POWER WITHOUT KNOWLEDGE: THREE NINETEENTH CENTURY COLONIALISMS IN SOUTH AFRICA

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Over the last three decades, scholars of empire have established a very intimate connection between archival knowledge and colonial rule. The works of Franz Fanon on the psychological effects of colonial rule, Michel Foucault on discursive regimes of truth in the making of modernity, and Edward Said on the politics of European scholarly engagement with colonial cultures have underwritten a vast new literature on the intellectual motives of empire.[1] As James Scott observed twenty-five years ago, modern colonialism exercised power as much "in paperwork as in rifles".[2] The connections here between western knowledge, writing, record-keeping and racist over-rule are intimate. Humble grammarians, philologists and historians have been accorded new imperial significance in these accounts, many of which are preoccupied with the direct links between the politics of writing (and archiving) itself and European colonial supremacy.[3]

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[1] Frantz Fanon, *The Wretched of the Earth: A Negro Psychoanalyst's Study of the Problems of Racism and Colonialism in the World Today* (New York: Grove Press, 1966 [Orig. 1963]); Michel Foucault, *The Archaeology of Knowledge and the Discourse on Language* (New York: Pantheon Books, 1972); Michel Foucault, *Discipline and Punish: The Birth of the Prison* (Harmondsworth: Penguin, 1977); and Edward Said, *Orientalism* (New York: Vintage, 1978).

[2] James Scott, *The Moral Economy of the Peasant: Rebellion and Subsistence in Southeast Asia* (New Haven and London: Yale University Press, 1976) 94.

[3] C. A. Bayly, *Empire and Information: Intelligence gathering and social communication in India, 1780-1870* (Cambridge: Cambridge University Press, 1999); Bernard Cohn, *Colonialism and its forms of knowledge: The British in India* (Delhi: Oxford University Press, 1997); Ranajit Guha, "The Prose of Counter-Insurgency" in *Selected Subaltern Studies,* eds. Ranajit Guha and Gayatri Chakravorty Spivak (Oxford: Oxford University Press, 1988) 45-86; Isabel Hofmeyr, *"We Spend Our Years as a Tale that is Told": Oral Historical Narrative in a South African Chiefdom* (Johannesburg: Witwatersrand University Press, 1993); Jill Lepore, *The Name of War: King Philip's War and the Origins of American Identity* (New York: Knopf, 1998); Walter D Mignolo, *The Darker Side of the Renaissance: Literacy, Territoriality and Colonization* (Ann Arbor: University of Michigan, 1995); Rolph Trouillot, *Silencing the Past: Power and the Production of History* (Boston: Beacon Press, 1995); Michael Warner, *The Letters of the Republic: Publication and the Public Sphere in Eighteenth Century America* (Cambridge, MA: Harvard University Press, 1990). The works that make this argument for South Africa, some more directly than others, are Jean Comaroff and John L. Comaroff, *Of Revelation and Revolution: Christianity, Colonialism, and Consciousness in South Africa,* Vol. 1 (Chicago: Chicago University Press, 1991); Clifton Crais, *The Politics of Evil: Magic, State Power, and the Political Imagination in South Africa* (Cambridge: Cambridge University Press, 2002); Saul Dubow, *A commonwealth of knowledge: science, sensibility, and white South Africa, 1820-2000* (Oxford and New York: Oxford University Press, 2006); Hofmeyr, *"We spend our years as a tale that is told".*

The great scope and power of these studies has tended to obscure a question that I would like to consider in this article: Was colonial over-rule possible without knowledge? Here my question is not simply whether colonial governments could function with faulty or uncomprehending informational systems, which the British in India evidently managed in the decades leading up to the Rebellion.[4] Rather it is whether the acts of archival government— of gathering and preserving knowledge about the colony and its peoples, and documenting the practice of government—were a necessary part of imperialism in the nineteenth century. I want to make the case here that the nineteenth century history of south Africa shows that imperialism could function quite well without knowledge—at least of the kinds of knowledge regimes that Foucault and Said have studied so productively. In the Transvaal and in the Colony of Natal in the second half of the nineteenth century two explicitly illiberal, anti-utilitarian, undocumented governments were at work. I think, although I do not show it here, that in the making of the Union and Apartheid in the next century, each of these probably held more local influence over individuals (whites and blacks) than the rump of utilitarianism that remained in the Cape Colony.

In south Africa, British officials and settlers and Boer farmers were preoccupied with the task of controlling African men, women and children throughout the nineteenth century. They solved these problems with three quite different political arrangements that can be usefully associated with the major political proponents of each system. The first was hubristic, interventionist, Benthamite and intensely archival, and part of the revolutionary labours of Sir George Grey, an archetypal imperial administrator and governor of the Cape from 1854 to 1861. The second scheme, emanating from the little colony of Natal, was pessimistic, abstinent, Burkean, administratively oral, undocumented and associated with the long career of Sir Theophilus Shepstone, the Diplomatic Agent to the Native Tribes. The third arrangement, applied in the fragmented territory of the Zuid Afrikaanse Republiek (what would later become the Transvaal Colony), was decentralized, paternalistic, minimally documented, deliberately administratively duplicitous and probably best linked to President Paul Kruger, who dominated the Republic for the last forty years of its life. All three systems were intrinsically racist and intensely violent at key moments, but each placed a very different emphasis on the production, preservation and reproduction of knowledge. All three

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[4] Bayly, *Empire and Information*, 316.

were elaborated on the assumption that writing was a white technological monopoly—an assumption that was increasingly misplaced as the century progressed.

Grey's "Fatal Conflict of Motives"

In confronting the problems of free labour at the Cape in the decades following the abolition of the slave trade, the imperial administrators came to rely upon two documentary instruments. First, was the formal written contract, usually witnessed and registered by a local official. Contracts were designed as the antidote to the unregulated, privatized subjugation of slavery. This opposition between contract and slavery was both ideological— following Locke: "As soon as Compact enters, Slavery ceases"[5] —and practical. Written contracts equipped the state with an archival procedure for regulating the relationship between masters and their free servants. As early as 1803 the Batavian Governor of the Cape, General Jannsens, expressed the opposition between cruelty and contract in the effort to halt the enslavement of the indigenous people. "The Hottentots … have been born free, and ought to be able to find liberty, safety and means of subsistence on the soil which was originally theirs". He explained to the Landdrost in the outlying town of Swellendam that his "most earnest desire … is that they be not ill-treated … that there be no cruel punishment of voluntary servants … that contracts with them be *just, clear and in writing*, and be observed in good faith".[6]

If contracts were used as a mechanism for asserting civil regulation of the otherwise private relationship between the master and his servants, their effect was dramatically weakened by the simultaneous adoption of pass regulations, which like the written contract were issued and recorded by local officials.[7] Before 1828, blacks in the Cape—whether free-born Khoisan or descendants of slaves—required written "passes" to undertake any kind of

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[5] Cited in Carole Pateman, *The Sexual Contract* (New York: Polity Press, 1988) 70.

[6] W M Macmillan, *The Cape Colour Question: A Historical Survey* (New York: Humanities Press, 1968, originally 1927) 155.

