, leaving a balance of 4.3ha underdeveloped. The remainder of the site (58.88ha) is zoned as "buffer strip". Together the buffer strip (58.88ha) and underdeveloped portion (4.3ha) make a total of 63.12ha." (Urban Foundation report supra p.42). Thus buffer strips comprise 84% of the total available land set aside for black housing!
12. Bloch R. and Wilkinson P. supra p.23.

to transfer at least some of the overall costs of providing accommodation for the urban black population to the employers of African labour. This ideal came to fruition in the Somerset West area too, with the largest industrial company in the region, AECI, providing their own single sex men's hostel for some 1000 employees, who are housed not at Lwandle but at the site of production itself.⁽¹³⁾ At Lwandle itself, several employers have been encouraged to build hostel accommodation for their own workers. At least 13 temporary buildings, housing (officially) 202 men,⁽¹⁴⁾ have been constructed by these private sector employers. These buildings are adjacent to the state-provided hostel bungalows, but in many instances the meagre facilities and poor living conditions are even worse than those in Lwandle generally. In one instance only, to my knowledge, has the involvement of the private sector led to better living space for the inhabitants of that bungalow.⁽¹⁵⁾ It may be concluded then, that apart from very recent evidence of concern by a few employers⁽¹⁶⁾ about the living conditions experienced by their workers, the private sector has been happy to give effect to government housing policy, as it was clearly in their own financial interest to do so.

A third principle inherent in the Stallard doctrine, namely that facilities for urban blacks should as far as possible be self-financing, was also a feature of the establishment of housing facilities at Lwandle hostel. The costs of providing this accommodation was recovered from rents paid monthly by the legal occupiers of each

13. This land is zoned as the site of a "noxious industry" (Urban Foundation report p.14 Map 2) and is therefore quite unsuitable for residential purposes.
14. Urban Foundation Report p.23.
15. The bungalow is subdivided into two bedded rooms for greater privacy, ceilings have been installed and separate, yet adjoining, ablution facilities (tiled) and a communal kitchen have been supplied. These particular 2 bungalows are regarded as considerably more luxurious than the norm.
16. In particular, the Somerset West municipality (+200 workers) and Gants Canning Factory (200 workers): they have been involved with the attempts by the Lwandle men's committee to lobby for better housing conditions since 1986.

bed⁽¹⁷⁾ for the room space allocated to them and for the use of the communal facilities;⁽¹⁸⁾ in addition, Lwandle was provided with the mandatory beer-hall, in order to reap the profits of state controlled liquor sales. In this way, as elsewhere, "the popular classes still paid the most towards the cost of their own reproduction through the native revenue accounts (comprising fines, pass and labour registration fees and rents and beer profits). All housing costs for example were paid back eventually".⁽¹⁹⁾ Finally, the costs of reproduction for the state were kept low by means of various economising measures regarding the provision of services. Two examples pertaining to Lwandle may be cited: firstly, in each of the three communal kitchens there are four gas stoves, with a surface area each of approximately 1 metre by $\frac{1}{2}$ metre. Residents complain, however, that never are more than two stoves in each kitchen lit, the justification being that it would cost too much. This results in pots being stacked three high in some instances in order to be able to cook food. The second example pertains to the provision of hot water, which facility does exist in the communal showers. However, the hot water is only turned on for two hours a day viz. from 03h00 a.m. until 05h00 a.m. in order to keep usage as low as possible. By making these minimal services as inaccessible and basic as possible, the state is able to operate a hostel such as Lwandle as a self-financing complex.

17. Presently this is R9.51 monthly, which is regarded by the community as excessive in view of the squalid living conditions they are forced to endure. Even the state-proposed upgrading scheme will apparently necessitate a 600% increase in the rent payable in order to finance the costs of upgrading. See further p.23 below.

18. See p.15 below.

19. Bloch R. and Wilkinson P. supra p.28.

1.2 THE SOCIAL COMPOSITION OF THE LWANDLE COMMUNITY - A COMMITMENT TO FAMILY LIFE.

From as early as the building of the single sex hostel in Lwandle in 1958, it appears from a survey conducted by a research team from the Urban Foundation during the preparation of their report into the potential for black housing in the area, that women have in fact played a central role in the community. Women have clearly lived permanently at Lwandle since at least 1960 despite the stringent hostel regulations forbidding them (even as visitors) to be at the hostel without the permission of an authorised official from the local authority.⁽²⁰⁾ In addition, many women (whose husbands live at Lwandle) have since that time resided in the Hottentots Holland area as live-in domestic servants, while returning to Lwandle at weekends in order to be part of the community life there. At present it is estimated that some 720 black women are employed as live-in domestic servants in the area,⁽²¹⁾ and of all these women with whom I have had contact, not one has regarded herself as part of another community. Most have family members, if not husbands in Lwandle, all attend church ceremonies there and take part in social festivities there.

One source estimates that as at December 1986 there were 679 women living permanently at Lwandle itself,⁽²²⁾ but this figure is thought to be an underestimate, and there are probably 1000 women at least who live at the hostel. The largest influx of women to Lwandle would appear to have been in 1980 and the years since then. The compilers of the Urban Foundation report ascribe this to the deteriorating

20. See Chapter 3 below.

21. Urban Foundation Report p.5.

22. Department of Health and Population Development, Lwandle survey, December 1986.

economic conditions in the Transkei and the Ciskei, which de facto forced families to join forces with the breadwinner in the Western Cape in order to eke out a living as one household.⁽²³⁾ More recently, the abolition of influx control legislation would appear to have led to a small increase in the number of wives arriving at Lwandle hostel to live; there is no evidence, however, that any increase in residents ensued from the demolition of the Crossroads squatter community in mid 1986. There was merely a temporary phenomenon of friends and relatives seeking shelter for a few weeks before moving back to greater Cape Town. Generally, with respect to the presence of women and children at Lwandle hostel, the committee is unanimous in asserting that all the women who live at Lwandle are in some way attached to a man, either as a wife, sister, girlfriend or very close relative. While the reasons for this are fairly obvious - a man would have to agree to share his living space of probably no more than 3 to 4m² with a woman - the result is seemingly a very close knit community. There are very definitely prostitutes who ply their trade at Lwandle, many of whom have arrived from a nearby "coloured" squatter village, and there are newspaper reports of assault between spouses⁽²⁴⁾ from time to time, but it would seem, from consultation with the men's committee, that there has been very little internal dissatisfaction (despite the resultant overcrowding) at the influx of wives and girlfriends. (many of the members of this current committee do not have wives or girlfriends living with them yet, although all have expressed the desire to have their wives join them should living conditions improve).

23. Urban Foundation Report p.25.

24. The District Mail, Friday 6 November 1987; see, too, two cases dealt with during the last year by the Somerset West Advice Office.

The community orientated way of life at Lwandle, despite its being officially a single sex men's hostel, is evident from many facets of social organization there.⁽²⁵⁾ Besides fulfilling domestic responsibilities - washing, ironing and cooking - women are active in religious organizations,⁽²⁶⁾ in the political life of the community and in the economic life of Lwandle. Many women have thriving informal sector business operations,⁽²⁷⁾ while it is estimated that two thirds of the female population of Lwandle are presently employed formally in the Hottentots Holland area.⁽²⁸⁾ However, it has been alleged to me by residents that many women also maintain responsibility for the family farm in the Ciskei or the Transkei, returning there after the rainy season to plant crops, and once again at harvest time. How many women actually maintain such strong links to the Homelands is not clear. What is clear from any cursory visit to the hostel however, is the scarcity of teenage (high-school going) children, many of whom are apparently returned to relatives in the Homelands in order to attend school there. It seems, therefore, as though most families have, bearing in mind the many years during which the migrant labour system operated, and other structural factors such as schooling, some sort of link with the Transkei or the Ciskei. This does not mean that the residents do not regard Lwandle as their "permanent home".⁽²⁹⁾

25. Compare the very different role of women, who seem to be regarded as temporary visitors, at the single sex hostels in Kayamandi, Stellenbosch.
26. For example the Anglican Mothers Union, which apparently hosted a regional conference recently!
27. Discussed more fully on p. 18 below.
28. Urban Foundation Report p.6.
29. In the language of the South African law of domicile.

Further evidence of the social organization at Lwandle is provided by the existence of some 279 (according to one estimate) children who reside there. The estimate of the hostel committee and the Black Sash is indeed much higher than this, namely that there are closer to 500 children who live there. It would seem as though the majority of these children are of pre-school age⁽³⁰⁾ although there are probably 100 - 200 children of primary school age and older who live at Lwandle. There is no state-provided school or any other state-recognised educational faculty at Lwandle, since it is officially⁽³¹⁾ deemed to be a single sex men's residence: despite the official survey of one Government Department which demonstrates precisely the contrary.⁽³²⁾ It would appear that those children who can master the language difficulties attendant in them learning in Afrikaans, which would be at best a second language, are clandestinely enrolled in so-called "coloured" schools in Gordons Bay and Strand. Yet others travel as far afield as Mfuleni and Stellenbosch, both 25km away, to attend schools, though these are but solitary instances. Since January 1987, however, an unofficial, and therefore illegal, school and pre-primary have been established by the men's committee of Lwandle, together with the Black Sash, Somerset West. This school now operates under the auspices of a school committee which comprises the two teachers (both residents), members of the men's committee and members of the local (white) Anglican Church; this church has taken the school under its wing, and church members have contributed much in the way of

30. Urban Foundation Report p.29.

31. The Department of Education and Training has, through the medium of one sympathetic official, indicated its desire to provide educational facilities in Lwandle, but it would seem as though no progress can be made while the Department of Constitutional Development and Planning regards Lwandle officially as a single sex men's hostel. See further p.47 below.

