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# *Mothers' Pensions and the 'Civilised' Black Poor: The Racialised Provision of Child Maintenance Grants in South Africa, 1921–1940*

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*This article discusses the origins and early 20th-century administration of child maintenance grants, first introduced in South Africa in 1921 as an amendment to the Children's Protection Act of 1913 and popularly known as 'mothers' pensions'. The grants were patently racialised: in the 1920s, government officials administered the grants so as to exclude people categorised as 'native' and as 'Asian'. This article traces how, from the late 1920s, liberal members of the self-styled 'Child Welfare Movement' (which had established a country-wide network of local branches after the First World War) began advocating the extension of maintenance grants to African communities. During this period, mission-educated African women were also becoming increasingly involved in questions of social welfare. From the mid 1930s, growing numbers of Child Welfare Societies, along with some sympathetic magistrates, were advocating the extension of mothers' pensions to indigent African mothers and children. In this context, senior bureaucrats in the national departments of Native Affairs and Social Welfare sought to clarify the social responsibilities of the state towards its impoverished 'native' subjects. The article considers the collaboration and the escalating contestation between organisations active in child welfare, civil servants and ministers of state. The qualified extension of maintenance grants resulted in a policy of limited social assistance to impoverished African families living in towns and cities throughout South Africa. The child welfare movement and its allies were partly successful in their attempts to limit racialised application of the Children's Protection Act from the 1940s until the late 1950s. The powerful officials in the national departments of Native Affairs and Social Welfare were fully convinced that the demands of segregation must determine how the state should intervene in questions of state social assistance and parental responsibility. In principle, they had little or no sympathy with representations that the state should provide social assistance to impoverished African mothers and African children in need of care. In 1940 – in response to pressures from the child welfare coalition – they reluctantly included the urban-based African poor as recipients of child maintenance grants. This marginal assistance took place within a social welfare system designed to protect 'civilised' (defined as 'European') labour and to complement policies of segregation. In fact, the policy revision involved continued official commitment to the gendered geography of racial segregation and delimitation of civic access to state resources that placed 'native' families in the reserves and on white-owned farms beyond governmental regimes of child welfare.*

**Keywords:** South Africa; segregation; child welfare; social grants; poverty

## Introduction: The Magistrate's Request

In June 1948, two months after the National Party won the general election in South Africa, the magistrate of the small village of Ventersburg in the Orange Free State informed the Secretary of Native Affairs that he had recently committed nine children to the care of 'a native widow' who lived in the town's African location. Martha Mohanoe had four children of her own, including a son with spinal tuberculosis, and was also responsible for her deceased brother's five children. Formal commitment was intended to 'procure for her a monetary grant under the Children's Act, to enable her to fulfil the duty placed upon her'.<sup>1</sup> The Department of Social Welfare, however, refused the grant on the grounds that Ventersburg was classified as a rural area 'in the list applicable to natives'. The magistrate, A.E. Burger, had temporarily approved pauper rations. However, these were 'totally inadequate', and the family would starve unless provided with a monthly grant. 'Owing to the intensity of the present Winter climate I shall be glad if you will treat the matter as urgent. Quite obviously immediate assistance must be obtained, no matter from what source'.<sup>2</sup>

At first, senior Native Affairs Department officials responded positively. They noted that police had pronounced Mrs Mohanoe 'respectable' and 'a suitable person to take charge of the children'. A monthly payment was recommended, and the Secretary of Native Affairs wondered if this would be adequate for the family's needs. ('What about clothing? Can we do better than this? Put the case to Social Welfare'.)<sup>3</sup> Burger's request for assistance was approved for up to six months, pending the request to the Department of Social Welfare. He was authorised to purchase 'rations and other necessities' for the equivalent of the cash amount that a town-based African family could receive.<sup>4</sup> But the Secretary for Social Welfare responded to the Native Affairs Department by confirming its usual policy – no child maintenance grants were available to African mothers based in rural areas. The 'invalid' boy could not be accommodated and no vacancies existed for Mrs Mohanoe's two infants, but the other children could be placed in state orphanages.<sup>5</sup> The magistrate, however, was not keen to accept this plan. As he explained in his letter to the Secretary of Social Welfare, Martha Mohanoe had pleaded to keep them. Separating the family would not be in their interests.<sup>6</sup> Burger wrote as 'mediator' (*middelaar*) on behalf of the mother. She was a 'decent creature' (*ordentlike skepsel*) who loved and cared well for the children. He requested, 'simply from human compassion' (*bloot uit menslike meegevoel*), that the '*ou meid*' (roughly: old servant woman) be assisted to keep the children.<sup>7</sup>

The Native Affairs Department renewed the grant for another six months, although reluctant to 'continue the rations as a permanent measure which is not the intention of Poor Relief funds'. In February, Burger wrote to confirm that Social Welfare insisted that help would be provided only if the children were sent away from home. However, he was 'satisfied that Martha Mohanoe, in whose charge the children now are kept, is the best "institution" for them'.<sup>8</sup> Burger argued that he must 'perforce' continue to pay the monthly allowance pending further instructions, because parting the mother and her children would constitute 'a grave error on my part'. He added that he was 'completely perplexed over the attitude of the Department of Social Welfare in a matter which I am endeavouring to solve

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1 National Archives Repository, Pretoria (hereafter SAB), Secretary of Native Affairs (hereafter NTS), 8867 File 100/362 (54). A.E. Burger (magistrate, Ventersburg) to Secretary of Native Affairs (hereafter SNA), 23 June 1948.

2 *Ibid.*

3 *Ibid.*, Memorandum from principal accountant, Native Affairs Department (hereafter NAD) to the SNA, 17 July 1948. Mr Burger had sent annexures including the police report, but this was apparently returned to him and is not in the NTS file.

4 *Ibid.*, SNA to the magistrate, Ventersburg, 21 July 1948.

5 *Ibid.*, M Viljoen (Secretary of Social Welfare, hereafter SSW) to SNA, 20 October 1948.

6 *Ibid.*, A.E. Burger to the SSW, 16 November 1948.

7 *Ibid.*, A.E. Burger to the SSW, 16 November 1948. As used among white Afrikaans-speakers in 20th-century South Africa, 'meid' referred to black women and indicated or assumed servant status.

8 *Ibid.*, A.E. Burger to the SNA, 1 February 1949.

in a manner most advantageous to a section of the social community'.<sup>9</sup> Burger appealed in similar terms to the Secretary of Social Welfare, but to no avail. As the Secretary of Native Affairs noted, while he was 'sympathetic with the mother ... the law must be carried out'.<sup>10</sup> Burger wrote one more letter to let the secretary know that the children were still in the care of the widow in spite of the fact that the grant had been stopped.<sup>11</sup>

Sixteen months later, the magistrate wrote with a detailed update, reminding the Secretary of Native Affairs that Mrs Mohanoe was legal custodian of the nine children and presenting a 'tragic picture'. Stopping the grant to this widow with 'no income of any kind' had precipitated 'a bitter and tragic time of trying to keep her children alive. Three had died of tuberculosis and two more were infected. The rest were undernourished and would 'no doubt contract the disease in time'. This came after his own 'strenuous endeavours to obtain the wherewithal to keep this family reasonably clothed and nourished'. As he also added, 'I frankly confess that the stark manner in which these facts face me cause me to feel a sense of shame that I did not continue my efforts'. Martha Mohanoe had once again appealed to him for assistance, and 'I dare not, for the sake of my own human feelings, resist her approach ... without a doubt', further action had to be taken to 'save what is left of this family'.<sup>12</sup> Burger asked for assistance in the form of invalidity grants and permanent, renewable monetary grants for each of the uninfected children. The Native Affairs Department complied in part, by providing negligible monthly rations (£3) and a disability grant for the oldest boy, to be reviewed after one year: '[s]hould any of the children die in the interim, will you kindly report the fact to this office in order to review the amount of the rations authorised'.<sup>13</sup> In 1952, letters to Ventersburg and scribbled comments in the case file also communicated a harsh, petty racism, but the grant was continued. Senior officials quibbled with details of expenditure and tried to impose rigidly a pared down list of acceptable rations. Officials complained that Mrs Mohanoe bought meat and '*enige ding van tee tot bloemers*' (anything from tea to panties). Such items were not necessities 'in [the] case of natives' and 'should definitely not be purchased for paupers from public funds'.<sup>14</sup> However, assistance was continued until 1960, as a rare exception to the racialised rules of poor relief.

