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**Not quite white? Not quite black? Not quite South African?
Constructions of race, nation and immigration in South Africa**

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This paper will examine the development of immigration policy, legislation and practice from 1913 to 1939. It will explore how constructions of race have informed official discourses around immigration as well as their manifestation in legislation and practice.

Immigration legislation is a tool used by governments of nation states to control who will be allowed to become new members of the nation. While immigrants can be seen as potential builders of the nation; they can also be seen as potential contaminators, particularly of the blood of the nation. Examining who is considered to taint the nation, the undesirables or the unwanted will be used to uncover the intersections between official ideas about race, nation and blood and the ways that they are manifested practices of control. The category of discourse and the use of discourse as an analytical tool is not unproblematic. The paper will both identify and pay attention to some of the gaps in the ways that discourse has been used to uncover processes of power and control.

The paper will first clarify the way that the term discourse will be used here. It will then examine the period between 1913 and 1924 when initial attempts were made by the Union to exclude undesirable immigrants. Third, the debates leading to the implementation of the Immigration Quota Act of 1930 will be explored. Finally, the paper will examine the discussions behind the enactment of the 1937 Aliens Act.²

There are essentially three basic categories or types of immigration to South Africa, white, contract and clandestine. The legislation discussed here was largely directed at controlling white immigration. The paper will, therefore, focus on attempts to control the entry of white immigrants, and in particular, Jewish immigrants. Non-white immigration to South Africa has a distinct history. It was largely controlled by separate legislation or bi-lateral agreements or circumvented legal controls altogether. Because of the unique histories underlying non-white immigration, it will not be discussed here.

Others have looked at immigration in this period. Bradlow

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² Immigration Quota Act (Act No. 8 of 1930). Aliens Act, 1937 (Act No. 1 of 1937).

(1978) presents a detailed but uncritical historical account in her thesis "Immigration to the Union 1910-1948: Policies and Attitudes". Government records from 1924 onwards were closed at the time she was writing limiting her access to the debates that took place around the introduction of the 1930 and 1937 Acts. Shain (1994) in the Roots of Antisemitism in South Africa provides a background to this paper. His analysis focuses on the creation of popular images of Jews in the print media, novels and plays. He establishes how antisemitism was woven through South African (white) culture from the early years of settlement at the beginning of the nineteenth century. He does not address to any great extent how the antisemitism of white society was expressed within the state. So, it is hoped that although this ground has been visited before this paper will present new insights as well as original material.

The paper ends with an examination of the debates underlying the introduction of the 1937 Aliens Act. This Act together with the 1913 Immigrants Regulation Act has formed the basis of almost all subsequent legislation controlling the entry of aliens to South Africa.³ The draft Aliens Act released at the end of 1995 is again founded on the 1913 and 1937 Acts. This paper should therefore not be seen as an episode in history but a prelude or an introduction to discourses that are developing today as the nation state of South Africa is reconfigured.

Discourse and the practice of Power

Discourse is a word which is employed in numerous different ways with different meanings. Cousins and Hussain (1984; see also Stamp 1990) identify four general categories of use: in the analysis of language, linguistics and text; to look at how people are represented in language; to draw a theoretical distinction between knowledge and reality; and as a process and practice of power. Lowe (1990:11) further argues that "discourse designates the complex and uneven terrain composed of heterogenous textual, social and cultural practices" and that it refers "to networks of texts, documents, practices, disciplines and institutions, which together function as matrixes in the production of certain objects and forms of knowledge" (Lowe, 1990:12). It is Lowe's suitably broad definition which best describes the way that discourse is understood here.

The focus of much of this literature has been on the construction of imperial or colonial discourses and constructions of difference. A number of gaps can be identified. Analyses of colonial discourse have tended to produce universalising discourses of colonial power and control which obscure the multiple and competing discourses within them (Young, 1990; Sprinker, 1992). To assume that the interests of all participants within the colonial project are

³ Immigrants Regulation Act (Act No. 22 of 1913)

the same hides contestations for control and power (Lowe, 1991; Young, 1990; Breckenridge and van der Veer, 1993; Lele 1993). Comaroff and Comaroff (1991, 1992) in the South African context argue strongly against essentialist views of colonialism and for understanding its complexities and incongruities. The creation of monolithic official discourses not only hides conflicts within them, but also obscures the ways that they are expressed in public and in private - behind the doors of government departments.

There is also a tendency to divorce discourses from the material context or historical conditions within which they exist and which produce them (Lowe, 1990; Breckenridge and van der Veer, 1993; Lele, 1993). Furthermore, there is a need to take the discussion beyond the text to the practice of discourse. The relationship between discourse, power and discipline is often asserted, but less attention has been paid to the conjunctions and disjunctions between discourse, power and practice. Although, in southern Africa, work by Ferguson (1990), Vaughan (1991), and Jeater (1993) indicate the need to examine the connections between narrative and practice.

Studies of discourse in Southern Africa have tended (with the exception of Ferguson, 1990; and Crush, 1994a, 1994b) to focus primarily on constructions of race. They have examined the narratives of explorers, missionaries, travellers and scientists and the images that they generated of Africa and Africans.⁴ Ashforth (1990) used Commission Reports to show how constructions of Africans in official discourse persisted and changed over time. The questions asked have therefore, tended to focus on the way that (white) colonizers have constructed (black) Africans. There is not only a tendency to reproduce and perpetuate a monolithic discourse of Africa and Africans but to create a racial dichotomy. However, as this paper will demonstrate, constructions of race and difference are not just colour coded.

The paper will therefore focus on exploring conflicts and contestations in official discourses as well as their different expression in public and private; the historical conditions that shape them; the conjunctions and disjunctions between policy, legislation and practice; as well as to the construction of race.

Two other significant omissions in the use of discourse will not be addressed by this paper. Official and colonial discourses are not just shaped by material circumstances, but are also affected by the voices and practices of those they attempt to control. The discourse of immigration amongst immigrant communities will not be discussed here. I think though it is worth asserting that in many cases immigrants are in a particularly vulnerable position and therefore their voices are often quiet and conciliatory.

