

## **Women in Labour: the Birth of Colonial Natal.<sup>1</sup>**

‘Inkom’ imbiw’ etsheni kobelungu’<sup>2</sup>

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<sup>1</sup> This paper is one of a set which deals with the early years of colonial Natal and includes others on customary law, land, *amakhosi*, and Theophilus Shepstone. I would like to acknowledge support from Harry Oppenheimer Fellowship Trust in the research and writing of this paper. Thanks also to Eva Jackson, Jason Hickel, Meghan Healy and Percy Ngonyama for keeping the Traditional, Authority and Power (TAP) seminar going, and to Jeff Rudin for reading the initial draft and insisting that I shorten it.

<sup>2</sup> C.L. Sibusiso Nyembezi, *Zulu Proverbs*, (Johannesburg, 1963) 1.

## I

**Animate and Inanimate Modes**

In 1987 I published an article ‘Analysing Pre-Capitalist Societies in Southern Africa’.<sup>3</sup> It was a theoretical piece drawing on empirical work I had done on the history of the Zulu kingdom but included and was meant to apply to material from the region generally. It was written from what I saw as a Marxist perspective and was influenced by Marxist anthropology at the time and it was critical of the accepted anthropological and historical approaches, and also some Marxist formulations being applied to southern African history at the time – domestic, lineage, tributary, or redistributive modes of production for example. Nonetheless I argued that so long as it was understood that they referred to a non-capitalist context a number of Marxist categories could be usefully applied to pre-capitalist African societies. Before conquest the division of labour was for the most part on gendered lines – with women working in agriculture and men with livestock, each with their own areas of productive support and handicrafts. Production and reproduction took place in largely self-sufficient, polygamous, patriarchal homesteads, aggregations of which made up the pre-capitalist state. The power and wealth of these homesteads was to be found in the number of productive people – wives, children – within the homestead. New homesteads were founded by men on marriage with their fathers’ cattle. Within these homesteads wives were placed in ranked houses which had considerable economic and social autonomy. Cattle in the control of men were exchanged for fertile women, and young women of the homestead were exchanged for cattle. Fertile and productive women had value in terms of cattle – obtained by their fathers from the homestead into which they married which in time would in turn receive cattle for its daughters and so the process would be repeated.

What was being exchanged in this process was the labour power of women – their capacity to work productively and reproduce productive workers. This labour power was realised in cattle in the cycle of production and reproduction. Within this cycle material objects (hoes, spears, skins, beads, ivory) might be bartered and exchanged as commodities but ultimately their exchange value was realised in cattle because the exchange of cattle was necessary for the reproduction of fertile and productive women who were exchanged for cattle..... and so the cycle continued.

Men had the right to use, but not to own, land and they allocated portions of this right to their wives. Agricultural produce was retained not only within the homestead, but within the different houses which made up the homestead. The crucial role played by reproductive capacity gave women considerable social power, but political authority, based on patriarchy, descent, and age was fierce and exercised at all levels in the social formation.<sup>4</sup>

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<sup>3</sup> ‘Analysing pre-capitalist societies in southern Africa’ *Journal of Southern African Society*, 14, 1 (1987). It was reworked as a chapter in ‘Gender oppression in southern Africa’s precapitalist societies’, *Women and Gender in Southern Africa to 1945*, (ed. Cheryl Walker), (Cape Town: David Philip, 1990).

<sup>4</sup> Recently the articles cited above came under criticism on the grounds that ‘neither gender studies nor feminist analyses translate into an isiZulu phrase’, they reflect ‘modern ideas of human rights’ and have perpetuated the ‘stereotypes’ which founded ‘the gender oppression school of historical analyses’; Sifiso Ndlovu, ‘A Reassessment of Women’s Power in the Zulu Kingdom’, in B. Carton, J. Laband, J. Sithole, *Zulu Identities. Being Zulu, Past and Present* (Pietermaritzburg, 2008) p.111-2. The overriding demands made in my articles for contextualisation and further analysis answers the charge of

Political status and social power depended on the amount of cattle/people/labour power a male homestead-head possessed and controlled. The largest homesteads were those of the head of state who also had authority over all the homesteads which made up the polity. He was also in nominal control of the land but was obliged to allow the use of that land to those men who gave him their allegiance. In return these men were required to give a tribute and labour to the head of the state – most intensively when they were young and unmarried, *ie* before they assumed control of homestead production and the accumulation of labour themselves. This particular social feature was common in southern Africa, but developed to an extreme by the Zulu heads of state who organised all young men into age-sets which laboured for the king and served in the state army. This ‘military system’ gave the king immense control over all aspects of production because it was only when he gave a particular age-set (regiments) permission to found a homestead (marry) that the men (sons) could set up productive units (homesteads) of their own (as husbands and fathers), and initiate the process of production, reproduction and accumulation upon which the system was based.

The idea that African societies were founded on the number of people they could produce and control is ubiquitous.<sup>5</sup> Although this point is frequently linked to bridewealth and the consequent significance of cattle I have yet to find a contextual analysis which reaches sufficient theoretical distance beyond the terms of the statement in itself.<sup>6</sup> The essential point I made and still want to make is that although these are societies to which ideas and concepts – buy, sell, marriage, invest for example – derived from a capitalist system are and can be applied, this is only at the most superficial level and to do so unthinkingly can be dangerously misleading: they are analogous rather than analytical terms, we have to get beyond them, behind them, through a process of abstraction if we are to deepen our understanding of their social role and the structures of the societies in which they were made manifest. The essence of these social formations, their dominating, integrating feature, was the accumulation of living things – human beings and livestock. They were what I, now, would like to call animate modes of production; profoundly, qualitatively, different from inanimate modes of production like capitalism based on the accumulation of things – inanimate objects. In analytical terms such animate and inanimate systems can interact or

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stereotyping, and the empirical exceptions advanced are I believe predicted and to a degree answered in n.13 of ‘Analysing pre-capitalist societies’. Would that such criticisms had been made in the twenty years since that footnote was written for they could have formed the basis of constructive historical debates.