32. Department of Health and Population Development which conducted a one-day survey in December 1986; (the fact that the survey was done in December is one reason for the conclusion that it underestimates the number of children and women, many of whom would already have left for the Transkei or Ciskei for Christmas; the survey was conducted after the commencement of the so-called "builders holiday" (to the best of my knowledge).

equipment and support for the project. The community involvement in the school and political manoeuvres following its inception will be discussed below. Suffice it to mention that approximately 150 children have registered as pupils (the majority at pre- primary level), there is a regular daily attendance of between 60 and 80 pupils, and that this effort provides the only educational facility that these children enjoy.

1.3. A MONUMENT TO APARTHEID - LIVING CONDITIONS AT LWANDLE

The physical conditions in which the residents of Lwandle are forced to live reflect more dramatically the external manifestation of the apartheid policy than could any story or description. These conditions comprise an all-pervading aspect of the daily lives of the residents. In order to adequately understand the proposals and counter-proposals regarding the future upgrading scheme, it is necessary to describe some of the problems with which the inhabitants have to contend.

The most obvious problem, resultant from the fact that Lwandle was designed as a single sex men's hostel, and from the failure of the state to allow for many years⁽³³⁾ the development of black residential areas in the Western Cape, is the problem of severe overcrowding. Lwandle was intended to house approximately 2000 men; these men would live one to a bed, two beds to a cubicle, sixteen cubicles to a room and two rooms to each bungalow. The only official estimate⁽³⁴⁾ is that presently at least 3000 people reside in this accommodation.

33. No housing for blacks whatsoever was built between 1972 and 1981 - see Schoombee H. and Davis D. Abolishing Influx Control - Fundamental or Cosmetic Change 1986 vol. 2 SAJHR (July 1986) p.217.
34. See footnote 32 above, for a criticism of the statistics obtained during this survey.

Other estimates have it that more than 5000 people live permanently at Lwandle. Most of these inhabitants crowd into the bungalows, although a few sleep in car wrecks and a make-shift shelter or two attached to the bungalows. There are no other squatter constructions in Lwandle or nearby. In the bungalows themselves there is no privacy as the cubicles are not partitioned off in any way, and storage space is minimal. There are no ceilings, so that insulation in the structures is poor: roofs are made of corrugated iron. Ventilation in the rooms is inadequate, and this is compounded by the fact that some residents cook in the cubicles. There are no electric wall plugs available, leading residents to complain that they are denied the possibility of acquiring recreational facilities such as television sets. (35)

Ablution facilities are a source of great concern. There are eight ablution blocks, each containing some six buckets. While there are partitions there are no doors affording privacy. These buckets are emptied twice weekly by the Offices of Community Services (formerly by the Stellenbosch Divisional Council), but this is totally insufficient as sewerage spills over the buckets and floods the floor of the toilet blocks within 24 hours of being emptied. After another day, sewerage courses through Lwandle in open channels. There is a perpetual stench of sewerage in the air. Residents of Lwandle have on occasion expressed severe dissatisfaction with both the ablution facilities and the infrequency of sewerage removal to a member of the Stellenbosch Divisional Council. While this member was sympathetic, there seemed to be no good reason why the sewerage buckets could not be emptied more frequently; certainly none was articulated, and the situation has not improved.

35. The official response to this request has been that residents would waste electricity by "leaving equipment, such as heaters, on all day".

Refuse removal is another issue complicated by overcrowding. While municipal refuse^{removal} was increased following complaints by the residents of Lwandle to the Somerset West municipality, the complex as a whole remains dirty. Mud pools of standing water provide breeding grounds for flies and other insects. Drains for waste water are open. The men's committee have twice organised "clean-up" Saturdays in order to pick up litter and these have worked quite well, but the situation has deteriorated fairly quickly thereafter.

Communal showers offer the only washing facilities, and these are for obvious reasons limited to use by the men only. Women can wash only in the open-air, or in the bungalows, with buckets of water; the lack of privacy prevents them from washing properly. It has already been mentioned that even in the communal showers, hot water is available only from 3h00 a.m. until 5h00 a.m. in an effort to economise on services.

Other facilities include a beer-hall, a small shop, a sports field and a communal hall. Permission has to be obtained in order to use this last community facility, and as such was refused when attempts were made by that community to use the hall for the pre-school creche. The hall was not being used for any other purpose at the time, and the reason given for the denial of permission by the official from what is now the Offices of Community Services was (as he surveyed some 50 children from his office window) that the children did not exist officially!

The conclusion from this brief summary of the living conditions at Lwandle hostel is not merely that the premises are unsuitable for occupation at present by the numbers of people residing there, but

also that the current position is very unhygienic and poses a severe health hazard.⁽³⁶⁾ This must not, however, be ascribed to any fault on the part of the residents of Lwandle;⁽³⁷⁾ the blame must fall squarely on state housing policy and other structural factors for the present unhygienic living conditions. The town planners who assisted in the preparation of the Urban Foundation report on Lwandle have identified five causes of the sub-standard living conditions, which can usefully be repeated here:

- the absence or poor standard of township services and accommodation.
- the high level of occupancy.
- the low thermal performance of the hostel buildings.
- the inferior ablution facilities.
- the general unsuitability of the structures and environment for family life.

All of these factors can be directly related to state housing policy or other central tenets of the apartheid scheme, such as limiting housing in the Western Cape for blacks in terms of the Coloured Labour Preference Policy. The town is thus a living monument to the policies and practices of racial segregation and discrimination that exist in South Africa.

36. The Urban Foundation Report p.31 quotes the Tuberculosis Medical Officer of the then Stellenbosch Divisional Council in November 1986 on the increase in the incidence of tuberculosis at Lwandle. Other sources, namely an official from the Department of Health and Population Welfare and the employees of the Western Cape Men's Hostel Dwellers Association who run a weekly mobile clinic at Lwandle deny the charges of a rise in the incidence of tuberculosis. In fact this last body has expressed surprise at the generally good health of children living and playing in such circumstances.

37. See footnote 36 above.

1.4 ASPECTS OF EMPLOYMENT AND OTHER ECONOMIC ACTIVITY AT LWANDLE

One survey has produced the statistic that 98% of the adult male residents of Lwandle hostel are in formal employment. There would, however, appear to be some doubt about this figure, since on any morning a crowd of at least forty men wait outside Lwandle at the National Road for a car to offer them employment. On the other hand, due to the vast increase in building and construction projects in the Hottentots Holland area over the last eighteen months,⁽³⁹⁾ it is to be expected that many men are currently in temporary employment for the duration of building operations.⁽⁴⁰⁾ This high employment figure would otherwise be almost inexplicable, given the general unemployment percentage that obtains for the country as a whole.

The largest employer is Gants Food Canning Factory, followed by the three municipalities surrounding Lwandle.⁽⁴¹⁾ Other employers of significance are light industries proximate to the Strand-Halfway complex, and large construction companies. Average wages for men are in the region of R300 per month, while some men are earning close to R1 000 per month.⁽⁴²⁾ "In the production sector at AECI black worker salaries range from a minimum of R570 per month to a maximum of R1 584 per month".⁽⁴³⁾ Residents of Lwandle have expressed the opinion that they would be able to afford increased monthly payments for better accommodation (of their own choosing).

39. See, for example, the percentage increase expressed in the Somerset West Municipal Report of October 1987.
40. This is borne out by the significant number of cases involving such temporary employment conditions which are presented at the Somerset West Advice Office.
41. Urban Foundation Report p.4.
42. Urban Foundation Report p.6.
43. Ibid p.6.

As to the spatial distribution of employment opportunities for the residents of Lwandle, two surveys have been undertaken, one by the research team from the Urban Foundation and one by the Somerset West municipality. It would appear that as many as 95% of the workers of Lwandle work in the Strand-Somerset West-Gordons Bay area, i.e. no more than 7 kilometres from their place of abode. Proximity to the workplace and the ultimate benefit to the employer has been a central argument advanced by the men's hostel committee during their negotiations with officialdom thusfar. A contradictory statistic is the one relating to women's employment, once again provided by the December 1986 survey of the Department of Health and Population Development. While no precise figure is available, it is estimated by the Department that some two thirds of the female population of Lwandle is formally employed. In my view, this statistic is only credible if the total number of women residing at Lwandle be limited to some six hundred. For example, there are no known large scale employers of black women in the area (factories, municipalities or such like) and the largest employment sector is almost certainly in domestic service. It has already been pointed out that some 700 women live-in in the Hottentots Holland area at the place where they are employed. However, other black women are known to be employed as office cleaners, tea-makers, waitresses in restaurants and cooks, and presumably quite a large proportion of these women live at Lwandle.