⁴ See Curtin, 1964; Miller, 1990, 1985; Brantlinger, 1986, 1988; Mudimbe, 1988; Driver, 1991, 1992; Comaroff and Comaroff, 1991, 1992; Vaughan, 1991; Jeater, 1993.

Discourses are also gendered, and those about immigration are no different. At times it is a silent or unspoken gendering - an assumption that the subject is a man. It is not within the scope of this paper however to address the question of gender in immigration discourse. But it should be remembered that constructions of gender remain a constant part of a largely unspoken practice in immigration policy.

1913 Immigration Regulation Act

The formation of the Union of South Africa in 1910 created a new state. It is against the background of nation building in the years 1910-1939 that the discussion here occurs. Prior to, and immediately following the establishment of the Union, immigration was controlled by each colony. In August 1913 the Immigration Regulation Act was introduced. The intention of the Act was to bring together existing legislation in a single statute. The preamble of the Act states that it was,

To consolidate and amend the laws in force in the various Provinces of the Union relating to Prohibited Immigrants, to provide for the Establishment of a Union Immigration Department, to regulate immigration into the Union or any Province thereof, and to provide for the removal therefrom of undesirable persons.

The Act therefore defines who is Prohibited or not wanted, not who is to be admitted or wanted. The significant part of the legislation for this paper is Section 4 which determined the grounds for designating a prohibited immigrant. Reasons for prohibition under Section 4 of the Act included:

- (1)(a) any person or class of persons deemed by the Minister on economic grounds or on account of standard or habits of life to be unsuited to the requirements of the Union or any Province thereof;⁵
- (b) any person who is unable, by reason of deficient education, to read and write any European language to the satisfaction of an immigration officer...and for the purpose of this paragraph Yiddish shall be regarded as an European language.⁶
- (c) any person who is likely to become a public charge, by reason of infirmity of mind or body, or because he is not in possession of his own use of

⁵ Immediately after the Act was passed, the Minister deemed all "coloured" people and Asiatics as prohibited immigrants under this section. Bradlow (1972) provides a detailed examination on the implications for Indian immigrants.

⁶ The inclusion of Yiddish as a European language is a testament to the power of the Jewish community and the lobbying capabilities of the Jewish Board of Deputies as Yiddish had been excluded in earlier drafts of this Act presented to parliament in 1911 and 1912.

sufficient means to support himself and such of his dependents as he shall bring or has brought with him into the Union.

Other grounds for prohibition included being identified as politically undesirable; being a prostitute (male or female) or living of the earnings of prostitution; having a criminal record; insanity, epilepsy, physical disablement and being "afflicted with infectious, contagious or loathesome" disease. Clauses 1 (a)-(c) were most commonly used to prevent the entry of unwanted immigrants.

The intent of Section 4(1)(a) was to exclude Indian and other non-white immigrants. Bowing to pressure from the British government the Union refrained from naming the racial groups to be excluded in the Act. Hansard of 1913 reports on the speech of the Minister of the Interior:

For his part, he admitted that if the question were not complicated he would like to call a spade a spade and say clearly and exactly those they wanted to keep out, but they recognised their imperial obligations...It was no use hiding their light under a bushel, for they all knew it was the intention of South Africa to exclude Asiatics. In regard to legislation, therefore, they would avoid as far as they could naming anyone by name or any race by name, and excluding them on that account, but they must make it clear that they deemed the European civilisation the desirable one from which to seek progress and advancement of the country.⁷

The reticence of the Union government to "call a spade a spade" in legislation while implicitly expressing intent was to persist for the next 25 years.

In official communications references tended to be made to the class rather than the race of unwanted immigrants. The Chief Immigration Officer at the Cape in a letter to the Secretary of the Interior comments,

"...the relaxation of Government requirements would very speedily be reflected in the increased bookings of that large body of poorer type immigrants to whom South Africa would afford an ample field for the display of those very qualities which render them undesirable immigrants."⁸

Shain⁹ argues that in the early years of the Union popular

⁷ Hansard, col. 2050-2051. 30/4/1913.

⁸ BNS 1/1/595 1/129, vol. 1. Chief Immigration Officer at the Cape to the Secretary of the Interior. 6/3/1913.

⁹ Shan, M. 1994. The Roots of Antisemitism in South Africa. Witwatersrand University Press: Johannesburg.

antisemitism directed at poor eastern European Jews was both mediated by and contradicted by praise and support given to the older and wealthier anglo-german Jewish community. It becomes apparent when examining official discourses that class often acted as a metaphor or synonym for unwanted racial groups, particularly eastern European Jews.

...there is little indication that there is an appreciable immigration to the country districts except on the part of certain types of foreigners who appear to be monopolising the entrepreneur class in the country districts as well as in the larger centres of population.

A steady effort has been made to check the entry into the Union of poorer classes of immigrant. Emphasis has been laid upon their physical and to a certain extent upon their mental deficiencies and disabilities.¹⁰

Evidence presented to the Black Peril Commission by the Transvaal Commissioner of the South African Police clarifies the connection between 'low type' and the "poorer classes of immigrant" and race. His evidence identifies Jewish women as dominating those prostitutes "trafficking immorally with Asiatics, coloured men and natives" and Jewish traders as the "worst offenders" in the illicit liquor trade.

It is considered by those competent to judge, that the presence in the country of the larger number of low class aliens has a distinct tendency to lessen in the natives mind, his respect for the white race. Their propensity for cheating in the course of trading together with their penchant for engaging in illicit trades has the worst possible effect upon the native.¹¹

The immigration returns for 1913-1918 appear to show that although not specifically directed at Jewish immigrants, the Act was used to control their entry to South Africa (see Table 1).¹² The onset of war exaggerated the fall in numbers of immigrants from all sources. However, the numbers counted in the category of European immigrants fell by less than 30% while the numbers of Jewish immigrants fell by approximately 50%. The establishment of exclusive racial categories in official returns reveal underlying constructions of race

¹⁰ BNS 1/1/595 1/129, vol. 1. Report of the Chief Immigration Officer at the Cape. 1912:1.

¹¹ Transvaal Archives. TP 122 CR 28/399. "Black Peril Commission." 1912.

