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**Subjects of the Crown:
Khoesan Identity and Assimilation in the
Cape Colony, c.1795-1858**

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A thesis submitted in fulfilment of the requirements for the degree of
Doctor of Philosophy (PhD) in History

2015

Declaration for PhD Thesis

I declare that all the material presented for examination is my own work and has not been written for me, in whole or in part, by any other person. I also undertake that any quotation or paraphrase from the published or unpublished work of another person has been duly acknowledged in the thesis which I present for examination.

Date: 30 June 2015

*For my parents,
Michael and Elsa McDonald,
with love and appreciation*

Abstract

This thesis forwards a critical analysis of Khoesan assimilation in the Cape Colony between 1795 and 1858. The narrative traces Khoesan responses to colonial domination and representation with a particular focus on their identity as colonial subjects and the role that Khoesan, as assimilated 'Hottentots', played in the making of their own identity during this period. The study presents the hypothesis that British loyalism became a defining feature of 'Hottentot' identity during the early to mid-nineteenth century. Expressions of loyalty to the British Crown reflected 'Hottentot' claims to a civic identity that transcended their ethnically defined place within Cape colonial society. It is argued that 'Hottentot' loyalism functioned as a powerful collective identity that imbibed a sense of belonging to an imagined, British-inspired, civic nation via multiple and varied expressions of subjecthood.

During the early nineteenth century, the Cape Colony witnessed spirited public debates over the desirability of the extension of civil rights to its indigenous subjects. In the process, 'Hottentot' subjecthood became entangled with loyalist impressions of empire which transcended local authorities and social hierarchies. The thesis contends that Khoesan appeals to social independence and 'Hottentot' nationalism – a label which has become standard in Cape historiography – did not run counter to loyalism, but rather functioned as affirmations of loyalism. The argument accommodates the seemingly contradictory, dual responses of resistance and assimilation, whereby assimilation as subjects became a potent form of resistance to settler colonialism.

There was no universal group response to settler colonialism by the Cape Khoesan. The path to assimilated, 'Hottentot' subjecthood was determined by the individual's degree of exposure to ideas and imaginings of imperial civic nationhood. Colonial law, evangelical-humanitarianism and imperial commissions of inquiry all functioned as important conduits of the notions of imperial subjecthood and loyalism; together, and to varying degrees, these influences shaped 'Hottentot' civic identity within the ambits of settler households and mission stations.

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Note on Terminology

The historical account which unfolds in this thesis has been shaped by a critical consideration of the dual influences of labelling and lived experiences upon an indigenous people in a colonial setting. While the lived experiences of the central characters are emphasised, it is impossible to escape from the need to categorise and label such characters on the basis of their group membership, whether such membership was externally ascribed or internally aspired to. Nearly all of the social labels used in this thesis are contentious. This brief note serves to acknowledge the contests which exist concerning group labels in the Cape colonial context and to set out the choices made by the author in dealing with the naming of those social categories which appear in the following analysis.

The label 'Khoesan' is used to refer to those individuals assimilated, to varying degrees, into the social conglomeration made up of the Cape's formerly independent pastoralists and hunter-gatherers. Although coined in the twentieth century and applied retrospectively, the term does at least allude to the complex, mixed ancestry of the Cape's labouring indigenous peoples during the early nineteenth century and at the same time, is free of the pejorative connotations of the contemporary colonial labels, 'Hottentot' and 'Bushmen'. Its wide use in South African and Cape historiography points to difficulties in determining whether individuals were Khoekhoe or San with absolute certainty from the mid-eighteenth century onward.

Where 'Hottentot' appears in historical documents, the tendency on the part of the academe has been to replace the term with Khoekhoe or a variation thereof, such as Khoikhoin or Khoena (the latter being grammatically gender inclusive). Translated to mean "men of men", or "real people", Khoekhoe was the term used by the Cape's herders to refer to themselves and so, not surprisingly, has found traction among scholars. With regards to the 'Bushmen', San is commonly used instead. Yet, like the label 'Bushmen', San also has disparaging connotations, having been derived from a Khoekhoe word for 'thief'.

The extensive, forced incorporation of both hunter-gatherers and pastoralists into the Cape economy, especially during the late eighteenth and early nineteenth centuries, resulted in a blurring of the two, formerly distinct, categories. Indigenous

identities were in a state of flux as their bearers simultaneously resisted and imbibed various elements of the colonial imposition. Identities in the expanding Cape Colony were fluid whether measured according to predominant subsistence modes or other criteria. Historical records from the period are replete with examples of individual 'in-betweenness' in response to colonialism's cultural, religious and economic stimuli. Therefore, when 'Hottentot' and 'Bushmen' do appear in documentary materials, these terms cannot be regarded as being automatically synonymous with Khoekhoe and San, or herders and hunter-gatherers, respectively.

