

## **An Ambiguous Sexual Revolution? Sexual Change and Intra-generational Conflict in Colonial Natal**

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In his 1968 study, *African Women: Their Legal Status in South Africa*, H. J. Simons noted a striking discrepancy between law and sexual practice that was particular to Natal. At that time, Natal was the only South African province in which women over 21 years of age still needed their father's consent to marry, and in which Africans could be fined or imprisoned for adultery or seduction. "Nowhere else," said Simons, "does the government arrogate so wide a power to intrude upon the private lives of citizens and regulate their personal relations within their own racial group." At the same time, however, Natal was no different from other regions in the proportion of young women left alone to support their children without the help of the children's fathers.<sup>1</sup> This was in striking contrast to the pre-colonial period, when pre-marital intercourse and pregnancy were strongly prohibited, young men were punished as well as young women, and no mother was left unmarried.

The story of how this state of affairs came to be is a very complicated one, and one that must necessarily take into account the changes wrought in this region in the nineteenth and early twentieth centuries as a result of colonialism, Christianity, and capitalism. Moreover, it is a story in which lines of power and resistance are difficult to draw with any consistency. If one were simply to read the available sources from the period at face value, the story would go something like this: Young men and women struggled against their elders and the colonial state to have sexual intercourse under circumstances of their own choosing, and not of their parents'. Despite the proliferation of laws against it, pre-marital sex became more common, not less; intercourse was no longer so rigidly confined to the bonds of matrimony sanctioned by both the state and

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<sup>1</sup> H. J. Simons, *African Women: Their Legal Status in South Africa* (London: C. Hurst and Co., 1968), esp. pp. 103, 114, 117, 167, 208, 228. The quote is from p. 208.

elders.<sup>2</sup> Such an argument is valid to a point: Many young men and young women in colonial Natal shared an interest in defying the rules their elders had established regarding proper sexual behavior. To the extent that they succeeded in doing so, this could be seen as a sort of sexual liberation. But it was an ambiguous sexual liberation, “a dubious liberation,” as another scholar has described a similar episode over the course of the latter half of the twentieth century in schools in what is today Limpopo Province, South Africa.<sup>3</sup> The same could be said more generally about the “sexual revolution” that affected much of the world during the same period.<sup>4</sup> What these critiques have in common is an awareness that sexual liberation all too often benefits young men more than it does young women; indeed, in the process young women may be subjected to coercive sex and left solely responsible for the care of any resulting children. In the existing literature on the history of sexuality in colonial Natal, however, one only gets a sense of this sexual liberation as a shared project among youths in general, regardless of their gender. Any sense that young women and young men could have been in conflict on this issue just as often as they might have been in agreement is missing.

To get at this conflict *within* generations, and not just that *between* generations, one needs to read the existing sources against the grain. The narrative voices in these sources are almost entirely those of Europeans and of married African men (*amadoda* or *abanumzana* in Zulu). They are concerned above all with the authority of the colonial state and of African patriarchy. On the one side there are those who would defend that authority, and on the other there are those who would challenge it. To look at colonial society in Natal in this way is very revealing, for it points us to one of *the* most important axes of conflict in that society. But it is also limiting, for it conceals the conflicts that occurred on either side of the great divide, such as those among colonialists or among African youth. It also obscures the alliances that emerged across the

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<sup>2</sup> Indeed, this is the argument in Benedict Carton, *Blood from Your Children: The Colonial Origins of Generational Conflict* (Pietermaritzburg: University of Natal Press, 2000), esp. ch. 3. Carton’s work, in turn, forms the basis for the arguments about sexuality in colonial Natal to be found in Peter Delius and Clive Glaser, “Sexual Socialisation in South Africa: A Historical Perspective,” *African Studies*, vol. 61, no. 1 (2002), pp. 27-54.

<sup>3</sup> Isak Niehaus, “Towards a Dubious Liberation: Masculinity, Sexuality, and Power in South African Lowveld Schools, 1953-1999,” *Journal of Southern African Studies*, vol. 6, no. 3 (September 2000), pp. 388-408.

<sup>4</sup> As, for example, in Sheila Jeffreys, *Anticlimax: A Feminist Perspective on the Sexual Revolution* (London: Women’s Press, 1990).

boundary, such as those between older and younger African men committed to maintaining male privilege, however much they might have disagreed over the exact form of that privilege.

The consequences of sexual change in colonial Natal were contradictory precisely because the sexual order that young men and young women sought to change was itself contradictory. In many ways, young men and young women enjoyed the same degree of sexual self-determination (or lack thereof). Both could engage in intercrural sex (*hlobonga, soma*, or *gxaba* in Zulu) with multiple partners of their own choosing. Both faced a wide range of possible punishments if they engaged in premarital vaginal intercourse. And neither men nor women had the final say in their choice of marriage partner; in the event of any disagreement, a father could force his children to marry the person whom *he* wanted them to marry. However, in many other ways, young men were privileged in comparison to young women. While both stood to gain in status as they became elders themselves, patriarchs still enjoyed more power than did matriarchs (*amakhosikazi* in Zulu). And even as youths, young men were not mocked and scorned as *izirobo* or *izifebe* (“sluts”) if they lost their virginity or *hlobonga*’ed with more than two partners in the same month.<sup>5</sup>

What made the African sexual order in early colonial Natal still more contradictory was the fact that, patriarchal as it was, it still provided certain protections for young women that would be eroded during the colonial era. Young women belonged to peer groups, or *amaqhikiza*. If a member of the group was falsely accused of being an *isirobo* or *isifebe*, the whole group could physically attack the accuser and his property, and would be within its rights to do so. And if a member of the group became pregnant out of wedlock, it would be the *amaqhikiza* or the woman’s family who would collect legally-prescribed fine in cattle.<sup>6</sup>

The leverage that patriarchs enjoyed in debates over marriage and sexuality only increased during the early colonial period. In the first years of colonial rule, lobola was relatively cheap and could be paid in hoes and brass beads and other forms of livestock besides

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<sup>5</sup> Colin Webb and John Wright (eds), *The James Stuart Archive of Recorded Oral Evidence relating to the History of the Zulu and Neighbouring Peoples* (Pietermaritzburg: University of Natal Press; Durban: Killie Campbell Africana Library, 1976-2001), vol. 1, p. 226; vol. 3, pp. 147-8, 285; vol. 4, pp. 80, 265-8, 287, 294, 299-300, 338-9, 353-5.