<sup>5</sup> In 1980 Shula Marks and Anthony Atmore in *Economy and Society in pre-industrial South Africa*, p11 described ‘control over people’ as ‘crucial’. For a later development of this see John Iliffe, *Africans. The History of the Continent* (CUP 1995) whose opening pages present ‘population’ as its unifying theme although we are reminded that ‘Population change is not an autonomous force; it results from other historical processes, above all from human volition.’

<sup>6</sup> I am still working on this point but for the moment let me say in passing that while the range of associations, verbal dexterity and conceptual subtlety of the Comaroffs allows them to approach the differences between African and the encroaching social forces with insight, they remain theoretically distant from them – as in ‘mere labour power’, cattle ‘accumulating capital’, ‘gross, sluggish units of trade’, ‘bovine capital’, ‘assets’, ‘a hedge against disaster’. Perhaps (especially in writing ‘history of events’) we have no choice but to use concepts derived from our own lives and times – but we still have to contextualise them, and at some point in some way this means de-mystifying them by identifying the source, not just the nature, of value if are to locate the revolutionary process with any precision. See J.L. and J. Comaroff, *Of Revelation and Revolution* (Chicago, 1997), I, 173-180.

articulate with one another – by means of trade and barter, the exchange of labour, ideas, diplomats or whatever – but they cannot assimilate.<sup>7</sup>

In southern-eastern Africa, with an environment well suited to the expansion of colonial capitalism but with powerful African farming societies there was a general tendency to smash the African economies and then devise some means of reconstruction out of selected surviving features, eventually under the misnomer ‘segregation’. The manner and timing of this varied according to local conditions. On the eastern frontier of the Cape there was a century long process of military destruction, and colonial reconstruction. The Zulu kingdom kept colonial forces at bay so successfully throughout this period that in the end it suffered a full scale imperial invasion. In the neighbouring and related African communities of Natal it worked differently. Shepstone, the official responsible for African administration, had served his apprenticeship on the eastern frontier and knew that without direct imperial support a few thousand settlers could not force their system of capital accumulation on 100,000 Africans. Shepstone’s policy was halting, pragmatic, devious as it had to be and took time. It also left in place for the moment important elements of the animate mode of production – access to land, chiefly authority, patriarchal dominance, bridewealth for example, – while undermining others.

The points at which these changes occurred in Natal can be identified empirically with the assistance of the concepts animate and inanimate: this paper looks at just one part in this process – the imposition of what was called a hut tax in Natal. Eventually under the impact of a mass of such changes – more monetary demands, wage labour and its consequences, appropriation of land – homesteads could no longer exist as productive, animate, communities: the commodities which now had to be exchanged for money could no longer be created out of the surplus within the animate homestead, now dependent on its articulation with a wider, inanimate, commodity producing system.

What has to be stressed is that this process of qualitative change from animate to inanimate modes of production, this revolution, does not necessarily demand the total extinction of social and political practices which had their origins in the animate system. Indeed, through the system of migrant labour, chiefly authority, customary law and the gendered division of labour became an intrinsic part of the South African inanimate capitalist economy. Patriarchal power, *lobolo*, *hlonipha*, the fetishization of cattle, commitment to the homestead, *ubukhosi* and the personal and cultural desires and commitments that go with them continued. Indeed it might be argued that socially and individually they intensified with the personal and the social distress necessarily associated with the disappearance of the conditions and the economic system in which they were produced.<sup>8</sup>

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<sup>7</sup> In the next three paragraphs I suggest very briefly some of the ways these concepts might be applied. They pertain to questions I raised, but didn’t answer, in the closing pages of “‘No eyes, no interest, no frame of reference’”: Rosa Luxemburg, Southern African historiography, and pre-capitalist modes of production’, *The Accumulation of Capital in Southern Africa: Rosa Luxemburg’s Contemporary Relevance* (eds. Patrick Bond, Horman Chitonge, Arndt Hoffmann (Rosa Luxemburg Foundation, Johannesburg, Centre of Civil Society, Durban, 2007).

<sup>8</sup> For a magnificent visual realisation of the way in which the animate mode once integrated *siZulu*, *izinkomo* and the natural world see M. Poland, D Hammond-Tooke, L. Voigt, *The Abundant Herds* (Vlaeberg, 2003).

### **The battlefield of history**

I certainly suspect that it is within this paradigm that we have to search for explanations for the exploitation and continuation, indeed the intensification, of traditionalism and its ideological appeal in South Africa today. An example which confronts us daily in the press is Jacob Zuma's large, growing, proudly traditional homestead on the rolling, open ground between the Thukela river and the Nkandla forest (granted apparently as a reward for assistance given by the Nxamalala to the British army when it invaded the Zulu kingdom in 1879<sup>9</sup>). Crucial to its development was the attempt to raise money from Thomson CSF, now the Thales Group 'a world leader in Mission-critical information systems for the Aerospace, Defence and Security markets',<sup>10</sup> via an encrypted fax which South African prosecutors asserted implicated Schabir Shaik and Jacob Zuma.<sup>11</sup> We have come a long way from the once abundant Zulu herds.

Or have we? A democratic history should be able to show us not only this distance, but also the proximity of the past. A democratic legal system has yet to do so. In fact the Law Commission Report on traditional courts and traditional leaders agreed to avoid 'too much academic speculation and analysis'.<sup>12</sup> While this is regrettable it does seem to me to offer a formidable challenge to academic speculators. One only has to look at the official documents, the enquiries, and the draft legislation on the role of what are called traditional authorities in South Africa today to realise this. The constitution itself recognises traditional leadership and customary law but in formulations so loose that they could lay the statutory basis for either perpetuation or abandonment. Neither the Law Commission Report nor the legislation mooted or enacted<sup>13</sup> enlighten us on custom and tradition beyond accepting that they are customary and traditional. The detailed and difficult history of the debates around words like tradition and custom, and the concepts derived from them like traditional authority and customary law, are ignored or unknown. As a result the limitations of the experts who sell their expertise to government agencies can be painfully transparent.<sup>14</sup> Moreover the legalistic approach – which defines new statutes in terms of old ones without reference to their colonial and racist legal provenance – gives position papers and resultant legislation an apparent historical validity and intellectual authority, which in reality is simply non-existent.