While the contentions and shortcomings of these labels are recognised, they are the only labels at the disposal of Cape historians and so for the purposes of clarity and consistency, they will be used in this thesis as follows. When the identity of an individual is in doubt, or when a general observation pertaining to the Cape's indigenous peoples, including both pastoralists and hunter-gatherers, is being made, Khoesan will be used. In references to hunter-gatherers, San will appear. San is less derogatory than 'Bushmen', is not gendered, and remains the preferred label among most hunter-gatherer descendants today. Where 'Bushmen', or one of its numerous colonial variations, appear in quotations, these have been left unchanged.

The label 'Hottentot' is perhaps the most problematic for this thesis. It tends to be rejected as a racially abusive term imposed on the Khoekhoe by Europeans. It is thought to derive from a Dutch word for "stammerer" or "stutterer", in reference to the clicking sounds in their languages. Although it originally referred only to the Cape's pastoralists, it gained wider resonance during the early nineteenth century as it came to signify servants of both Khoekhoe and San extraction as they became assimilated into a labouring class. This thesis will show that the term also evoked claims to an identity re-made, internalised and aspired to by those to whom it was ascribed. For this reason, it has been used in the following study, but unlike the other labels discussed in this note, it will retain its single, inverted commas as a token of the sensitivity with which the term is employed.

Glossary

<i>Bastaard</i>	Dutch colonial term for a person of Khoesan and European descent
<i>Bastaard-Hottentot</i>	Dutch colonial term for a person with Khoesan and slave ancestry; usually born of a slave father and a Khoesan mother
<i>Boer</i>	European farmer at the Cape; predominantly, though not exclusively, of Dutch origin
<i>Bosjesmen</i>	Dutch colonial term for the indigenous hunter-gatherers of the Cape; translated 'Bushman'
<i>Bosjesman-Hottentot</i>	Dutch colonial term for a <i>Bosjesman</i> assimilated as a 'Hottentot'
<i>burgher</i>	at the Cape, a free citizen not employed by the <i>VOC</i>
<i>Coloured</i>	in South Africa, an ethno-cultural group with mixed Khoesan, slave and European ancestries
<i>commando</i>	armed, mounted posse of farmers often accompanied by Khoesan servants
<i>drostdy</i>	office or residence of a <i>landdrost</i>
<i>droster</i>	frontier bandit or vagabond
<i>field commandant</i>	local <i>Boer commando</i> officer; also <i>veldwagtmeester</i>
<i>field cornet</i>	local administrative official subordinate to the <i>landdrost</i> ; authorised to settle minor disputes within a <i>field cornetcy</i> ; also <i>veldkornet</i>
<i>field cornetcy</i>	subdivision made up of several farms over which a <i>Field Cornet</i> exercised administrative authority
<i>Gonaqua</i>	Khoekhoe group with amaXhosa commixture who lived in the southern Cape, to the East of Algoa Bay; also <i>Gonah</i>
<i>Griqua</i>	pastoral, mixed race community with Khoesan, slave and European ancestries; settled along the <i>Trans-Gariep</i> frontier
<i>heemraaden</i>	the advisory council to the <i>landdrost</i>
<i>kaross</i>	a garment made from animal skin
<i>knob-kirrie</i>	wooden club with a large, rounded knob at one end
<i>Korana</i>	<i>Oorlam</i> group with Sotho-Tswana admixture; inhabited the region of the Gariep, Modder and Vaal Rivers
<i>kraal</i>	basic social unit of San society; made up of small, mobile, extended family, foraging groups
<i>krijgsgevangenen</i>	Dutch term for prisoners taken by <i>commandos</i>
<i>landdrost</i>	leading legal and administrative officer of a district
<i>Oorlam</i>	mixed race communities of Khoesan, slave and European descent who emerged along the northern frontier during the late 18 th century
<i>opgaaf</i>	tax and census roll
<i>sjambok</i>	whip made from animal hide
<i>Trans-Gariep</i>	region to the north of the Gariep River (Orange River); also referred to as <i>Trans-Orangia</i>
<i>trekboer</i>	migrant stock-farmer
<i>veld</i>	open country, usually covered with grass and shrubs

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My final words of gratitude are reserved for my parents, Michael and Elsa McDonald. Their encouragement these past few years has been unwavering and they have supported me in innumerable and immeasurable ways over the course of this journey. With much love and appreciation, this thesis is dedicated to them.