<sup>6</sup> Webb and Wright, *James Stuart Archive*, vol. 4, pp. 300, 354-5, Ndukwana. See also Eileen Krige, *The Social System of the Zulus* (Pietermaritzburg: Shuter & Shooter, 1974 [1936]), pp. 104-6, 157-8; Absolom Vilakazi, *Zulu Transformations* (Pietermaritzburg: University of Natal Press, 1962), pp. 46, 53-4; D. H. Reader, *Zulu Tribe in Transition* (Manchester: Manchester University Press, 1966), pp. 176-8.

cattle. Moreover, the wars of the preceding decades had created an excess of women to men, so that it was relatively easy for men to find prospective marriage partners. However, as a good quarter-century of war was replaced by peace after 1840, the sex ratios became more balanced, which created problems as long as polygamy was fairly common. Peace and prosperity enabled Africans to accumulate cattle to such an extent that it became the only accepted medium of bridewealth exchange, and the average lobola doubled from five to ten head by the 1850s. By the 1860s, it was not uncommon for twenty to thirty head of cattle to be exchanged. The more cattle a man obtained, the more wives and daughters he could have, allowing him to acquire even more cattle. The proportion of African marriages that were polygamous peaked at 45% in 1870, while the proportion of unmarried adult men also grew. The result was growing economic stratification among African men in Natal. For their part, Natal Europeans had long called for the abolition of polygamy, but colonial officials were not willing to risk the storm of protest such an action would certainly provoke. By the late 1860s, however, Shepstone and the Lieutenant Governor were prepared to initiate reforms to marriage and lobola arrangements, largely because cattle theft, illicit intercourse, and the flight of young women to the towns and mission stations to escape arranged marriages all seemed to have reached crisis proportions. The marriage law of 1869 was intended to combat these problems. The stipulations of the law included:

- 1) A cap on commoner lobola at ten head of cattle.
- 2) A requirement that all weddings be registered by an Official Witness who would vouch for the bride's consent.
- 3) A tax of five pounds on each new marriage.
- 4) A ban on the bride's family making further lobola claims once she was married.

Shepstone also made the laws against seduction and adultery more severe, "to check the licentiousness which some of the Native fear will follow the liberty conferred by the new regulations upon women," and "to support the parental authority ... and ... enforce greater respect for the condition of married persons." Up to this point, seduction and adultery had been civil matters that could only be addressed if one of the parties brought suit in court. From now on they would be criminal offences, carrying maximum punishments of twenty-five lashes and three months' imprisonment, or a ten-pound fine.<sup>7</sup>

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<sup>7</sup> David Welsh, *The Roots of Segregation: Native Policy in Colonial Natal* (Cape Town: Oxford University Press, 1971), ch. 5; John Lambert, *Betrayed Trust: Africans and the State in Colonial Natal* (Pietermaritzburg: University of Natal Press, 1995), pp. 41-46. The quote is from Welsh, *Roots of Segregation*, p. 85.

By requiring the bride's consent in her own marriage, and by making lobola more affordable for young men, the 1869 marriage law seemed to be a victory for youths. However, it proved to be a rather qualified victory. The law did nothing to eliminate the requirement that a bride of any age secure the permission of her father before entering into marriage. Moreover, the official witness was typically an African patriarch himself and would be more inclined to identify with the father's interests than with the daughter's. Accusations of forced marriage continued to emerge, and many young women continued to run away to cities and mission stations to get out of them. As for lobola, the cap of ten head of cattle soon became seen, as early as 1881, as the minimum rather than the maximum. More importantly, fathers instituted various miscellaneous marriage fees – under such alternative names as *izibizo*, *imvulamlomo*, and *ibikibiki* – in order to circumvent the regulations.<sup>8</sup> In 1888, the resident magistrate of Umsinga argued that “[t]he extortion by members of the bride's family (a growing evil) from the bridegroom intended of numerous articles, rugs, sundry articles, or ploughs, or horses, or any article in that way, by causing delay of the marriage until such be paid, is unlawful, should be prohibited, and such persons should be punished sufficiently to check such practices.”<sup>9</sup> But such practices were not outlawed, and would persist throughout the rest of the colonial period and beyond.

Nevertheless, young men and young women were increasingly successful at determining who they would have sex with or marry, and when, in defiance of their fathers' authority. In particular, they took advantage of the opportunities opened up for them by the colonial state, mission Christianity, and the mineral revolution. The colonial state, as a result of the 1869 marriage law and relatively liberal divorce laws, made it easier for women to get out of arranged marriages. Failing that, Christian missions offered a refuge and competing authority for young women, and to some extent young men, to take advantage of. The mineral revolution created new urban centers of employment, where young men could escape their fathers' authority and obtain money for bridewealth cattle, hastening their attainment of full-fledged adulthood. The same opportunities also existed to some extent for women in the cities. Even in rural areas,

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<sup>8</sup> Simons, *African Women*, pp. 141, 145.