This correspondence between the Ventersburg magistrate and senior bureaucrats raises several questions about the history of segregationist and apartheid social welfare policy from early to mid 20th-century South Africa. How are we to understand this magistrate's recognition of claims and needs through his articulation of maternal duty and of the state's obligation to assist an impoverished African mother? Why were two national departments of state involved – Native Affairs and Social Welfare? Why was a rural/urban dichotomy central to this discussion – so that African women from towns and cities pronounced 'urban' by these departments could qualify for child maintenance grants, while those based in 'rural' districts had only limited recourse to emergency rations and orphanages?<sup>15</sup>

I came upon Burger's correspondence with his superiors when hunting for documentary fragments that could provide clues about the early 20th-century history of South Africa's Children's Protection Act as it related to black South Africans. It resides next to some 1,200 files that contain the administrative paperwork of payments in the form of maintenance grants

9 *Ibid.*

10 *Ibid.*, principal accountant to SNA, no date on copy of letter. Handwritten note from SNA. The SNA informed Burger that the grant was being stopped in a letter dated 23 March 1949.

11 *Ibid.*, A.E. Burger to the SNA, 18 May 1949.

12 *Ibid.*, A.E. Burger to SNA, 28 September 1950.

13 *Ibid.*, SNA to A.E. Burger, magistrate, Ventersburg, 6 October 1950.

14 *Ibid.*, SNA to accountant, 12 January 1952; accountant to assistant accountant, 8 January 1952. Officials assumed that the 'bloomers' were for Mrs Mohale and were therefore doubly unnecessary.

15 In early to mid 20th-century South Africa, children placed in orphanages were not always parentless but sometimes from impoverished families.

made to town-dwelling African families from the 1940s and especially the 1950s. How and why did the mid 20th-century system of circumscribed and parsimonious assistance by way of maintenance grants under the auspices of the Children's Protection Act come about?

This article draws largely on archival documents from the 1930s in order to answer these questions. It was particularly in the late 1930s that a 'politics of the urban African family' began to be articulated, and that 'two facets' of the 'urban native question' were 'writ particularly large within the polity: massive poverty among urban Africans on one hand, and the debilitating pressures on family life in the urban African township on the other'.<sup>16</sup> It was also in the late 1930s that members of organisations active in child welfare, civil servants and politicians variously clashed and collaborated, working out the shape of child welfare policy. This article describes the emergence of a tentative network of child welfare initiatives between white liberals (or liberal segregationists) and black, mission-educated South Africans.

By the late 1930s, their efforts to claim the Children's Protection Act as a non-racial Children's Charter elicited a positive response from a small number of officials. The article details tensions that came to a head around 1940. That year initiated a brief period characterised by a 'vision of a new form of state, emboldened and reorganised to drive programmes of economic and social upliftment' and a 'fervour for welfare reform'.<sup>17</sup> The question at stake was whether (to use Burger's words) the 'social community' recognised as the South African state's welfarist responsibility included 'native' subjects. The politics of gender articulated through bureaucratic discussion also involved questions about how any possible claims by African mothers and children could be made to cohere with South Africa's explicitly segregationist 'civilised labour' projects of social assistance to white workers, on the one hand, and to the corollary of territorial segregation and black, male migrant labour, on the other. As will become apparent, the 'structural ambiguities' characteristic of white-settler rule in the early years of Union – which included some new legislation that adhered to British principles of equal rights under common law – was also at the heart of the contest about social citizenship and child welfare policy in the late 1930s.<sup>18</sup>

## **The Structural Ambiguities of Segregatory Rule and the Idea of a Children's Charter**

A rare paper on the history of child welfare in the years immediately after Union characterised the Children's Protection Act of 1913 as 'written largely with white children in mind: the rightful child was constituted in South African child welfare legislation as white' and 'black children were now effectively excluded' from any rights for children that were enshrined in law'.<sup>19</sup> However, racial exclusion was not explicit in the wording of this Act,

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16 D. Posel, 'The Case for a Welfare State: Poverty and the Politics of the Urban African Family in the 1930s and 1940s', in S. Dubow and A. Jeeves (eds), *South Africa's 1940s: Worlds of Possibilities* (Cape Town, Double Storey, 2005), p. 64.

17 J. Seekings, 'Visions, Hopes and Views about the Future: The Radical Moment of South African Welfare Reform', in S. Dubow and A. Jeeves (eds), *South Africa's 1940s*, p. 44; D. Posel, 'The Case for a Welfare State', p. 65. See also Bill Freund, 'A Ghost from the Past: The South African Developmental State of the 1940s', *Transformation*, 81/82 (2013), pp. 86–114.

18 S. Marks, *The Ambiguities of Dependence in South Africa: Class, Nationalism and the State in Twentieth Century Natal* (Johannesburg, Ravan Press, 1986), p. 1.

19 L. Chisholm, 'Class, Colour and Gender in Child Welfare in South Africa, 1902–1918', *South African Historical Journal*, 23, 1 (1990), pp. 100, 103. What little research exists has largely focused on the history of reformatories. See L. Chisholm, 'Gender and Deviance in South African Industrial Schools and Reformatories for Girls, 1911–1934', in C. Walker (ed.), *Women and Gender in Southern Africa to 1945* (Cape Town, David Philip, 1990), pp. 293–312; L. Chisholm, 'Education, Punishment and the Contradictions of Penal Reform: Alan Paton and Diepkloof Reformatory, 1934–1948', *Journal of Southern African Studies*, 17, 1 (1991), pp. 23–42; L. Fouchard, 'The Limits of Penal Reform: Punishing Children and Young Offenders in South Africa and Nigeria (1930s to 1960)', *Journal of Southern African Studies*, 37, 3 (2011), pp. 517–34. A. Badroodien, 'Race, Crime, Welfare and State Social Institutions in South Africa from the 1940s', *Social Dynamics*, 25, 2 (1999), pp. 49–74; A. Badroodien, 'A History of the Ottery School of

which simply provided for the removal of needy, neglected and ill-treated children from adverse conditions to state-subsidised institutions. In the same year that the Natives Land Act discarded any assertion 'of a liberal law of property rights' that viewed African men as 'bearers of ordinary economic rights under common law', the Children's Protection Act adhered, in form, to the established British principle that the Crown's subjects were bearers of undifferentiated rights.<sup>20</sup> It was based on Britain's Children's Protection Act of 1908<sup>21</sup> and was written by proponents of post-war Union between white South Africans. In early 20th-century South Africa, state bureaucratic practices for 'child protection' also took place within the wider legislative terrain of Native administration. How the regional systems of settler rule and administration in Natal, the Cape and Boer republics continued to shape the lives of children and practices of child welfare in the early decades of Union remain largely unexplored by historians. Within the 'structural ambiguities' of segregation, mission-educated African persons in the Cape and in Natal could potentially achieve partial access as civil subjects under common law.<sup>22</sup> But, over all, questions of childcare as part of 'native' familial relationships were deemed to belong to the realm of Native administration and the jurisdiction of tribal courts. In 1927 the Native Administration Act generalised the system of 'separate white and African structures, making customary law for native control a preserve of specialized lower courts, of chiefs and commissioners, subject to administrative control'.<sup>23</sup> African women's status as perpetual minors was also further consolidated.<sup>24</sup>

The Children's Protection Act made provision for the institutional care of destitute children. An early campaign of the network of child-welfare societies that spread through South Africa after the First World War was for 'mother's pensions', which would help women to care for their children at home.<sup>25</sup> In 1921, an amendment made it possible for women to apply for child-maintenance grants. The wording was also race-neutral: widows, women who were single parents and wives whose husbands were unable to work because of disability could apply for this assistance. It was through administration of the Children's Protection Act and its amendments that a regime of differentiated racial access was facilitated. Tasked with harnessing this Act in order to intervene in economies of familial survival, officials drew on shifting taxonomies of racial differentiation: early official correspondence marginally included 'coloured' or mixed-race recipients and excluded 'natives'.<sup>26</sup>

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Industries in Cape Town: Issues of Race, Welfare and Social Order in the Period 1937 to 1968' (PhD thesis, University of the Western Cape, 2001).