¹² Office of Census and Statistics. 1918. Statistics of Population, Pretoria.

within the category of white in the minds of State.¹³ So although Jewish people entering the Union were undoubtedly of European origin, they are excluded from the category of European which was synonymous with white. The construction of these racial categories along with the words of the SAP Commissioner are indicate the direction that debates around race and nation would take.

1914-1924

During the war the numbers of people entering the Union dropped dramatically. As it ended there was a rapid increase in the numbers of immigrants arriving in South Africa, particularly from eastern Europe and Russia (the majority of whom were Jewish). Pogroms, the Russian Revolution and famine had precipitated the exodus. In 1921, the United States introduced a Quota Act which drastically cut the numbers of immigrants from eastern and southern Europe. Many of those denied entry to the United States may have looked to South Africa, and certainly fears grew in official circles that the Union faced an influx of rejects from the United States (see Table 2).¹⁴ In 1922 the Rand Rebellion raised the spectre of Bolshevism, reinforced by the recent events in Russia.

No legislation was enacted during this period, but attempts were made to prevent the entry of eastern European and Russian Jews. The change in policy was not announced or discussed in public or Parliament and the first public notice of changes in practice came approximately two years after restrictions had been tightened. The legislation on the statute books remained an ostensibly non-racial tool. Bradlow (1978:204) says that in early 1922 the Government instructed immigration officers to use Section 4(1)(a) to restrict immigration from eastern Europe. Departmental records show, however, that eastern Europeans and Russians, and more specifically Jews were being denied entry from as early as 1920. In July 1920, a confidential letter from the Secretary to the Under Secretary of the Interior reads,

It is advisable that I should place on record the procedure to be adopted in regard to applications which we receive from Jews in the Union of South Africa for the return of their families to the Union...These special cases [family members entering the Union for the first time] should of course, be very sparingly dealt with as the Ministerial policy

¹³ Anderson (1995) demonstrates how the creation of, and changes in categories in census documents are not neutral, but reveal much about constructions of race and identity.

¹⁴ Bradlow, 1978; BNS 1/1/380 200/74, vol. 1. Secretary for the Interior to Principle Immigration Officers, 25/2/1921.

is against any migration of fresh Jews from Russia.¹⁵

In February 1921 a letter from the Secretary for the Interior issued instructions to be "be conveyed confidentially." Saying that the Regulations of the 1913 Act must be "rigidly enforced" in the cases "of Polish and Russian Jews...", and that they "must concentrate" on "the monetary qualification, the language test and the medical test", i.e. Sections 4(1)(a)-(c) of the Immigrants Regulation Act.¹⁶

Public instructions and notices announcing the use of Section 4(1)(a) in 1922 speak more generally of excluding people from Eastern Europe.¹⁷ A Notice from the Minister of the Interior issued in April 1922 outlines the (public) grounds for prohibition and was the first public acknowledgement of the change in policy.

- (1) on economic grounds, persons who have come from or been in communication with countries in Eastern Europe the governments whereof have...adopted the principles and practices of communism...
- (2) on account of their standards or habits of life, persons who, have since the commencement of 1918 been domiciled in countries of Eastern Europe wherein famine conditions and formidable epidemics resulting therefrom have been or are for the time being, prevalent.¹⁸

The spectre of Bolshevism was used as a public reason for exclusion but in a private letter the then Minister of the Interior, Patrick Duncan, wrote,

It amused me to get your advice about keeping out Peruvians [a colloquial term for eastern European Jews]...I have been putting in force a clause in the Immigration Act which enables the Minister to bar anyone whom he deems unsuitable...The victims are of course all Jews...I am very doubtful if much can really be done to stop the stream...but they are really coming in much faster than we can assimilate them and the present Bolshevik scare which is nothing but a scare - gives a good opportunity for

¹⁵ BNS 111/380 200/74, vol. 1. Secretary to the Under Secretary of the Interior. 30/7/1920.

¹⁶ BNS 111/380 200/74, vol. 1. Secretary of the Interior to Principal Immigration Officers. 25/2/1921.

¹⁷ BNS 1/1/382 200/74A vol. 1, Office of the High Commissioner, London, 16/5/1921; BNS 1/1/382 200/74A vol. 2, Under Secretary to Principle Immigration Officers.

¹⁸ BNS 1/1/382 200/74A, vol. 2. Ministerial Notice. 4/1922.

trying a little restriction.¹⁹

The gaps between public policy and practice and public and private discourses are also revealed in other communications. In a memo dated December 11, 1922, to be distributed to all Passport Control Officers and Consuls, the Secretary of the Interior wrote,

It is the desire of the Union Government to restrict the immigration into South Africa of the Russian Jew element...visas for the Union of South Africa should not be granted to natives of Poland, Lithuania, Latvia, Esthonia, Soviet Russia and the Ukraine... These instructions should be regarded as being strictly confidential, as it is not desired that applicants should be informed of the reason why the visa has been refused.²⁰

The following day Duncan wrote to Jewish Board of Deputies,

I cannot, however, accept the suggestion that its application [Section 4(1)(a)] to Europeans constitutes any stigma on any particular race or class or individual to whom it may be applied...and I most strongly resent the imputation that it is specially applied to immigrants of Jewish race...The restrictions are applied indifferently and without discrimination to Jewish and non-Jewish immigrants.²¹

It is evident from these exchanges that economic crisis and industrial unrest affected the shaping of policy, and official discourses around immigration. However, it is also apparent that underlying the public explanations lay a racialised anti-semitic discourse. Even if it was one still framed largely in terms of class and appearance.

Immigrants were not just seen to be lowering the tone of the white nation, but as potential contaminators. The Ministerial Notice cited above reveals another strand of official discourses around immigration in this period as officials start to see Jewish immigrants as carriers of "loathesome and contagious disease" and as weak physical specimens. Emphasis was placed on prohibiting immigrants on medical grounds. The Secretary for Public Health gave instructions that,

The requirements of the Immigration Acts and

¹⁹ P. Duncan to Lady Selborne, 4/1922. Quoted in Bradlow, 1978:204.

²⁰ BNS 1/1/380 200/74 vol. 4. Secretary of the Interior. 11/12/1922.

²¹ BNS 1/1/380 200/74 vol. 4. Duncan to Jewish Board of Deputies. 12/12/1922.