<sup>9</sup> NCP 7/2/2/5 Colony of Natal, *Supplement to the Blue Book of the Colony of Natal: Departmental Reports 1888*, pp. B32-5, Report of RM Umsinga.

young men and women became more and more inclined to engage in extramarital sex or elope, acts which the state tried to crack down on by punishing them as “seduction,” “adultery,” or “abduction.” Complaints about the “independence” or “immorality” of women and youths, often with specific reference to sexual impropriety, are extremely common in the testimony available from this period by both African patriarchs and colonial officials.<sup>10</sup>

And yet, the conflicts among youths were very bit as significant as the common interests they had in their own self-determination. Such ambiguities are particularly apparent when one analyses the institution of the beer party,<sup>11</sup> which was frequently identified – again, by both African patriarchs and colonial officials – as the main site where illicit sex took place. Beer parties were held on numerous occasions, most notably at marriage dances (*imisingo* or *imicanguza*), but also at puberty dances (known variously as *imigonqo*, *amacamba* or *ukomulisa*).<sup>12</sup> A homestead head would also throw a beer party for his neighbors if they had provided him with labor for some major task; indeed, he faced severe social sanction if he did not.<sup>13</sup> The beer party offered the host an opportunity to enhance his prestige by acquiring a reputation for generosity and wealth. It also offered poorer members of the community an opportunity to demand limited access to the wealth of their richer neighbors: According to African rules of hospitality, no visitor could be turned away, not even a stranger.<sup>14</sup> Failure to do

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<sup>10</sup> Carton, *Blood from Your Children*, pp. 94-111.

<sup>11</sup> For analyses of the beer party in other parts of Africa, see M. Bridget O’Laughlin, “Mbum Beer-Parties: Structures of Production and Exchange in an African Social Formation” (Ph.D. dissertation, Yale University, 1973); Paul La Hausse, *Brewers, Beerhalls, and Boycotts: A History of Liquor in South Africa* (Johannesburg: Ravan Press, 1988); Emmanuel Akyeampong, *Drink, Power, and Cultural Change: A Social History of Alcohol in Ghana, c.1800 to Recent Times* (Portsmouth: Heinemann; Oxford: James Currey, 1996); Patrick McAllister, *Building the Homestead: Agriculture, Labour, and Beer in South Africa’s Transkei* (Aldershot, 2001). Justin Willis, *Potent Brews: A social History of Alcohol in East Africa, 1850-1899* (London: James Currey; Athens: Ohio University Press, 2002). For a much earlier discussion of the links between alcohol, festivities, and sexuality, see Ernest Crawley, *Dress, Drinks, and Drums: Further Studies of Savages and Sex* (London: Methuen & Co., Ltd., 1931).

<sup>12</sup> SNA 1/1/145 897/1891 RM Newcastle to SNA, 6 November 1884; Colony of Natal, *Blue Book on Native Affairs* (Pietermaritzburg, 1903), pp. B64-5: Rules for controlling and regulating the gathering of natives belonging to different kraals or homes for the purpose of feasting or beer drinking [under the provisions and sanctioned by Act 5, 1898, sec. 2; promulgated 8 January 1903].

<sup>13</sup> Colony of Natal, *Blue Book on Native Affairs, 1902* (Pietermaritzburg, 1903), p. A14, Report, RM Estcourt, 12 January 1903; SNA 1/1/302 2158/1903 Statement, Chief Mabojana, Amacele, Lower Umzimkulu, 25 June 1903.

<sup>14</sup> SNA 1/1/145 897/1891 RM Umsinga, 23 October 1884; RM Upper Umkomanzi, 11 January 1887.

so could even lead to violent retribution.<sup>15</sup> On the other hand, if someone offered hospitality incommensurate with his status in the community, local elites might criticize him for his presumptuousness.<sup>16</sup>

By the 1880s, colonial officials in Natal had come to identify the beer party as the root of many different evils. These included, in the order of prominence that officials assigned to them, faction fighting, stock theft (though even several officials questioned this particular link), illicit sex, and a decline in the quality and quantity of labor that Africans provided.<sup>17</sup> For officials, the problem was that beer parties were becoming so frequent, either because wages were too high or because harvests were too plentiful.<sup>18</sup> As the historian Paul La Hausse has pointed out, official opposition to African liquor consumption reflected the frustration on the part of both colonial officials and settler employers over their inability to get Africans to work for them at the wages the Europeans wanted to pay them.<sup>19</sup> However, it is notable that the officials themselves had more to say about the connection between drinking and faction fighting, stock theft, and illicit sex than they did about the link between drinking and labor.

Moreover, officials were not the only ones to express substantial concern about youths and drinking: African elders did, too. Until recently, beer parties had been regulated by a certain amount of decorum and involved certain sacred rituals, such as the pouring of libations for the ancestors. Patriarchs ran the show and women and youths were to obey their orders. The patriarchy of the beer party was symbolized by the fact that elder men were to be served first and given pride of place in a central location reserved for them. Attendees were to avoid excessive

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<sup>15</sup> SNA 1/4/8 C106/1900 Report of Native Intelligence Officer No. 1, 10 September 1900; SNA 1/1/299 491/1903 Report, USNA, 10 February 1903.

<sup>16</sup> SNA 1/1/145 897/1891 Transcript of the meeting between chiefs and officials at Verulam, Inanda, 10 December 1884, testimony of Ncaphayi.

<sup>17</sup> This ranking is based on the frequency with which each factor was cited by the various officials questioned in SNA 1/1/145 897/1891 SNA Circular 1056/1886 to RM's and ANL's, 18 December 1886.