20 M. Chanock, *The Making of South African Legal Culture, 1902–1936: Fear, Favour and Prejudice* (Cambridge, Cambridge University Press, 2001), p. 361.

21 Chisholm, 'Class, Colour and Gender in Child Welfare', p. 103. See also Cory Library of Humanities Research, Rhodes University (hereafter Cory Library), Grahamstown Child Welfare Society Collection (hereafter GCWSC), MS19595, South African National Council of Child Welfare (SANCCW), *50 Jubilee, 1924–1974*, p. 24.

22 See N. Essop Sheik, 'African Marriage Regulation and the Remaking of Gendered Authority in Colonial Natal, 1843–1875', *African Studies Review*, 57, 2 (2014), pp. 73–92.

23 Chanock, *The Making of South African Legal Culture*, pp. 281, 328. Chanock explains that 'government by proclamation under the Governor-General as supreme chief, which finally placed Africans beyond the 'rule of law' in the constitutional sense, was the crucial feature of the Act, from which the establishment of separate courts, and the acceptance, Union wide, of separate private law followed'.

24 *Ibid.*, p. 336. Chanock discusses the differential status of African women in the Cape Colony, where they attained majority status at the age of 21, as opposed to Natal, where 'African women could never be a legal major, falling under the guardianship of her father or other household head, husband or husband's successor'. The 'Natal Approach' was endorsed by the Natal and Transvaal Division of the Native Appeals Court after 1927 (p. 336).

25 Cory Library, GCWSC, MS19595, SANCCW, *50 Jubilee 1924–1974*, p. 12.

26 SAB, Union Department of Education (hereafter UOD), 1970, E201, vol. 2, Children's Protection Act of 1913, Maintenance of Children, General Questions, 8 January 1924 and 26 March 1924 (List of Natal Cases). These were lists of 'native' and 'coloured' children placed in institutional care and for whom grants



The network of child welfare societies that spread through South Africa after the First World War focused mostly on the care of ‘European’ poor. The launch of a branch in Grahamstown was accompanied by speeches about the huge death toll of young men in the Great War and the need for more ‘white babies’.<sup>27</sup> But scattered efforts to work in black communities were apparent from the early 1920s. In Grahamstown, efforts to combat child mortality in the ‘Native’ location were initiated almost immediately after the establishment of the society, and by 1922 its ‘baby clinic’ employed an African midwife.<sup>28</sup> Child-welfare societies and the liberal segregationist Joint Councils for Europeans and Natives shared an overlapping membership, and conferences organised by the latter began to discuss the need for welfare initiatives focusing on ‘non-European’ children and to encourage local joint councils to assist with child-welfare initiatives in local black communities.<sup>29</sup>

From the early 1930s, liberal members of the South African National Council of Child Welfare (SANCCW) made efforts to extend their movement’s reach beyond its dominant focus on white communities. Its organising secretary, Lillie Mackenzie, was particularly influential in this regard. British-born and a graduate of King’s College, London, she moved to South Africa in 1924 but continued to travel extensively in Europe and England as part of her child-welfare activities.<sup>30</sup> Her contribution to international research on infantile mortality of African children listed several societies in the Cape Province that offered clinic and nursing services. She also noted the racial structure of local initiatives and recipients of assistance. Her list suggested that mission-educated Africans were involved in a small number of child-welfare initiatives, particularly in the eastern Cape, and sometimes independently from the white liberal oversight required by the SANCCW.<sup>31</sup>

In the 1920s, the joint council movement and overlapping missionary/liberal initiatives had involved African Christian women in various child-welfare ventures, though these did not include efforts to access social assistance but rather emphasised ‘mother-craft’ and the moral education of young women. Mackenzie now worked together with John and Edith Rheinallt-Jones of the South African Institute of Race Relations (SAIRR), who visited various South African towns in order to encourage the establishment of ‘non-european’ child-welfare societies.<sup>32</sup> As drawn together under the SANCCW, the child-welfare movement prioritised liaison with government officials and positioned itself as a civic network in partnership with local and national government. By the mid 1930s, mission-educated African women in various parts of the country were also starting women’s welfare

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were made available. See also W. Jackson, ‘An Unmistakable Trace of Colour: Racializing Children in Segregation-Era Cape Town, 1908–1933’, *Past and Present*, 238, 1 (2018), pp. 165–95.

27 Cory Library, GCWS, MS 19575, book of newspaper cuttings. ‘Child Life Protection Society Formed in Grahamstown’, dated August 1917.

28 *Ibid.*, Society for the Protection of Child Life, Grahamstown, Sixth Annual Report, 31 December 1922.

29 *South African Outlook*, 1 March 1929. See P. Rich, *White Power and the Liberal Conscience: Racial Segregation and South African Liberalism* (Johannesburg, Ravan Press, 1984) for a history of Joint Councils in the 1920s and 1930s. See also M. du Toit, ‘“Anginayo ngisho indibilishi!” (I don’t have a penny!): The Gender Politics of “Native Welfare” in Durban, 1930–1939’, *South African Historical Journal*, 66, 2 (2014), pp. 305–6, DOI: 10.1080/02582473.2014.918169. SAB, NTS, 7208, 54/32/6, vol. 1. Commercial Secretary (South African Legation) to Secretary of Native Affairs, 27 June 1931, letter sent on behalf of L.M. MacKenzie.

30 SAB, NTS, 7208, 54/32/6, vol. 1. Commercial Secretary (South African Legation) to Secretary of Native Affairs, 27 June 1931, letter sent on behalf of L.M. MacKenzie.

31 The SANCCW’s recommendations had a race discriminatory and paternalist slant – a white ‘chairman’ was supposed to guide any black society when no other white Child Welfare Society existed to provide guidance.

32 John Rheinallt Jones occupied the post of adviser to the SAIRR, and his wife Edith was ‘Honourary Organiser’ of the SAIRR’s Women Section. J.D. Rheinallt Jones to L.M. Mackenzie, 4 February 1935. AD843, RJ, NC 3.4, File 1. Social Services: Child Welfare. SA National Council for Child Welfare (Correspondence 1931–34).

societies that articulated explicitly African nationalist ideas and bore a strong imprint of transatlantic ideals of a sisterhood committed to 'uplift the African race'.<sup>33</sup> In Durban, women already active in Daughters of Africa and the Durban Bantu Women's Society (DBWS) founded the Durban Bantu Child Welfare Society. They co-ordinated their efforts to extract state assistance with neighbourly help for impoverished African families and with efforts to build communal and political solidarity.<sup>34</sup> As early as 1931, Isabel Sililo (a founding member of all three organisations) had presented evidence of growing poverty among town-dwelling Africans to the Native Economic Commission and the DBWS.<sup>35</sup> In 1935, public evidence by members of this society also included an explicit call for a state social welfare policy inclusive of Africans.<sup>36</sup>

### **Widening the Claim for Social Citizenship: Liberal and African Efforts to Access Child-Maintenance Grants in the 1930s**

This was a decade characterised not only by an escalating public politics about 'white' poverty and racialised projects of slum clearance in South African urban centres, but also by the consolidation of political segregation via elimination of the Cape's non-racial, qualified franchise in 1936. Organised campaigns for the consolidation of state social welfare programmes were variously dominated by ethnic Afrikaner nationalism and South Africanist ideals of white nationhood. At the same time however, more peripheral concerns about 'native' and 'non-European' poverty were also fuelling initiatives by white liberals (or liberal segregationists) and mission-educated black South Africans to access social assistance from government.