Regulations, especially as regards immigrants from Russia, Poland and Eastern Europe, should be more stringently enforced in future....Medical examination of all such persons should be as thorough as circumstances permit, so as to ensure the detection of any of the diseases or defects mentioned or referred to in Section 4(g) and (h) of Act 22 of 1913.²²

Records of the Port Health Authorities in the Department of Health files show that Port Health Officials paid particular attention to ships carrying eastern European immigrants. For the most part, however, fears of contamination of the white population by diseased immigrants were largely centred on non-white immigrants.²³ It is undoubtedly true that many eastern European immigrants arrived in poor physical condition, but it is significant that they become publicly identified as people who have the potential to weaken the physical stock of the nation as well as carry disease to the white population.

Citing immigration returns for the period, Bradlow asserts that Section 4(1)(a) was not strictly applied against Jewish immigrants (see Table 2). However, departmental correspondence shows that despite the desire to restrict the entry of new Jewish immigrants the state was not preventing the reunification of families. The Principle Immigration Officer of Cape Town informed the Department in 1923 that 576 Jews arrived in Cape Town between April and December 1922,

It is impossible to state definitely the number who are coming out to relatives in the Country but it can safely be taken for granted, that the majority, if not all, have relations of some kind in the Union.²⁴

The Jewish (or Hebrew) racial category was dropped from the migration returns of the Office of Census and Statistics in 1916. However, separate records were still kept for Jewish immigrants and particular attention was paid to the country of birth of new arrivals in the Union. The High Commissioner in London wrote in 1922 of Russian and eastern European immigrants "statistics with you will, I think, confirm my

²² BNS 111/380 200/74, vol. 1. Secretary for Public Health to Port Health Officer, Cape Town. 17/3/1921.

²³ See GES 1513-1514. There is also a large file of correspondence in the records of the Department of the Interior relating to the identification of six cases of trachoma in Russian Jews in Johannesburg. It was later discovered (by asking the patients) that all were long term residents and had almost certainly contracted the disease in South Africa (BNS 1/1/380 200/74, vol. 4)

²⁴ BNS 1/1/380 200/74 vol. 4. Principle Immigration Officer, Cape Town to Secretary for the Interior. 1923.

advices that the immigrants are almost invariably Jews."²⁵

The falling away of Jewish as a racial category during this period in published statistics reflects a public official discourse which tended to conflate nationality and race. Private official discourse oriented on race rather than national identity and was expressed in practices of control. This period highlights the need to pay attention to disjunctures and conjunctions between public and private official discourse, as well as between public discourses around immigration and its practice.

1924-1930. The Quota Act

Just prior to the elections of 1924 and no doubt anxious not to lose votes from the Jewish community, the government suspended the use of Section 4(1)(a) to control European immigration. The press notice announcing the decision said,

The danger which existed at that time that there would be a great influx of immigrants from Eastern Europe seems for the present to have passed owing to improvements in economic conditions there.
30/4/1924.²⁶

D.F. Malan, the new Minister of the Interior of the Pact Government that assumed power in 1924 assured Morris Alexander that the government would not use Section 4(1)(a) against Europeans and "that in using the other provisions of the Act for the purpose of keeping out undesirables no discrimination will be made against any particular European race or nationality."²⁷

Between 1924-1930 South Africa was affected by an evolving recession in the industrialised world. Changes in the agricultural industry were pushing "poor whites" into urban centres where they were competing with immigrants. And, as both Shain (1994) and Bradlow (1978) observe, South Africa was not immune to the growth of antisemitism and nationalism in Europe. Internally, the Herzog government was consolidating the position of white South Africans and efforts were made to increase the autonomy and independence of South Africa from the imperial centre.

In 1924 the United States passed a second and more restrictive Quota Act and in 1925 Australia enacted similar legislation. Both these Acts were based on maintaining the racial balance of the countries concerned. Quotas were established on the

²⁵ BNS 1/1/382 200/74A, vol.2. High Commissioner, London. 24/5/1922.

²⁶ BNS 1/1/381 200/74 vol. 6. Press Notice. 30/4/1924.

²⁷ BNS 1/1/381 200/74 vol. 6. Dr. D.F. Malan to Morris Alexander. 10/7/1924.

basis of the national origin of citizens at the turn of the century. In South Africa, fears of an influx of rejected immigrants grew.

It is abundantly clear from recent Union statistics that the flow of immigrants from Southern and Eastern Europe is growing and it is practically certain that this increase is due to the prohibition now placed on the entry of such people into the United States.²⁸

These fears were to a certain extent realised as the numbers of Lithuanians entering the Union increased during the late 1920's (see Table 3).

Against this background a new racialised discourse around immigration was developing. Attempts by the previous government to control immigration had increasingly constructed Jewish identity in national terms. This shift persisted throughout the 1920's. Notwithstanding this, public official discourses, reflecting industrial unrest and economic crisis increasingly emphasised the burden that immigrants placed on the economy. A departmental memorandum on Jewish immigration comments,

With a steady inflow of this type of immigrant the unemployment question is seriously affected, as these immigrants are content to live and work at a much lower standard than that of the average decent South African.²⁹

Concerns that immigrants, particularly Jews, were undercutting the wages of South African workers and taking employment may well have had some basis in fact although there is also evidence that, at least Jewish immigrants, by establishing themselves in trade were providing employment rather than taking it. The question of economic competition does, however, form a fairly constant theme in official documents and in parliamentary debates.

More importantly, official discourses were increasingly dominated by a discourse which constructed Jews as different from the original national stock of white South Africa.³⁰ It

²⁸ BNS 1/1/684 1/60A. "Immigration by Quota", internal document. 10/9/1925.

²⁹ BNS 1/1/382 200/74K, vol 12. Memorandum. 10/1929.

³⁰ Although Jewish immigrants were viewed as newly arrived outsiders, they were among some of the earliest settlers in South Africa. They formed part of the body of the 1820 Settlers (Shain, 1994: 9). Jewish people were among the founding inhabitants of Springbok and the town of Rosh Pinah in southern Namibia also indicates that Jewish people were a part of the 'original stock' of South Africa. The census of 1911 records almost 50,000 Jewish people in the Union, the majority of whom

identified Jewish people as potential contaminators of the white population and therefore a threat to the future of the nation. This fear was bolstered by growing emigration of South African, mainly of British origin. An internal document produced by the Department of the Interior in 1926 titled "Immigration of Hebrews into South Africa" is worth quoting at length, as it articulates the increasing clarification of the relationship between constructions of race and nation in official discourses.