<sup>18</sup> Colony of Natal, *Blue Book on Native Affairs* (Pietermaritzburg, 1884), Report of RM Ixopo, 1880, p. 117; Report of RM Newcastle, 1881, p. 139; Report of RM Alexandra, 1881, p. 181; Report of RM Upper Tugela, 1881, p. 189; Report of RM Alexandra, 1882, p. 222. Colony of Natal, *Blue Book on Native Affairs* (Pietermaritzburg, 1886), Report of RM Inanda, 18 May 1885, p. 27.

<sup>19</sup> Paul La Hausse, "The Struggle for the City: Alcohol, the Ematsheni, and Popular Culture in Durban, 1902-1936" (M.A. thesis, University of Cape Town, 1984), pp. 15-16; "Drink and Cultural Innovation in Durban: The Origins of the Beerhall in South Africa, 1902-1916," in J. Crush and C. Ambler (eds.), *Liquor and Labor in Southern Africa* (Athens: University of Georgia Press, 1992), pp. 86-88.

drunkenness, and women were strictly segregated from the men, if they were allowed to attend at all. Now, however, young men elbowed their way past their elders to get at the beer and “engag[ed] in sexual adventuring” such as “flirting with young women” and even “court[ing] married women.” For their part, both married and unmarried women also flouted convention, by mingling with the men and drinking inordinate amounts out of turn.<sup>20</sup> As one African elder said, “At the time Sir T. Shepstone governed [1845-76] the boys did not drink beer, only the men drank the beer, the boys stood on one side. But now the beer is drunk by the boys.”<sup>21</sup> Another concurred: “At beer drinkings nowadays the beer is drunk by the boys, in former days it was drunk by the men.”<sup>22</sup> But for both officials and African elders, the dangers of women drinking were even greater. One official described his conversations with African elders on this subject:

Another matter which was discussed at some length was the attendance of women at beer drinkings, where they get drunk, remain until late at night, or sleep at the kraal where the beer drinking takes place, & which frequently results in indecent assaults, adultery, & other offences of a like nature, & leads in many instances to family quarrels and applications for divorce. The chiefs & headmen highly approved of my suggestion, that women should not be allowed to go to beer drinkings unattended by their husbands or other male relatives & that they should be required to eave the kraal where the beer drinking occurs in company with such relatives & that the head of any kraal harbouring married women at beer drinkings who are not accompanied by their male relatives or who are allowed to remain after dark at such kraal after the departure of such male relatives, should be punished for so harbouring them.<sup>23</sup>

It is no surprise, then, that in response the colonial state drafted new beer drinking regulations that included the following provisions:

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<sup>20</sup> Carton, *Blood from Your Children*, pp. 72-3; Lambert, *Betrayed Trust*, p. 127.

<sup>21</sup> SNA 1/1/145 897/1891 Meeting of Chiefs re Minute of SNA of 11 October 1884, Zwartkop Locaton, 6 November 1884, testimony of Suzindela.

<sup>22</sup> *Ibid.*, testimony of Hemuhemu.

<sup>23</sup> SNA 1/1/145 897/1891 RM Estcourt, Report on meeting with Chiefs and Headmen, 21 November 1884.

9. The attendance and participation in public beer drinking parties (wedding parties alone excepted) of all females other than the hostess and of boys, commonly described as “Abafana,” is prohibited.

11. Any kraal head or other person who shall allow any female or females from any other kraal or kraals to attend or participate in any beer drinking party at his kraal shall be guilty of an offence.

12. Young men (Izinsizwa) who may be allowed or invited to attend a beer drinking party, and who shall fail or neglect to recognise and to respect the superior position and rank of their elders or the men present (Amadoda) shall be guilty of an offence. Any young man or men who shall sit down to drink beer in the company of the men (amadoda) as aforesaid, unless specifically invited so to do by the principal man of the hut, with the approval of the other men present, shall also be guilty of an offence.<sup>24</sup>

Even faction fighting, also associated with beer parties but considered by officials to be a graver problem than illicit sex, had a sexual aspect. John Lambert has argued that faction fighting became more severe in late colonial Natal as African reserve lands became more overcrowded.<sup>25</sup> Jonathan Clegg, on the other hand, has emphasized an ideology of vengeance closely interwoven with Africans’ sense of their own manhood.<sup>26</sup> And there is certainly a lot of truth to both explanations. Yet young, unmarried men needed wives before they could have independent access to land. As suitors they were competing for wives in an environment in which the youths’ poverty, their elders’ wealth, and the institution of *lobola* combined to put marriage out of reach for many, intensifying struggle over the few marriageable women remaining. And while Clegg has much to say about masculinity, he has virtually nothing to say about women and sexuality. The connection comes out clearly when one considers that faction fights nearly always involved young men and either took place at weddings or were prompted by

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<sup>24</sup> Colony of Natal, *Blue Book on Native Affairs* (Pietermaritzburg, 1903), pp. B64-5: Rules for controlling and regulating the gathering of natives belonging to different kraals or homes for the purpose of feasting or beer drinking [under the provisions and sanctioned by Act 5, 1898, sec. 2; promulgated 8 January 1903].

<sup>25</sup> Lambert, *Betrayed Trust*, pp. 128-131.