[7] South African historians tend to write about the emergence of the pass system as an exceptional process. In fact passes of this kind were common through much of Europe before the mid-nineteenth century. See *John Torpey, The invention of the passport: surveillance, citizenship and the state* (Cambridge: Cambridge University Press, 2000), 42, 58.

journey. In practice this meant that workers seeking to move from their current employment required the written permission of the same employer before they could approach the local officials responsible for issuing district or regional passes. These simple texts effectively bound workers to their masters, enforcing both the personal and racial subordination of black people. "From the beginning", Macmillan observed, "there was this fatal conflict of motives".[8] These contradictory imperatives took their earliest legal form in the 1809 Caledon code regulating the employment of "Hottentot servants". The imperial effort to mould a class of free workers at the Cape was hamstrung by the "clamorous colonial demand for labour" after the importation of slaves ended in 1807, and the obvious economic fact that the prosperity of the colony hinged on the availability of labour on the farms.[9]

This ambiguity in the government of black workers was an important part of Macmillan's criticisms of both the nineteenth and early twentieth century systems of labour regulation. But since his writing in 1927 it has been downplayed by historians with a more Whiggish orientation (like Marais) who see the colour-blind legislation of the later ordinances as harbingers of an unqualified freedom, and ignored by scholars (and here the list is potentially very long but see Peires[10] as a representative example) who see contracts as a tool for the exploitation of workers. The significance of state-sanctioned contracted labour rests in part with the opportunities they offered workers to challenge the conditions of their employment. But contract's real importance can only be assessed by comparison with the periods in which contracts were abandoned—the epoch of slavery was one of these, and the modern era of Apartheid was another. In this latter period the ambiguity of the imperial free labour laws was stripped away, leaving workers facing unrestrained employers and a massive apparatus of state pass regulations.[11]

The Caledon code introduced two features of the documentary order designed to secure the freedom of contracted workers that persisted intermittently until the coming of Apartheid. All work contracts of more than a month in duration were to be witnessed and

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[8] Macmillan, *Cape Colour Question*, 155.

[9] Macmillan, *Cape Colour Question,* 160. William M. Freund, "The Cape under the transitional governments, 1795-1814", in *The Shaping of South African Society, 1652-1820*, eds. Richard Elphick and Hermann Giliomee (London: Longman, 1982) 220-224.

[10] Jeff B. Peires, *Dead Will Arise: Nongqawuse and the Great Xhosa Cattle-Killing Movement of 1856-7* (Johannesburg: Ravan Press, 1989).

[11] Keith Breckenridge, "Verwoerd's Bureau of Proof: Total Information in the Making of Apartheid," *History Workshop Journal* 59, 2005, 83-109.

mediated by the state's officials, recorded in triplicate, and registered in the offices of the most senior district officials, the Landdrost. Like the Native Labour Regulation Act that would follow a century later, much of the code was directed against masters' abuse of their servants. Lord Caledon's law stipulated that wages must be paid for work, that no "service should lie against the servant in respect to debt", and that any payments in kind had to be recorded and registered by local officials.[12] In a similar vein, the most potent effects of the code followed from the extension of legal status to free black workers. The introduction of a travelling circuit court responsible for the prosecution of masters for abuse of their servants (notoriously labelled the Black Circuit of 1811 by the defenders of the Boers) exposed the private world of the master and the slave. As Macmillan observed, after the circuit court, "the chastisement of the servant, hitherto an unchallenged right of the master, was now to come under the review and control of the State and its law courts".[13]

Part of the significance of the Caledon code can be measured by the fact that the outrage amongst white settlers over the Black Circuit persisted into the next century, but another, much more powerful, yet hidden precedent was the newly established power of the registry over the movement of black people. After 1809 all Khoisan workers were required to record a fixed place of abode in the office of the district Landdrost. And harnessed to the effort to bind black people to the labour registry was the system of pass controls. Workers were not permitted to move from that address to another in the same district without a pass written by the local fieldcornet, and they could not leave the district without a pass issued by the Landdrost. In practice workers required a written pass from their own employers simply to approach the fieldcornet. "The pivot of the whole system", Macmillan complained, "was the Pass Law". The Caledon code worked to renew and strengthen slave-era pass regulations —themselves derived from the presumption that writing defined the community of the free— that would be energetically expanded in the twentieth century.[14] The 1809 regulations also extended the life of another custom from slavery: the use of flogging as punishment for laziness and impertinence. The legal authority for use of the whip under the new code was

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[12] Macmillan, *Cape Colour Question*, 161; Marais, *The Cape Coloured People*, 116.

[13] Macmillan, *Cape Colour Question*, 91. Timothy Keegan, *Colonial South Africa and the Origins of the Racial Order* (Cape Town: David Philip, 1996) 55.

[14] Macmillan, *Cape Colour Question*, 161; Marais, *Cape Coloured People,* 116; Warner, *The Letters of the Republic,* 12-17.

restricted to the fieldcornet, but these officials—themselves full-time farmers and part-time officials—were empowered to administer lashes without any kind of judicial investigation.

For twenty years after the proclamation of Caledon's "Hottentot Code" the newly arrived mission organisations lobbied to excise these remnants of the slave code from the law governing Khoikhoi servants on the farms. Their success was marked by the publication of Ordinance 50 in 1828. This new law famously established the formal legal equality of the descendants of the Khoikhoi and, five years later, of slaves at the Cape. It abolished the operations of the pass law for Coloured people and established their legal right to own land. Of course the act did little to change the distribution of economic resources in the countryside. Most of the earlier provisions regulating contracts on the farms were retained but in the absence of the pass regulations binding workers to the farms, written contracts were rarely observed.[15] By the end of the 1820s black workers from Xhosaland were beginning to make their way onto the farms of the eastern Cape. Simply by virtue of their demographic vitality, the AmaXhosa, and their neighbours, presented a formidable challenge to the expansion of white power in south Africa.

At the start of the nineteenth century, Cape society consisted of three roughly similar demographic groups—Burghers, slaves, and Khoikhoi—each probably numbering about 20,000 individuals. Of these three, the settlers were increasing very rapidly. The very large slave imports of the late eighteenth century ceased in 1807, and the Khoikhoi—after a century of war, dispossession and disease—appeared to be in a state of demographic collapse. Figures for the Xhosa population are even more unreliable than the sketchy estimates for population at the Cape, but two features are certain: the populations of the three African peoples on the borders of the colony were large and they were expanding. The early eighteenth century estimates for the population of the AmaXhosa range from 50,000 to 150,000 and their AmaThembu neighbours at about half that. By 1875, even after the devastating famine of the Cattle-Killing apocalypse, Africans in the eastern Cape numbered approximately 400,000.[16] For much of the century these African populations were a direct military and political obstacle, but they also presented economic opportunity. For the next

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[15] Macmillan, *Cape Colour Question,* 211-2; Marais, *Cape Coloured People*, 156.

[16] Jeff Peires, *House of Phalo: A History of the Xhosa People in the Days of their Independence* (Johannesburg: Ravan Press, 1981) 2-3.

century the south African settler states were preoccupied with regulating the movement, work and political lives of these people.

Ordinance 50, the legislative act that established the formal legal equality of the Khoikhoi, was coupled with another proclamation that transferred the apparatus of the Caledon Code to the Xhosa on the eastern marches of the colony. The utilitarian effort to both include and displace the AmaXhosa after 1828—a movement that would be reproduced in all the colonies, and much later in the Bantustan logic of Apartheid—was well captured by the term "native foreigners" used in the law to describe them. Ordinance 49 of 1828 repealed the fruitless, decades-old effort to prohibit trade and travel across the frontier, and sought, instead, to regulate movement across the political boundary of the colony using written documents. Henceforth, individual Xhosa migrants were permitted to enter the colony in search of work only after securing a written pass from the field-cornet or landdrost of the district they first entered. Like the Caledon Code, contracts between these workers and their employers were not permitted to exceed one month unless they were witnessed and registered by one of the local officials.[17] The law specifically criminalised the "detention" of children, but legalised the apprenticeship of "abandoned children" until adulthood—a fine distinction, adopted by the Voortrekkers in the interior, that effectively encouraged the capturing of children across the frontier and the killing of their parents.[18]

The documentary regime that was applied to the migrants from beyond the borders of the Cape developed in lockstep with the military subjugation of the Xhosa peoples. There were seven frontier conflicts between the colony and the Xhosa in the century before 1860, but it was only really in 1812 with the arrival of properly resourced, professional British troops—veterans of the Napoleonic campaigns—that they began to take on the features of war. In rapid succession the Xhosa lost huge tracts of their most fertile land in 1812, 1819, 1837 and 1847. The last three conflicts saw the first application of scorched-earth tactics in south Africa. Peires observed of the Xhosa in the 1847 War of the Axe that "when the Colonial forces systematically burnt their houses, destroyed their crops, dug up their grain

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[17] Sheila van der Horst, *Native Labour in South Africa* (Cape Town: Oxford University Press, 1942) 13; Peires, *House of Phalo*, 105-6.