Liberal segregationists in Durban did so as part of an effort to counter what they perceived to be a problem of 'native juvenile delinquency': young boys were living on the street, sleeping in and around the city's central market area. Maurice Webb, who ran the SAIRR's Durban office, corresponded with (among others) the Secretary of Education about the growing number of homeless African children who lived and slept near the city's central market area. This was also in the context of shifting ideas about the rehabilitative potential of children and a review of policy that would result in promulgation of a new Children's Protection Act in 1937. The Department of Education was newly responsible for reformatories and for child-maintenance grants – previously the responsibility of the Department of Justice and Prisons.<sup>37</sup> One strategy for alleviating the problem suggested by Secretary of Education L. van Schalkwyk – partly because there were very few reformatories or homes that accepted African orphans – was the payment the 'so-called Mother's Pension under the Children's Protection Act' to a 'widowed mother or grandmother'.<sup>38</sup>

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33 M. Healy-Clancy, 'The Daughters of Africa and Transatlantic Racial Kinship: Cecilia Lilian Tshabalala and the Women's Club Movement, 1912–1943', *Amerikastudien/American Studies*, 59, 4 (2014), p. 481. See also M. Healy-Clancy, 'Women and the Problem of Family in Early African Nationalist History and Historiography', *South African Historical Journal*, 64, 3 (2012), pp. 450–71.

34 Du Toit, 'The Gender Politics of "Native Welfare" in Durban', pp. 307–9; 311–19.

35 *Ibid.*, p. 297.

36 *Ibid.*, p. 308. This memorandum, presented at a public hearing in Durban and submitted to a parliamentary committee that was considering revisions to the Natives Urban Areas Act, was signed by Katie Makanya, Isabel Sililo, Bertha Mkhize and Constance Mtimkulu.

37 In 1934 and in the context of shifting ideas of the rehabilitative potential of children, the care of juvenile delinquents also became the responsibility of the Union Education Department, which also developed a system of probation officers – trained social workers (usually male) attached to the children's court. It was this system that would become the responsibility of the Union Department of Social Welfare when it was established in 1937, also the year when a new Children's Protection Act was promulgated.

38 Campbell Collections, Mabel Palmer Collection, KCM17657, Isabel Sililo, DBCWS Second Annual Report 1936–37, 13 September 1937.



By contrast, African women who also became involved in efforts to assist black families to access child-maintenance grants did so as part of assisting families struggling with poverty. From 1936, the Durban Bantu Child Welfare Society (DBCWS) began to apply for and to administer mothers' pensions. It had been established in the previous year, when Webb's Juvenile Delinquency Committee approached African women already involved in the Durban Bantu Women's Society and Daughters of Africa, wanting assistance with the problem of homeless children. Instead, the DBCWS quickly focused its attention on efforts to secure assistance for impoverished families.<sup>39</sup> Isabel Sililo, the society's secretary, reported in 1937 that, with the help of the chief magistrate, 12 'Government Maintenance Grants' had been secured. She commended the Union Department of Education for its 'very generous consideration of such applications.'<sup>40</sup>

As Posel has argued, loosely aligned civic organisations were producing 'an incipient social reformism committed to state-driven programmes of economic and "moral upliftment" in urban African communities'.<sup>41</sup> From the early 1930s, social welfare advocates who focused on the provision of maternal and childcare services for African women in Johannesburg included anthropologist Winifred Hoernlé, co-founder of the Institute of Race Relations, together with her husband, Alfred, in 1929 and executive member of the SANCCW.<sup>42</sup> At least some Native Commissioners considered impoverished black mothers and children to be legitimate recipients of state assistance. Native Commissioners and magistrates in various cities and towns were looking for solutions to the growing poverty that confronted them, which often involved African mothers and children.<sup>43</sup> With and without the prompting of child-welfare societies, some magistrates decided that child-maintenance grants were a useful and appropriate form of assistance. In fact, senior state officials were also occasionally sanctioning this as an option for African women made destitute when their husbands were in prison or for children whose mothers were placed in institutional psychiatric care. Officials of the court such as probation officers sometimes told magistrates that they could allocate child-maintenance grants.<sup>44</sup>

## **The Shift to an Unambiguously Segregationist Child-Welfare Policy in the Late 1930s**

Calls for the consolidation of policies aimed at resolving 'white' poverty resulted in the formation of a national Department of Social Welfare in 1937. Its duties included the

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39 The organising secretary, Isabel Sililo, did serve on the board of Brandon House, the boys' hostel established by Webb and other liberal segregationists, but 'juvenile delinquency' was not an issue highlighted by the DBCWS.

40 Campbell Collections, Mabel Palmer Collection, KCM17657 Isabel Sililo, DBCWS Second Annual Report 1936–37, 13 September 1937.

41 Posel, 'The Case for a Welfare State', p. 65.

42 A. Bank argues that Hoernlé was an advocate of 'anti-segregationist, left – leaning anthropology' – see his chapter 'Feminizing the Foundational Narrative: The Collaborative Anthropology of Winifred Tucker Hoernlé (1885–1960)', in A. Bank, *Pioneers of the Field: South African Women Anthropologists* (Cambridge University Press, 2016), pp. 15–63. S. Klausen also discussed aspects of her work in the Joint Committee for Non-European Work, of which she was a founding member, and her involvement in the Johannesburg Child Welfare Organisation, particularly as regards the establishment of birth-control clinics. See S. Klausen, *Race, Maternity and the Politics of Birth Control in South Africa, 1910–1939* (Basingstoke, Palgrave Macmillan, 2004), pp. 57–8.

43 The 'active paternalism' of some Native Commissioners is discussed in D. Wylie, *Starving on a Full Stomach: Hunger and the Triumph of Cultural Racism in South Africa* (Charlottesville and London, University of Virginia Press, 2001); see her discussion of state paternalism and of 'the politics of famine', pp. 60–78.

44 SAB, NTS, 8865 110/362/1, Children's Act 31/37, memorandum, 26 April 1939.

administration of mothers' pensions.<sup>45</sup> In 1936, territorial segregation was also consolidated through promulgation of the Native Trust and Land Act, which involved creation of a Native Trust, 'an organisation set up ... to enlarge the reserves and to develop African communal agriculture on expropriated, formerly white commercial farmland' and to complement the launch of 'betterment schemes' to promote 'scientific' farming methods.<sup>46</sup> Amendments to the Urban Areas Act in 1937 were also aimed at facilitating efforts to control African migration to urban areas. It is hardly surprising that senior officials of the new Social Welfare and older Native Affairs departments soon turned their attention to the question of which department of national government should deal with questions pertaining to African children and how best to limit African access to child-maintenance grants.

By 1938, there were signs of reluctance on the part of central government officials to approve child-maintenance grants for African applicants. As one example, the efforts of the Child Welfare Society in Kimberley in this regard was met with queries from Union officials as to 'whether the families had become detribalised and whether they had adopted European standards of living'. The secretary had received no response to her answer that they were indeed 'detribalised and that they lived up to at least a poor white standard'.<sup>47</sup> Lillie Mackenzie of the SANCCW reported a distressing interview about 'this very matter' with the minister and that 'a big push to get native Child Welfare under the Native Affairs Department' seemed certain.<sup>48</sup> By early 1939, official responses to applications for maintenance grants to African families indicated a decisive change of policy, articulated in the Department of Social Welfare's Circular 1 of 1939, which would soon achieve a status of some notoriety among advocates of state social assistance for African families.