<sup>26</sup> Jonathan Clegg, “*Ukubuyisa isidumbu* – ‘Bringing back the body’: An examination into the ideology of vengeance in the Msinga and Mpofana rural locations, 1882-1944,” in Phillip Bonner (ed), *Working Papers in Southern African Studies*, vol. 2 (Johannesburg: Ravan Press, 1981), pp. 164-198.

events that had occurred at weddings. According to one chief, “the fighting is chiefly caused by the presence on these occasions of young girls which creates jealousy between the groups of young men from different localities, each group wishing to obtain preference from the girls to do so by dancing and jumping (gwiya) to please the girls.”<sup>27</sup> An official compared this act to “the traditional trailing of a coat at an Irish faction fight”<sup>28</sup>: an act of defiance so humiliating that to ignore it would be to call one’s own masculinity into question. What made the humiliation that much more provocative was that the dancing was competitive, and losers in the competition would often feel “jealousy on account of the girls not dancing with them, or that others have been preferred before them.”<sup>29</sup> In other cases, “a rejected lover is said to go to a marriage dance he has nothing to do with and repeatedly giya in the face of the bride in such a defiant manner that a fight ensues.”<sup>30</sup>

Elders’ efforts to reassert their authority at beer parties were troublesome enough to youths that the youths turned to new practices that had no burdensome customs to get in the way. One of these was the consumption of a newly-invented drink called *isishimiyana*, a mixture of sugar cane spirits and beer. The potency and novelty of the new beverage made its consumption even more subversive than that of beer from the point of view of colonial officials. Especially troubling were the associations that the drink had with sexuality, and the sexuality of young women in particular. One official said *isishimiyana* caused women to “lose all control over their passions” and “grant their favours to the first comer.”<sup>31</sup> Another argued that “[t]here can be no doubt but that this crime [i.e., the distillation and consumption of *isishimiyana*] is on the increase, a noticeable feature being that women consume the beverage as much, if not more, than

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<sup>27</sup> SNA 1/1/145 897/1891 Minutes of the meeting at Verulam, Inanda, 10 December 1884, testimony of Mananabukana, hereditary chief of the Ngwane.

<sup>28</sup> SNA 1/1/145 897/1891 RM Lower Tugela to SNA, 28 December 1886.

<sup>29</sup> SNA 1/1/145 897/1891 Meeting of Chiefs at Camperdown, 11 November 1884, testimony of Mngundane.

<sup>30</sup> SNA 1/1/145 897/1891 ANL & BA Lower Tugela, 28 October 1884.

<sup>31</sup> Colony of Natal, *Blue Book on Native Affairs* (Pietermaritzburg, 1884), Report of RM Alexandra, 1881, pp. 181-2.

men.”<sup>32</sup> It was the young who dominated the consumption and production of *isishimiyana*, and they consistently frustrated government attempts to crack down on them:

Very few cases of ‘isitshimiyana’ have been brought to light, and it appears to be a matter of great difficulty to run the delinquents to earth. The liquor is almost universally drunk in this Division. Regular ‘isitshimiyana’ parties are got up. The invitation is by means of a white flag suspended to a bamboo or other long pole placed in the most commanding position near the festive kraal. The effect is magical. Young men and girls now drink to the exclusion of the elders. The idea is that an ‘mtimba’ (bride’s) party has arrived. These young people enter the hut, drink is handed round, and revelry reigns supreme – the older people being actually denied admission, thus an instance of the growing power of the young men in defiance of the authority of the older generation. Of course deception is practised as to the name of the liquor. It rejoices under the following names: Mgodini (probably owing to it being concealed in holes, etc.), tshumpu, mhlalangolo, ngomboloxo, mgamfu, macuyana, gotima, itenende, and ikipandaba (causing one to be verbose).<sup>33</sup>

Another new institution that Natal Africans developed to provide alternative sites of revelry that were not under the control of either elders or officials was the eating house:

With regard to the marked decline in the morality amongst the Natives in this District, it may be said that a great deal of it is due to a habit which has arisen of keeping so-called eating-houses, which are in reality only beer shops. These predominate in the southern portion of the Division, in order to catch the crowds of bad characters who come out from Durban, especially on week-ends. These come, not only for beer, but for immoral purposes, which is facilitated by numbers of women and girls who assemble at the houses, in the first instance for lodging, who become an easy prey to the aforementioned bad characters, and eventually gravitate to these houses, or become possessed of houses of their own, and so add to the ever-widening circle. During the past six months a good

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<sup>32</sup> Colony of Natal, *Blue Book on Native Affairs, 1904* (Pietermaritzburg, 1905), Report RM Ndwedwe, 3 January 1905, p. 36.

<sup>33</sup> Colony of Natal, *Blue Book on Native Affairs, 1904* (Pietermaritzburg, 1905), Report RM Lower Tugela, 12 January 1905, p. 25.

deal has been done towards closing these eating-houses, but the only real remedy is to render them absolutely illegal.<sup>34</sup>

But not all the sexual “immorality” that colonial officials and African elders were horrified by was consensual. Arrests for “rape” more than doubled in the three years leading up to the rinderpest epidemic, while those for “indecent assault” more than doubled between 1894 and 1904. It is true that the numbers peaked at 25 for rape arrests and 219 for indecent assault arrests (in a territory of just under a million people in 1904).<sup>35</sup> However, given the minimal police presence in Natal at the time, especially in predominantly African areas, and given the sexual double standard that existed among both blacks and whites, these numbers should be taken with a grain of salt. Indeed, both African elders and colonial officials accused both African and European police of using their positions to seduce or even rape African women with impunity.<sup>36</sup>

Although “seduction” was a crime because it involved sexual intercourse before marriage and not because it involved force, there is every reason to believe that many cases of seduction actually involved rape. Consider, for example, the following case:

Charge: Seduction, in that on or about June 25th 1894 he [the defendant] wrongfully and unlawfully seduced one Nolaga, the unmarried daughter of Kapu. Judgement: Guilty. Sentence: To be imprisoned with hard labor for two months and to receive a private whipping of fifteen lashes. Facts: Defendant was present at a marriage ceremony with the girl Nolaga who is his sweetheart. In the evening they left together and when in the “veld,” Defendant detained the girl for the purpose of having “Hlobonga” with her, but when in the act he went further and penetrated her vagina, but with the girl’s consent, as she did not resist him. The girl on getting home reported what had taken place to her

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<sup>34</sup> Colony of Natal, *Blue Book on Native Affairs, 1904* (Pietermaritzburg, 1905), Report RM Inanda, 12 January 1905, p. 63.