The uncritical bandying about of such terms as custom and tradition seems to me to pose a real challenge to historians. And if it was difficult to mount a critique of them at the time when they served segregationist ideologies of discrete ethnicities, it remains difficult now that they have become not only legal precedents but serve contemporary elitist ideological ends so usefully. But even though the manner in which the conflict is fought has changed, it takes place on the same battlefield: the one that demands that we see the present historically, identifying what has changed in order to see what has stayed the same. In pursuit of this, this time round, I am not

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<sup>9</sup> Evidence of 'Sipika ka Vundisa ka Mtsholozu, of the Zuma people (isitakezelo), of the Nxamalala people' *The James Stuart Archive* eds. C. Webb and J Wright (Pietermaritzburg and Durban) V, 359.

<sup>10</sup> [www.thalesgroup.com](http://www.thalesgroup.com) (accessed 23 April 2009),

<sup>11</sup> *Mail & Guardian* 3-9 April 2009.

<sup>12</sup> Law Commission Report 82: Traditional Courts and the Functions of Traditional Leaders (1999) 1.3.

<sup>13</sup> Traditional Courts Bill, Traditional Leadership and Governance Framework Amendment Act, 2003.

<sup>14</sup> [www.pmg.org.za/report/20080620](http://www.pmg.org.za/report/20080620). Traditional Courts Bill: Parliamentary Research Unit briefing (accessed 8 April 2009).

going to attempt another predominately theoretical article. Instead I want to look at a specific example – the way in which the hut tax was imposed in Natal in 1849.

## II

### 1846: Abandoning Natal

In 1849 Natal entered its fourth year under imperial authority as a District of the Cape Colony.<sup>15</sup> Its situation can only be called parlous. The decision to annex had been taken reluctantly. The British had been dragged across the Cape borders by the fear that Boer and African conflicts in Natal would spill over on to the Cape frontier. They intervened with small show of force in 1838, withdrew, hesitated, intervened again militarily in 1842, and after so much meddling found it less difficult to go forward than to go back. In 1843 it declared the district a British colony and brought an end to Boer resistance in Natal by promising to consider their land claims favourably. It also pledged itself to the recognition of aboriginal land rights, and to reserve land for African refugees. None of these promises were kept. Africans re-established themselves on land in Natal making it impossible for the Boers to impose themselves and they began to move to the highveld. By 1845 the British found themselves with authority over a remote part of south-east Africa occupied by 100,000 Africans and few thousand settlers, and whose limited economic prospects were further restricted by the sandbar at the entrance to its only harbour.

The debate around the responsibility of the British tax payer and the British treasury in obtaining and maintaining the British empire is a feature of its history and its historiography. It acquires a particular significance and intensity in the mid-1840s, at just the moment that Natal was established. The Whig government came to power in the aftermath of severe economic depression, the hungry forties, the Irish famine and the repeal of the Corn Laws. It was associated with the pursuit of free market, anti-protectionist policies and political autonomy for the settler colonies – if they showed evidence of a degree of political stability and economic self-sufficiency. Natal had neither – indeed it had hardly the qualifications to be a colony at all. It was an embarrassment. Looking at the movement of the Boers out of Natal, and the movement of Africans into it, the Cape Governor wrote that it seemed as if the prospect ‘of having a colony of European settlers’... was ‘likely to be almost entirely frustrated’. Unless something was done there was nothing to prevent the new settlement ‘from degenerating into little more than a colony of natives.’<sup>16</sup>

James Stephen, permanent under-secretary of state for the colonies, believed that Britain should let go of Natal: ‘The place is too worthless to justify throwing the burden on our national resources even for a time. ...’<sup>17</sup> But Earl Grey the new secretary of state, didn’t agree. His evangelical reforming instincts were strong but, as far as Natal was concerned, he had to work hard to harmonise them with his even stronger liberal economic beliefs.

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<sup>15</sup> Formally it was a District of the Cape Colony until 1856. But I will refer to Natal on occasion as a discrete colony, as do the records themselves.

<sup>16</sup> BPP[British Parliamentary Papers]: 1848, 32, Maitland to Stanley, 30 March 1846.

<sup>17</sup> PRO [National Archives, Kew]: C[olonial]O[ffice]179/1, 1388, Minute on Maitland to Gladstone, 4 April 1846.

Whether it were originally wise or otherwise to occupy the settlement of Natal practically it is impossible now to abandon it, & the question is how it may be maintained at the smallest cost, & made the instrument of most good in civilizing the natives of this part of Africa.<sup>18</sup>

He had read with interest the suggestions in the despatches coming from Natal, particularly those from the Diplomatic Agent, the 29-year old Theophilus Shepstone which were ‘remarkable’ in their account ‘of the state of feeling even now prevalent amongst these tribes as to the value of British protection, and the advantage of living under British authority.’