During the year 1924 the number of bona fide European immigrants was 5,265 while the number of persons relinquishing domicile was 5,857...The loss of South African citizens indicated above is in itself an unsatisfactory feature of the migration figures, but an investigation into the racial origin of the immigrants shows that the position is even worse than at first sight appears. The Jewish community therefore increased by 721 in the course of the year, whereas the other sections of the population decreased by 1,313...

The fact that one person in every four who has entered the Union this year is a Hebrew, generally of a low type, is a matter which requires some attention from the Government...According to the results of the 1921 Census one person in every seven in Johannesburg was a Hebrew...

Jews are only in rare instances producers and the present unrestricted immigration from eastern and south-eastern Europe will in the long run bring about a considerable increase in the section of the population which has been responsible for a large part of the recent commercial depression.

The European population of the Union is small and every possible endeavour should be made to strengthen it and to ensure the quality of any additions to it in order to preserve its position in relation to the hordes of native and coloured inhabitants. The existing conditions under which...the better class of the European section is being depleted, cannot be allowed to continue indefinitely without seriously affecting the standing of the European population as a whole.³¹

Another internal document written in on controlling immigration by quota notes that "During this period [1924-1928] the actual gain of population of the main white racial stocks of the Union was approximately 800."³²

had entered between 1880 and 1910 (Bradlow, 1978: 77)

³¹ BNS 1/1/684 1/60A. "Immigration of Hebrews into South Africa". 1926.

³² BNS 1/1/382 200/74K, vol.12. 1929. "Immigration by Quota". Although this document refers to eastern European and Russian immigrants it notes that between 1924-1928, 94.3% of

The question of preserving the original racial stocks of South Africa is reflected in debates on immigration in Hansard and even more so in the debates around the introduction of the Quota Act. The question of how the quotas would be determined involved some discussion, but was curtailed by pressure to get legislation on the statute book. The document on immigration by quota showed that if the American system was used it would limit the numbers of northern European immigrants (those of "Nordic stock") while allowing almost 600 Russians to enter the country every year.³³ The government therefore established a two tier system which allowed unlimited entry to people born in Scheduled countries, which were,

Territories comprised within the British Commonwealth of Nations. Austria, Belgium, Denmark, France, Germany, Holland, Italy, Norway, Portugal, Spain, Sweden, Switzerland, United States of America³⁴

All unscheduled countries were given a quota of 50 immigrants a year. A further 1 000 places were to be allotted by the newly formed Immigrants Selection Board which would be guided by considerations of family reunification, employment and capital.

The introduction of the Quota Act by Malan, the Minister of the Interior shows the unity between both public and private official discourses of race and nation as well as their practice during the late 1920's.

The problem of which I have spoken arises from three different outstanding facts...The first fact is that the immigration from alien countries, more particularly from countries in eastern Europe is increasing in volume year by year...The second fact...is that while the stream of immigrants from eastern Europe is increasing in volume, there is another stream, not of immigration into, but emigration from, our country. That stream of emigration...comprises the descendants of the original stocks from which the South African nation was drawn...The third fact is...new arrivals belong to a class with occupations which are not required in this country in view of the economic conditions obtaining here.

He says that the Quota Bill is based on three principles. The first..is the desire of every nation in the world to maintain its development on the basis of its original composition...The second principle...is of unassimilability...Every nation considers from

Latvian immigrants, 99.8% of Lithuanians, 93.3% of Poles and 89.4% were Jewish.

³³ BNS 1/1/382 200/74K, vol.12. 1929. Internal document.

³⁴ Immigration Quota Act (No. 8 of 1930).

all points of view that it is a weakness, if in the body of the nation there exists an undigested and unabsorbed and unabsorbable minority, because that always leads to all sorts of difficulties...The third fundamental principle is what I would call the desire of every nation to maintain its own particular type of civilization...and I think everyone will admit that the civilization of eastern Europe is, to a very large extent, a different one from the civilisation of western Europe.³⁵

The period of 1924-1930 clarifies the construction of Jews as a racial group distinct from the rest of the white population. Jews may have been classified as white, but they certainly were not considered to be white like the original stocks of South Africa. So despite anxieties about the numbers of whites that were emigrating eastern Europeans would only contaminate the nation. The effect of the Quota Act was dramatic. Table 3 shows the rapid fall in Jewish immigration from eastern Europe following its introduction.

1930-1937 The Aliens Act

Although the Quota Act was successful in slashing the numbers of eastern European Jewish immigrants the government had not foreseen how almost immediately their attempts to maintain the balance of the "original racial stocks" of the Union would be challenged. The introduction of the 1930 Act came at a time of economic turmoil in South Africa. It followed the Wall Street crash in 1929 and was in part due to Herzog's insistence on retaining the gold standard. Although the economy recovered quickly after the currency was devalued at the end of 1932, this crisis formed a back drop to political changes in South Africa. The South Africa Party and the National Party formed a coalition Government in 1933, and in 1934 joined forces as the United Party. Unhappy with this realignment, D.F. Malan formed the Purified Nationalist Party. South Africa was not immune to political changes outside its borders. The growth of fascism in Europe during the 1930's was reflected in South Africa. A relatively strong Grey Shirt movement grew which developed close ties to the Purified Nationalist Party.