<sup>35</sup> NCP 7/4/2 Colony of Natal, *Departmental Reports, 1894-95*, p. E6; NCP 7/4/4 Colony of Natal, *Departmental Reports 1897*, pp. F31-2; Colony of Natal, *Blue Book on Native Affairs, 1904* (Pietermaritzburg, 1905), pp. 177-8.

<sup>36</sup> Colony of Natal, *Blue Book on Native Affairs, 1904* (Pietermaritzburg, 1905), p. 56, Report, RM Bergville, 7 January 1905; Colony of Natal, *Native Affairs Commission, 1906-7: Evidence* (Pietermaritzburg, 1907), p. 790, testimony of Bekakupiwa; p. 820, testimony of Mafika Mhlongo; p. 849, testimony of John Hlonono; and p. 959, testimony of John L. Dube.

parents and her father reported it to his District Headman, who brought the Defendant before the Court.<sup>37</sup>

Note that the court judged that Nolaga had consented merely because she did not resist him, and yet she was clearly sufficiently disturbed by the incident to tell her parents and have her father report her boyfriend to the authorities. In the same vein, one official felt compelled to argue that “Cases of hlobonga where the girl is not a consenting party should be dealt with as cases of indecent assault,” which suggests that not all officials felt that way or acted accordingly.<sup>38</sup> Indeed, another official felt that seductions usually did *not* involve the active consent of the woman: “In my experience seductions occur more frequently in the manner described [in Nolaga’s case] than they do with the girls’ deliberate concurrence. The act brings shame only upon her, & in general she will resist it until, overcome (probably) by the heat engendered by the filthy practice referred to, she yields to the importunities of the man.”<sup>39</sup> Given that seduction was an exceedingly common crime in late colonial Natal,<sup>40</sup> sexual violence was undoubtedly far more common than official arrest statistics might indicate.

Seduction claims became particularly common during and after the rinderpest epidemic of 1896-7. Between 1896 and 1898, African-owned cattle herds in Natal declined from about 500,000 head to about 75,000 head, a drop of some 85%. As late as 1905, African herds had only increased to about 277,000; per capita African cattle ownership had fallen by some 60% since 1869. At the same time, the annual number of African marriages declined by half between 1896 and 1899, and, despite some recovery, the actual African marriage rate in 1902 was still below its 1896 levels.<sup>41</sup>

The African marriage rate declined because African elders remained committed to earlier levels of lobola even though young men were finding it far more difficult to come up with the

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<sup>37</sup> SNA 1/1/270 2951/1897 Court of ANL Klip River, case no. 92/1894, Supreme Chief v. Mabande ka Mbadule Ch. Kwebane, 6 July 1894.

<sup>38</sup> *Ibid.*, RM Umvoti, 22 September 1894.

<sup>39</sup> *Ibid.*, RM Klip River, 18 September 1894.

<sup>40</sup> As one official put it, “It is to be regretted, but is none the less true, that fines for seduction, form quite, if not more than half the revenue of this dept.” *Ibid.*, RM Upper Tugela, 18 September 1894.

<sup>41</sup> Lambert, *Betrayed Trust*, pp. 153-4, 161.

cattle or the money to buy them. African elders appealed to the state to allow the payment of lobola in instalments. But lobola claims of any sort had not been legally enforceable since 1893, and the state refused to change its stance on the issue during the rinderpest epidemic, and indeed for years after.<sup>42</sup> Meanwhile, young men and women continued to engage in premarital sex in order to force their parents' hands and make them agree to their marriage. With lobola even harder to obtain, the desperation that fed such strategies only increased.

Crucially, however, this seduction was not always consensual. We have already talked about physically coercive sex. But coercion was not always so obviously physical. Take, for example, the phenomenon of love medicines. Sometimes love medicines were a way for both young men and young women to either initiate desired relationships or to end unwanted ones, and "wriggle free of parental control" either way.<sup>43</sup> Criminalized under the Native Law Code of 1891, the sale and use of "love philtres" resulted in the arrest of nearly 300 Africans between 1899 and 1909. But, although both men and women used love medicines at this time, men used them more often.<sup>44</sup> Moreover, men's love medicines tended to produce control, while women's merely produced influence. While women used charms that were designed to attract and then retain the affections of a desirable suitor, they had neither knowledge of nor access to love philtres that would allow them to dictate their lovers' actions. And while men could use medicines to control their lovers with impunity, if women had medicine that was that powerful, they risked severe social sanction.<sup>45</sup>

Faced with the possibility that their daughters might enter into permanent informal relationships with young men without ever paying lobola, fathers' options were limited. They

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<sup>42</sup> Simons, *African Women*, p. 145.

<sup>43</sup> Carton, *Blood From Your Children*, p. 104.

<sup>44</sup> Ibid., See also CNC, vol. 176, 1914/1069, 'Representations by Native Chiefs of the Newcastle Division with regard to the sale by Natives in towns of herbs and love philtres', 29 June 1911.