The civilization and improvement of the inhabitants of this part of Africa are, then, the main objects to which I look from the maintenance of this colony. No doubt, if these can be attained, other advantages will follow in their train: a population already considerable in numbers, inhabiting (if I may credit the accounts before me) a region of the earth among the richest that are known in natural resources, cannot become civilized and industrious British subjects without adding to the strength and greatness of the empire, and creating a new field for commercial enterprise, and a new demand for our manufactures.<sup>19</sup>

But all plans for the future of native administration in Natal were wrecked on the reef of the budget. A Native Locations Commission<sup>20</sup> estimated that a minimum of £5500 per annum would be required to set them up – a sum described by Natal’s Lieutenant-Governor as ‘utterly beyond our present means’ and consequently ‘the chief objects of Her Majesty’s Government for keeping possession of this district ... will, to all appearance, be entirely defeated’.<sup>21</sup>

A revenue had to be raised locally. Africans were the obvious source for this, but no one could suggest how this could be done, at least without provoking resistance. Whatever policy was to be adopted in Natal it would have to have the support of a significant proportion of the African population otherwise it was just too dangerous. As Shepstone said it should never be forgotten that ‘our destruction is inevitable the moment they become unanimous in determining it’.<sup>22</sup>

### **1848: Sir Harry Smith**

As it happened it wasn’t the absence of revenue which defeated Her Majesty’s Government’s immediate objectives but her new representative in South Africa, the High Commissioner, Sir Harry Smith. He arrived in the Cape in October 1847 and moved immediately to the eastern Cape to solve southern Africa’s problems. Insensitive, reckless, violent, sentimental, and egged on by colonial racist sentiment, he did what he could to reverse, as he saw it, policies which replaced those which he had supported ten years before. He ranted, he raved, he publicly humiliated the African leaders with whom he had to deal. The dreadful sixth frontier war was coming to an end when he arrived. He terminated it and in so doing laid the basis for the next war by annexing the territory between the Kei and the Keiskamma. He then moved on to the interior and extended British authority over the huge tract between the Orange and the Vaal rivers. At the end of January he crossed over the

<sup>18</sup> PRO: CO179/1, 1305, Minute by Grey on Maitland to Grey, 26 May 1846 West to Maitland, 27 April 1846.

<sup>19</sup> BPP:1848. 41, Grey to Pottinger, 4 December 1846.

<sup>20</sup> BPP:1848. 65, Pottinger to Grey, 26 May 1847 and enclosures.

<sup>21</sup> BPP:1848. 93, Smith to Grey, 18 December 1847, enc. 1, West to Smith, 2 November 1847.

<sup>22</sup> BPP:1848. 65, Pottinger to Grey, 26 May 1847. enc. Report of the Locations Commission, 30 March 1847. Although it should not be assumed that all the views and statements in this Report were the work or had the assent of Shepstone – this remark, I believe, was his.

Drakensberg into Natal. It was raining and in the foothills he came across parties of Boers waiting for the rivers to fall so that they could move in the opposite direction out of the colony.

... The scene exhibited by about 300 or 400 fathers of large families assembled and shedding tears when representing their position was more, I admit than I could observe unmoved, each exclaiming, "Our friend, Colonel Smith, we were living quietly under a Government which we were ever attached to: our loyalty has been suspected, our lands have been sparingly given or refused - we were not even allowed to purchase. Kafirs have been located on our lands, and intermixed with us. These are the causes which have led us to abandon our homes, our crops standing, and the gardens which we planted with our own hands, abounding in fruit and produce. We are seeking a wilderness."<sup>23</sup>

Smith was determined to give them back their Eden. On 10 February he issued a proclamation to establish a Land Commission which was to make 'every exertion ... to put into possession of a good and extensive farm, not exceeding three thousand morgen, all such of Her Majesty's original emigrant subjects, as have claims upon the Government of Natal for land....' In making its recommendations the Land Commission should 'be guided by the most liberal constructions of such rules and ordinances as may exist' and where they did not, decisions should be 'in favour of the individual'.

As far as the locations were concerned

much dissatisfaction has arisen from the Kafir locations being intermixed with the original occupants of land: I hereby proclaim and declare that such intermixture cannot be, and all classes of the coloured population who have had free locations given them, must be removed so that a distinct<sup>24</sup> line be established between the different races of Her Majesty's subjects.

In an arrogant, crude, sycophantic despatch to London Smith trotted out the necessary arguments. African had to be made to labour and be taxed and

As the resources of the district improve, any overplus revenue might be well employed in ameliorating the condition of the natives, which would not only tend to the benefit of the people at large, but indirectly to the increase of the imperial treasury, by the demand for British manufactures created by civilization. The condition of the natives in the district of Natal is very good - in their conception perfect - they have as much land as they require for cultivation, and enough to graze their cattle - while they are not oppressed by the chiefs, who are restrained from violence by the influence of our government. These nomadic races unfortunately, however, inherit that apathetic idea of comfort comprised in having a sufficiency to eat and time to sleep - their desires going no further - hence I wish your Lordship to understand that any expenditure upon abstract principles as regards the natives may be entirely thrown away.<sup>25</sup>

Grey agreed – in the process writing himself down as a mid-Victorian caricature, a minister of state seconded from a Dickensian workhouse, zealously pursuing civilization by means of the taxation of productive labour. It was to this that Grey returned repeatedly:

The policy which I believe to be best adapted to promote civilization is that of raising the revenue required for the support of those institutions which distinguish a civilized from a barbarous state of society, by such taxes as may tend most to render a mere subsistence difficult to be obtained without exertion and to increase the amount of labour which, in a state of barbarism and in a country very thinly peopled, is necessary for that purpose....

<sup>23</sup> BPP:1848. 95, Smith to Grey, 10 February 1848.

<sup>24</sup> The BPP version has 'distant' which must be incorrect.

<sup>25</sup> BPP: 1848. 96, Smith to Grey, 4 March 1848.

Ominous warnings of coming repression? The imposition of taxation with the ultimate purpose of creating an effective colonial state based on the rigours of wage labour in the service of capitalist production? Perhaps – if such declarations of intent had borne any relation to the situation in Natal and could have been imposed. In fact they did and could not. Both Smith and Grey were living in worlds and proposing solutions which had little bearing on reality. Smith's 10 February proclamation did not persuade most Boers to return to take up their land claims for agricultural production – instead it provided the opportunity to sell claims to those who speculated in land as an investment, closing off to new settlers the most desirable farming areas. The legal confusions created by Smith's proclamation were vast – obstructing for at least two years any progress that had been made in land delimitation. And it was all very well for Smith to 'proclaim and declare' that 'intermixture cannot be' – but god-like pronouncements to appease the Boers offered no guide to their implementation.