In the course of 1938, senior officials in the Social Welfare and Native Affairs departments initiated a discussion as to whether 'tribal' and 'detribalised' Africans should have access to child-maintenance grants. An internal memo by the Under-Secretary of Social Welfare, Dan Forsyth, to the Secretary, G.A.C. Kuschke, revealed that a negligible number of African families were benefiting from child-maintenance grants, but that the officials were worried about future cost implications, given that a growing number of people were aware that there was no legal basis for refusing the grants on racial grounds.<sup>49</sup> Forsyth referred to substantial poverty among Africans as self-evident and balked at the prospect of increasing state expenditure via the Children's Protection Act. As he explained, 'in the absence of provision under the Children's Act for racial discrimination', maintenance grants were being 'made to Native, as well as Coloured and Indian children'. Only about 200 African children were receiving grants. However, 'a noticeable increase' in the number of applications for grants for 'natives' was evident. He considered it 'desirable to bring to your notice the effect of possible developments, having regard to the fact that we have a Native population of 6½ million, a considerable portion of which may be described as indigent'.<sup>50</sup>

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45 SAB, NTS 9609, 443/400, Department of Social Welfare, Circular 2 of 1937, received by NAD on 9 Dec 1937. The Union Department of Education remained responsible for individual social grants to institutionalised children.

46 Wylie, *Starving on a Full Stomach*, p. 82. Wylie discusses the NAD's 'bureaucratised paternalism' (p. 78) and official responses to conditions of famine and crises of rural poverty, particularly in the late 1920s and 1940s.

47 Historical Papers Research Archives, University of the Witwatersrand Library (hereafter Historical Papers, Wits) South African Institute of Race Relations collection (hereafter SAIRR), AD 843, B631.1, Mrs Elliot to John D. Rheinallt Jones, 25 October 1938.

48 Historical Papers, Wits, SAIRR, AD843/RJ/NC3.4fl3J, Social Services: Child Welfare. SA National Council for Child Welfare Correspondence 1939. Letter from Mrs Rheinallt Jones to Mrs Elliot (Kimberley Child Welfare Society), 7 Nov 1938.

49 SAB, VWN, SWC, 2254, 16/7, vol. 1, 18 May 1938. This typed copy of an original memo is attributed to Under Secretary Dan Forsyth, but also has typed, dated marginalia that indicates a series of discussions between G.A.C. Kuschke and his under-secretaries and with the 'Minister'. It may have been compiled with reference to previous correspondence.

50 *Ibid.*

The under-secretary explained that the issue had been discussed with Douglas Smit, Secretary of Native Affairs. After a ‘tour of the union’ and discussion with Native Commissioners, Smit had reached the conclusion that ‘the cost of providing for all Native children “in need of care” as defined, and the country-wide availability of the grants to “tribal natives” would be more than the finances of the country could stand’. Forsyth suggested that perhaps no African children should be eligible. ‘Moreover, there is no desire to break down those institutions of Native customary law which have regard to provision for widows and children’. According to Forsyth, ‘while it might be desirable to make grants in respect of the children of detribalised, urban Natives, he [Smit] could not suggest a definition of such Natives that would be sufficiently restrictive for practical purposes’.<sup>51</sup> Grants should be made available only to children of parents who were ‘thoroughly detribalised’ and who had also ‘adopted European standards of life’. In fact, it was ‘doubtful whether in practice it will be possible to make grants otherwise than to the children of Native Professional men – Doctors, teachers, lawyers etc’.<sup>52</sup> Moreover, ‘bald statements ... that a native is detribalised’ would not suffice. Forsyth wanted evidence of where children were born, the age of parents, chiefly allegiance, whether ‘parents married according to Civic, Christian or Native rites ...’, details of *lobola* payments and pass-law exemptions.<sup>53</sup> The under-secretary was soon instructing magistrates and child-welfare societies enquiring about or applying for child-maintenance grants on behalf of an African family to provide such proof.<sup>54</sup>

A few months later, the Secretary of Social Welfare, Kuschke, informed officials in his department that a sub-committee of Cabinet had decided that no new child-maintenance grants should be approved for ‘Natives’. Existing grants would lapse after their current period of approval expired. Magistrates ‘and others recommending such grants’ would be informed that the policy was under review.<sup>55</sup> Magistrates and Native Commissioners who enquired about the availability of grants for Africans or reminded the department about grants that awaited renewal were duly informed about the moratorium on grants.<sup>56</sup> At this stage, a parliamentary committee of enquiry was appointed. Somewhat ironically, it was chaired by Van Schalkwyk, who had told the SAIRR that it was possible for African children to qualify for child-maintenance grants in 1934, when he was Secretary of Education. The committee soon confirmed the policy recommendations of Native Affairs and Social Welfare department officials.

In December 1938, the Secretary of Social Welfare submitted comments based on this report to the Minister of Native Affairs, Social Welfare and Education. He referred to concurrent plans to transfer the administration of education to the Department of Native Affairs and recommended that, regardless of whether this decision was made, the Native Affairs department should be made responsible for administration of all aspects of the Children’s Protection Act with regard to Africans.<sup>57</sup>

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51 *Ibid.* Notes in the margin indicate on-going discussions with Kuschke and Smit, dated 27 May 1938. A further note seems to indicate discussion with ‘the Min’ (minister) – officials had clarified that ‘[t]his restriction is not intended to apply to institutions for Native children. May we proceed on this line please?’ Signed G.K., 30 May 1938.

52 *Ibid.* The document has several dates indicating states of discussion from May to July 1938, and that Kuschke approved this suggestion in early July.

53 *Ibid.* Notes and annotations by D.F. (Dan Forsyth).

54 SAB, VWN, SWC, 2254, 16/7, vol. 1, Non-European Maintenance Grants, D. Forsyth to magistrate, Bethlehem, 18 July 1938. The magistrate had written on behalf of the local ‘Non-European Child Welfare Society’, asking if African families could apply for the grants.

55 SAB, VWN, 2254, SWC 16/7 vol. 1, memo from G.A.C. Kuschke to Mr Gibson and Mr Siemens, 24 October 1938.

56 *Ibid.*, 14 October 1938, Secretary of Social Welfare to the magistrate, Newcastle and to the magistrate, Bloemfontein. The latter had forwarded a letter from the Bloemfontein Non-European Welfare Society.

57 *Ibid.* 23 December 1938, SSW to Minister of Native Affairs.

In March 1939, Smit submitted a motivation for confirmation of this change of policy to H. Fagan, then Minister of Native Affairs, Social Welfare and Education. He provided details of the tiny number of actual grant recipients – 171 African children as against 9,984 white, 3,503 coloured and 294 Indian children. He claimed that '[s]ince the news of these grants has got abroad, the number of applications from Natives is growing rapidly, and if these grants are continued there is every indication that the State will be involved in substantial expenditure'. He provided details of the increase of expenditure on maintenance grants for 'Europeans' and 'Coloureds' in 20 years (from £30,000 to £194,600).