Portraits of two anonymous Khoekhoe women
(CA, Elliott Collection, E 3266)



Khoekhoe group in transit
(CA, AG Collection, AG 7146/88)

Sir, we the undersigned inhabitants of the Kat River Settlement beg leave to congratulate Your Excellency, as the representative of our beloved Sovereign, the Queen of England, on your safe arrival among us, and to express our regard for your person and administration; many have been the calumnious reports and misrepresentations circulated about us, tending to injure our character as a community, and we not only assure Your Excellency that such reports and misrepresentations are wholly unfounded, but can assure Your Excellency that we yield to none of Her Majesty's subjects in our loyal attachment to Her person and Government, and that we always shall be ready to serve Her to the last of our ability.

Memorial by inhabitants of the Kat River Settlement to
Governor George Napier, 4 May 1838

We are all born savages, whether we are brought into the world in the populous city or in the lonely desert. It is the discipline of education, and the circumstances under which we are placed, which create the difference between the rude barbarian and the polished citizen [...]

John Philip, *Researches in South Africa*,
Vol. II, 1828

Commissioners or functionaries who administer the law to govern people, the one able, and the other perhaps ignorant, must be just and impartial in their government; but we find, among mostly all Her Majesty's commissioners, that where cases concern a coloured person, very seldom justice [...] Is it on account of the ignorance of the coloured subject as regards the English laws? Or because his proceedings are not worth the trouble and expense applied for his welfare? Or because we as subjects, in our ignorance, are less in the right than our white fellow subjects?

Memorial by certain rebel 'Hottentots' to Governor
George Grey and the Cape Parliament,
27 March 1855

Introduction

Hypothesis, Historiography and Methodology

I. Setting the Scene: The Hypothesis and Aim of the Study

This thesis forwards an analysis of Khoesan responses to colonial domination and representation in the Cape Colony (or Cape of Good Hope Colony) from 1795 to 1858 and considers what their responses reveal about their identity as colonial subjects, as well as the role that ‘Hottentots’ played in the making of their own identity.¹ In doing so, this thesis presents the hypothesis that British loyalism became a defining feature of ‘Hottentot’ identity during the course of the early nineteenth century. Loyalism is defined in this study as the demonstration of loyalist attitudes towards the British Crown, shaped by a romanticised view of the monarch as the source of benign power and imperial values from which colonial institutions drew their mandate to rule.

Expressions of loyalty to the Crown reflected ‘Hottentot’ appeals to a civic identity that transcended their ethnically-defined inferiority within Cape colonial society. Loyalism emerges as a significant means by which the Khoesan sought to influence the world around them while challenging the racial superiority of that world. Though expressions of loyalism were certainly made for strategic reasons in the Cape’s settler-colonial context (mainly in the service of self-preservation and advancement), it is argued that ‘Hottentot’ loyalism also functioned as a powerful collective identity; an identity that evoked a sense of belonging to a larger, British-inspired, civic nation which challenged their racist positioning in Cape colonial society. Civic nationhood is different to ethnic nationhood, as the former constitutes an imagined collective in which membership may be acquired without any evident heritability.² While ethnic nationhood is arguably as imagined as civic nationhood,

¹ Numerous insights into how ‘First Peoples’ have attempted to define their own identities in opposition to derogatory Western stereotypes, as well as appreciation for the sophistication of hunter-gatherer cultures, were gained from H. Brody, *The Other Side of Eden: Hunter-Gatherers, Farmers and the Shaping of the World* (London: Faber & Faber, 2001), in particular, Ch. 3 & 4.

² Benedict Anderson’s landmark work on nationhood and nationalism has been indispensable in framing the ideas presented here. B. Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London & New York: Verso, 1991), especially Ch. 4.

it is usually determined to a greater degree by biological descent. In this analysis, civic identity is a more applicable theoretical concept than ethnic identity, as it alludes to the complex genealogies of those individuals, families and kinship groups who came to constitute the Cape's 'Hottentots'.

The parameters of loyalism were defined vertically in the Cape colonial context by those in positions of power. With regards to the Cape's white subjects, loyalists were considered to be those who exhibited a suitable degree of acquiescence to British jurisdictional authority. Among its white colonial subjects, loyalists were those who were deemed to be "reliably British".³ That being said, loyalism was also defined horizontally, among those who constituted the subject classes of the colony. Variations in the meanings of loyalism existed both between and within such groups.