And the question of revenue became only more urgent when at the beginning of 1849 a dodgy entrepreneur J C Byrne was granted authority by the Colonial Office in London to promote an emigration scheme to Natal. In May 1849 the Cape colonial secretary wrote to his counterpart in Natal pointing out that the positive news about emigration could not be turned

satisfactorily to account while the local treasury is crippled in its resources and dependent on advances from this government which are becoming a very serious item in the Cape expenditure. It is therefore on every account obviously desirable that all the resources of the district should be rendered available, and a considerable revenue might probably be raised from the natives....<sup>26</sup>

On 15 June Shepstone was called before the Executive Council and asked to report on 'whether it is practicable to levy a tax upon the native population of the district, by native agency or other inexpensive means...' Three days later he submitted a memorandum: it proposed not a capitation-tax, nor a tax on land as had been suggested. Instead he suggested something new: a tax calculated on the number of houses within an African homestead – he called it a hut tax.

### **1849-50 A hut tax**

Shepstone had begun to formulate the idea on a trip made in March 1849 to settle disputes between white owners and black tenants on farms near Durban. He felt the cause of the difficulties were easily discernable. The tenancy agreements were based on a labour rent: all those living on the property were called upon to give so many days labour a month. This was resented by many of the men, who as the heads of homesteads were often wealthy in themselves, and objected to being forced to work for what they saw as a pittance. Shepstone advised the farmers to adopt a system whereby a money rent was paid. But how was this rent to be assessed? Africans lived in polygamous homesteads and it was assumed that the rent should be paid by the male head of a family. It was obviously unfair to charge a man with one wife the same as a man requiring land for the labour of five wives. This in turn raised the question of how to determine a fair assessment. Given the fluidity of marriage arrangements, the flexibility of *lobolo* payments, and the complexity of African family structures it was not easy to decide precisely how many wives a man had – an apparently simple question which in fact would demand lengthy, informed investigation to counter

<sup>26</sup> BPP: 1850. 7, enc. 1, Montagu to Moodie, 19 May 1849.

evasion. Shepstone thought about it and, 'at length' a 'very simple and at the same time efficient criterion ... suggested itself to me'. To change what can be seen as an animate criterion into an inanimate one. This

was to make the head of every kraal or village responsible for a certain sum of money for every hut in his compound. Each wife has a separate hut and garden, and by this means is attained the great object of making every man pay in exact proportion to the use he makes of the farm. The amount determined upon was 5/- per hut ... with the alternative of removing into a location before or by that time if they wish to avoid payment – The amount payable by the natives on Mr Foor's farm alone will be £40.<sup>27</sup>

Shepstone drew on this experience in his June memorandum on taxation. The solution he had found to the conflict over tenancies could be extended to Natal generally. A capitation tax, Shepstone wrote, would require a sophisticated system of registration and oversight for which Natal did not have the administrative capacity. People moved, but huts did not and they were a measure of both property and income. He had always thought the imposition of a tax of £1 a year on every married man would be fair – that was until his visit to the Durban area where the conflict over rentals made him aware that 'indiscriminate equalization' was 'highly unjust'. A tax on homestead-heads calculated on the number of huts in the homestead however would be directly related to productive capacity and male income.

While their present customs prevail, this would not only be the simplest to collect, but I think the most just to impose; it embraces every advantage of both a property and an income tax, and has the further recommendation of directly discouraging polygamy [sic], that great incentive to the exclusive acquirement of cattle, as the most desirable description of property, while its levy is not capable of very extensive evasion ...

The tax should be levied on all homesteads, be they on private farms or in the locations and carried out under strict government control about six months after a public announcement that it was due. Shepstone thought the sum raised would be between £6 and £8,000 pounds and much of this would have to be paid by the sale of livestock. It would be a massive task to undertake given that

the tax is to be collected from a population scattered over the surface of a district 18,000 square miles in extent; ... every kraal must be visited; and ... no registration or memoranda, to serve as a guide, can be preserved, neither can I, at this moment, point out in what the Government could assist me. The registration of Kafir names cannot be done except by men who understand the language and its orthography. I am also unable to estimate the expense.... I am, however, willing, should the Government decide upon the measure to make the attempt, even under these circumstances and the already overwhelming amount of my duties.<sup>28</sup>

The tax-collecting party left Pietermaritzburg on 29 October 1849. It travelled to the southern districts and returned just before Christmas. It had rained on 43 of the 48 days it had been in the field. Shepstone estimated that one third of Natal's population had been covered. £1712 had been collected in cash and £1776 raised from cattle sales. The next stage began in mid January and covered the northern districts.<sup>29</sup> In his final report Shepstone wrote of 'the perfect success with which the experiment has been crowned'. Over a period of four months during which Shepstone had visited all parts of the district, a sum of 7/- had been levied on 25232 huts in payment of which 5368 receipts had been issued. This had raised £8831 pounds of which £5241 had been in cash creating a general shortage of specie in Natal. Three thousand head of

<sup>27</sup> PAR [Pietermaritzburg Archives Repository]: CSO. 20/1, Shepstone to Moodie, 21 March 1849.

<sup>28</sup> BPP:1850. 18, enc, Extract from the proceedings of meeting of the Executive Council, Shepstone, Memorandum, 18 June 1849.

<sup>29</sup> PAR: CSO. Shepstone to Moodie, 17 February 1850.

cattle had been thrown on the market at a time when they were especially needed – for the first significant numbers of English settlers were just then arriving in Natal.

As presented officially in his report this first tax collection trip was a triumph. Sir Harry Smith in his covering letter tried to claim some of the glory – on no grounds at all – but Shepstone's report left the reader no doubt that the glory was his alone.