If the grants are continued to Natives, it is obvious that with a Native population of over 6,000,000 among whom the incidence of poverty is much higher, the growth of expenditure must be correspondingly greater, and the amount which the state will be required to provide will be colossal.<sup>58</sup>

It was, in fact, the growing expenditure on another category of social grant that gave cause for concern:

A similar position will be reached as in the case of the relief paid to blind Natives. In 1937 it was decided to give each indigent blind Native an allowance of 10/-0 per month – £20,000 was considered adequate. The amount on the 1939/40 estimates has risen to £60,000.<sup>59</sup>

Smit went on to explain that maintenance grants to Africans had 'been confined administratively to urban dwellers' and 'large numbers of applications' had been refused. He recommended that administration of maintenance grants in terms of the Children's Protection Act 'in so far as it affects Natives should be allocated ... to the Minister of Native Affairs, and that grants for Natives should be borne on the Native Affairs Vote or by the South African Native Trust Fund'.<sup>60</sup>

A few days previously, the Chief Native Commissioner of Natal, Harry Lugg, had claimed that, although poverty did 'exist in both urban and rural areas', only 'isolated' appeals for help had been received from the latter and he advised against the provision of maintenance grants for rural Africans. It is likely that Lugg was referring to Sibusisiwe Makanya's Bantu Youth League or to a child-welfare society formed in response to her efforts to promote more social welfare initiatives, in commenting that 'the submission of 15 cases in one block from Mbumbulu is unique, but it is probably due to the activities of certain charitable bodies which have recently been established in that neighbourhood'. Lugg argued that African articulation of the notion of the state as father, encouraged by the ideology of indirect rule, made a growing insistence on state support inevitable. This tendency had to be firmly resisted in favour of the stipulated duty of male heads of household under Native law. 'The natives regarded Government as their "father" and as "his children" their claims for help will become more clamorous and insistent as time goes on'. Once the purpose of maintenance grants was 'fully appreciated', claims would 'be made as a matter of right' and 'any subterfuge ... be resorted to by those who by natural duty are required under Native law to support their dependants in order to avoid their obligations'.<sup>61</sup> In his advice to the minister, Secretary for Native Affairs Smit held that 'payment of these allowances in respect of Natives should never have been made and the financial burden in the future will grow to such an extent that we will not be able to carry it'. He argued that state assumption of

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58 SAB, NTS, Box 8865 100/362/1 and 2, File No 100/362, Children's Act 31/37 (Maintenance Grants)

59 *Ibid.* See L. Gevers, "'We Cannot Carry Our Own Poverty': Native Affairs, Welfare Reform and the Development of an "Inclusive" Social Pension System in South Africa, 1936–1959' (MA dissertation, University of the Western Cape, 2017) for an account of the 'ex gratia' inclusion of Africans under the Blind Persons Act of 1936, and its use until 1944 as a proxy for old-age grants.

60 *Ibid.*

61 SAB, NTS 8865 110/362/Vol. 2, Children's Act 31/37 (Maintenance Grants). Note signed by H. Lugg, Cape Town, 16 March 1939.

‘responsibility for the maintenance of native children’ struck ‘at the root of the social structure of the Bantu people’. The integrity of traditional African social support had to be protected. He conceded that ‘the position of detribalised Natives’ differed from those in reserves. However, cash allowances for Africans in towns would create ‘another incentive to Native women to flock to urban areas, which we are endeavouring to curtail’. He therefore recommended that as from 1 April 1939 poverty among Africans should be dealt with only ‘from funds provided for pauper relief’.<sup>62</sup>

According to senior bureaucrats of the departments of Native Affairs and Social Welfare, supported by cabinet minister Fagan, the extent of African poverty dictated that state social welfare policy should exclude support to African families. Circular 1 of 1939, as noted, was duly issued by the Department of Social Welfare. Its punitive terms meant that Africans living in ‘rural areas’ were also now excluded from provisions of the Children’s Protection Act of 1937 with regard to maintenance grants. The circular referred to the ‘natural duty’ with regard to minor children of the ‘head of Kraal’ according to Native law and repeated the arguments made by Lugg and Smit as to the evasion of duty that would result from state social support. It also claimed that the state was spending ‘large sums of money’ on ‘improving the economic conditions of Natives in rural areas’ and ‘that it is considered that sufficient is being done in this way to enable the Natives to provide for their children’. With regard to urban areas, the circular stated that applications on behalf of African children must be referred to Native Commissioners, who would in the first instance seek to ‘repatriate’ children to ‘relatives living in rural areas’. In exceptional cases, food rations (milk could be included ‘where necessary’) could be issued and charged to the South African Native Trust. Town-dwelling women would also be refused further cash allowances in order to discourage them from ‘flocking’ to urban areas.<sup>63</sup>

### **The Liberal Defence of a Non-Racial ‘Children’s Charter’**

Over the following few months, detailed objections to the new policy would be articulated not through the SANCCW itself – chaired by liberal segregationist Handel Thomson – but rather through those organisations specifically dedicated to ‘race relations’ and in which liberal members of the Council’s executive featured prominently. The paternalist, racially discriminatory structures of the SANCCW prevented African men and women from direct participation in discussions with government. A frustrated Isabel Sililo wrote to Handel Thomson that ‘Bantu officials’, themselves also mothers, were more closely in touch with the real position of the indigent children than whites.<sup>64</sup> How, she asked, ‘are children to be housed if there is no money at all coming in! ... How are they to be Clothed! Bantu mothers could give instances of cases in which such problems arise’.<sup>65</sup> As she explained to the SANCCW’s organising secretary, Lillie Mackenzie, in whom she found a more sympathetic reception, mothers issued with rations often could not ‘buy firewood to cook it with or to pay rent to have a place to cook it in’.<sup>66</sup> The letter conveyed formal rejection by her branch of the new regulation: ‘[c]hildren in need should be treated without regard to race, colour or creed’. Moreover, the majority of applicants were detribalised ‘natives’, most of whom had ‘lived in farms as labour tenants’ and thus had ‘no legal claim for assistance or residence in

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<sup>62</sup> *Ibid.*

<sup>63</sup> SAB, NTS 8865, 110/362/2, Children’s Act 31/37 (Maintenance Grants). Circular issued by Secretary of Native Affairs, Maintenance Grants under Section 84 (1) (c) of the Children’s Act, 1937.

<sup>64</sup> Wits Historical Papers, SAIRR, AD843, B631.1 from I. Sililo to the Chair, Mr H. Thomson, SANCCW, 27 June 1939. Handel Thomson as chair would not receive Sililo’s delegation. See also du Toit, ‘The Gender Politics of “Native Welfare” in Durban’, p. 317.

<sup>65</sup> Du Toit, ‘The Gender Politics of “Native Welfare” in Durban’, p. 317.

<sup>66</sup> Historical Papers, Wits, SAIRR, AD843, B631.1 from I. Sililo to L. Mckenzie, 9 January 1940.

the districts of their origin'.<sup>67</sup> In her annual report as Secretary of DBCWS in 1939, Sililo pointed out the fundamental contradiction of national policy supposedly aimed at 'rehabilitat[ing] the family' and committed to helping 'the mother to keep her children together' but now 'practically placing Bantu Child Welfare work in the hands of the Native Affairs Department' and denying grants to African children.<sup>68</sup> The politics of segregation did allow for African men to meet with the Minister of Native Affairs, and Sililo's husband, Arthur, did so in one African National Congress (ANC) delegation, and mentioned to the minister the rumours that 'child welfare work amongst Africans would no longer receive support and that maintenance grants would cease'.<sup>69</sup>

Public argument and official correspondence with the state in protest at the new policy were dominated by white liberals involved in the Institute for Race Relations and Joint Council structures. As Alfred Hoernlé (president of the Institute) commented in his public lecture, 'The Spirit of Trusteeship', in May 1939, the economic re-organisation into a South African social welfare state was focused on 'the dominant White community, whose State after all it is' and 'often exclusively on its own welfare' so that poor 'non-whites' and particularly 'poor Bantu' were placed at 'the outermost edge of the horizon of their consciences, if not beyond that edge where it is no longer seen or felt'.<sup>70</sup> He added that 'in the main, the Non-European poor have had to rely on the help which all poor render to each other, not least the Natives with their extended system of relationships ...'. The '[p]rinciple of the Social Welfare State, by which Whites claim to benefit as of right, has touched only the fringes of non-European poverty – at best, the non-European has been the beneficiary of a diluted pity ...'.<sup>71</sup> Written a few weeks later, his letter of protest to the Secretary for Social Welfare questioned the logic and integrity of the state's argument that state support would result in efforts by chiefs and heads of kraals to avoid familial duty: was there, Hoernlé asked, 'a difference between Native law, European law and between the conception of "natural duty" for the Native and the European father'? Were 'state maintenance grants ... not just as liable to undermine the sense of responsibility of white recipients?'<sup>72</sup>