[18] Elizabeth A. Eldredge, "Slave raiding across the Cape Frontier", in *Slavery in South Africa: Captive Labour on the Dutch Frontier,* eds. Elizabeth A. Eldredge and Fred Morton. (Pietermaritzburg: University of Natal Press, 1994) 112-120.

pits and frightened off their women, they were helpless".[19] Faced with the devastation of their own farming, Xhosa migrants began to take employment inside the colony with increasing frequency. Ordinance 49 was amended in 1848 to allow frontier magistrates to draw up contracts of indentured service that bound dispossessed migrants to particular farmers inside the colony.[20]

The most precocious innovations of the nineteenth century documentary regime were implemented by Sir George Grey in the decade following the abject collapse of the Xhosa after the Cattle-Killing catastrophe. Between April 1856 and February 1857 the Xhosa royal house endorsed an apocalyptic and prophetic movement to overthrow the relentless encroachment of the colony through a programme of absolute sacrifice. The supporters of the movement killed their own cattle and deliberately chose not to plant food in the expectation that the dead would return to carry-off their enemies and restore the world that had existed before 1812. The result was an unprecedented social crisis, with the misery and starvation of the believers who killed their cattle matched only by the fear and torment of those who doubted the prophecies.[21]

The events of the Cattle Killing movement graphically highlight the political significance of communications technologies in the conflict between the empire and its African opponents. As Peires shows in his excellent study of the tragedy, Sir George Grey, who had been appointed Governor of the Cape because of the earlier patronage of Sir James Stephen, received reports on the events of the catastrophe from local and regional officials through a steady stream of private and official dispatches. These letters did little to temper the conspiratorial fears that motivated the Governor, but they did equip him with detailed and reliable local accounts that were simply unavailable to Sarhili, the King of the Xhosa. Indeed the apocalyptic scale of the Cattle Killing was the direct result of the endorsement of the prophecies by the Xhosa royals who were forced to rely for intelligence on rumour at a time when rumours were themselves the cause of events. "Every piece of news or unusual report", as Peires demonstrates, "was inflated by the expectations of the believers until it too became exaggerated enough to serve as a validation of Nongqawuse's prophecies". The effects—both in the King's participation in the events and in his capacity to guide the actions

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[19] Peires, *House of Phalo*, 154.

[20] Peires, *House of Phalo*, 135-160, 168.

[21] This tragedy has been skilfully retold by Peires, *The Dead Will Arise*.

of his people—were utterly catastrophic. Contemporaries estimated that nearly half the total population (between forty and fifty thousand people) died during the crisis. The half who survived was stripped of more than 600,000 acres of their remaining territory.[22]

The combination of the Cattle-Killing, and the intrusion of British military and colonial authority that followed it, finally destroyed the withered independence of the Xhosa, bringing them formally into the British Empire, and more firmly into the world of wage labour. In order to facilitate their incorporation into the colonial economy, and to take full advantage of the famine and destruction that followed the Cattle-Killing, Grey rushed six acts through the newly constituted Cape parliament. The template for the regulation of migrancy that emerged from this legislative flurry bares a striking resemblance to the system of labour bureaux that was deployed a full century later under Apartheid.

Grey's prescient regulatory device only lasted for a decade after the Cattle-Killing but it was built on three pillars that would be restored in the twentieth century. The first of these was a new pass law that made it a crime, punishable by twelve months of prison with hard labour, for AmaXhosa migrants to cross into the Colony without a written pass. Passes could only be issued by one of the eight officials in the newly annexed territory of British Kaffraria. This law also made it an offence, punishable by six months of hard labour, for "native foreigners" to be found at a place that was not specifically mentioned on their pass. There was nothing particularly revolutionary about this kind of regulation. Pass laws had been applied to black people under the slave regime, the Caledon Code and Ordinance 49. They had been implemented even in the tiny new Republic of Natalia. The real significance of the Grey laws followed from a second law that introduced the archival power of the registry into the regulation of migrant labour.

This second act—dubbed the Employment Act—formalised the imperial state's full regulation of the migrant labour economy, a practice that Grey had already introduced in British Kaffraria. Under this law the Special Magistrates of the newly conquered territory began to function as labour bureaux to control the flow of labour across the colony's borders. Workers—whether they were Xhosa "native foreigners" or "loyal" Mfengu—had to apply for permission to work at the offices of the magistrates. These officials were required to maintain a registry of all applicants for work, which was forwarded to the office of the Chief

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[22] Peires, *The Dead Will Arise*, 50, 94, 149.

Commissioner in Kingwilliamstown. Inside the colony, employers seeking labour had to register their requirements with their local magistrate, who would in turn forward these demands into the conquered territories where the Special Magistrates issued short term passes to applicants to take up the offers of work.

Grey attempted to impose a similar documentary straightjacket on the other end of the labour market. All contracts between farmers and the migrants had to be attested and registered before a magistrate—this was a time when only a single magistrate was resident in each of the massive districts of the eastern Cape. These were contracts of indenture, binding the workers for up to five years, and for a minimum period of a single year. After endorsing the contract, the magistrates issued the workers with a new pass document based on its terms. This new document allowed the worker fourteen days after the end of the period of indenture to depart the colony or enter into another long term contract. For the first two years, amid social and economic collapse, the new system worked with impressive efficiency, channelling some 35,000 AmaXhosa workers onto the farms of the Cape.

The third pillar of Grey's documentary regime was what would later be called an exemption system. It was directed at the community of Africans who lived within the borders of the colony and who had repeatedly served in its defense. The hypocritical intentions of the act were prefigured by its awkward name—"An act for preventing Colonial Fingoes and certain other subjects of Her Majesty, from being mistaken for Kafirs, and thereby harassed and aggrieved". Under the terms of this law, Africans settled within the colony were issued with "Certificates of Citizenship" which exempted them from the Pass Act, but which they were required to carry on them at all times. The law made provision for "native foreigners" to be issued with certificates after a period of five years of continuous employment, but it was revised and made more exacting in 1864. In that year all the certificates were withdrawn and reissued under more stringent conditions.[23]

The documentary order that Grey imposed on the eastern Cape in the 1850s was a product of the logic of the registry. Like the system that Lord Alfred Milner was to impose on the Witwatersrand in the early 1900s, it was an attempt to apply the technology of the archive to the control of African labour. Both efforts were products of a Benthamite bureaucratic philosophy that attempted to reorder the colonial encounter through the liberal

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[23] Van der Horst, *Native Labour,* 28-33; Peires, *The Dead Will Arise*, 241-303.

distribution of documents. But it is important not to overstate the continuity between the two schemes.

Grey's labour registry scheme failed. By the middle of the 1860s, Africans were rejecting migrancy because of the length of the contracts and farmers complaining bitterly of the requirement that they register all contracts before distant magistrates. Both farmers and migrants sought a more flexible contract scheme that would allow labourers to work towards a specific task or target. Under the terms of the 1867 Masters and Servants Act, the registration system and the stringent pass requirements of Grey's scheme were abandoned. In their place a new legal framework provided by the Masters and Servants Acts of 1856 and 1867 reinforced the significance of contracts by imposing criminal sanctions for breaches on both master and servants. But the new legislation broke with the earlier documentary regime by allowing oral contracts. The new laws applied in theory to both white and black servants, although in practice the overwhelming majority of servants were black.[24] Of much greater significance in the long term was the 1867 Act's specific requirement that "native foreigners" from the remaining districts of the Transkei had to secure passes before entering the Colony.[25]

Shepstone's "Native Instrumentality"

Beyond the eastern Cape frontier the settlers were neither as strong, nor the African states as vulnerable, but that did little to dissuade the representatives of the impoverished Boer Republics from the effort to impose a similar system of documentary controls, at least on the surface of things. From the outset Africans were required to carry written passes signed by white notables in order to move. In Natal, for example, the *Volksraad* passed a Vagrancy Law as early as 1840 that required all black people to "carry passes and to contract for service within two weeks of leaving their last place".[26] Unlike the Cape in the interior states written notes served as tokens of white authority without reference to any kind of registry or archive.