Africans had paid enthusiastically

The natives everywhere manifested not only a willingness, but the greatest anxiety to make their payments, and look upon the receipts granted to them as conferring upon them a tangible and closer connexion with what they term the Great House, so much so that several who by accident lost them in the rivers, or by their great enemy the rats, travelled great distances for duplicates.

This 'the first year of the experiment of taxation being made on the natives' had been carried out with little forewarning. Africans had been forced to raise cash at short notice at a time when many felt there was insufficient coin in the district to cover the amount. It should be appreciated that in these circumstances they had in fact done extraordinarily well. The amount submitted in cash was particularly pleasing but then Africans did not have to be reminded how much easier it was to carry 28/- in cash for fifty miles than to drive a cow that distance. In fact cattle had suffered considerable casualties while being driven to tax collecting points. And for this reason Shepstone objected strongly to government proposals that cattle be valued at 10-20% below their current price: these made transactions from which Africans already suffered losses even more onerous.

But what Shepstone leaves out in his reports about African willingness to pay is the element of intimidation. Only two years before he had attacked one of the best known *amakhosi* in the southern region and distributed the cattle he seized to the Africans who had made up his armed force. He had done the same in the northern districts when he moved the Hlubi and Ngwe to locations earlier in the year. His willingness to use the promise of cattle to cooperative African chiefs to coerce the recalcitrant was thus already well known. He also didn't report, indeed he specifically denied, what Africans were later to claim – that they believed it was a one-off payment, in recognition of their claim to occupy their land.<sup>30</sup> And it was only when he was reprimanded for unauthorised expenditure that he was forced to reveal something of what the tax-collecting expedition was like: mounted men, servants, messengers, herds of cattle to be guarded and driven, specialist legal advisers (his 'jury'), forced hospitality, headed by Shepstone surrounded by the panoply of chiefly power.

I am obliged by my position over the natives, whenever I journey among them, to have a large number of attendants, as I am never without business, which requires both extra messengers and the use of the native jury, whose services are so much value to me in managing the natives.

In almost all cases hitherto these attendants have been supported by the tribes through which I journey; but in this instance, as the object of my journey was to demand, and if necessary to enforce, payment of a heavy tax, I could scarcely expect that, in addition to this tax, they would so cheerfully support the burden of feeding from forty to sixty men....<sup>31</sup>

The reports of the tax collection were received with relief in London and greatly enhanced the reputation of the young colonial administrator. Up till then the news

<sup>30</sup> For evidence of Shepstone's deliberate suppression of evidence of African claims to land see my previous paper in this seminar series, 'Creating Customary Law'.

<sup>31</sup> BPP: 1851. 13, Shepstone to Moodie, 8 January 1850

from Natal had been unremittingly gloomy and on no topic more so than the seemingly intractable one of raising revenue from African sources. Now it seemed there was a man who was able to impose his will on the indigenous people without imperial-funded military support, or provoking Africans into resistance.

This is a most satisfactory account of the collection of first years Tax on Native Huts in Natal. Lord Grey will no doubt recommend the Treasury to sanction the allowance to Mr. Shepstone thro' whose intelligence & exertions this measure has been carried into effect so successfully?<sup>32</sup>

But this was the only good news. The extremely unfortunate consequences of Smith's Land Commission provoked an unusually frank assessment in London: '... if some convulsion of Nature had visited half of this fine country with sterility, it could not have been more injured than by the errors of its Ruler. [ie Smith as High Commissioner]'<sup>33</sup> Then the Natal authorities passed an ordinance allowing the sale of land claims before their titles had been recognised, delayed the transmission of the ordinance for authorization in London, and acted on it during the interim. This not only gave free rein to land speculation but allowed, so the Colonial Office suspected, Natal officials to take personal financial advantage of it.<sup>34</sup> It also worsened the difficulties of the settlers who arrived in Natal between 1848 and 1851 under Byrne's badly planned and managed emigration scheme. The Boer claims to farms of six thousand acres might have been extravagant – the Byrne settler farms of twenty acres were ludicrous – they were not worth even the survey and registration fees.

### **1850: Benjamin Pine**

In April 1850 Benjamin Pine arrived in Natal as the new Lieutenant-Governor, under instructions to sort out the mess. The first thing he saw in Port Natal was his 'countrymen ... living in tents or miserable huts within a few yards of the place where they had landed.'<sup>35</sup> But there was one positive aspect in the collection of negativities which confronted the new Lieutenant-Governor: the £8000 plus just raised from the African population by the hut tax and now locked in the Natal's hitherto empty chest.

Benjamin Pine was a curious mixture: severely limited at a personal level, but a very able administrator. During his first year in Natal he made some difficult decisions on the future of the Byrne settlers: he wrote, according to the Colonial Office, the first 'intelligible account of the state of the Land Question in the Settlement'; and early in 1851 he presented the first public account of Natal's budget and his estimates for the coming year. Within two years of the Natal treasury being described as 'crippled in its resources and dependent on advances' Pine could write that 'our financial state' '... is on the whole very cheering'.<sup>36</sup> Revenue was increasing steadily, and in his estimates Pine was able to consider the repaying advances from the Imperial Treasury, an increase in the salaries of officials, and grants for the building of roads and other public works.

<sup>32</sup> PRO: CO179/11. 190, George Barrow to Herman Merivale, 7 January 1850. See also in the same file Herman Merivale to Benjamin Hawes, 8 January 1850, and Minute by Grey, 9 January 1850.

<sup>33</sup> PRO: CO179/12, 6743, Minute by Elliot, 21 August 1850.

<sup>34</sup> PRO: CO179/12, 6743, marginal comments by Elliot, 21 August 1850 on the cancelled despatch to Smith, August 1850.

<sup>35</sup> BPP: 1851. enc 1, Pine to Smith, 30 August 1850.

<sup>36</sup> BPP:1851 13, Smith to Grey 16 April 1851, Minute, Finance, 30 November 1850.