There is a thriving informal sector of economic life at Lwandle, manned equally by full-time and part-time entrepreneurs. In my experience, various trades and services are offered there, including vegetable and fruit hawking, selling plucked chickens, selling of cool-drink, sale of clothing and shoes, sewing and leather-work, basketmaking, panel beating and general mechanical work on cars, illegal liquor selling and operating illegal taxis. It is important that this informal

sector activity be seen as a social, rather than purely economic phenomenon. The reserve army of labour that is inextricably bound up with the capitalist mode of production is faced with structural unemployment or underemployment.⁽⁴⁴⁾ Wilkinson P. and Webster D.⁽⁴⁵⁾ in their analysis of the informal sector concept, construe the informal sector as a "sphere through which the process of social reproduction is mediated or conditioned".⁽⁴⁶⁾ This sector provides the means by which the surplus army of labour manage to subsist without the assistance of a state social security system, a "fall-back" strategy by which the working class attempts to maintain and supplement its standard of living. This strategy would be necessitated either by a decrease in relation to the cost of living in the formal wages brought home by family members, or because the balance between the employed and their dependants is altered by the loss of employment or the arrival of further dependants. In Lwandle, as in South Africa generally, the costs of reproduction have historically been borne at least in part by the workers themselves, as the migrant labour system has ensured that the overburdened^{homeland} economies have had to support the costs of maintaining the sick, the disabled, the elderly and the very young. The deteriorating economic conditions in these homelands have precipitated entrance to informal sector activities (by women who, coming to the town, cannot find employment, for example). In this framework, then, "informal sector activity is conceptualised as essentially a form of the reproduction of labour power, a sphere of social interaction in which the working class strives to maintain its existence 'as a whole' in the face of capital's drive to depress

44. Which definitely holds true for the Hottentots Holland area, despite the aforementioned survey demonstrating 98% employment!

45. Living in the Interstices of Capitalism: Towards a reformulation of the Informal Sector Concept 1982 Social Dynamics 8(2) p.1.

46. Ibid p.8.

the value of labour power to the lowest possible level".⁽⁴⁷⁾
 The entrepreneurship/economistic approach to informal sector activity must be set firmly within the social relations which gave rise to such activity in the first place. In relation to the working class environment under consideration, namely Lwandle men's hostel, one would have to include in these relations a description of the migrant^{labour} system, the structures and practice of state housing policy in the last three decades, the role of women in this particular working class society, and the current impetus to deregulate the informal sector (by decriminalising hawking, illegal taxi operating, etc.). Neither these nor many other relevant considerations can be dealt with individually in any depth within the ambit of this work.

1.5 COMMUNITY AND POLITICAL ORGANIZATION AT LWANDLE - THE SEEDS OF UNITY

This section will be confined to the political and other forms of communal organization that exist in Lwandle at the present time;⁽⁴⁸⁾ insofar as that information is available, a description will be given of the political organizations, religious communities and union activity that play a part in life at Lwandle. Where applicable, a personal view of the shortcomings, successes, and importance to the people of Lwandle of these organizations will be given.

47. Ibid p.8.

48. My experience of Lwandle, and the information I have, dates back to 1985.

Political Organization: The Men's Committee

Mention has been made throughout this work thusfar of the most significant political organization at Lwandle, the Men's Hostel Committee which operates as a sub-committee of the Western Cape Men's Hostel Dwellers Association. This organization has as its goal the promotion of the right to family life and the concomitant abolition of single sex hostels in favour of their ideal of housing for families. The association is affiliated to Cosatu; yet in my view the executive is politically very moderate in the current spectrum of black politics in South Africa. Leadership frequently engage with officials in negotiation, for example. The Lwandle sub-committee itself is comprised seemingly of a fairly indeterminate number of men (about 40?) who are elected annually. The bias is very definitely in favour of older men, which concurs with the deference accorded elders in traditional Xhosa society. These men are generally Lwandle inhabitants of long-standing. Despite the proportionately larger numbers of members who are employed at Gants Food Factory and at the Somerset West municipality, there is a fairly wide representation of workers from differing fields of employment on the committee. In the light of the possible future involvement of employers in the negotiations surrounding housing at Lwandle, this diversity can be seen as a strength of the committee, albeit unintentional. While on the face of it, the Men's Hostel Committee appeared initially to be excessively subservient to the Cape Town-based leadership of the Western Cape Hostel Dwellers Association, this view can no longer hold sway. The independence and effectiveness of the current Lwandle Men's Committee has been demonstrated on several occasions recently: the committee has organised a well-attended public information meeting addressed by speakers from the Surplus People's Project; the committee successfully arranged a function for an official from the British Consulate, who formally

handed over playground equipment donated to the Lwandle school; members of the Men's Committee were available and helpful in assisting the compilers of the Urban Foundation Report to identify community problems; and most recently, the Men's Committee took the initiative in requesting two meetings with the sitting Member of Parliament for the constituency in which Lwandle falls, Mr Chris Heunis (who is also the Minister of Constitutional Development and Planning). By all reports, the elected spokesmen were well prepared for the two meetings which resulted, and were able to put forward their arguments cogently and succinctly.

It is necessary at this point to describe briefly the history and nature of the negotiations surrounding the future of Lwandle hostel to date, since they are bound not only to the present form and practice of state policy towards apartheid reform, but also because these negotiations also cast light on the "other side of the equation", namely the struggle for recognition and the organisational development of the men's hostel committee who have resisted arbitrary discriminatory practices which impact upon their lives.

After becoming aware of the appalling living conditions at Lwandle in early 1986(!), the municipalities of Gordons Bay and Somerset West undertook to lobby for an upgrading of the accommodation there. No sooner had the preliminary questions been raised, than it was announced by the relevant government department⁽⁴⁹⁾ that all residents of Lwandle hostel would be relocated to Khayelitsha some 30km away. The justification for this, in the then language of the department, was that Lwandle would be a "black spot" amidst white towns while government policy would be to provide fully-fledged, viable cities for black people, the most significant of which in the Western Cape would be

49. The Western Cape Development Board, now the offices of Community Services.

Khayelitsha.⁽⁵⁰⁾ In an effort to avert the possibility of this relocation, which would be undertaken at huge cost to the community of Lwandle,⁽⁵¹⁾ the Somerset West municipality was instrumental in recommending the formation of a Technical Sub-Committee comprising planning and engineering officials from the Gordons Bay, Strand and Somerset West municipality, the Stellenbosch Divisional Council and the Western Cape Development Board.

This committee reported in July 1986⁽⁵²⁾ and its recommendations can at best be described as conservative. The principle of retaining Lwandle as a male only hostel appears to be of paramount importance, and the committee did not even see its way clear to recommending that accommodation for visiting wives and children be provided (similar to the visitors hostel that exists at neighbouring AECI). In a fashion reminiscent of the Stallard Commission report 65 years ago, this report recommended that local authorities and employers be encouraged to finance the initial upgrading of the accommodation of their own employees. The upgraded accommodation would eventually be financed by the residents themselves at a 600% increase in rental. The improvements would include sanitary facilities, an electrical power supply and the provision of hot water. An attempt would also be made to alleviate the overcrowded living conditions in the bungalows themselves: the plan was to convert to 6 double rooms the space presently utilised by 16 men and to install in the space so created showers, hand-basins and two separate flush toilets. Quite clearly, these proposals would not result in adequate accommodation for families, and on the future of women and children in Lwandle, the report was silent. Hereafter, the Lwandle men's hostel committee

50. Urban Foundation Report p.42.

51. Urban Foundation Report p.42; transport fares would rise to at least R66,00 monthly, to say nothing of the important social costs of relocation.

52. The Report of the Technical Sub-Committee, dated 14 July 1986.

sent representatives to a meeting of the Stellenbosch Divisional Council in order to plead for some type of family accommodation. While the three neighbouring municipalities had, by their own involvement, a say in the future development of Lwandle, the hostel complex actually fell within the jurisdiction area of the Divisional Council. This meeting produced no significant results. In the interim six months the Stellenbosch Divisional Council became obsolete, while the Department of Constitutional Development and Planning shed many functions and responsibilities; the administration of Lwandle has become the task of the Cape Provincial Administration and these powers of administration are exercised through the Offices of Community Services (formerly the Western Cape Development Board).⁽⁵³⁾ While the ultimate decision regarding upgrading or relocating Lwandle rests with the Administrator of the Province, therefore, it is uncertain what role (if any) the Department of Constitutional Development and Planning could play in the process of decision making. A report was received that when the Lwandle men's hostel committee confronted the relevant Cabinet minister with the possibility that he could de facto overrule the Administrator, Mr Heunis was unable to deny this.

The committee have, therefore, insisted on some option relating to family housing. They are of the opinion that such housing could be financed by themselves, by their employers, and by the State.⁽⁵⁴⁾

The latest meeting with the Minister of Constitutional Development and Planning and officials from the Offices of Community Services have led to a form of counter-proposal, namely the offer of a parcel of land⁽⁵⁵⁾ west of the coloured township of Macassar on the National

53. See in general Stassen J.C. New Legislation 1986 De Rebus 465.

54. Some employees have expressed a willingness to subsidize family housing.

55. No mention was made of the provision of any facility other than the land itself.

Road to Cape Town. The committee seems to feel that this site is probably part of greater Khayelitsha and are somewhat unwilling even to view it. At this point in time, thus there appears to be a unanimous rejection on the part of the community of any proposal that would result in the resettlement of the people of Lwandle, or the exclusion from an upgraded hostel of women and children.

Although reference will be made to the details of the above negotiations in Chapter 4, the outline given here serves to highlight the increasingly firm stance adopted by the relatively young and inexperienced men's committee at Lwandle. This committee has, by late 1987, progressed in strength and independence, to the stage where the members are able to formulate and draft arguments unassisted by Cape Town leadership, to articulate these points without the help of intermediaries⁽⁵⁶⁾ and for the time being to forestall the threat to the Lwandle community.