The rise of fascism in Germany and the growing persecution of German Jews presented a new conundrum for the newly formed United Party as the numbers of emigres seeking refuge in South Africa grew. At the same time the government was facing increasingly vocal opposition from Malan and those sympathetic to Germany and fascism. The government had to find a way to limit immigration from Germany without excluding those Germans who were perceived to be related to the original racial stock of the Union. The debate that took place reveals the gaps that can arise between policy and practice as well as how official

³⁵ Hansard, col. 567-8. 10/2/1930.

discourses are contested.³⁶

The debate was initiated by Eric Louw, the Head of the Legation in Paris. He wrote to the Heads of Legations in Europe and the High Commissioner in London expressing concern over the numbers of German Jews applying to emigrate to South Africa and outlining possible strategies to discourage and deny visas to these applicants. He was seeking approval for his proposals and soliciting his colleagues for new ideas to prevent the emigration of German Jews. He suggested that the Heads of Legations in Europe collaborate to ensure a unified practice of exclusion.³⁷

The response of te Water, the High Commissioner in London indicates the discrepancies between official public discourse represented in legislation and practice. He agrees with Louw that "steps should be taken to limit immigration" of German Jews. He points out that if the Legations and his office adopt Louw's suggestions difficulties would arise where British Consuls acting for the Union gave official advice. He feared that it would lead to accusations of antisemitism among rejected immigrants. The issue for te Water then, was not the legitimacy of sidestepping official regulations, but one of discovery and confrontation. He makes it clear that the practice of his office undermines the statutes which they are administering,

The laws governing the entry of persons into the Union do not take into consideration the question of nationality or creed...Mindful of the fact that there appears to be a considerable number of German Jews attempting to immigrate to the Union, the opportunity is taken to emphasize the fact that the Union is not without an unemployment problem, and that there is more than a sufficient number of people to meet demands...With regard to professional men...if a German doctor or lawyer enquires regarding the outlook in either of these professions he is informed that there is no shortage and it is suggested (in certain cases) that they should write to the Secretary of the South African Medical Council to ascertain what the position is because that body is not likely to be encouraging...

In the absence of any instructions relating to German Jews, I cannot do otherwise than answer questions according to facts but on the other hand,

³⁶ The issue of German Jewish immigration is first raised in Departmental records 1933. Representations were made to the Immigrants Selection Board through the Secretary of the Interior by the Jewish Board of Deputies to treat sympathetically applications from non-German born Jews holding German nationality. (BNS 1/1/686 4/160A)

³⁷ BLO 321 PS/17/49. Eric Louw, Paris to C.T. te Water, London. 29/10/1936.

I offer no gratuitous advice or encouragement.³⁸

Responses to Louw's memorandum indicate agreement amongst the Ministers that ways should be found to stop German Jewish immigration to South Africa. Louw provided a summary of the responses to those concerned which included a suggestion that a single Quota should be established for Jewish immigrants. He also suggested that a memorandum be drafted to the Prime Ministers Office outlining their concerns and recommending that legislation be introduced.³⁹ Attached to Louw's letter to te Water is a small note, presumably written by Louw (and if not him, te Water) expressing far more succinctly the position and practice of these Ministers than their detailed correspondence.

In my behandling van aplikasies van Jode emigrante, is v persoonlik geneig om in ag te neem volgende Engelse gesegdes:

1. There are more ways of killing a cat than drowning it.
2. The end justifies the means.
3. An Ambassador is sent to lie abroad for the good of his country.⁴⁰

The memorandum drafted by Dr. S.F.N. Gie, the Head of the Legation in Berlin and it was supported by all the European Ministers. The final draft of Gie's Memorandum to the Prime Minister starts by outlining the potential threat that Jewish Refugees pose for the Union. The memo argues,

...without deserving to be accused of racial prejudice one is entitled, nay, impelled to ask, whether a further and enhanced influx of this type of immigrant should be contemplated with equanimity in South Africa. It is not a question of race but of type and the type in question does not inspire confidence. Can South Africa without detriment and even danger to its national interests continue to allow its commerce and related vocations to be fed by recruits of this type from overseas?...The importance that will be attached to this consideration may depend on fundamentally divergent views regarding the future racial, social and economic structure of White South Africa...⁴¹

Despite the assertion that it is a "question of type" and not

³⁸ BLO 321 PS/17/49. te Water to Louw. 29/10/1935.

³⁹ BLO 321 PS/17/49. A. Heymans, Rome to Louw, 5/11/1935; te Water to Louw, 12/11/1935; Dr. S.F.N. Gie, Berlin to Louw, 16/11/1935. Louw to te Water, 20/11/1935.

⁴⁰ BLO 321 PS/17/49. Louw to te Water, 20/11/1935.

⁴¹ BLO 321 PS/17/49. Memorandum to the Prime Ministers Office.

race, the intent of the Ministers is stated clearly by te Water. At the same time he shows an awareness of the conflicts in official discourses around the immigration of German Jews and which would be generated by their memorandum to the Prime Ministers Office.

Our intention is directly aimed at meeting the problem of the Jewish emigre (indirectly it has a much wider import), and for that reason it will be undoubtedly a matter of great difficulty for the present Government to tackle. I do not have to explain to you the political difficulties which will be encountered...or remind you of the fact that we have two Ministers in the present Cabinet who are both known to be opposed to legislation of this character.⁴²

The development of the Minister's Memorandum illustrates the gaps that can exist between official policy and practice. The debate that it engendered illustrates the contestations that can occur in the creation of official discourse.

The state responded by forming a committee (without the knowledge of the Minister of the Interior, Hofmeyr) of senior (unelected) officials including the Secretaries for the Departments of External Affairs, Justice, Interior; the Commissioner for Immigration and Asiatic Affairs and the legal advisers of the Departments of Justice and External Affairs. They in turn produced a memorandum supporting the Ministers Memorandum. Their memorandum noted that the views expressed were not to be taken as those of the Department of the Interior, perhaps in deference to the Minister. They identify what they perceive to be the main problem and provide recommendations.

Now the main difficulties which are being experienced in regard to our immigration policy is, that aliens are being admitted into the union who ...come here to reinforce the ranks of sections of our Community which have decided to stand apart in our actual life, and rigidly to maintain their separateness, and furthermore, hold, and live up to, the view that it is quite legitimate to subordinate the interests of the Union to those of the group to which they belong (German Nazis in South West Africa and Jews in the Union).⁴³

The Committee recommended that Section 4(1)(a) should be used to ensure that only those "of good health and character...and likely to become readily assimilated with the inhabitants of the Union and to become desirable citizens..." should be

⁴² BLO 321 PS/17/49. te Water to Louw, 17/1/1936.