It was an optimistic set of documents – too optimistic the Colonial Office felt. It was also a sustained attempt at self-promotion: the breezy realism of a confident man who within a year had turned a colony floundering in debt and legal confusion into one in which ‘much indeed remains to be done ... before we can conscientiously say that the objects for which Government exists have been accomplished’, but was nonetheless on the way there. There was an element of truth in this. The budgetary trends did indicate increasing revenue. But this it was also a misleading despatch particularly in the way it promoted the importance of the increase in customs’ revenues and demoted the significance of the hut tax.

There was of course no escaping the contribution of the hut tax. But Pine was nonetheless able to play down its significance. He constructed the following table:

	Revenue £s			Expenditure
	Customs	Other sources	Total	
1846	472	2601	3673	6905
1847	2882	3759	6641	8340
1848	4752	4517	9269	10101
1849	5681	7151	12832	14941
1850to 31Oct	8472	13176	21648	16916

Presented in this way the impression is created that the main thrust of the revenue gains was the result of customs dues, which in turn reflected the positive consequences of British emigration. This is enhanced by dividing the sum *for* the first year of the hut tax – 1849 – amongst the years *during* which it was collected, 1849 and 1850, and subsuming the amount into ‘other sources’. Budgets presented in this way are easy to tweak but difficult to assess. Pine’s own comment on the above table is more revealing in the way it acknowledges the significance of the hut tax but at the same time promotes the overall importance of customs dues (which in fact fell over the subsequent few years):

The great progress which has taken place in the revenue during the period comprised in this return is mainly attributable to the Customs duties, which have increased with astonishing rapidity. During the last and present year, however, the revenue has been further greatly *augmented* by the Kafir hut tax, which has produced the sum of £8717 11s 1d.<sup>37</sup>

Augmented? The sum collected by the hut tax in 1849 was in budgetary terms nearly as great as the whole revenue in the previous year. In terms of the impact it made on the officials, who in mid-1849 had despaired of finding a solution to Natal’s economic difficulties and therefore its social well-being, it was unprecedented. The hut tax remained a basic source of revenue in the economy of Natal for years to come. It was increased and supplemented over the years, the amendments reflecting closely changes in the basic political economy of the people of Natal.

One of the ways to appreciate the significance of the hut tax is to track the way it was fought over. This long and intense conflict began as soon as the tax was first collected. Pine delegated half of the sum to the category ‘Aboriginals’ – out of which he created four magistrate’s posts in the locations. The other half disappeared in ‘the formation of institutions, by means of which they may gradually be made capable of

<sup>37</sup> BPP:1851. 13, Smith to Grey, 16 April 1851, enc. Pine to Smith 16 February 1851.

enjoying the blessing of true freedom and civilization.’<sup>38</sup> This was just one of the many claims that were to be made on the tax, for reasons as different and dispersed as the people who made them. Earl Grey in London felt it should be used to civilize barbarians through education and wage labour. Pine felt it should be used to increase the colonial administration and buy the support of the settlers. Shepstone was determined to use it for what he saw as ‘native purposes’. A memorial, signed by 150 merchants agriculturalists and traders on the first day of 1851, felt that the hut tax ‘ought, in justice, to be expended for the purposes of public utility....’<sup>39</sup>

Before the second collection of the tax a magistrate<sup>40</sup> spoke to some of the African chiefs and their councillors about it. They objected strongly: the tax should not be raised annually: they did not have the chance to build up their herds before the next payment was due. They objected even more strongly to the way in which it was raised: to tax their huts was to tax women, why not estimate the size of the homestead in some other way? It was enough, they said ‘jocularly’, to make them divide their houses into rooms like the white people. They objected to the fact that payment was differentiated. If there was going to be a tax then the same amount should be imposed equally on all married men – said a man of some status, a ‘councillor’ of the Chunu *inkosi*, Phakade.<sup>41</sup>

### III

#### **Taxing Women’s labour**

I have yet to find has been a woman’s voice on the subject of this first hut tax collection. And yet it was women’s labour upon which the tax was calculated and imposed – each house (hut) was largely self-sufficient but also contributed to the wealth of the homestead as a whole under the direction of the homestead-head, father or husband. It was the direct, daily labour of women upon which the homesteads depended: hoeing, sowing, weeding, reaping, storing; gathering cereals; grinding, preparing, cooking and serving them; child raising, childcare, cleaning, water carrying. To recognize this is not to deny of course the existence of laughter, love and leisure. Nor is it to diminish the importance of pre-adolescent labour (herding, child-minding, bird-scaring) nor the male time expended and male skills and expertise required to raise livestock successfully, nor the existence of women chiefs. Nor does it ignore the evidence that agricultural products were being sold on the market and labour on the farms – but preferably in towns where it was less onerous, more secure and better paid. But any calculation on how labour was divided, and the role of gender, is inadequate if we limit it to the empirically deduced tasks and time and physical exertion expended. We have to locate such information within the productive context – and in this case it is provided by the value in cattle of female labour power, not just in their productive but in their reproductive capacities which means, I must repeat, value in their own terms, not in terms of misapplied notions derived from capitalist ideas of buying, selling, investment and therefore price.

<sup>38</sup> BPP:1851. 13, Smith to Grey, 16 April 1851, Minute, Finance, 30 November 1850.

<sup>39</sup> BPP:1851. 13, Smith to Grey, 16 April 1851 Memorial, 27 December 1850 and 1 January 1851

<sup>40</sup> George Ryder Peppercorne, ex captain in the service of his Hellenic majesty of King Otto, and secretary of the London Vauxhall Water Works, whose remarkable tenure as magistrate of the Mpofana location from August 1850 until his resignation in protest in July 1852 I am researching in its own right.

<sup>41</sup> PAR:CSO, 21. Peppercorne to Shepstone, 31 March 1851.