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[24] Van der Horst, *Native Labour,* 33-36.
[25] CAD NTS 9791 1004/400 "Opsomming van die passtelsel in die hele Unie" c.1950/01/05.
[26] Eric Walker, *History of South Africa* (London: Longman, 1928) 285.

Under the Shepstone system—with its extreme administrative parsimony—the Natal government made no effort to develop a registry of its African subjects, and came to rely instead on a racial curfew. For Natal, and for the trekker states in the interior, writing was a sufficient test of white authority. A written pass implied that its African bearer had requested and received permission to move from a white official.

The Natal Colony inherited an ambitious and sweeping Vagrancy law from the tiny, and short-lived, Voortrekker Republic that dominated the region between 1838 and 1841. This law required all Africans on the move to bear a pass issued by their white employers, and enter into a new contract for work within two weeks of departing their last residence. But in the absence of anything resembling a meaningful administrative apparatus, the 1840 Vagrancy law was a long-lived act of wishful thinking.

In the 1850s Natal moved to tighten the controls that existed on the movement of Africans across the Thukela River boundary that separated the Colony from the Zulu Kingdom to the north. A new raft of Refugee Regulations, very similar in form to Grey's Employment Act, imposed a regime of compulsory registration, three-year apprenticeship and official placement on all the adult men coming across the river.[27] But, unlike Grey's elaborate British Kaffraria administration, the Natal colony made no new provision for the administration of these laws.   Between 1853 and 1871 Shepstone ran the Native Affairs Department of the entire colony with the assistance of just one clerk and two African messengers.[28] In this period the estimates of the African population grew from some 100,000 to nearly 400,000, and just 11,000 individuals were registered as Refugees in Shepstone's office, a figure that contemporaries recognized as "manifestly inaccurate".[29]

A similarly startling absence of documentary bureaucracy characterised the key revenue raising activities of the Natal system.[30] Right at the birth of his system of

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[27] Keletso Atkins, *The moon is dead! Give us our money! The cultural origins of an African Work Ethic, Natal, South Africa, 1843-1900* (London: James Currey, 1993) 18.

[28] Welsh, *Roots of Segregation,* 202. "A second clerk was appointed in 1871 to compile a register of marriages and divorces."

[29] Colony of Natal. Report of the Natal Native Commission, 1881-2. Appendix G.

[30] Two specialist historians writing on the development of Shepstone's methods of government have recently stressed the contingent character of his early system. Thomas McClendon, "The Man Who Would Be Inkosi: Civilising Missions in Shepstone's Early Career," *Journal of Southern African Studies* 30, no. 2, June 2004: 339-358; Jeff Guy, "Creating Customary Law," (presented at the History and African Studies Seminar, Durban: University of KwaZulu-Natal, 2008). I can see the point of these arguments for the 1840s and 1850s, but certainly by the 1870s Shepstone's system was defined by the characteristics I relate here.

government Shepstone was asked by the Executive Council whether it would be possible to raise taxes solely "through native agency". His answer set out the origins of his ingenious hut tax system, and provides one of the very few accounts of its administration. The Diplomatic Agent to the Native Tribes believed that it might be possible but he was very cautious about the results, and anxious about the manpower implications. He planned an oral instrument of government—undocumented, thickly peopled and organised around his own cross-examination of many participants. "The only means to be used being natives, who cannot write or make memoranda of names", Shepstone would need "a considerable number so as to admit of their memories being available as evidences of payments, or the contrary of any inspected villages". He was completely—indeed amazingly—dismissive of the basic tools of documentary government: printed receipts "being transferable at pleasure, will not do away with the necessity of numerous native collectors".

Shepstone belaboured the mysteries of cross-cultural tax collection, carving out his own, untouchable domain:

> The council will better appreciate the difficulties, when I remind it that the tax is to be collected from a population scattered over the surface of a district 18,000 square miles in extent; that every kraal must be visited; and that, after all, no registration or memoranda, to serve as a guide, can be preserved; neither can I, at this moment, point out in what way the Government could assist me. The registration of Kafir names cannot be done by any except by men who understand the language and its orthography. I am also unable to estimate the expense. It will, however, necessarily, as I have shown, be greater than at first sight appears probably; and added to this is the painful responsibility of so large an amount of public money passing unchecked through the hands of a single person.[31]

But his system worked, and with astonishing success. From 1856, Shepstone's hut tax dragnet brought in an average of £10,000 per annum for an otherwise feeble colonial exchequer. By the early 1870s direct and indirect taxes levied on Africans were contributing about three-quarters of the operating budget of the colonial government.[32]

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[31] BPP. Correspondence relating to the settlement of Natal (1850) No 18 Smith to Grey 31 August 1849 Enclosure "Extracts from Proceedings of Exec Council Natal. Memorandum Diplomatic Agent J [sic] Shepstone", 18 June 1849, 65-66. Thanks to Jeff Guy for this invaluable evidence.

[32] Norman Etherington, "The 'Shepstone System' in the Colony of Natal and beyond the borders", in *Natal and Zululand from earliest times to 1910: A new history* (Pietermaritzburg: University of Natal Press and Shuter and Shooter, 1989) 175. See also John Lambert, *Betrayed Trust: Africans and the State in Colonial Natal* (Pietermaritzburg: University of Natal Press: Pietermaritzburg: University of Natal Press, 1995) 20.

Many of the most compelling descriptions of Shepstone's methods of government come from Sir Bartle Frere, the man sent to south Africa by Lord Carnarvon to drive the difficult project of confederation in the 1870s. Frere, like Milner and Grey, was an imperial official with strong metropolitan political connections. A product of Haileybury in the 1830s, he had made his way to the Governorship of Bombay in the 1860s. He was also, unusually, scholarly. At the time of his arrival in south Africa "he was a newly elected Fellow of the Royal Society", Saul Dubow noted, "he was a versatile linguist who wrote for the *Quarterly Review* [and] he had served terms as president of the Royal Asiatic and Royal Geographical Societies".[33] It was only the prospect of carving out a new proconsulship that persuaded Frere to accept Carnarvon's appoint in the grim provincial wasteland of southern Africa.

These imperial ambitions certainly shaped Frere's assessment of Shepstone's work, yet the non-intellectual quality of the Natal government emerges unmistakably. In 1878, two years after Shepstone had resigned as Secretary for Native Affairs to become Administrator of the Transvaal, the High Commissioner, Frere offered this description of "the Shepstone policy":

> It was a system which was entirely personal and could only endure while there was a great waste to fill up with refugees who were quite content to be let alone. It did nothing to improve or raise them, or to make us known to them or them known to us. Everything, in the Native Department, was an official secret and mystery, carefully veiled from non-official eyes, and indeed from everyone but the head of that Department… I meet nobody who can tell me more about the Natives, their wants, wishes or dispositions, than any intelligent traveller might pick up in a few weeks or months.[34]

A year later, in an official despatch, Frere commented on the specific archival shortcomings of Shepstone's administration. "He has, of course, a vast fund of useful information, if one could get at it", the vexed High-Commissioner observed, "but he is apt to regard it as his own private armoury, and not as belonging to the State".[35]

In the place of a workable documentary archive, the Natal administration of Africans relied on the enumeration and policing of the placeholders of identity. Three years after the first collection of the hut tax Shepstone had built up a set of registers of chiefs and their

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[33] Dubow, *A commonwealth of knowledge,* 112.