In my view, the relative progress at the organizational level made by the men's committee in the past eighteen months⁽⁵⁷⁾ is borne out by an incident which occurred more or less four months ago. The current men's hostel committee has been thusfar recognised as the official mouthpiece of the residents of Lwandle in all meetings with the Stellenbosch Divisional Council (at which the Western Cape Department Board was present) and with other bodies. In addition, local and regional newspapers have on occasion quoted the vice chairman of the men's committee, stating his rank as vice chairman. Nevertheless, a few members of the men's committee (all of whom worked at Gants) were called together at work one day for consultation with an official from the Cape Provincial Administration. It was suggested that these individuals form a "town council". No further details as to their

56. Such as members of the Black Sash, who assisted from time to time.
57. See p.20 above.

proposed functions or responsibilities were given, and no mention was made of any elections.⁽⁵⁸⁾ In fact, most pertinently, it was never suggested that Lwandle would be proclaimed a "town", i.e. that family residence there would be legalised. With this paucity of information, and because they did not, as individuals, want to be seen as being in league with the State Department,⁽⁵⁹⁾ the men who had been approached refused to consider the proposal. They replied that they were already members of a committee and that the General Secretary of the Western Cape Men's Hostel Dwellers Association should first be informed. It does not appear that the officials from the Cape Provincial Administration have taken the matter any further, but I am of the view that it is unlikely that they were unaware of the existence of the Lwandle men's hostel committee, and therefore, that this approach may well have been an attempt to split the increasingly effective organisation.

Political Organisation and Gender: The role of women.

While the men's committee seems to enjoy the support of the majority of people who reside in Lwandle, it cannot be concluded that attempts to broaden the composition of the committee have met with particular success. About a year ago it was argued⁽⁶⁰⁾ that since the issue at stake was the preservation of family life at Lwandle, the membership

58. According to reports of the meeting that I received.

59. I discerned that this was the primary reason for rejecting the proposal. The men approached perceived something sinister in their being sought out at Gants rather than at Lwandle itself, and the reaction they demonstrated to the proposal of a "town council" seems to accord with views of a large proportion of black South Africans on the subject of "town councils".

60. In a debate between myself and Mr J. Mpukumpa, General Secretary of the Western Cape Men's Hostel Dwellers Association.

of the committee should at least reflect the fact that it is no longer a single sex hostel. Pursuant to this, a public meeting was held at which the residents of Lwandle proposed to establish a primary and pre-primary school; a few women were nominated to be members of a school committee, which would hold responsibility for the functioning of the school. The two teachers, both women and both residents of Lwandle, would also form part of the school committee. Within a short while, however, the nominally independent school committee had de facto merged with the men's committee, with the two teachers regularly attending men's committee meetings, and all other women members falling by the wayside. It is my surmise that this failure to broaden the representative base of the men's committee is the result of traditional gender relations in Xhosa society, with women holding a subservient position (unless they have a special status e.g. as teachers). Certainly the women were originally keen to stand for nomination to the school committee, and to air their views on the issues surrounding the education of their children. Sadly, this involvement in the schooling of the children has waned to the extent that the teachers complain that mothers view them as childminders⁽⁶¹⁾ so that they (the mothers) can continue in peace with their daily chores. Even more disturbing are reports of jealousy of the teachers who are thought to be "feathering their own nests" as it were, and not engaged in selfless community work under difficult circumstances.⁽⁶²⁾

61. Despite numerous efforts to involve the mothers by means of guest lectures, organised tours of other township's pre-school facilities run by mothers themselves, and play demonstrations specifically aimed at mothers.
62. One teacher carries responsibility for entertaining 60 children each day in a corrugated iron shed. The teachers have been paid a nominal salary until now, the money having been made available by various interested parties.

The Significance of Trade Unionism in the Hottentots Holland Area.

There is somewhat of a dearth of information on any significant union organisation in the Hottentots Holland basin. One union of surprising⁽⁶³⁾ significance in Somerset West/Strand area is the local branch of the South African Domestic Workers Association which has recently affiliated to Cosatu. This union has a strong and committed membership core, many of whom reside at Lwandle hostel (others are of course "live-in" domestic servants). Besides offering counselling services, lobbying on behalf of domestic workers and running an employment bureau, this organisation also provides premises for sewing classes and literacy courses for its members. In addition, general political⁽⁶⁴⁾ information is imparted. I believe that not only does the apparent organisational strength of this union locally provide some outlet for the political aspirations of those women living in Lwandle who are members, but that this very fact reinforces my earlier view that the lack of participation by women in the operations of the Lwandle Men's Committee is probably not the result of any lack of interest on their part.⁽⁶⁵⁾

While one of the largest,⁽⁶⁶⁾ non-farming⁽⁶⁷⁾ employers in the region, Gants Food Canning Factory, is organised by the Food and Allied Workers Union (FAWU), and while this union has held meetings with Gants workers from Lwandle, it is unclear how many Lwandle men are actually paid-up members of FAWU and what the level of commitment to the union is. The local shop stewards would appear to be "coloured" women who work at Gants, and it could be presumed that most of the local membership is

63. Surprising in view of the inaccessibility of members who, as domestic servants, work singly and often under repressive conditions.
64. In the broader sense of the word, i.e. information on health, maternity benefits, unemployment, etc. is given.
65. See p. 27 above.
66. AECI is excluded since its workers do not live at Lwandle.
67. Lourensford farm estates currently employ (and house on the farm) some 460 black workers, for example. (See Urban Foundation Report p.4).

also drawn from these ranks. Certainly, not one of the Lwandle men who works at Gants has ever mentioned in my presence that he is a member of the union (or even that the union exists). Since there is no evidence of union activity of any significance in the region⁽⁶⁸⁾ it must be concluded that the Lwandle men's committee provides the only effective political outlet for the Lwandle residents at this stage.

The Religious Community

There are several very active religious organisations at Lwandle, patronised by both men and women. Gants has built two corrugated iron church halls⁽⁶⁹⁾ at the request of their employees, which are used by two different congregations. There is an enthusiastic Anglican group, ministered to by a visiting priest from Paarl. The state provided community hall is used for several church groups, among them the Full Gospel and Apostolic congregations. Apparently there is little or no contact with sister white or coloured religious groups in the Somerset West area (apart from the recently initiated involvement of the local Anglican Church in the Lwandle's school's well-being and functioning.) Webster⁽⁷⁰⁾ places the role of religious groups in a social context, pointing out that these are forms of social organisation that (along with bonds of kinship, territorial bonds in the case of migrant labourers in urban areas, and mutual-aid associations) help "to construct a latticework of overlapping ties; they are means of spreading the

68. Petrol pump attendants belong to a so-called "sweetheart" union, but this union is totally ineffective as regards the needs of the members.

69. These buildings are now also used for the school and the pre-school, despite their unsuitability due to poor ventilation, poor insulation, inadequate lighting and lack of space.

70. Webster D. The Reproduction of Labour Power and the struggle for survival in Soweto Carnegie Conference Paper No.20.

risk in an environment characterised by scarcity"⁽⁷¹⁾ and "it appears that these churches represent the last network of survival for many urban black people".⁽⁷²⁾ In Lwandle too, church organisations seem to provide a support structure in the midst of squalid and impoverished living conditions. It should be pointed out, however, that the resident sangoma apparently has a steady and thriving client base.

1.6. CONCLUSION

In concluding this Chapter on the history, physical layout, social environment and community organisation in what was intended to be a single sex men's hostel, three central points of importance have emerged. It is clear, firstly, that the physical living conditions at Lwandle hostel are of an abysmally poor standard. For this the blame must be laid chiefly at the door of the State housing policy and practices during the period 1958 to date. Secondly, despite the physical constraints of the living conditions there, and despite adverse structural factors such as vigorously enforced influx control regulations during the period under consideration, the people of Lwandle display the traits of an established, settled and fairly tight-knit community. This community comprises men, women and children, both the very old and the very young. Lastly, despite the moderate and eminently logical requests⁽⁷³⁾ by that community for provision to be made for family housing on the site of the present Lwandle hostel, the State at this stage appears unwilling to accede to this petition. The position of the State in this regard must be

71. Ibid p.8.

72. Ibid p.8.

73. See the conclusion of the Urban Foundation Report as to the eminent suitability of the site for black working class urban development.

investigated more fully, in the light of State reform policy since 1985, in relation to police action at Lwandle during this period, and in relation to the repeal of influx control laws in 1986: for it is my contention that housing and influx control remain (as they have been throughout this century in South Africa) inextricably linked.⁽⁷⁴⁾

CHAPTER 2

THE NEW LEGAL REGIME SURROUNDING THE ABOLITION OF INFLUX CONTROL

2.1 REPEALING THE "PASS LAWS"

The purpose of this chapter is to review the current legislation regulating the presence of blacks in the urban areas of South Africa, with particular reference to the situation which obtains regarding the residents of Lwandle. Before undertaking this study, the most important facets of influx control as it was applied until the State President announced its abolition⁽⁷⁵⁾ will be analysed in broad terms.

The Blacks (Urban Areas) Consolidation Act 25 of 1945 was the most important legal mechanism in controlling the entry to and expulsion from urban areas of black people. Section 10 of this act basically prohibited blacks from entering urban areas for longer than 72 hours unless an exemption was granted in terms of sections 10(1)(a)-(d).