⁴³ Hofmeyr Al/Dh, file 1. Memorandum, 1936.

admitted.⁴⁴ Hofmeyr responded angrily to both memorandums,

To sum up I am driven to the conclusion that the Committee is not really serious in its proposals as far as the exclusion of German Nazis or Communists is concerned. What it is concerned about is the exclusion of Jews. The essence of the Committees proposals is really the exclusion of Jews from the Union on the ground of unassimilability, and it is for this purpose that it is proposed to make full use of Section 4(1)(a)...There are mentioned among the evidences of unassimilability diepgaande verskil in godsdiensstige opvattinge" and "prinsipioele verset teen huwelike met ander persone as lede van sy eie groep". It would be interesting to know whether on these grounds Roman Catholics as well as Jews should be regarded as unassimilable.⁴⁵

He declared that if it were not for these reasons, as Minister, he would still find it unacceptable to use Section 4(1)(a) as it was not the intent of the clause when the law was originally tabled. He also expressed his anger at being excluded from the discussion, "That a Committee of officials should propose to sidetrack a Minister in this way is inexplicable."⁴⁶ The legal advisor to the Department of External Affairs responded to Hofmeyr saying that the Ministers Memorandum,

Is a document of such vital importance and so clearly directs attention to a problem which...threatens to strike the Union of South Africa at its core...I can only conclude that the Minister has not perused the memorandum drawn up by the Union Ministers abroad. That is the only explanation which presents itself to my mind of a wanton and uncalled for imputation on the integrity and bona fides of a Committee of responsible and senior officials.⁴⁷

Hofmeyr and the Commissioner of Immigration and Asiatic Affairs became increasingly isolated. Hofmeyr was removed as the Minister of the Interior in late 1936 - just prior to the introduction of the Aliens Act.

The debate around the exclusion of German Jewish refugees illustrates the conflicts that can lie behind official discourses and the disjunctures between both public and

⁴⁴ *ibid.*

⁴⁵ Hofmeyr A1/Dh, file 1. Memorandum. 8/1936.

⁴⁶ *ibid.*

⁴⁷ Hofmeyr A1/Dh, file 1. A. Broeksma, legal advisor, Department of External Affairs to Prime Ministers Office. 15/8/1936.

private discourses and public discourse and practice. The debate also cuts through attempts to obfuscate antisemitism in immigration policy and practice. Exclusion on national grounds was no longer possible as non-Jewish German immigrants were still seen as desirable additions to the national stock. Prohibition on the grounds of class, type or economic grounds could no longer apply as many applicants were professionals.

...our main problem at present is to prevent the entry of immigrants...one of our main preoccupations is the large number of German Jews who are emigrating to the Union. Very few of them intend engaging in manual or other labour...Most of them will engage in trade, and many are professional men...⁴⁸

The issue was not just one of the problem of excluding people who qualified for entry on economic grounds but also one of competition.

I feel as a matter of general policy steps should be taken without delay to stop the influx of a certain class of immigrants into the Union if the Government wish to protect the future generation from undue and undesired competition especially in the professional field and trade.⁴⁹

Although maintaining the balance of the racial stock of white South Africa was still an issue, the German origin of these new Jewish immigrants meant that the debate became framed instead around the distinctiveness of the Jewish community and their ability (and unwillingness) to assimilate with white South Africa. Broeksma, the legal advisor to the Department of Justice wrote in his response to Hofmeyr that although in his legal opinion the assimilability of Jewish people would depend on legal advice,

It is my personal view...that it is almost obvious that, generally speaking and judging by the characteristics mentioned in our opinion, the Jews are unassimilable...Surely the question of assimilability is intimately related to the realities of numbers. If unchecked invasion by Jews of Germany and elsewhere is further permitted, the problem which is bound to present itself is not the question of their probable assimilability with us but of our probable assimilability with them!⁵⁰

It was using the issue of assimilability that the state found a way to exclude German Jews. They formalised it in Section 4

⁴⁸ BLO 321 PS/17/49. Louw to Gie, 1/4/1936.

⁴⁹ BLO 321 PS/17/49, A.Heymans to Gie, 17/1/1936.

⁵⁰ Hofmeyr Al/Dh, file 1. Broeksma to Prime Ministers Office, 15/8/1936.

(3) (b) of the 1937 Aliens Act (Act No. 1 of 1937).⁵¹ The Act established a Selection Board (appointed by the Governor General) which was to select alien applicants. Permits were to be issued only to those who met the conditions of Section 4(3), which reads,

- (a) is of good character; and
- (b) is likely to become readily assimilated with the European inhabitants of the Union and to become a desirable inhabitant of the Union within a reasonable period after his entry into the Union; and
- (c) is not likely to be harmful to the welfare of the Union; and
- (d) does not and is not likely to pursue an occupation which, in the opinion of the board, a sufficient number of persons is already engaged in the Union to meet the requirements of the Union; or
- (e) is the wife, or a child under twenty-one years of age, or a destitute or aged parent or grand-parent of a person permanently and lawfully resident in the Union who is able and undertakes to maintain him or her. (Section 4(3) Aliens Act 1937).

The Act was supported by the Jewish Board of Deputies on the grounds that it did not specifically exclude Jews.⁵² The Union Government, despite their discussions behind departmental doors, presented the Act as one protecting the white nation of South Africa from all unassimilable aliens - be they Jews, Communists, Nazi Germans or Madeiran agricultural labourers. Introducing the Bill, the Minister for the Interior laid emphasis on the quality not the quantity of immigrants to be admitted.

While we allow the best characteristics of other peoples to be woven into our national lives, we will prevent aliens entering this land in such quantities as would alter the texture of our civilisation. We intend to determine ourselves what the composition of our people shall be.⁵³

⁵¹ The tabling of the Act at the beginning of the session was precipitated by a motion put forward by Malan which specifically stipulated that Jewish immigrants should be excluded from the Union.

⁵² Bradlow (1978) argues that despite its intentions the Act was a non-racial as it did not exclude by name any racial group.

⁵³ Hansard, col. 104. 13/1/1937. In 1935 Duncan, no longer active in Government, in a letter to Lady Selborne wrote, "I am not anti-semitic, I have many Jewish friends whom I like and admire. But something in me revolts against our country being peopled by the squat-bodied, furtive eyed, loud voiced race...In a big population they would be negligible. But we have too many of them." (Bradlow, 1978:204).