[34] Frere to Michael Hicks-Beach, 27 October 1878, Sir Michael Hicks-Beach papers, Gloucester Record Office, PCC 1/27 cited in Lambert, *Betrayed Trust,* 57.

[35] *Edgar Brookes, The History of Native Policy in South Africa from 1830 to the Present Day* (Cape Town: Nasionale Pers, 1924), 46.

people that listed the number of huts in each location. He calculated the number of individuals in each place by adopting the simple "average of four to a hut".[36] Thirty years later the colony still had only a working aggregate of the number of huts falling under each chief—figures which were essential for the assessment of the hut tax—but no measure of the numbers of occupants of each hut. The identities of these individuals were completely beyond the colony's reach, a fact that remained true in the twentieth century.[37]

The pass regime in Natal functioned similarly. The two large towns of Durban and Pietermaritzburg introduced controls over movement that applied a general curfew to all Africans, and required workers (usually male domestic workers, washermen or dockworkers) to purchase a badge for periods of at least a month.[38] In the countryside the actual issuing of passes by the four tribal district magistrates was usually handled by chiefs or their *izinduna* intermediaries without any effort to record the individual identities of the workers actually requesting the pass. This system offered the colonial state no meaningful control over African workers.[39] As one of the Transvaal pass officials observed after the 1906 Bhambada Rebellion, "the [Natal] Pass Laws are such as to enable a native to desert his employer at a moment's notice, and practically without fear of ultimate punishment".[40]

For most of the nineteenth century the administrators of Natal lacked Grey's galling ability to extract resources from the Colonial Office, but Shepstone's conservative parsimony also fitted particularly well with the new official policy of administrative restraint that followed the Indian mutiny. One product of this marriage of colonial expertise and metropolitan theory was the stillbirth of the utilitarian government of Africans in Natal. When the colonists attempted to impose an annual census and complete registration process on Africans in 1858, the Colonial Secretary, Bulwer-Lytton, with the shocking experience of the Indian mutiny clearly in mind, killed the proposal, and urged the settlers to adopt abstinent government. "The dangers of all needless interference with the rooted habits of Barbarian races where not decidedly repugnant to humanity and morals", he replied using

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[36] Evidence of T. Shepstone before the Natal Native Commission 1852 taken from typescript in Campbell Collections. My thanks to Jeff Guy.

[37] Colony of Natal. Report of the Natal Native Commission, 1881-2. Appendix G.

[38] Atkins, *The Moon is Dead!* 129-133.

[39] TAD SNA 87, NA3262/08 Certain points regarding Natives in Natal which he suggests that the Colonial Secretary should urge with Mr Moor, the Prime Minister of Natal, 1908. Taberer, H. M. Director, Government Native Labour Bureau, Transvaal, to Rissik, J Minister of Native Affairs, 1908/10/08.

[40] Colony of Natal. Native Affairs Commission 1906-7. Evidence. "Suggested Native Pass Law and Finger Impression System for Natal" 1014.

Shepstone's favourite argument, "are so great and conciliation is so wise and so easy a method of obtaining submission and docility from those whom we keep in check by our superior intelligence rather than our physical force".[41] Shepstone's ascetic government has been described at length by Brookes, Welsh, Kline and Lambert; together they convey a comprehensive account of a half-century of lethargy in the government of the Africans of Natal.[42] At the end of his career Frere observed Shepstone's philosophical restraint in frustration: "He will doubtless give you many intelligent reasons for the whole machinery of government being in abeyance, but I shall be surprised if he suggests any means of setting it going again".[43] Perhaps the best single measure of this studied inactivity was Shepstone's failure to spend the special funds that Sir George Grey had earmarked in 1855 for "purposes connected with the religious and moral instruction, or with the social well-being" of the Africans of Natal. Never a large enough sum to support the required social infrastructure, by the end of the period of Shepstone's rule this fund had been allowed to accumulate a balance of £30,000.[44] One result of this determined refusal to build roads, schools, hospitals and other facilities in the areas of African settlement is the astonishing patch-work infrastructure of contemporary KwaZulu-Natal.

In place of the tools of utilitarianism the colonial government that developed in Natal famously adopted and entrenched the local administrative authority of the *Amakhosi*—a word that is usually rendered as "chiefs" but which ought, perhaps more fittingly, be understood as "lords". "Here, first and foremost in the colony of Natal", Mamdani notes of a continent-wide system of rural despotism, "was created a dual system: one for colonizers, the other for natives; one modern, the other customary".[45] The Shepstonian system of surgical geographical and legal segregation certainly displaced Grey's earlier assimilationist strategy by the time that Sir Godfrey Lagden and the South African Native Affairs Commission began in 1903 to formulate a unified theory of Native Policy for all four of the settler colonies.[46]

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[41] David John Welsh, *The Roots of Segregation: Native Policy in Natal (1845-1910)* (Cape Town: Oxford University Press, 1971), 28; Benjamin Kline, *Genesis of Apartheid: British African Policy in the Colony of Natal, 1845-1893* (Lanham, MD: University Press of America, 1988), 43.

[42] Brookes, *Native Policy in South Africa*; Lambert, *Betrayed Trust*; Welsh, *Roots of Segregation*.

[43] Brookes, *Native Policy in South Africa*, 47.

[44] Welsh, *Roots of Segregation,* 26, 206

[45] Mahmood Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (Princeton: Princeton University Press, 1996) 62.

[46] Adam Ashforth, *The Politics of Official Discourse in Twentieth-Century South Africa* (Oxford: Clarendon Press, 1990).

The method of indirect rule and segregation, which they endorsed, and the later policy of Apartheid can clearly trace their roots in part to Shepstone's cheap and effective techniques of rural government.

From Frere's point of view the administration of Africans in Natal seemed like an instance of protracted sitting on hands, but Shepstone's administration by means of customary authority reworked the political economy of tribal government, setting in place institutions of patriarchal authority that were tenacious and ubiquitous. It was also an economy of government that was much more autonomous than the earlier, relatively contestable, forms of chiefly rule. Under Shepstone's system chiefs and their subordinates, the *izinduna* or headmen, were remunerated with salaries and by retaining a portion of the taxes and fines that they levied on their subjects. They were also entitled to retain loot from the punitive expeditions that the colonial government occasionally directed at recalcitrant chiefs.[47] Coincident with the development of this system of rewarding customary power was a steady proliferation of the number of recognized authorities. From an initial handful of powerful chiefs, by the 1880s the corps of customary leaders had grown to 173 individuals.[48]

It is important to recognize (especially in the light of the claims of those who argue for the contingent emergence of the Shepstone system) that the debate between integration and segregation started at the very outset of the system of administration in Natal. As early as 1843, Henry Cloete, the British commissioner in the region, rejected the Boers' proposal to remove large numbers of Africans in the area south of the Tugela to a special reserve because it would increase the "difficulties of the missionaries and the government to improve their habits and customs would be increased tenfold".[49] Shepstone position was also remarkably consistent from the outset. While there was clearly some overlap between the intentions and policies of the individuals involved in these debates, the creation of a separate and autonomous African society, a kingdom over which Shepstone sought to place himself as monarch, was his enduring, and unfulfilled, goal.[50]

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[47] Etherington, "The 'Shepstone System' in the Colony of Natal and beyond the borders", 174.

[48] Lambert, *Betrayed Trust*, 33.

[49] Kline, *Genesis of Apartheid*, 5.

[50] McClendon, "The Man Who Would Be Inkosi: Civilising Missions in Shepstone's Early Career"; Kline, *Genesis of Apartheid,* 19.

Indenture and Registration

There is a striking contrast between Shepstone's undocumented administration and the elaborate mechanisms of archival control that the colony developed around the recruitment of indentured Indian workers in Natal. The contrast is suggestive of the political and economic conditions that were required for archival government to thrive in south Africa and elsewhere.