74. See p. 4 above.

75. See chapter 3 infra.

These exemptions were based on grounds of birth and residence, lengthy employment or lengthy residence, or through relationships of dependence. The somewhat ironically named Blacks (Abolition of Pass and Co-ordination of Documents) Act 67 of 1952 required every African to carry a "dompas", and to produce this pass on demand by any authorised official. In this way it could be immediately ascertained whether someone was a legal entrant to an area or not.

"A second 'pillar' of influx control was the policy of denationalisation of blacks through the independence of the homelands. Blacks allocated to Transkei, Ciskei, Venda and Boputhatswana, by virtue of ethnic origin, lost their South African citizenship through the enactments of the various Status Acts".⁽⁷⁶⁾ By denationalising black people, committing them to a status as citizens of a homeland and aliens in South Africa, the Government gave effect to the ideology that permitted only those blacks whose labour in "white" South Africa was needed, to be present here. Others were removed or assigned to an ethnic Homeland where they could exercise their political and economic rights. The concept included the eventual independence of all the Homelands.

Influx control was applied severely in the Western Cape as a result of the Coloured Labour Preference Policy,⁽⁷⁷⁾ in terms of which labour in this region was to be drawn exclusively from the ranks of the coloured population.⁽⁷⁸⁾ "In the Western Cape no African could be recruited (by means of the labour bureaus in the homelands) unless the employer could procure a certificate from the Department of

76. Laubscher A.P. The Constitutional and Legal Status of Africans in the Western Cape (Unpublished Research Paper, University of Stellenbosch) p.1.

77. See p.5 supra.

78. Laubscher A.P. supra p.8.

Manpower to the effect that no "coloured labour" suitable for his needs was available to him".⁽⁷⁹⁾

It has been asserted⁽⁸⁰⁾ that the repeal of influx control legislation (there were thirty two laws that were repealed at the same time)⁽⁸¹⁾ was primarily an ideological change - although economic factors did play a role - in that the government grew to accept that the urbanisation of black people was unstoppable, and that the permanent presence of blacks in "white" South Africa was inevitable. However, the simultaneous legislative changes in respect of a host of statutes relating to housing and squatting, reveal that housing issues could be the means by which the State still wishes to control black urbanisation and influx: "Housing and the non-availability thereof would seem to be the most probable form of control over Africans in the Western Cape ... The freedom to move and work here and the possibility of gaining South African citizenship have a hollow ring when the person has nowhere to live in the interim."⁽⁸²⁾ This was not necessarily directly the conclusion reached by critical commentators⁽⁸³⁾ at the time of the repeal of influx control legislation: attention was centred, not on housing, but on citizenship and the new rules regarding uniform identity documents. The mutual contribution to the new statutory framework of the laws concerning citizenship and uniform identity documents will, therefore, have to be examined.

79. Laubscher A.P. supra p.2.

80. Laubscher A.P. supra p.6.

81. Laubscher A.P. supra p.2.

82. Laubscher A.P. supra p.27.

83. See for example South Africa 1986 - The New Betrayal^a (The Johannesburg Advice Office of the Black Sash) December 1986.

2.2 BECOMING A SOUTH AFRICAN CITIZEN: A NEW FORM OF INFLUX CONTROL?

With the independence of Transkei and Ciskei from South Africa, all blacks connected⁽⁸⁴⁾ with them lost their South African citizenship and became citizens of the newly independent states. Budlender⁽⁸⁵⁾ correctly surmises with respect to the Western Cape that "(o)ne must start from the recognition that the Status of Transkei Act⁽⁸⁶⁾ and the Status of Ciskei Act⁽⁸⁷⁾ made every Xhosa-speaking person an alien. The result is that virtually every African living in the Western Cape became an alien".⁽⁸⁸⁾ An important legislative amendment that was passed along with the repeal of the Black (Urban Areas) Consolidation Act 25 of 1945 was the Restoration of South African Citizenship Act 73 of 1986. This Act, which came into operation on 1 July 1986, restored under certain circumstances citizenship to those who had lost it when the so-called TBVC states became independent. The act is specifically designed to restore citizenship primarily to those who live de facto permanently in South Africa. The act has been described by one commentator as "a fairly complex piece of legislation",⁽⁸⁹⁾ hence only four of the multiple situations which the Act envisages will be summarised here.

Section 2 of the Act provides for the citizenship of someone who was born in South Africa before the independence of the respective homeland, who lost his or her South African citizenship as a result of

84. Connected on the basis of language, culture, family or geographical ties.

85. Budlender G. Influx Control in the Western Cape : From Pass Laws to Passports (Legal) Resources Centre (unpublished) August 1986.

86. Act 100 of 1976.

87. Act 110 of 1981.

88. Budlender G. supra p.6.

89. Schoombee H. and Davis D. supra p.213.

the relevant Status Act, and was permanently resident in South Africa at 30 June 1986 (the day prior to the commencement of the Restoration of Citizenship Act). Similarly, persons born in South Africa after the independence of the homeland to which they have been linked, but permanently resident in South Africa since birth and still so resident, are also entitled to the restoration of their South African citizenship. It is thus recognized that such persons have insufficient links with a homeland, and are de facto permanently resident in South Africa.

There is provision in the Restoration of Citizenship Act⁽⁹⁰⁾ for the allocation of citizenship on the ground of descent (inter alia this is also based on lawful and permanent residence in South Africa) and citizenship by naturalisation in terms of the South African Citizenship Act 44 of 1949.⁽⁹¹⁾ Lastly, section 4(1) of the Restoration of Citizenship Act makes provision for citizenship by registration (upon application to the Director General of Home Affairs). The applicant should have entered South Africa after the relevant Status Act, but before 30 June 1986 and should further have been lawfully and permanently resident in South Africa for an uninterrupted period of one year before the application; that person should also have been lawfully and permanently resident in South Africa for at least four of the eight years preceeding the application.

The two features of this legislation which gave rise to concern on the part of commentators⁽⁹²⁾ were centred on what interpretation

90. In section 3 and section 4(3).

91. In section 5.

92. See for example Schoombee H. and Davis D. supra p.214 et seq.

would be attached to the words "permanent residence" and what would be sufficient to prove "lawful residence", since the restoration of South African citizenship seemed to depend in almost all the instances cited above on one or both of these requirements being satisfied. It was even suggested a possible interpretation of these requirements that Act 73 of 1986 would prove to be more restrictive than the legislation it replaced (section 10(1) of Act 25 of 1945) since the possibility of earning the right of permanent residence by passage of time had been replaced by a "cut-off date", viz. the day before the commencement of Act 73 of 1986, 30 June 1986.⁽⁹³⁾ In the Western Cape, however, research⁽⁹⁴⁾ conducted within the first year of the operation of the Restoration of Citizenship Act has revealed that "permanent residence" is being pegged at 5 years residence (instead of the section 10(1)(b) requirement of 15 years continuous residence) and furthermore it is held to be of little consequence that the applicant's family should have resided elsewhere (e.g. in a homeland) for the duration of that 5 year period. The fact that a migrant labourer maintains links with a homeland will not, therefore, preclude him from regaining his South African citizenship. Similarly, the interpretation of "lawful residence" has been narrowly interpreted. The question is only whether the applicant entered the Republic lawfully; and here section 7(bis) of the Aliens Act 1 of 1937 exempts all so-called TBVC citizens from the requirement that they be in possession of a temporary residence permit in order to enter South Africa. The conclusion is that a person so exempted cannot be in South Africa illegally and it becomes immaterial that a person resided in a prescribed area illegally or that a contract of

93. South Africa 1986 - The New Betrayal supra p.2.

94. Laubscher A.P. supra; this research included interviews conducted with high-ranking officials from the Department of Home Affairs, the Department of Manpower, the Offices of Community Services and the Department of Constitutional Development and Planning.

employment was not officially endorsed as was required by the old section 10(1)(b). The conclusion reached by Laubscher, with which I would agree, is that "it would seem to be easier to acquire South African citizenship than it was to acquire section 10 rights".⁽⁹⁵⁾

With respect to the residents of Lwandle it can be surmised that a considerable number would qualify for the restoration of their South African citizenship in terms of the above criteria. As Xhosa-speaking people, all would have entered South Africa lawfully as a result of the exemption in section 7(bis) of the Aliens Act discussed above. Many people have been permanently resident, with or without their families, at Lwandle since before the respective independence of the Transkei and the Ciskei; while many others would be able to comply with the requirement of four years residence during the past eight years. It is not known if anyone from Lwandle has in fact applied for the restoration of his or her South African citizenship; many residents have, however, successfully applied for new identification documents, and the function of these new documents must, therefore, now be considered.