<sup>45</sup> Suzanne Leclerc-Madlala notes that her informants insist that love medicines used to be virtually the exclusive preserve of men, and that women's proper use of such medicines is narrowly constrained. Significantly, a missionary's discussion of love medicines, published in 1911, attributes far more active effects to men's medicines and hardly talks about women's at all. Moreover, both Bryant and Krige refer only to men using love medicines on women, not vice-versa. Suzanne Leclerc-Madlala, "Demonizing Women in the Era of AIDS: An Analysis of the Gendered Construction of HIV/AIDS in KwaZulu-Natal" (Ph.D. dissertation, University of Natal, Durban, 1999), ch. 7; *The Collector*, no. 1 (June 1911), p. 41 [Marianhill Mission publication available at the Killie Campbell Africana Library, Durban]; Krige, *Social System of the Zulus*, pp. 117-118; A. T. Bryant, *Zulu Medicine and Medicine-Men* (Cape Town: Centaur, 1983 [1966]), esp. pp. 70-71.

could accuse the young men of seduction and take them to court. Or they could negotiate some kind of agreement whereby the young man could pay his lover's father a fee and receive in return the right to have sexual relations with his lover. Such fees included *vulamlo* (a fee paid to the father before *lobola* to "open the mouth," i.e., set the process in motion), *ingquthu* (a fee, traditionally an ox, given to the bride's mother; also known as *unqoliso* or *mumba*), *ubikibiki* (another fee, usually a sheep, also given to the bride's mother), *isibamba* (named after a belt worn by women), and *inhlawuli* (a fine charged for "stealing the girl"). Another important fee was *umnyobo*, which historically had been charged for having illicit intercourse. During the rinderpest epidemic, however, young men paid the fee for the right to *hlobonga* (or, in some cases, to have sexual intercourse) with their girlfriends.<sup>46</sup>

Usually, these fees were collected by the parents, but not always. In some cases, for example, the fees were collected by the women's brothers.<sup>47</sup> In other cases, chiefs charged young women fees to be collected from their boyfriends.<sup>48</sup> The young women may have been charged partly because at least some of the money was going to them. This was certainly true in the district of Alfred, where girls charged their lovers a five-shilling *umnyobo* fee each time they had *hlobonga*, gave one of those shillings to their fathers or brothers, and kept the rest for themselves.<sup>49</sup>

The parallels between what might be called the "girlfriend wealth" of the era of rinderpest and what anthropologist Mark Hunter has called "transactional sex" in the era of HIV/AIDS are striking. In both cases, diseases, widespread immiseration, and a continued commitment to *lobola* in KwaZulu-Natal have led to a rise in non-marital heterosexual

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<sup>46</sup> SNA 1/4/9 C43/1901 J. F. Rethman MLA to SNA, 18 January 1897; Colony of Natal, *Blue Book on Native Affairs, 1897* (Pietermaritzburg, 1898), Report, RM Alfred, 8 January 1897, p. 134; SNA 1/4/8 C4/1900 Report of Native Intelligence Officer No. 1, 13 January 1900; SNA 1/4/10 C52/1902 Statement of Native Intelligence officer No. 1, 30 June 1902; SNA 1/1/445 327/1909 RM New Hanover, 1 October 1909. For a particularly in-depth discussion of these fees and what officials planned to do to eliminate them, see the following papers contained in SNA 1/4/11 C59/1902: Replies to CNC Circular no. 23, 1911, T. B. Carbutt, RM Pinetown, 22 August 1911; Commentaries on proposed native law amendments, #26; Report USNA containing Proposed Amendments to the Code of Native Law, 19 April 1905. See also the entries for these words in Clement Doke, B. W. Vilakazi, et al., *English-Zulu Zulu-English Dictionary* (Johannesburg: Witwatersrand University Press, 1990).

<sup>47</sup> Colony of Natal, *Blue Book on Native Affairs, 1897* (Pietermaritzburg, 1898), Report, RM Alfred, 8 January 1897, p. 134.

<sup>48</sup> SNA 1/1/385 3630/1907 Rev. W. Hindes, Mission House Verulam, 23 October 1907; SNA 1/1/399 1473/1908 USNA to RM New Hanover, 19 May 1908.

<sup>49</sup> The name for this practice was *icamba*. SNA 1/4/9 C43/1901 Report RM Alfred, 25 January 1897.

relationships predicated on the man's giving gifts to the woman.<sup>50</sup> Of course, there are also some crucial differences between the two phenomena. First, the gifts paid by the man during the era of rinderpest went for the most part to the woman's family rather than to the woman herself, with the possible exception of *icamba*. Second, the resulting relationship during the rinderpest era was theoretically permanent and exclusive, while the modern relationships are often temporary and both parties maintain other relationships on the side.

However, even the apparent differences between "transactional sex" circa 1900 and that circa 2000 become hazy upon closer examination, and here we come to another way in which sexual change privileged men over women: While the relationships negotiated during the rinderpest era may have been seen as ideally permanent and exclusive by the young women and their fathers, in practice they often were not, to the women's disadvantage. As one African elder told the 1906-7 Natal Native Affairs Commission, "A boy might lobolo, or begin to lobolo, a particular girl, and when he had continued paying for her for some time, he would throw her over, take the cattle that had been set apart for her lobolo, and proceed to repeat this performance in regard to some other girl. This took place even where the father was quite willing that the marriage should take place."<sup>51</sup> This may have been harmless "risk-taking" from the point of view of the young men, but it had rather more negative consequences for the young women. The loss of virginity had no costs for men, but made it harder for women to get married. The same was true for pregnancy, but in this case there was the additional matter of the child. While accurate figures are impossible to come by, it does appear that "illegitimate births" increased dramatically in the decade after 1897. In Umvoti, in 1904, it was said, "A kind of crime or offence, recognised as such in Native Law, namely, illicit relation of the sexes, is doubtless increasing. Illegitimacy is very prevalent and seems to become more so in succeeding years. Severe punishments are inflicted, but without, so far, perceptible effect."<sup>52</sup> This led to the common situation described by Simons in 1968: "An obligation to maintain the child falls in common law on its natural father and mother, and can be enforced by order of court and statutory

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<sup>50</sup> Mark Hunter, "The Materiality of Everyday Sex: Thinking beyond 'Prostitution,'" *African Studies*, vol. 61, no. 1 (July 2002), pp. 99-120.