After a visit to Natal in 1855, Sir George Grey breathed life into a characteristically ambitious recruitment scheme that would see 152,184 indentured Indian workers brought to Natal between 1860 and 1911. Grey's enthusiasm and the appointment of the Colony's Postmaster General as the first Indian Emigration Agent signaled a thoroughgoing reorientation from abstinent government. The resulting system was a model of archival labour control that would echo through the twentieth century.[51]

Every one of the almost four hundred ships that made the journey from Madras or Calcutta was meticulously documented in a ship's register. These registers have been bound in 91 volumes that provide a stunningly detailed account of the individual identities, physical and cultural characteristics of each of the indentured workers. "Each of the 384 ships' registers has opposite individual entries", Surendra Bhana notes in his study of the lists, "information about the person's names, caste or religion; age; physical markings, if any; and places of origin in the form of the village, *thanna* (police circle) and *zilla* (district)". Indexing this information was a colonial number issued to every single man, woman and child. The number 1 was assigned to the first immigrant on the first ship—the *Truro*—that arrived in 1860. Thereafter the numbers were assigned to the immigrants sequentially and without a break until July 1911. In an act of impressive administrative constancy the last immigrant was assigned a number that matched the final, cumulative total of 152,184.[52]

The Natal Immigration Laws, passed before the first Indian workers arrived, attached a draconian pass regime to this registry system. The law endowed any employer of indentured labour (or any servant of the employer) with the right to "to apprehend, without

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[51] Y.S. Meer et al, eds., *Documents of Indentured Labour: Natal 1851-1917* (Durban: Institute of Black Research, 1980) 29.

[52] Surendra Bhana, *Indentured Indian emigrants to Natal 1860-1902: A study based on ships' lists* (New Delhi: Promilla & Co, 1991) 1-2.

warrant, such Coolie immigrant being found at a distance of more than two miles from the residence of the person in respect of whom his services shall be due, without a written ticket to leave, signed by the master". Private employers could use this power of arrest only to force indentured workers to return to their place of work, but Magistrates were empowered to sentence itinerant workers to two weeks of hard labour. By the 1890s, African policemen could arrest any Indian worker "found to be more than two miles from the place of residence of the employer" and without possession of either a written pass or a Certificate of Discharge.[53]

From the 1890s a special tax burden was added to the terms of the contracts that workers signed before entering the ships that would carry them to Durban. The enforcement of this tax regime extended the pass regime to all the labourers (and their children) who had completed the five year period of their indenture. All ex-indentured workers were required to pay an annual tax of £3 and "take out year by year a pass or licence to remain in the Colony to be issued by the Magistrate of his District".[54]

In the last decade of the system of indenture (from 1902 to 1911) the pace of immigration and the mechanisms of documentary control quickened. Almost fifty thousand workers were brought to the colony in this short period. On top of the registration, pass and tax requirements imposed on the earlier migrants, they now faced an elaborate fingerprint identification regime. From November 1902—years before a similar scheme was properly implemented on the Witwatersrand—the Natal office of the Protector of Immigrants adopted the New Scotland Yard finger printing system to identify indentured workers. All of the 48,600 people who arrived after 1902 were fingerprinted, and almost 6,000 were successfully prosecuted by the Natal police using the new system for illegally breaking the terms of their contracts.[55]

By the end of the first decade of the twentieth century the Natal government had in place a system of labour control that was essentially the same as the one that was being simultaneously imposed by Sir Godfrey Lagden on the Witwatersrand. There was one important difference: the Natal system (and the similar scheme developed for the Chinese

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[53] Colony of Natal. Immigration Laws, 1859. Clause 17. Colony of Natal. Law 25 of 1891. My thanks to Prinisha Badassy for these references.

[54] Documents of Indentured Labour 690.

[55] CAD JUS 0862, 1/138, Acting Chief Commissioner, South African Police to Acting Secretary for Justice, 1912/05/13.

gold miners) was focused on the recruitment, control and taxation of a racially defined minority of immigrant workers while Lagden's system was designed to harness the labour of Africans throughout the sub-continent. There is a lesson in the contrast between the systems of control the colonial state developed for African farmers and Indian workers in Natal for our understanding of the bureaucratic origins of the Apartheid state. The kind of archival government that developed in South Africa—and which was both truncated and elaborated by Verwoerd in the 1950s—emerged, not from the dynamic of conquest, nor from indirect rule or settler-dominated agriculture. It was intrinsic to the industrialisation of the economy and particularly to capital intensive forms of labour recruitment. In generalising this kind of system throughout the Transvaal, Lagden—like Grey before him—was attempting something deliberately revolutionary. For, in general, Africans in the nineteenth century had very little experience of archival government. In the absence of both capital and bureaucratic capacity, the mere presence of writing was a sufficient test of white authority. This was especially true of the Boer republics in the interior.

Kruger's "Inboekstelsel"

The entity that the Voortrekkers who crossed the Vaal River in the 1840s created would not have passed any of the most important tests of stateliness. Before 1865 the different regional communities of Boer settlers—the vast majority in the southwest around Potchefstroom and Rustenburg, a small group of hunters in the north around Schoemansdal in the Zoutpansberg, and another bigger group in the east around the villages of Ohrigstad and, later, Lydenburg— were almost continuously in armed conflict with each other. For most of this period the trekkers had direct access to game, and particularly ivory—the one great export resource of southern Africa before the mineral discoveries, which meant that individual families were often quite wealthy.[56] But the Republic itself was broke.

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[56] See Stanley Trapido, "Reflections on land, office and wealth in the South African Republic", 351-364 and Robert Wagner, "Zoutpansberg: the dynamics of a hunting frontier, 1848-67", 313-320 both in *Economy and Society in Pre-Industrial South Africa,* eds. Shula Marks and Anthony Atmore (London: Longmore, 1980). For a summary of the divisions within the Trekker polity, see T R H Davenport, *South Africa: A Modern History* (Johannesburg: Macmillan, 1978) 57-74. The best single-volume account of the early Transvaal is still *J. A. I. Agar-Hamilton, The Native Policy of the Voortrekkers* (Cape Town, Maskew Miller, 1928)

The trekker polity had no reliable means of raising revenue before the British occupation of 1878. No workable tax system was ever imposed on white traders and farmers, and while African communities and states were frequently subjected to tribute demands, most of this wealth ended up in the hands of local notables and their dependents. The Republic was incapable of raising taxes from the African subjects it claimed to govern. By the late 1860s most of the serious fighting between the regions had been resolved sufficiently to allow officials to turn their attention to the sorry condition of the Republic's finances. The report of the Finance Commission that met in 1868—when Shepstone was raising more than £10,000 per annum in tax from the Africans of the Colony of Natal—noted that "an estimated revenue of £1,500 from African taxation had turned into an actual income of £3".[57]

In the absence of a system of taxation the state had only one resource, and that was land, but the profligate allocation of land—usually as a reward for participation in the many struggles with African societies or as security for the loans required to fund these conflicts— served only to demand additional and expensive coercive measures. Even after the first mineral discoveries of the 1870s, and their rich opportunities to extract revenue in tax and concessions, the Republic staggered along in administrative chaos. Eric Walker captured the comedy of the Transvaal in the 1870s: "the Postmaster-General took his salary in stamps and the Surveyor-General in land, the other civil servants went without, and the neighbouring colonies had to finance the Transvaal mail contractor".[58] The forms of documentary control that emerged under these circumstances were necessarily highly attenuated.

In the absence of anything resembling a bureaucratic infrastructure, and with very low levels of popular literacy, the trekkers adopted the forms of Cape archival government to bind African labour and deflect charges of slavery. Under the terms of the convention that the British and the Boer republics agreed to at the Sand River in 1852, the trekkers agreed to abandon slavery as the price for British withdrawal from the highveld. Laws prohibiting enslavement and slavery were duly passed by the republican *Volksraad* in 1857.[59] But a particular kind of forced labour, which the Voortrekkers had adopted from the forms of

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[57] Delius, *The Land Belongs to Us*, 147-9. Patrick Harries, "Plantations, Passes and Proletarians: Labour and the Colonial State in Nineteenth Century Natal", *Journal of Southern African Studies* 13, no. 3, April 1987, 374.