2.3 THE NEW "DOMPAS"

The Identification Act 72 of 1986 provided for a new system of population registration in which a uniform, non-racial form of identity

95. Laubscher A.P. supra p.30; However, this author sounds the warning that "one should bear in mind ... that a revocation of an exemption in terms of section 7(bis)(3) alters the position drastically, and that such revocation can occur at any time and apply to an individual alone" (at p.30).

document was established. While South African citizens are entitled to the new identity document as a result of the fact that such citizen is lawfully and permanently resident in South Africa, a bearer of this document does not have to be a South African citizen. Many employers have encouraged employees to apply for the new identity document, and consequently it is known that a large number of applications have successfully been completed. A uniform identity document can be issued to any person over the age of sixteen whose name has been included in the population register;⁽⁹⁶⁾ the population register will contain the particulars of all persons who are lawfully permanently resident in South Africa.⁽⁹⁷⁾

Evaluating the system of identity documents which replaces the "dompas", Laubscher remarks that "the provisions of section 14(1) regarding proof of identity⁽⁹⁸⁾ and the heavy fine⁽⁹⁹⁾ for non-compliance provided for by section 18(2)(b) do, however, seem rather onimous and, until proved otherwise, will lead to speculation that the new uniform identity document is just a "dompas" in disguise".⁽¹⁰⁰⁾ Schoombee and Davis⁽¹⁰¹⁾ are more pessimistic about the effects of the Identification Act: "So for Africans not much will change ... In essence the Identification Bill (now Act) constitutes a further piece of security legislation" (my insertion). On two occasions since the commencement of this

96. Section 8 of the Act.

97. Section 4; See further Stassen J.C. New Legislation 1986 De Rebus 465.

98. Section 14(1) empowers any authorized officer to request at any time a person reasonably presumed to be sixteen years old to prove his identity without delay by the production inter alia of an identity document.

99. R500 or 6 months imprisonment.

100. Laubscher A.P. supra p.18.

101. Schoombee H. and Davis D. supra p.216.

Act, reports have been received at the Somerset West Advice Office that the Lwandle hostel superintendent had refused to register workers wishing to rent a bed in the hostel, on the grounds that they did not possess the new identity document. While the legality of this action could possibly have been challenged, the situation was averted by dint of these two men acquiring the required documentation.

2.4 SHIFTING THE ARENA OF CONTROL : THE PROVISION OF HOUSING AS THE NEW INFLUX CONTROL MEASURE ?

While it was contended in Chapter 1 above that housing for blacks has always been inextricably linked to influx control, albeit as a second line of defence (as it were) behind the front-ranking criminal provision for influx control contraventions, never was this link made so clear as with the announcement of the legislative reform package in July 1986. Along with the repeal of the pass laws, the replacement of the dompas, and changes regarding citizenship, a host of measures regarding "orderly urbanisation" were announced. On the one hand, reforms instituted included the opportunity for blacks to acquire full property rights to land in urban areas in terms of the Black Communities Development Act 74 of 1986; (102) this act also paves the way for the State to supply land for the establishment of Black towns and private sector involvement in providing housing for their employees. But on the other hand, important amendments to the Prevention of Illegal Squatting Act 52 of 1951 and the Slums Act 76 of 1979 were brought about. These last changes have curtailed much of the euphoria that may have greeted the abolition of influx control.

102. See Stassen J.C. supra p.467.

The amendments to the Prevention of Illegal Squatting Act have resulted in the application of the Act to persons other than Africans. In this way the content of the Act has become non-racial. The Act provides for the possibility that a person may be criminally charged with entering upon or remaining on land without the permission of the owner or lawful occupier of that land. "A court convicting an illegal squatter may order the relocation of the convicted person or his family and the demolition or removal of their abode ... The Act further allows the owner of land to summarily demolish any structure erected without his consent and to remove the material from his land".⁽¹⁰³⁾ Similar powers are granted to local authorities and officials from the Department of Constitutional Development and Planning in respect of unauthorized structures on land. Furthermore, sympathetic owners of land can be prohibited from allowing people to congregate or reside thereon, and recalcitrant local authorities who are unable to handle the problem of squatter control can have their functions usurped by the State President.⁽¹⁰⁴⁾

The Slums Act 76 of 1979 has been amended to empower Black local authorities or central government to force owners to clear slums on their land or eject the occupants thereof.⁽¹⁰⁵⁾ It is significant that the Director of the National Committee Against Removals (NCAR) views the Slums Act as "an internationally acceptable non-racial Slums Act which can be used to control people"⁽¹⁰⁶⁾ (my underlining).

103. Schoombee H. and Davis D. *supra* p.211; these authors correctly establish (at p.218) that "(t)here just happen not to be all that many 'white squatters' and a housing surplus in 'white' areas!".

104. Laubscher A.P. *supra* p.4.

105. Laubscher A.P. *supra* p.24 states that this act was amended to apply to black urban areas because before 1986 "these areas were exempted because a township corehouse is a slum by definition of the Act as soon as it is built in such a way that a father and mother and children share one bedroom". See, too, section 3.6 *infra*.

106. Laubscher A.P. *supra* P.24.

Two other acts must be mentioned in order to complete the picture regarding the control of access to housing by Black people, namely the Group Areas Act 33 of 1966 which prohibits blacks from living in places other than those designated for Black residence; and the Trespass Act 6 of 1959 in terms whereof a person who enters or remains upon land without the permission of the lawful owner of land, the occupier of land or the person in charge thereof commits an offence and can be prosecuted. It is important to note in respect of these amendments that changes included the increasing of fines for offences related to squatting "to bring them in line with the present value of money".⁽¹⁰⁷⁾

The amendments to the form and structure of the new regulations pertaining to housing seem to indicate that "orderly urbanisation" (as the process is being called in current State terminology) may become the new form of influx control. Particularly with regard to the Western Cape there is an acute housing shortage which has accumulated throughout the many years that the Coloured Labour Preference Policy was enforced. The corollary was a deliberate non-development of black residential areas in the region.⁽¹⁰⁸⁾

While the failure to provide housing was previously an implicit form of influx control it has now seemingly become more overt (especially if regard be had to the increased penalties directed against illegal squatters, and the use of trespass laws at Lwandle hostel so shortly after the abolition of formal influx control legislation).⁽¹⁰⁹⁾ Finally, it may be argued that the current

107. Laubscher A.P. supra p.4. Dr J.C. Bekker, Chief Director, legal administration, Department of Constitutional Development and Planning. Some suspicion has been expressed regarding this justification, however.

108. Budlender G. supra p.5.

109. See chapter 3.1 infra

housing crisis facing the residents of Lwandle, and the way in which the State resolves this issue, will be a crucial indicator of the real impact in practice of the legislation discussed in this chapter. It will also be a concrete pointer toward future government policy regarding black urban development. It is with this in mind that an exploration of State action in Lwandle between March 1986 and November 1987 will be undertaken in the following chapter.

CHAPTER 3

POTHOLES IN THE REFORMS PATH : POLICE ACTION AND OTHER INCIDENTS

3.1 THE TRESPASS ARRESTS

The State President announced in January 1986 in his opening address to Parliament that influx control would be abolished; and on the 23 April 1986, when the Government tabled a White Paper on Urbanisation, prosecutions for pass law offences were called to a halt. In the words of the State President to Parliament on 18 April 1986 "people who have been convicted on such charges will be released forthwith ... those who are detained pending such charges will likewise be released."⁽¹¹⁰⁾ It was with a rude shock, therefore, that reports filtered through that a raid had been conducted at Lwandle Hostel on 30 April 1986, barely one week after the State President's announcement. While a report in the local District Mail alleged that the police action had been aimed at "criminal elements", it had in fact resulted in the arrest of 158 women and children, and sixteen men. Those arrested appeared in court later

110. Hansard Vol 10 columns 3735 - 3737.

that day (they were arrested in the very early hours of the morning) and were charged with a contravention of the regulations pertaining to the administration of hostels, read with the Black Communities Development Act no. 4 of 1984. Regulation 6(2) reads as follows: "Subject to the provisions of these regulations, no person shall enter, be or remain in any Bantu hostel without a hostel permit or other permission in writing given by the hostel superintendent or any other person authorised thereto by him". It is quite clear that whatever the technical wording of the charge, it remains in essence a prosecution for trespass. Furthermore, to use trespass legislation to fulfil the function of the recently abolished pass law legislation seems to be cynical in the extreme. (There is some suggestion, unsubstantiated, that this police initiative did not carry prior approval of other State departments, notably the Department of Constitutional Affairs and Planning). Nevertheless, later arrests at Mfuleni hostel near Kuilsriver some 25km away confirmed the State's intention to enforce influx control measures by means of these housing regulations. Of the 158 women and sixteen men at Lwandle who were arrested during this police action, approximately 90 people paid R30,00 admission of guilt fines that were imposed. The remainder, being unable to pay the fine, were imprisoned for 30 days. They were, however, released when residents of Somerset West collected sufficient money to pay the fines for those who were imprisoned. According to data collected during the course of research into the conditions and circumstances of these arrests, it appears that among those convicted and fined were an eleven year old boy and a man who not only could produce proof of his having s 10(1)(a) rights to be in the area, but who also held a permit to be living in Lwandle hostel. ⁽¹¹¹⁾ "When asked why he

111. He said he attempted to show his papers to those who arrested him, but they were not interested.

pleaded guilty, he replied that he had never been arrested before and did not know what to do".⁽¹¹²⁾ From the statistics collected it appears that the majority of the women lived in Lwandle with husband or boyfriends. Invariably, the children were taken away along with their mothers, and some trauma resulted from overcrowding in the police cells, lack of hygiene facilities and the refusal on the part of police and prison authorities (allegedly) to allow the babies a change of clothing or food.

From time to time since May 1986, reports have been received of further arrests of women at Lwandle for trespassing, but since none has been confirmed (for example, by the men's committee) there is some considerable doubt as to whether the reports are true. Suffice it to say, however, that the women who live at Lwandle hostel live there illegally and as such carry with them the constant threat of an arrest and processing through the criminal justice system. It is feared that if current negotiations regarding the provision of family housing at Lwandle do not succeed, these regulations could be used to criminalise and eventually remove the female population of the community.