Also in 1939, anthropologist Winifred Hoernlé, executive member of the SANCCW, discussed the government's departure 'from the whole spirit of the Children's Charter' in her presidential address to the Society of University Women. The Children's Protection Act of 1937 applied, in principle, 'to all children, regardless of race'.<sup>73</sup> The new policy of separating out 'Native mothers and children' had to be challenged. Her argument emphasised South Africa's modern economy, based on an industrial system of waged labour that 'did not properly secure the reproduction of human capital'. Moreover, a 'society claiming to be civilised' had to determine the 'actual numbers of children' in need and to 'take steps that they are properly provided for, quite apart from adequate wages ...'. Hoernlé pointed to the contradiction of a government that claimed an intent to 'protect the integrity and stability of the family' while 'for the most numerous part of the population ... for the African families', no births were registered

67 *Ibid.*

68 Campbell Collections, Mabel Palmer Collection, KCM17600, Fourth Annual Report, 1938–9, 16 September 1939.

69 Report of a deputation from the ANC and Congress of Urban Advisory Boards to the Minister of Native Affairs, 15–17 May 1939, in T. Karis and G. Carter (eds), *From Protest to Challenge: A Documentary History of African Politics in South Africa 1882–1964, volume 2: Hope and Challenge, 1935–1952* (Stanford, Hoover Institution Press, 1987), p. 142.

70 R.F.A. Hoernlé, *South African Native Policy and the Liberal Spirit* (University of Cape Town, 1939), p. 92.

71 *Ibid.*

72 SAB, VWN, SWC, 2254, 16/7/vol. 1, Alfred Hoernlé, President, SAIRR, 23 June 1939, to the Secretary for Social Welfare. A slightly different version is in Wits Historical Papers – there are handwritten additions in letter sent to VWN.

73 University Archive, Central Records Office, University of the Witwatersrand, Mrs Winifred Hoernlé Papers, AU8, HOE, 'Some Comments on the Status of the Family in South Africa', presidential address, 1939.



and more than 50 per cent of babies suffered from malnutrition. Her speech included a critique of ‘so-called Mother’s Pensions’. As she pointed out, these were not in fact ‘mother’s pensions at all, for the mother receives nothing for herself, nothing for being a mother. In reality, they are maintenance grants for the dependent children of certain classes of persons’. The state had to acknowledge that South African economic policy had ‘created a real class of Urban Natives who are entitled to the same treatment as urban dwellers of other races’. It was, moreover, necessary to challenge conceptions that ‘pre-European conditions of tribal life and custom’ still prevailed. Because ‘our pressure, economic and legislative, upon the tribal system has almost entirely disrupted it ... we have no right to expect it to carry responsibilities as though it were in normal working order’. Children of Africans living in rural areas should also ‘be provided for, like all other children, by the Social Welfare Department’.<sup>74</sup>

The most elaborate memorandum of protest against the policy was sent to the Minister of Native Affairs by the Joint Council of Europeans and Africans, in support of the SANNCW’s continued efforts to have the policy reconsidered. The Hoernlés’ influence and involvement in its welfare activities would imply their contribution to the memorandum and suggest that Winifred Hoernlé, in particular, was influential in its authorship.<sup>75</sup> The Council’s commitment to modern ideas of welfare and of social solidarity conceptualised as African was perhaps indicated by its letterhead. The address for telegrams was indicated as ‘Ubuntu, Johannesburg’. The letter echoed Winifred Hoernlé’s emphasis in her lecture that the Children’s Protection Act of 1937 did not discriminate on the basis of race – the ‘definition of ‘child’ included no racial classification and, in fact, the Act neither prescribed nor forbade ‘recognition of race differences’. The authors commented on the introduction of ‘race discrimination’ via administrative regulations and the fact that racially differentiated grant pay-outs had previously been calculated with reference to different ‘standards of life’ for unskilled European and non-European labourers. They protested against the newly introduced discrimination between categories of ‘non-European’ so that ‘native’ children were excluded from the benefits of the Act.<sup>76</sup> This general policy, they argued, was intended to ‘relieve all public funds whatsoever from any liability from the maintenance of a Native child, so long as any alternative provision can be made for such a child’. All children living in rural areas, and all urban children for whom ‘rural’ relatives could be found, had been ‘placed by the Circular on the *private* resources of African families and individuals’.<sup>77</sup> The Joint Council also protested against the transfer of administrative responsibility to the Native Affairs department, and the limited provision of grants in kind only, charged to the South African Native Trust. It criticised the failure to acknowledge the fact that many rural Africans lived on white-owned farms, and were in no position ‘to undertake additional responsibilities’. The authors also objected to the effort to try and exploit ‘tribal custom to relieve the State of an obligation which in the Children’s Act it has explicitly undertaken’.<sup>78</sup>

In fact, regardless of race, poor South Africans lived under ‘economic conditions ... such that they often lack the means for doing all that natural duty and responsibility require’. The state was ‘compelled’ to intervene in order to correct the economic system’s defects and particularly to assist mothers trying to raise children on their own. The Joint Council urged ‘most strongly’ that this, ‘the real argument for maintenance grants’, applied ‘with equal, if not with greater, force to African families and mothers’.<sup>79</sup> The letter also referred to the poverty of ‘urban Africans’, dependent on ‘notoriously’ low wages compared to other racial groups and

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74 *Ibid.*

75 At this time, the Johannesburg Joint Council’s executive included Advocate Abraham Fischer, A.B. Xuma, Advocate Vieyra (later influential in the Catholic Church’s critique of apartheid) and E.L. Benjamin.

76 Historical Papers, Wits, SAIRR, AD843, B631.1, SAIRR, Maintenance Grants. Johannesburg Joint Council of Europeans and Africans to the Minister of Native Affairs, memorandum of protest, 31 January 1940.

77 *Ibid.*

78 *Ibid.*

79 *Ibid.*

urban workers, to 'appallingly poor' workers on European farms and 'reserve Natives' who were dependent on migrant labour 'to the detriment of home life'. Tribal lands no longer offered any possibility for traditional and 'customary' forms of subsistence living. The authors therefore challenged 'the whole principle of relying, *for Natives only*' [their emphasis], on 'natural duty' and 'customary law'. As they explained, this ignored the fact of land loss by 'White conquerors' and disruption to the tribal system of 'White pressure, economic and legislative'. They pointed to the explanation that had been given to the Native Representative Council – that the new policy was in fact motivated by the expense of extending social services to Africans. Thus, curiously, the Union was alleged to be 'too poor to pay for social services of the poorest and largest part of its population', but 'rich enough to supply such services for the less poor, and to supply them in the fullest measure for the poor of the White minority'.<sup>80</sup>

Posel has argued that initiatives to 'manage the dual problems of poverty and familial instability in urban African communities' found 'a receptive audience within some state institutions – notably the Department of Native Affairs through the office of Douglas Smit' as secretary.<sup>81</sup> But any sympathy that Smit might have had was hedged with commitment to the gendered order of racial segregation. It was the limited success of a liberal campaign for inclusive social welfare that won urban Africans access to child maintenance grants. Early in 1940, a delegation from the SANCCW, Johannesburg's Joint Council of Europeans and Africans and the SAIRR took advantage of the fact of the split in the United Party precipitated by South Africa's support for Britain in the war against Germany, and the new appointments to the country's cabinet. It was Winifred Hoernlé, supported by Rheinallt Jones, who secured a meeting with Walter Madeley of the Labour Party, who was now Minister of Labour and Social Welfare in the wartime cabinet. President of the SAIRR, Alfred Hoernlé, also put the case to Jan Hofmeyr, who was acting prime minister while Smuts was overseas. The minister responded by acknowledging the validity of their arguments that injustice was being perpetrated against African children by excluding them from the system of maintenance grants, and that the South African Native Trust was in any case bankrupt. He gave instructions that the secretary of Social Welfare must henceforth consider all applications on merit.<sup>82</sup> A meeting with the minister of Native Affairs, Colonel Reitz, ensued. The latter responded somewhat ambivalently: 'I can find no justification for keeping the door shut to the Natives although I do not want it too widely open'.<sup>83</sup> In fact, the revised policy incorporated state officials' resistance to social support for an impoverished African population by conceding only that town-dwelling families would be considered for child-maintenance grants. Crucially for the continued official commitment to administration of child-welfare measures so as to cohere with the rule of segregation, the state continued to specify which areas of South Africa counted as 'rural' as a mechanism to exclude Africans from access to child-maintenance grants.