The hut tax selected the class within African society which was dominant and consequently had access to surplus – married men. It then graded that tax according to the number of huts under a man's control. These huts were the houses of women upon whose agricultural production and domestic labour the homestead depended. It was therefore a tax upon their labour expended in the support and the reproduction of the homestead. It was accepted, and in years to come formalised, that it was the senior political authority in the locality that was responsible for organising payment, but the hut tax was still a forced entry into the African system of production.

To convert the surplus into money form cattle had to be sold – or when tendered to the authorities as tax, accepted at a sub-market price. Thus to raise the tax, surplus goods had to be sold – not bartered - but sold, that is exchanged for money, giving them not just value but a price. The introduction of inanimate money into an animate economy in this way was not of course immediately destructive of the system. The essential animate dynamic could still be retained even when agricultural produce or livestock was sold, or individuals within the homestead sold their labour power, to raise the tax. But it began a process of change, uneven, contradictory, moving towards a time when the people of the homestead could no longer use their labour to produce value from animate products and it became dependent on that inanimate 'absolutely alienable commodity, because it is all other commodities divested of their shape, the product of their universal alienation'<sup>42</sup> – money.

But that revolution was still to come: in 1850 it was just beginning: an animate mode of production able to raise sufficient inanimate surplus to satisfy an intrusive colonial power in the process of implementing its authority. In so doing it persuaded ministers of state in London that they would not have to either abandon or be responsible for a colony unable to support itself financially. It allowed Natal's lieutenant-governor to dismiss the prospect of colonial collapse and construct a budget which envisaged a reasonably prosperous colonial future. It allayed Shepstone's fear that unmediated settler greed would provoke united African resistance. It persuaded the settlers to forgo the impossibly dangerous idea of seizing African land and labour and instead lay claim to it in the form of money, legally raised. It allowed chiefs to retain authority if not over all labour at all times then at least over the land on which their people built their homesteads, and fathers and husbands to keep some autonomous control over the labour and produce of their wives and children. And all these objectives, ambitions and dreams, if not of overweening power and prosperity then at least of a viable colonial economy with a future, were derived in the end from labour: hard agricultural and domestic work, every day, through summer and winter, on the humid coastlands, in the hot and freezing deep valleys and mountain foothills of Natal, by the daily exertions of women, in the fields, in the homesteads, and in childbirth.

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<sup>42</sup> Karl Marx, *Capital*, I, Chapter 3 "Money, or the Circulation of Commodities" 1. The means of Circulation, (a) The Metamorphosis of Commodities. p.205 in the Pelican Edition (1976).

## APPENDIX: A CATTLE DISPUTE (c.1840-1857)

Earlier in this seminar series Scott Couper asked an important question on how cattle were assessed in disputes in pre-colonial or the early colonial years which deserved a fuller response than the one he received – one which might also make some of the arguments in this paper easier to appreciate. The following summary is based on a civil case in the Pietermaritzburg Archives Repository. (SNA 1/1/007 Verulam 21 July 1857, Masumba (Funwayo) v. Tongana (Funwayo)). It is one example of the thousands of such cases that can be found, even now after weeding, in the archives. It gives an insight into the exchanges, gifts, and demands, made for property in a homestead dispute just after the end of the first decade of colonial rule. I have ignored inconsistencies in the evidence, my object being to give an impression of life in an animate homestead.

On 21 July 1857 the Plaintiff, Masumba, took a case on appeal from the chief's court to the magistrate's court in Verulam, in which he claimed from the Defendant, Tongana, the return of his, the Plaintiff's, wife and forty head of cattle. The Defendant was the son of the Plaintiff's deceased brother. When he died the Plaintiff had adopted the Defendant as his son and placed him in the house of one of his wives and had supported him as a member of that house. Having never left the homestead to work for cash or kind the Defendant had been entirely dependent on that house and therefore ultimately on his stepfather. But when the Defendant had reached maturity he had quarrelled with his stepfather, and moved away with his stepmother and some of the cattle attached to the house.

The Defendant in his statement told how when he was orphaned as a boy his uncle, the Plaintiff, had placed him in the house of one of his eight wives and 'told him to look upon her as his mother'. When this woman had originally married the Plaintiff he had given her father six cattle, four of his own and two from his brother, the father (one must assume) of the Plaintiff. Thus some of the cattle belonging to the house in which the Defendant had been placed in fact belonged to him, as the son of the man who had provided part of the lobolo for the Plaintiff's wife (the Defendant's stepmother).

The Plaintiff contested this claim by pointing out that when the Defendant had got married he (the Plaintiff) provided the lobolo 'considering him my son'. He also gave him five head for another wife. Moreover the Defendant had a sister whom her uncle, the Plaintiff, treated as a daughter paying one head to a doctor who attended her, four head to her husband on her marriage and provided the ritual ox. The Defendant had promised to repay the final gift with a cow, a red one with large white spots. In the eight years that had passed since then, that cow had had five calves.

Other debts now claimed included a heifer the Defendant had promised in return for an ox he had slaughtered: The heifer promised was in fact originally one that the Plaintiff had placed in his wife's homestead: it was dun coloured with a white mouth and throat and had since then had four calves.

There was also a black and white cow which the Plaintiff had purchased with ten 'tiger cat' skins. Four of these skins had belonged to the Defendant's stepmother, and six to another wife. This cow was 'appropriated to the use' of the Defendant's stepmother's house, but had been returned to the Plaintiff when he married his eighth wife and used as part of the lobolo. His eighth wife's father later exchanged it for the for an ox that the Plaintiff had purchased seventeen years before with maize grown by another wife. But in 1856, while the Plaintiff was away, the Defendant took this cow from the Plaintiff's homestead together with four head as its increase. He also took two cows, 2 heifers and a young bull and slaughtered one of the Defendant's oxen.

The Plaintiff also claimed the cow which he gave the Defendant to slaughter when the latter put on his head ring – that is reached adulthood. He claimed this cow on the grounds that 'I am no longer his father'.