3.2 THE MEDIA AND POLICE ACTION AT LWANDLE

It has already been pointed out in 3.1 above that the local media reporting of the trespass arrests created the impression that the police action was aimed at common criminals.⁽¹¹³⁾ Local media

112. Elias C.M. and Mpukumpa J. Where Reform is Not Reform supra p.8.

113. "Pamphlets which were freely issued by these different bodies (the police, members of the defence force and officials attached to the Stellenbosch Development Board) stated that 'The Police and Defence Force are here to help you'. The rationale for the raid was that there were many people living in the hostels who were 'criminals and who use your hostels to hide drugs, stolen goods and weapons'. The pamphlets also stated that the reason for the overcrowding in the hostels was the presence of this criminal element"(!) from Elias C.M. and Mpukumpa J. Where Reform is Not Reform supra p.85.

reporting some months later, in February 1987, once again seemed calculated to pander to State ideology surrounding Lwandle. The report concerned a man who had been arrested for possession of various dangerous weapons, including rifles, mortars and mines. The banner headline proclaimed "Terror-weapons in Lwandle" (Terrorist weapons in Lwandle); the column was outlined in red. It omitted to mention the fact that the person involved had been arrested months before, during July 1986, and held as a detainee until February 1987. The newspaper also failed to point out, some three months later, that the person was acquitted of all charges; that the only evidence the state could produce was a confession, which was held to have been made under duress; and that no weapons were produced at the trial (it did not seem to the court monitor, who reported the contents of the trial to me, that any weapons were ever actually found). Nevertheless, by somewhat selective reporting, the local press has thusfar fostered an image of Lwandle as a town of criminal elements, a hotbed of law-breakers. It should come as no surprise if calls for the removal of family members find local white support therefore.

3.3 THE SCHOOL VISIT

The opening of the Lwandle school and pre-school attracted immediate attention from the authorities, primarily because permission was requested of the Western Cape Development Board (as it then was) to use the State-built community hall as a school room. As mentioned earlier, this request was immediately turned down on the grounds that the children did not exist officially. Approximately one month later, however, the school was visited by

officials from the Department of Education and Training. (114) and summarily closed down. The reason given for this action was that the operating of an unofficial school was illegal. The teachers were threatened with prosecution and a fine of up to R1 500 or 12 months imprisonment should they attempt to continue with their effort. (They re-opened the school the following day). Contact with a more sympathetic official from the same government department produced the suggestion that registration be sought as a "farm school" (even though Lwandle is not a farm); this entailed finding an acceptable white person to take responsibility as nominal "farm manager". The preliminary bureaucratic procedures were duly completed and the forms returned, but to date no further information or answer has been received. It is understood that the school-legality issue will have to await the solution of the political problem of Lwandle's future. The spector of further departmental action and possible criminal proceedings still lurks, however.

3.4 COMPETING STATISTICS ON LWANDLE : THE ROLE OF THE MILITARY IN RESEARCH

At a time when the Urban Foundation Report was all but complete, the research team of this body having concluded their statistic-gathering activities some three weeks previously, the residents of Lwandle were awakened on the 23 March 1987 to find that the village had been cordoned off by the police and the army. It appears that no arrests were made, but that the army members conducted a survey, which took four hours to complete (commencing

114. In all probability the Department's attention was alerted by a report in a regional newspaper requesting donations of blankets, toys and equipment for the school.

at 04h00 a.m.). For this duration, no one was permitted to leave Lwandle; residents were handed pre-printed notes informing employers that any employee who was late for work had been delayed as a result of "necessary Security Force action". The form of "action" taken by the Security Forces was seen by the residents to be an alternative survey to that conducted by the Urban Foundation. In particular, the questions asked of the women were illuminating: where they were born, how many children had they in the Homelands, how many of their children resided with them in Lwandle, and for how long had they themselves lived at Lwandle. Although there is no concrete proof, "there is a strong likelihood that the exercise was co-ordinated by the mini-JMC⁽¹¹⁵⁾ in the Strand area. This would fit in with similar "research projects" co-ordinated by the mini-JMC's in other parts of the country, such as Alexandra."⁽¹¹⁶⁾ This action certainly suggests that the authorities were aware of the preparation of the Urban Foundation Report, and that they were wary of its findings. "There are fears that the 'statistics' may be used to prepare a case against (the residents) permanent settlement in Lwandle and pave the way for their removal".⁽¹¹⁷⁾ What is also in doubt, however, is the veracity and scientific value of research conducted by untrained army recruits; by all accounts the questions were put in English or Afrikaans without the benefit of an interpreter. It is uncertain how methodologically correctly the interviews were conducted, and how accurately answers were recorded. Lastly, it seems to me that to obtain these answers "through the barrel of a gun", as it were, is a

115. Joint Management Centres, part of an alternative hierarchical system of the State Security control. This system which operates in secrecy, is dominated by the military and police. "Its tasks include the handling of security situations, gathering intelligence and co-ordinating the activities of all government departments in the implementation of "total strategy" and "national security". See "The Creeping Coup" in Sash vol. 30 No.1 May 1987.

116. Ibid p. 6-7

117. Ibid p.7.

recipe for false and misleading information.

3.5 THE LAST FEW WEEKS : THE LUMPENPROLETARIAT TARGETED

During the last few weeks there have been several reports of arrests at Lwandle hostel, apparently carried out by members of the local police.⁽¹¹⁸⁾ This time, however, the target does seem to be the "criminal elements" that all along have been alleged to be the foundation of Lwandle's miseries. It is known that pirate taxi operators have been charged,⁽¹¹⁹⁾ drunks have been taken in to "cool-off" and illicit liquor dealers at Lwandle have been prosecuted. This round of arrests could be merely a reflection of increased police vigilance in performing crime-prevention duties. However, the arrests could also be allied to the fact that during these same weeks the sanitary system, crude though it already is, has been further eroded through the failure of the local authority to provide spare buckets (as it was customary for them to do). Could this action be the build-up to counter-arguments from the State during negotiations with the Lwandle residents that Lwandle is unhygienic, a slum, a repository for criminals and drunks? In the light of previous press releases and police pamphlets,⁽¹²⁰⁾ this argument-in-preparation does not seem to be a possibility that is too remote.

118. The trespass arrests were carried out by members of the Paarl Police (Paarl is the divisional headquarters).
119. Despite the impending repeal of legislation requiring licences and the anticipated cessation in prosecutions. See Sloth-Nielsen J., Unpublished essay on Pirate Taxis, UCT (criminology).
120. See section 3.1 footnote¹³ and section 3.2 above.

3.6 CONCLUSION

The most important points made in providing the details of various actions over an 18 month period at Lwandle hostel concerning the legality of the resident's existence there (and their initiative in starting a school) were firstly to demonstrate the precarious nature of the position of the women and children. They are vulnerable to re-arrest at any time, and would have some difficulty in avoiding being physically resettled elsewhere. Secondly, this section has dealt briefly with the ideology concerning Lwandle that has thusfar been spread among the white inhabitants of the Hottentots Holland area, namely that the hostel houses criminals (even terrorists).⁽¹²¹⁾ (In all fairness it should be mentioned that the press has (chiefly by means of photographs) focussed attention on the poor living conditions at the hostel too, but this type of coverage can lead to calls to "clean up the place", just as easily as it can be construed as an indictment of current state housing policy). Thirdly, in my view these actions serve to demonstrate that there is not necessarily a uniform commitment on the part of various State Departments to the ideology of reform as articulated by the State President.⁽¹²²⁾ This point will be dealt with in more detail in the final chapter.

121. There has not yet been an incident of "unrest" in Lwandle, to the best of my knowledge.
122. Greenberg S. Ideological Struggles within the S.A. State. (unpublished) 1984.

CHAPTER 4

STALEMATE OR STRUGGLE : THE WAY AHEAD

The critical questions raised by the preceding chapters revolve around the future of the inhabitants of Lwandle hostel. Will the hostel ultimately be upgraded as men's single quarter accommodation only, or will the State make land and funds available for family housing in the Hottentots Holland area? Does the current position of the authorities at the negotiating table reflect a shift in policy on "orderly urbanization" since the new era was heralded in July 1986, or was there never the intention to abolish influx control? Is housing provision, as reflected in the current state of affairs at Lwandle hostel, to be seen as the new, overt, influx control measure? And finally, should the position of the State concerning upgrading Lwandle as single men's accommodation only remain unchanged, what will the practice be regarding those women and children who simply refuse to leave their homes, or who leave only to return to take up residence in the upgraded (unsuitable)⁽¹²³⁾ single quarter accommodation? Will the various trespass statutes and squatting laws be used to evict them, are they destined to suffer the cycle of arrest, prosecution and imprisonment that was a daily feature of Black Urban life in South Africa until the repeal of the pass laws in 1986?

The answers to these issues must, in the nature of the things, be speculative. However, various details regarding the negotiations between Lwandle residents and the agents of the State thusfar; government statements and parliamentary replies by the Minister

123. See p. 23 above.

of Constitutional Development and Planning; aspects of the Urban Foundation Report on the feasibility of providing family accommodation at the Lwandle site; and occasional newspaper reports can be instrumental in providing indicators towards some possible solutions to the above questions.