On 30 March 1940, the Department of Social Welfare issued a new circular, which reinstated cash grants – in other words, child-maintenance grants – for urban-based African children. It was emphasised that Native Commissioners had to be convinced that 'no other course' was open, 'as it is imperative that the payment of such allowances to Natives residing in the towns should not provide an incentive to Native women to flock to the urban areas'.<sup>84</sup> For the first time, Africans who lived in towns and cities were formally included in the racially tiered child-maintenance grant system, at 50 per cent of the amount made available for 'coloured' children. Protests against the harsh Circular 1/1939 were still coming in, and the

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<sup>80</sup> *Ibid.*

<sup>81</sup> Posel, 'The Case for a Welfare State', p. 65.

<sup>82</sup> SAB, VWN, SWC, 2254, 16/7. Vol. IV, de Villiers to Kuschke, February 1940.

<sup>83</sup> *Ibid.*

<sup>84</sup> *Ibid.*

Department of Social Welfare now replied more permissively to a letter of protest from the Port Elizabeth Joint Council of Europeans and Bantu.<sup>85</sup> In May 1940, the district Bantu Welfare Society of Adams Mission in Natal wrote that it protested ‘most strongly against the exclusion of rural areas for the purposes of grants for deserving cases being considered by the Department of Social Welfare’. It argued that ‘rural areas are equally as needy as the Urban Areas and rural areas should especially be considered on account of the severe drought’.<sup>86</sup> For the next 20 years, however, this policy of limited assistance in the form of child-maintenance grants to town-dwelling Africans, from which destitute families in the countryside were explicitly excluded, would remain in place.

## Conclusion

By 1948, when Burger wrote to his superiors in the national Departments of Native Affairs and Social Welfare to draw attention to the plight of Mrs Mohanoe, the limits of state responsibility for care of African children were firmly established. The magistrate’s objections were articulated in a language of racialised paternalism that was perhaps more characteristic of the inter-war era of segregationist rule. Burger asserted that common humanity urged him to show compassion and act as mediator. In fact, he was duty-bound to serve this widow by virtue of her membership of ‘a section’ of shared ‘social community’. In this respect, the magistrate’s ideas cohered with the arguments made by mission-educated black South Africans, together with the small group of liberals in South Africa during the 1930s, that the breakdown of rural African ‘tribal’ social cohesion necessitated state intervention, inclusive of child-maintenance grants.

By the end of the 1920s, explicitly racist and segregationist legislation that would underpin important aspects of South Africa’s social welfare dispensation was in place: ‘civilised labour’ was defined as ‘European’ and excluded Africans from many categories of skilled labour. State old-age pensions were also only available to ‘European’ and ‘Coloured’ South Africans. Over the next several years, public agitation about white poverty took place even as the government under Hertzog further consolidated territorial segregation and eliminated voting rights for Africans in the Cape. The new Department of Social Welfare was also the result of a concerted campaign for the protection of white interests, and for the resolution of what was presented as the problem of ‘white’ poverty. Small wonder that officials from Native Affairs and Social Welfare regarded the Children’s Protection Act as out of step.

What brought this to their attention were the efforts of the small welfarist network that identified poverty among black South Africans as meriting state assistance and the Act as a non-racial Children’s Charter. White liberals such as Winifred Hoernlé and Lillie Mackenzie, together with Isabel Sililo, proponent of African nationalist sisterhood, advocated the ideal of a non-racial children’s charter. By the late 1930s, and in the context of growing concern about the extent of impoverishment among black South Africans, the liberal interpretation of the Children’s Act of 1937 as a children’s charter giving access to child-maintenance grants regardless of race was gaining ground. Anxieties about ‘native’ poverty as a problem of national proportion with rural and urban dimensions prompted explicit articulation of the state’s social responsibility towards the survival of African families.

Posel has described the 1930s as ‘a period in which deepening concerns about family and poverty came together to fashion a new set of understandings about the proper scope and function of the state’. If ‘the effort to remedy the “poor white problem”’ was one of its manifestations, another was ‘a different set of initiatives to manage the dual problems of

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85 *Ibid.*, Port Elizabeth Joint Council of Europeans and Bantu, Violet Couldridge to the Minister of Social Welfare, 15 February 1940. Reply on 19 February 1940.

86 *Ibid.*, 15 May 1940, Julia V. Hosken to the Secretary of Social Welfare.

poverty and familial instability in urban African communities, spearheaded by various groupings of liberals, missionaries, academics, urban African leaders, and urban administrators, who found a receptive audience within some state institutions'.<sup>87</sup> She also identified the 'urban native question' as central to emergent concerns about black poverty. The small group of liberals and mission-educated Africans who opposed this shift in social welfare policy associated growing poverty among Africans (whether living in towns, on farms or in the reserves) with the exploitative system of territorial segregation and migrant labour. They argued that the breakdown of rural African 'tribal' social cohesion necessitated state intervention, inclusive of child-maintenance grants.

In the late 1930s, senior officials from the departments of Social Welfare and Native Affairs – including Douglas Smit, who was identified by Posel as sympathetic to the reformist lobby – manoeuvred to ensure that any state social assistance to black families must be in line with efforts to limit urban migration, particularly on the part of African women. In 1940, regardless of liberal critique, officials successfully and cynically asserted the fiction that 'institutions of Native customary law' provided for 'widows and children' and that state assistance would damage the tribal social structure. Internal discussions among officials of the Native Affairs and Social Welfare departments explicitly articulated their actual reason: indigence among black South African families was so extensive that the country could not afford an inclusive policy of child grant allocation. For the next 20 years, in the last years of segregation and for the first decade of apartheid rule, a limited project of social assistance to urban-based African families would involve, among others, volunteers from child-welfare societies, the first generation of formally trained black social workers, and magistrates.<sup>88</sup> Posel considered the 'boundaries within which' the wartime moment of more inclusive social welfare policy was constituted. She suggested that 'the apartheid option was in some respects a rupture with the social-welfarist thinking that came to dominate the political agenda during the late 1930s and early 1940s', even as 'the enactment of apartheid, and the refashioning of the state which underpinned it, also drew directly on a welfarist logic of regulation – even if for different political and ideological ends'.<sup>89</sup> At the start of the 'liberal moment' of the 1940s, however, its 'field of possibilities' was crucially limited by senior officials in the departments of Native Affairs and Social Welfare, supported by the wartime cabinet. In 1944, the same government would expand provision of old-age grants to include Africans and Indians, albeit with a racially tiered payment structure. State intervention in family relationships and welfarist support for family economies, however, was calibrated to deny 'tribal' Africans any status as civil subjects. A few years before the advent of apartheid, imperatives of racial segregation trumped the liberal ideal that all South African children were bearers of undifferentiated rights and should thus have equal access to the system of child-maintenance grants.

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87 Posel, 'The Case for a Welfare State', p. 66.

88 The Ventersburg file is archived next to some 1,200 case files of children categorised as 'native' by the state and who received child-maintenance grants.

89 Posel, 'The Case for a Welfare State', p. 64.