<sup>51</sup> Quoted in Carton, *Blood From Your Children*, p. 105.

<sup>52</sup> Colony of Natal, *Blue Book on Native Affairs* (1902), report, RM Estcourt, 12 January 1903, p. A13.

sanctions. But men easily evade their obligations, and this irresponsibility is a significant cause of the high rate of illegitimacy in the contemporary society.”<sup>53</sup>

Thus, in many cases, even the recourse to fees and other special arrangements between a young woman’s lover and her family failed to prevent the outcomes they were intended to prevent: seduction, out-of-wedlock births, and the failure of the young man to provide his lover’s family with any wealth at all. The situation was not helped by the fact that the colonial state had, in the Native Law Code of 1891, prohibited a young woman’s relatives or *amaqhikiza* from confiscating property from the man who had seduced or impregnated her.<sup>54</sup> The woman and her family theoretically could recover damages through a civil suit, but few families could afford the time spent in court and travelling to and fro, not to mention the court fees, and victory was far from certain. A criminal complaint could also be filed, but many magistrates felt that seduction should not be punished, and indeed there had long been some confusion among magistrates about just what seduction entailed.<sup>55</sup> As one official complained in 1911, all too often seduction was not punished at all.<sup>56</sup> Finally, even if a man was successfully convicted of seduction in criminal court, all the fines he paid went to the state, not to the woman’s family, a grievance commonly expressed by African elders.<sup>57</sup>

There was one other common form of intragenerational conflict in seduction cases, one not related to coercion or to the young man’s abandonment: Here the conflict was not between lovers, but between brothers and sisters. After all, one possible source of lobola for a young man from a household barely getting by would be the lobola earned by his own sister. Brothers would often therefore take a very keen interest in lobola negotiations around their sisters’ marriages, serving as the main representatives for their families and taking charge of the relevant

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<sup>53</sup> Simons, *African Women*, p. 228.

<sup>54</sup> NCP 5/2/18 Colony of Natal, *Laws of 1891*, Law no. 19, 1891, To Legalise the Code of Native Law, ch. 15, sec. 204; SNA 1/1/226 1237/1896 Manongopo vs. Popoyi, ANL Court Ixopo, 7 July 1896.

<sup>55</sup> For some instances of the official debate and confusion over seduction, see SNA 1/1/73 Responses to circular re punishment for seduction, 2 April 1884; SNA 1/1/112 167/1889 J. Metcalf to SNA, 14 February 1889; SNA 1/1/270 2951/1897 Replies to circular no. 52, re the propriety of flogging in cases of seduction, 1895; SNA 1/4/11 C59/1902 Replies to CNC circular 23, re seduction, 1911; CNC 269 194/1917 Judge President Natal NHC to Prime Minister, 30 October 1917.

<sup>56</sup> SNA 1/4/11 C59/1902 RM Helpmekaar, reply to CNC circular no. 23, 1911, 15 August 1911.

<sup>57</sup> *Natal Native Affairs Commission, 1906-7: Evidence*, p. 714, testimony of Mnyango; p. 727, testimony of Bande; p. 728, testimony of Mnyamana.

cattle.<sup>58</sup> Brothers might also try to secure their future father-in-law's permission for marriage by pledging the lobola to be paid for their sisters in the future.<sup>59</sup> It is not surprising, therefore, that some of the seduction proceedings were initiated by women's brothers rather than by their fathers. The brothers were perhaps even less willing to see the young women enter into sexual relationships without having any lobola paid for them at all. Such brothers then put themselves in the rather odd position of punishing their sisters for consensual relationships, and of punishing young men of their own generation.<sup>60</sup> An overreliance on generation as a social category would make it difficult to note such conflicts, let alone appreciate their significance.

So despite Natal's unusually strenuous efforts to eliminate seduction, in all its forms, it proved remarkably resilient. By 1910, the provincial government had decided that removing itself from the adjudication of lobola claims had increased rather than stemmed the flood of litigation around such matters. It therefore reversed its 1893 decision and made lobola claims legally enforceable once more. However, informal relationships have remained extremely common to this very day, as have disputes over the validity of marriages. Indeed, it is often difficult to tell whether a marriage has been contracted or not. Since the consent of all parties was still, well into the apartheid era, a requirement for a valid marriage, and since consent is so subjective, there was plenty of room for dispute for those reasons alone.<sup>61</sup> Perhaps such a situation persisted because it served the interests of all the parties concerned. Fathers stood to lose enormously if they gave up all lobola claims. Even if they stood little chance, in many cases, of actually collecting lobola, the claims could still form the basis for civil or criminal proceedings for seduction, which could provide some wealth to the father, after all. The threat of such proceedings could also give a father leverage in his relations with his daughter and her partner. A young man could use informal relationships to avoid lobola or any legal obligations to the father, or (as it sometimes turned out) to his own partner and child. Finally, informal relationships provided women with more freedom of choice than did formal marriages, which subjected them to the potential veto of their fathers, the guardianship of their husbands, and

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<sup>58</sup> *Ibid.*, testimony of Mgodini, p. 731.

<sup>59</sup> *Ibid.*, testimony of Tshonkwani, p. 812.

<sup>60</sup> As, for example, in SNA 1/1/313 1974/1904 Rex vs. Umsindo ka Maqilimana, Estcourt Division, 17 September 1904.

made it impossible to escape from either. But informal relationships were only an improvement for women compared to those provided for under a code of law that was extremely prejudicial towards women, in particular. A better outcome would be a legal code that served their interests, and a state and social order that could allow for the enforcement of such a code. It is open to question whether such a state of affairs has arrived. But even if it had, the consequences of more than a century of unstable families without legal protection would remain.

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<sup>61</sup> Simons, *African Women*, pp. 114, 117, 145.