The starting point, in my view, is the State's new concept of "orderly urbanization", which, it was declared, would replace the costly, ineffective and racially discriminatory system of influx control. Essentially this reform entailed accepting the accelerated urbanization and permanence of blacks in urban areas. According to Dr J.C. Bekker, Chief Director: Legal Services, Department of Constitutional Development and Planning, the policy included "the recognition of the accelerated migration of the families of migrant labourers from the homelands" in terms of which the government is - "undertaking feasibility studies in the potential of so-called buffer strips as part of the task of identifying development land

- no longer being

party to the establishment of any new hostels and, as far as possible, upgrading existing hostels into family units or flats".⁽¹²⁴⁾

Explaining state urbanization policy further, it is of relevance to note the repeal in section 1 of the Abolition of Influx Control Act 68 of 1986 of the provisions of section 5 of the Black Administration Act 38 of 1927.⁽¹²⁵⁾ This section contained the power to relocate blacks, black tribes and black communities; according to one commentator this reform gave "legislative effect to a policy decision, which was already in force, not to conduct any further forced removals".⁽¹²⁶⁾ However, in chapter 2 supra, the possible

124. Cape Times 22 August 1986, also quoted in the Urban Foundation Report p.2.

125. Stassen J.C. supra p.467.

126. Ibid

effects of the amendments to the Prevention of Illegal Squatting Act⁽¹²⁷⁾ and the possible deployment of the weapons against communities afforded by the contents of the Slums Act⁽¹²⁸⁾ were pointed out. This could be a further indication of State policy concerning the "orderly" part of "orderly urbanization". Thusfar the present available indications of State interpretation of the policy of orderly urbanization, as evidenced by declarations and legislation.

On 14 July 1987, however, it was announced by way of press releases and a notice handed to the vice-chairman of the Lwandle Men's Hostel Committee that the Administrator of the Cape Province had decided to allocate funds (totalling R3.78 million)⁽¹²⁹⁾ for the upgrading of the accommodation of Lwandle to single sex men's quarters only. He approved a plan comprising the conversion of the existing 124 dormitories into 248 flats each consisting of three bedrooms (for six persons), a storeroom, a shower and wash basins with hot and cold water, with a flush toilet.⁽¹³⁰⁾ The decision was apparently taken after consultation with the municipality of Somerset West (who approved the ideal of family housing) as well as with the Strand municipality, that of Gordons Bay and the (now defunct) Stellenbosch Divisional Council; the last three bodies rejected any plan for family housing. After meeting with the Stellenbosch Divisional Council⁽¹³¹⁾ very early in the year, the Lwandle men's committee had heard nothing further concerning the ultimate recommendation of any of the above bodies, nor was the committee aware of the stage of the bureaucratic hierarchy at which the issue was being considered. In short, the Administrator in no way consulted with the community itself prior

127. Act 52 of 1951; see p.42 above.

128. Act 76 of 1979; see p.42 above.

129. Argus 15 July 1987.

130. Question 23 (1)(i)(aa) and reply thereto in Parliament on 11 August 1987.

131. At this meeting, representatives from the three local authorities involved (Somerset West, Strand and Gordons Bay municipalities) as well as the Western Cape Development Board were present.

to making his decision public. Viewed in the light of the fact that the Offices of Community Services,⁽¹³²⁾ and through them the Administrator of the Cape, were almost certainly aware of the findings of the Urban Foundation Report, the omission is certainly suggestive of bad faith on the side of the state.⁽¹³³⁾

The alternative view, namely that this decision was not so much deliberately mala fides, as in fact demonstrative of a turnabout in government policy, was explicitly put to the Minister of Constitutional Development and Planning in Parliament on 11 August 1987. (The questions surrounding the Lwandle issue that were put on this date were later clarified by further questions and replies on 22 September 1987).⁽¹³⁴⁾ Question 3 of the 5 questions tabled asked "whether the decision not to provide family housing (in Lwandle) represents a change in Government policy regarding black housing; if so, why is the policy being changed", and was met with the stark answer "No". The decision of the Administrator is, however, patently at odds with the State objectives regarding migrant labour hostels outlined above. It is also clear that the recommendations of the Urban Foundation⁽¹³⁵⁾ concerning the suitability of Lwandle for urban working class housing have been ignored in the decision-making process until 14 July 1987. Concomitant to the earlier policy declaration of the Chief Advisor : Legal Services of the Department of Constitutional

132. Formerly the Western Cape Development Board, who were represented at meetings of the Stellenbosch Divisional Council at which the subject of the first draft of the Urban Foundation Report was (according to my information) pertinently mentioned.

133. Support for this view can, in my mind, be found in the statement by the Administrator accompanying the press release on 14 July 1987 that "...after upgrading it should be possible to house approximately 1600 persons (at Lwandle). The overflow, if any, will be diverted to Khayelitsha" (Argus 15 July 1987) my underlining. The Administrator will have known full well that presently 1984 men can be legally accommodated at Lwandle, that the beds are all occupied and that there will necessarily be "an overflow"! To suggest otherwise is clearly a misrepresentation.

134. See Appendix A and B.

135. It has been alleged to me that a copy of the Report was forwarded to the Department of Constitutional Development and Planning prior /.

Development and Planning concerning the full utilization of so-called buffer strips, the compilers of the Urban Foundation Report noted that the buffer strip of 63 hectares "can theoretically accommodate a population of approximately 2000 families⁽¹³⁶⁾ or 12 000 persons as well as a full range of facilities to serve the community. The range of facilities required would include corner shops, a local shopping centre, 1 secondary and 4 primary schools, churches, creches, a community centre, a post office, a clinic, a library, a recreational centre, sportsfields and playgrounds".⁽¹³⁷⁾ Yet the Administrator's proposal would entrench the existence of a surrounding wasteland.

The current state of impasse has been reached whereby the Minister has formally given notice⁽¹³⁸⁾ of his intention to reconsider the decision of the Administrator and to hold consultative talks with the residents of Lwandle themselves concerning the future. Three such meetings between the Minister and the Lwandle Men's Committee have ensued, during which the counter proposal of development-land near Macassar⁽¹³⁹⁾ was put, and the possibility of voluntary relocation to Mfuleni has been raised. Arguments offered by both parties have been explored at these meetings. The chief demand of the Lwandle Men's Committee is their call for family housing in the peaceful and secure environment they already know, close to their

135. Cont./ to this date; in his answer in Parliament on 22 September 1987, however, the Minister acknowledged receipt of the report but stated that it was "presently being studied by the Department of Development and Planning".

136. This amount is more than the number of families estimated to want family housing by the Lwandle Men's Committee. Of course there are a not inconsiderable number of younger unmarried men who as yet feel no need to procure houses.

137. Urban Foundation Report p.43.

138. Reply to Q 1(b) on 11 August 1987 (see Appendix A).

139. See p.24.

places of employment. The Minister and representatives from the Cape Provincial Administration argued at one meeting that there was insufficient land at Lwandle to build the required housing and accompanying amenities. They have, however, been consistently referred to the findings articulated in the Urban Foundation Report in this regard. At a subsequent meeting, the representatives of the State resorted to the argument that the white electorate, particularly in nearby Strand, would not approve of the establishment of a family residential area for blacks nearby. Support for this view can be found in the intransigence of the Strand Municipality, which is prepared to agree to upgrading at most.

In my view, this last argument may well prove to be the crucial determining factor surrounding the future of Lwandle. Furthermore, it is my view that central government will ultimately bow to the objections of the local municipalities (who are representative of the local white electorate, even though the new legislation abrogates the need for co-operation by the local authorities in the development of black towns.⁽¹⁴⁰⁾) It appears that an answer now emerges to the second question put in paragraph 1 of this chapter, namely, whether or not there has been a policy shift on orderly urbanisation, or whether the resolution of the Lwandle crisis signals an intention ab initio to retain influx control. It would seem that while propagating the new policy on urbanization has won some support and legitimation for the Government, there will be no unwavering commitment to the content of the reforms

140. In particular the Black Communities Development Act 74 of 1986; see, however, Greenberg S. Ideological Struggle within the South African State supra p.11 where he quotes "It is therefore clearly of crucial importance for constitutional reform that no major decisions about welfare matters such as income, re-distribution, development assistance, education, health, housing and the like are taken by the central authority. Any such link would immediately re-establish the need for individual and/or group representation in the central authority"

that have been articulated. Schoombee H. and Davis D., referring to Prof. Andre Du Toit's analysis of Reform at the UCT Law Students Conference, comment that "(t)he announced reforms appear to be "reactive", geared to alleviate political pressures, to buy time". In the same way, ideological commitment toward⁽¹⁴¹⁾ a reform policy on urbanization do not preclude a return to old style influx control where prudence so dictates. The only difference is that now a different constellation of control measures apply, namely the regulations pertaining to housing. I would conclude that there never was a full State commitment to relinquishing social control over urban blacks in white South Africa: the form of such control has changed however.

Lastly, in my view, the authorities concerned have probably underestimated the emerging unity amongst the people of Lwandle: they will have to resort to hard-line tactics such as evictions, demolitions of structures, and multiple arrests and prosecutions to implement any decision to relocate Lwandle families. This removal must be the inevitable corollary of upgrading Lwandle for men only (unless suitable land be found close to or in the Hottentots Holland basin for Black residential housing, or the two objecting local municipalities back down completely).⁽¹⁴²⁾ The future, therefore, poses the threat of criminalisation of a whole community, should that community decide to struggle rather than accept the stalemate.

141. See p.33 above.

142. Which is unlikely in view of the fact that the objection is not toward Lwandle as a site for housing, but toward the presence of any Blacks whatsoever in the region!

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