[58] Trapido, "Reflections on land, office and wealth", 352-3 and Eric Walker, *History of South Africa*, 369.

[59] Fred Morton, "Captive Labour in the Western Transvaal after the Sand River Convention" in *Slavery in South Africa: Captive Labour on the Dutch Frontier* (Pietermaritzburg: University of Natal Press, 1994) 167-73.

apprenticeship imposed on captured children in the eastern Cape in the 1820s, remained an integral part of the Transvaal economy. In large part, the Great Trek was an effort to preserve these forms of forced labour in the face of the emancipatory effects of Ordinance 50. "The second major purpose of the migration into the interior", De Kiewiet observed, "was to establish a society in which 'proper relations' between master and servant could be maintained".[60]

The trekkers certainly made diverse economic demands of the African peoples they settled amongst. Some of these might take the form of rent in kind or labour for the use of land now claimed by the Boers, payments in labour as services from nearby communities, or forced or voluntary payments of tribute from hostile or more distant peoples. The tribute often took the form of captured women and children. The supply of enslaved people was the product of alliances in each region of the Transvaal between the Boers and powerful African polities. In the western Transvaal, Rustenburgers (under their local commandant, and future President of the Republic, Paul Kruger after 1852) formed alliances with BaTswana lords to prey on their neighbours. In the east, the Lydenburgers allied with the AmaSwati rulers to attack the armed and fortified Pedi kingdom and source slaves from southern Mozambique. In the north the situation was reversed as VaTsonga refugees allied with local Boer lords to attack the VaVenda. Boer notables usually allotted adult women to their African clients or military allies, but the children were usually incorporated into an extensive regional economy of familial slavery. Absorbed into the language, religion and technologies of the families that acquired them, these children became invaluable extensions of the trekker population. The population of these forced labourers numbered about 4,000 people in 1866, nearly one for every ten members of the settler population.[61]

The word used to describe these people—the common term for apprentice—was *inboekeling*. The word is derived from the verb *inboek* or register and it referred back to the Ordinance 49 practice of formally entering the names and details of captured apprentices in a Landdros' register. Another closely associated word for the same kind of labourers is

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[60] C W de Kiewiet, *The Anatomy of South African Misery* (London: Oxford University Press, 1956) 21.

[61] Morton, "Captive Labour", 175-8; Peter Delius and Stanley Trapido, "Inboekselings and Oorlams: The creation and transformation of a servile class", in *Town and Countryside in the Transvaal,* ed. Belinda Bozzoli (Johannesburg: Ravan Press, 1983) 53-81; Jan C A Boeyens, "Black Ivory: The Indenture system and slavery in Zoutpansberg, 1858 – 1869", in *Slavery in South Africa: Captive Labour on the Dutch Frontier* (Pietermaritzburg: University of Natal Press, 1994) 187-207.

inboekseling which takes its meaning from the other documentary product of the transaction of registration—an *inboeksel* is a receipt. Both terms highlight the significance of the formalistic act of writing as a screen for the violence of enslavement and forced labour. Throughout the nineteenth century it was this feigned practice of registration which served as a formal legal disguise for the extension of enslavement in southern Africa.[62]

It is difficult not to see in the nineteenth century *inboekstelsel* (or registration regime) elements of the *Dompas* identity book regime—officials called it the *bewysboekstelsel*—that formed the heart of Apartheid a century later. Both systems were premised on the operations of state sanctioned violence: the *Dompas* relying on massive police arrests and the *inboekstelsel* on official commando raids. Both schemes disposed with even the pretence of consensual contract. The terms of the Republican Apprenticeship Act of 1851 stipulated that the apprenticeship of captured children must be limited both by the undeniable absence of the parents of abandoned children, and by the requirement of emancipation at the age of 25. Yet the evidence is unambiguous that children were seized with little regard to their parents and that the state made no effort to monitor the capturing of children, or enforce the release of adult *inboekelinge*. And both the *inboek* and *bewysboek* regimes relied on a registration process that was practically meaningless.

But the differences are equally important. The *inboekstelsel* was self-evidently a charade, a weakly sustained act of administrative camouflage. Quite unlike the *Dompas*, the procedures of registration were ignored by farmers and officials alike. Only a minority, for example, of the children captured or purchased in the Lydenburg district had their particulars entered into the Landdros' register. The flimsy masking intention behind the *inboekstelsel* is well captured in a report by Rev Charles Murray, the Dutch Reform Church Mission Inspector, of his visit to the Goedgedacht station in the southern Zoutpansberg in 1865, an area in the far north of the Transvaal and near to the heart of the hunting and slaving economies. He described an encounter with Gert Duvenhage, a settler from the town of Schoemansdal, leading a wagon loaded with "eight small African children packed tightly together, in the same manner that I, as a child, was wont to observe in drawings in slave ships". After an unsuccessful effort to establish the origins of the children, Murray erupted:

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[62] Boeyens, "Black Ivory", 193.

> I became extremely angry and told him that his trading practice was one of the reasons that the Lord held back his blessing on the land; it was enough to bring a curse on the Republic. His reply was that I should not see this as slave trade. "It is sanctioned by an *inboeksel*, Sir." Of the *inboeksel* I saw nothing, because whoever wanted them could have one for six head of cattle.[63]

The households that the Boers made in the Transvaal—like the Africans that surrounded them—required loyal servants and trustworthy soldiers as a condition of survival. The captured young *inboekelinge* provided both with remarkable effectiveness, and the diffusion of this form of forced labour across the interior carried with it a kind of documentary delusion. This system mobilized the vocabulary of utilitarian government to obscure local realities of brute force.

The *inboekstelsel* was not the only illusionary documentary system in place in the Transvaal—the Boers made use of a similar pass regime in the effort to assert control over huge tracts of land claimed by rights of conquest over the AmaNdebele and treaty with the AmaSwati. The actual boundaries of the Republic were not properly established until the British undertook the military, diplomatic and surveying tasks of dividing the land between the Transvaal, the Portuguese, the AmaSwati and the new Colony of Zululand in 1880. Even well within these borders the Boers faced contests for sovereignty over land, people and taxation from the BaPedi, AmaNdebele and VaVenda kings. All this did little to prevent the state from issuing delusional instructions to *veldcornets* in 1858 that African migrants were to be prevented from moving outside the borders of the Republic by denying them the written passes that officials required on both sides of the border.[64]

In the mid-nineteenth century there were literate whites throughout southern Africa who needed clients more than they needed labour. Migrants intending to pass through the Boers' territory were quick to discover this critical weakness in the operation of a system of documentary controls that presumed white authority in writing. It was to the missionaries that Pedi migrants turned to when they began to make the journey en masse to the Cape. By the 1860s the Pedi paramount, Sekhukhune, had access to the missionaries adjacent to his capital, and his followers had for decades made use of the French missionaries under

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[63] Delius and Trapido, "Inboekselings and Oorlams", 73. Quote from Boeyens, "Black Ivory", 204.

[64] Van der Horst, *Native labour*, 124.