Hofmeyr asserted that "...this Bill is not directed against any particular race, but against all undesirables who do not comply with the conditions which are laid down under this Bill."⁵⁴ Other members of the government, publicly acknowledged that the Act would restrict the entry of German Jews, maintaining that this was to protect the existing Jewish Community in South Africa from rising antisemitism. The Prime Minister entered the debate,

I want immediately to associate myself with those who deny this Bill is an anti-Jewish Bill. What ...was the principle reason for the introduction of the Bill? There were two reasons...The one is the influx of Jews into South Africa coupled with an increasing bitterness against the Jews in this country, chiefly as a result of that influx. The other reason is the warning that the Government have received from their Ministers abroad, that South Africa...runs the danger of being flooded by undesirable elements of all kinds.

The reason for the Bill which is now on the Table of the House; it is calculated inter alia also to curtail Jewish immigration into South Africa according to the requirements and interests of South Africa and of our South African population, both of Jews and non-Jews.⁵⁵

The Bill was used almost immediately to deny applications for permanent residence from German Jewish applicants. The Immigrants Selection Board let it be known in March 1937 that they had rejected almost all applications from German refugees. In the two months after the Act was promulgated they denied permanent residence to over 2,000 applicants already living in South Africa. Almost all of those who were rejected were German Jews.⁵⁶ Immigration returns (see Table 4) confirm the effectiveness of the Aliens Act.

The introduction of the Aliens Act demonstrates that official discourses are not unified and while a dominant strand may emerge it may also have be contested. It also shows that whatever the public face of official immigration policy both the private discourses and its practice may be substantially different.

Conclusion

The development of immigration legislation between 1913 and 1937 illustrates the connections between constructions of race, nation and immigration policy. The evolution of South

⁵⁴ Hansard, col. 154. 12/1/1937.

⁵⁵ Hansard, col.262-3. 18/1/1936.

⁵⁶ Evening Standard, 31/3/1937; News Chronicle, 1/4/1937; BLO 321 PS/17/49.

Africa's immigration legislation demonstrates the importance of constructions of race and difference to the development of discourses, policy and practice. The establishing of Jewish people as a separate racial category not only falls outside the usual South African racial discourse of black and white, but illustrates that contestations within the category of white had very real consequences.

These documents reveal the disjunctures that existed between the public and private faces of official discourses. They also uncover the gaps that may evolve between official discourses, official policy and unofficial practice. It is also possible to see how these gaps and disjunctures are part of their historical context, that the broad patterns of transformation are reflected in and reflect material conditions. Nor therefore, are they static, but shift and change over time.

The conjunction of race and nation and immigration policy between 1913 and 1937 was not just an episode in South Africa's history. Constructions of race and nation, although reconfigured, remain a part of official discourses and practice around immigration in the post-war period. Between 1946-1948 the government instituted an immigration drive aimed at recruiting British immigrants. When the Nationalist government came to power (after accusing the United Party of trying to bolster its electoral base through immigration), they attempted to recruit new citizens from the Netherlands and Germany. Post-war conditions in Europe meant their campaign was unsuccessful. Pressure grew to increase white immigration to counter the rate of emigration and population increases among the black population (an anxiety that persisted into the 1990's). It was almost certainly not a historical accident that the Nationalist Party started an immigration drive in Britain in 1962. South Africa was again reformulating itself as a nation state, this time as a Republic.⁵⁷

Immigration is currently regulated under the terms of the Aliens Control Act, 1991 whose roots are found in the immigration Acts of 1913 and 1937. So too is the draft Aliens Act of 1995. It is worth questioning whether it is appropriate for the new "multi-racial" rainbow nation of South Africa to promulgate legislation based on an Act which had a specific racial intent. Echoes of the debates around race and nation and immigration can also be heard today in both popular and official discourses around immigration. These raise the question as to whether African immigrants may find themselves not quite black like South Africans.

⁵⁷ Sources for this paragraph include Brownell (1977); Central Archives, Accessions A326, vols 1-10; Brownell, private papers.

The tables below show the nationality of new arrivals or those intending permanent residence, and where recorded, the number of new Jewish arrivals.⁵⁸

TABLE 1 - 1913-1918

	1913	1914	1915	1916	1917	1918
British	9885	6443	4029	2671	1467	3280
German	725	411	13	--	--	11
Dutch	225	117	48	100	26	64
Russian	1737	815	176	96	29	23
Jewish	1084	872	193	122	--	13

TABLE 2 - 1919-1925

	1919	1920	1921 ⁵⁹	1922	1923	1924	1925
British	4627	10459	9189	5852	5185	3724	3400
German	1	121	--	183	205	346	308
Dutch	28	321	--	115	155	187	189
Lithuanian	--	--	--	516	186	336	625
Russian	19	364	--	143	80	80	126
E. European	--	--	--	237	71	114	194
Jewish	105	510	--	904	400	773	1353

TABLE 3 - 1926-1931

	1926	1927 ⁶⁰	1928	1929	1930	1931
British	4094	3681	3609	3452	2951	2431
German	410	501	440	414	481	400
Dutch	217	242	320	443	124	94
Lithuanian	696	751	857	1379	968	468
Russian	63	77	87	69	61	20
E. European	285	416	551	1014	872	340
Jewish	1479	1752	2293	2788	1881	885

TABLE 4 - 1932-1938

	1932	1933	1934	1935	1936	1937	1938
British	1596	1484	2392	3348	3477	4405	4942
German	479	653	1012	1015	3431	481	677
Dutch	66	113	113	631	2058	686	770
Lithuanian	298	249	300	270	268	46	28
Russian	23	18	16	15	18	2	3
E. European	308	274	290	235	385	42	48
Jewish	676	745	1123	1059	3330	954	566

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⁵⁸ Sources: Statistics of Migration. Office of Census and Statistics, Pretoria. 1916-1918, 1927-1938. Annual Report, Principle Immigration Officer, Cape Town. 1919-1920, 1922-1923. Despite in these returns they do show patterns of immigration.

⁵⁹ No returns were found for 1921.

⁶⁰ From 1927 the data shows the number of people intending to take up permanent residence.

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