Mshweshwe's protection in Lesotho to obtain the passes necessary to complete the journey from the Transvaal interior to the ports and towns of the Cape.[65]

In the early 1870s, faced with a massive increase in migrancy from Sekhukhune's kingdom to the diamond diggings at Kimberley, the Transvaal state sought to tighten control over the issuing of passes, encourage labour on Boer farms and extract resources from the returning migrant workers' earnings. In the place of the freely issued hand-written passes, the Republic required all African men to purchase an official pass document after 1872 at a cost of £1 per annum. This new poll tax failed very largely because the Transvaal state was incapable of enforcing the law in the face of increasingly confident claims of sovereignty from Sekhukhune, and it was made yet more ridiculous by the recommendations of the commission tasked with mending it, which recommending raising the price of official passes to £5. With more achievable ends (and the necessity of making policing its own reward) in mind—the Transvaal secretary of state had already issued instructions that Boer vigilantes should check that Africans were travelling with passes, and levy fines and forced labour on those without them.[66]

Documentary government (and the utilitarian presumption that the state has the capacity to identity and punish individuals who break its laws) had very little hold on the old Transvaal. Far more important was the threat and reality of undirected violence. Throughout this period, groups of migrant workers travelling between the urban centres in Natal and the Cape faced attacks from Africans and settlers alike. The Trekkers weak hold on administrative power led, as Delius has shown, "to high levels of sporadic coercion, coupled with acts of direct personal violence such as whipping being employed to symbolize and entrench Trekker power and authority".[67] The importance of personalized violence (for Boer leaders and the Africans subjected to it) has been well captured in Bernard Mbenga's account of Paul Kruger's public flogging of his old ally, Kgamanyane, lord of the Kgatla.[68] An intimate violence would remain an important part of rural South African life—especially on the highveld—well into the twentieth century.[69] But the administrative weakness of the Boer state began to change when Theophilus Shepstone managed the brief British annexation of

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[65] Delius, *The Land Belongs To Us*, 119, 110.

[66] Delius, *The Land Belongs To Us*, 72-79, 147-53, 186.

[67] Delius, *Land Belongs to Us*, 35.

[68] Bernard K. Mbenga, "Forced Labour in the Pilanesberg: The flogging of Chief Kgamanyane by Commandant Paul Kruger, Saulspoort, April 1870", *Journal of Southern African Studies* 23, no. 1, March 1997, 127-140.

the Transvaal between 1878 and 1881.Bankruptcy was the public cause of the 1878 annexation. The Transvaal state's inability to collect tax, pay its debts, and maintain an army in the field against the BaPedi, threatened the basis of white supremacy in south Africa, and softened Boer hostility to the takeover. Shepstone and his boss, Colonial Secretary Carnarvon, had other concerns, not least of which was to establish a reliable flow of labour to the new diamond fields at Kimberley. Establishing a reliable flow of revenue and labour from the Africans in the Transvaal was the key to solving both problems.

Shepstone set about energetically establishing a Native Affairs department and the administrative systems required for a hut tax regime modelled on the Natal system. He delimited formal tribal reserves, codified and entrenched African customary law, and granted official status to the chiefs. In the process he reorganised and centralised the administration of the Transvaal—appointing Native Commissioners for the districts with very large African populations who were responsible for overseeing the work of the local magistrates and veldcornets. He abolished the fee-based pass system to encourage migrancy and hinged the viability of the Transvaal state on parsimonious government and a tax of ten shillings per hut imposed on the chiefs.[70]

The success of Shepstone's system rested on uncontested sovereignty—Africans would not pay an onerous hut tax in the Transvaal (nor in Natal) if they could claim to be the subjects of another state nor if they believed that the settler states lacked the coercive means to enforce it. By the late 1870s the preservation of the hut tax revenue system required the elimination of the independent African kingdoms. Shepstone's strategy was to make massive demands for compensation from his most significant African rival, Sekhukhune, on behalf of the Boer state he had effectively dissolved. He attributed the BaPedi king's resistance to making payment to the existence of a conspiracy between the remaining independent monarchs. "There are indications of the existence of a kind of common desire in the native mind in South Africa to try and overcome the white intruders", he wrote to General Bulwer in March 1878, "They are, however, incapable of precise combination and so long as we can

[69] Charles van Onselen, "The Social and Economic Underpinnings of Paternalism and Violence on the Maize Farms of the South-Western Transvaal, 1900-1950", *Journal of Historical Sociology* 5, no. 2, 1992, 127-160.

[70] Welsh, *Roots of Segregation*, 215; Peter Delius, "Power and profit in the eastern Transvaal", in *Putting a plough to the ground: Accumulation and dispossession in Rural South Africa 1850 – 1930,* eds. William Beinart, Peter Delius and Stanley Trapido (London: Longman, 1986) 185.

roll one stone out of the way at a time, we shall be alright. Sikukuni is my first stone, confound him!"[71]

The war that followed was fought using siege tactics that the BaPedi had perfected in generations of defensive conflicts with the AmaZulu, the AmaSwati and the Boers and it faded in significance and intensity as the British invaded Zululand in January 1879. Immediately after supervising the destruction of the Zulu state in September 1879, Sir Garnet Wolseley moved to the Transvaal. The army that moved against Sekhukhune in November consisted of some 15,000 men—the vast majority was from his AmaSwati and AmaNdebele neighbours. The British exchequer provided a small group of regulars and lots of cash. "The campaign was ultimately to cost £383,000, an expenditure which the ZAR could never have comtemplated".[72]

The return on this massive investment was similarly grand, and it altered the trajectory of state formation in the Transvaal completely. A year after the defeat of Sekhukhuni, Shepstone's son could report to his superiors that hut tax had been collected in the northern and eastern Transvaal to the tune of £33,000—the first systematic tax collection effort in the history of the trekker state. With their most powerful enemy defeated, the Boers, under the leadership of Paul Kruger, promptly threw the British out of the Transvaal as soon as the burden of systematic tax collection on whites proved intolerable. Shepstone's system of hut tax and customary government for Africans remained in place. Five years later the Native Commissioner of the Lydenburg district, appointed by Shepstone, was raising £10,000 for the Republic on his annual "hut tax drives".[73]

Literacy as Authority

On the eve of the discovery of gold in south Africa, Shepstone's regular but undocumented indirect rule had triumphed over the utilitarian excess of Grey's registry and the erratic tribute extraction of the Boers. In all three colonies paper-based pass laws were in place to regulate the movement of Africans, though none were enforced with the archival intensity

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[71] Delius, *Land Belongs to Us*, 239.

[72] Delius, *Land Belongs to Us*, 243.

[73] Delius, "Abel Erasmus", 187.

directed at indentured Indian migrants in Natal. Models of registry controlled labour existed there and in Grey's brief effort to control the market in migrant labour in the eastern Cape, but these expensive and inflexible schemes were little suited to the needs of employers and workers alike.

Through all of these systems—Grey's frontier registry, Kruger's *inboekstelsel,* Shepstone's indirect rule, and indenture—the power of writing continued to define the limits of freedom. In the early 1890s this administrative association between literacy and power was enshrined in the Cape Franchise Act that established the basic test of full citizenship. This law both formalized the political significance of writing, and indicated the degree to which literacy had escaped the boundaries of white power. The act was applied to males of all shades in the Cape, including the newly annexed territories of the Transkei. The process of registering as a voter was wrapped in practices of letter writing, and at its core it required applicants to pass a literacy test: "The claimant's address and occupation shall be written by the claimant himself without his hand being guided in any way by any person, and the fact that such signature and writing has been duly made shall be attested by a witness".[74] But voters were also required to possess property to the value £75, and specifically prevented from counting lands under tribal tenure towards this total. Literacy was a necessary condition of citizenship after the 1890s in the Cape, but it was not a sufficient test. The combination of the property and literacy tests—which effectively stripped 3,500 black men from the voters roll—indicated the degree to which writing had escaped the boundaries of white racial authority. Towards the end of the nineteenth century it was property and literacy that defined race. As African commentators noted at the time, there were many Africans who were literate, but most of them could not meet the property requirement, and most of those who could meet the property requirement could not read and write.[75]

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[74] Cape Colony. Act to Amend the Law with regard to the Qualification of Voters for Members of Parliament, and to make provision for taking Votes by Ballot at Parliamentary Elections.

[75] Les Switzer, *Power and Resistance in an African Society: The Ciskei Xhosa and the Making of South Africa* (Madison: University of Wisconsin Press, 1993) 159.