For many Khoesan, their attachment to British subjecthood was bound up with the civil rights they became entitled to during the early nineteenth century. It will be argued that Khoesan loyalism was primarily expressed through the embracing of British subjecthood. While subjecthood is based on notions of loyalty and belonging, in the Cape Colony during the early nineteenth century, the idea also became entangled with ideas usually associated with citizenship; that is a language of rights, as well as of state obligations towards those who fall under its jurisdictional authority.⁴

In a colonial setting, subjecthood is inadvertently involuntary for those labelled subjects. However, it will be shown that in the Cape's settler-colonial context, subjecthood functioned as an appealing status of inclusion for scores of Khoesan. As civil rights were extended to the Khoesan, so a language of rights began to take root within the space of subjecthood. Access to the fair acknowledgement and enactment of these rights was not always guaranteed. Even so, while Khoesan may have been unsuccessful on most occasions when appealing to their subject status and its attendant rights and protection, it is still important to consider the appeals and the processes and mechanisms they pursued to articulate their claims. By embracing their subjecthood, Khoesan were appealing to their place as equal

³ A. Thompson, 'Languages of Loyalism in Southern Africa, c. 1870-1939', *English Historical Review*, 118 (477), 2003, p. 622.

⁴ A valuable comparative text is B. Majumdar, 'Citizen or Subject? Blurring Boundaries, Claiming Space: Indians in Colonial South Africa', *Journal of Historical Sociology*, 26 (4), 2013, pp. 479-502.

members of an imagined British civic polity. Most importantly, subjecthood extended the possibility of a social status that challenged racial classifications.⁵

The early nineteenth century Cape witnessed animated public debates over the extension of rights to its indigenous subjects, in keeping with parallel experiences in Britain's other emerging settler-colonies. The extension of political rights to those indigenous peoples who had survived initial colonial contact signified the adoption of a "more 'respectable' means of establishing and then entrenching settler dominance" for nineteenth century British governments and colonial elites alike.⁶

The Crown's legal provision of rights to its indigenous subjects afforded some Khoesan transcendent moments of equality and freedom in a colonial society that was not of their liking or choosing. Subjecthood became bound up with loyalist impressions of empire by numerous Khoesan; even though they were co-opted by their context, they were looking forward to an uncertain future.⁷ It is argued that claims to independence and 'Hottentot' nationalism – a label which has become standard in Cape historiography – did not run counter to Khoesan loyalism, but rather served as affirmations of loyalism.⁸

⁵ A useful comparative text on this theme is J. Chesterman, 'Natural Born Subjects? Race and British Subjecthood in Australia', *Australian Journal of Politics and History*, 51 (1), 2005, pp. 30-39.

⁶ J. Evans, *et. al*, *Equal Subjects, Unequal Rights: Indigenous Peoples in British Settler Colonies, 1830-1910* (Manchester & New York: Manchester University Press, 2003), p. 1.

⁷ See S. Dubow, 'How British was the British World? The Case of South Africa', *Journal of Imperial and Commonwealth History*, 37 (1), 2009, pp. 1-27, for an insightful discussion of subject-citizenship in South African history.

⁸ "'Hottentot' nationalism" was first explored at length by Stanley Trapido in a paper presented at the 'Societies of Southern Africa in the 19th and 20th Centuries' seminar series hosted by the University of London's Institute of Commonwealth Studies in 1992. The term has since found traction and appears in several, exceptional studies on Khoesan identity politics in the mid-nineteenth century, including E. Elbourne, *Blood Ground: Colonialism, Missions, and the Contest for Christianity in the Cape Colony and Britain, 1799-1853* (Montreal & Kingston: McGill-Queen's University Press, 2002), pp. 276-277; V.C. Malherbe, 'The Cape Khoisan in the Eastern Districts of the Cape Colony before and after Ordinance 50 of 1828', Ph.D thesis, University of Cape Town, 1997, pp. 414-420; & R. Ross, 'The Kat River Rebellion and Khoikhoi Nationalism: The Fate of an Ethnic Identification', *Kronos: Journal of Cape History*, 24, 1997, pp. 91-92. Notably, in this last piece, Ross indicates his reluctance to use 'Khoikhoi' instead of 'Hottentot'. As outlined in the 'Note on Terminology' at the beginning of this thesis, 'Hottentot' is rejected as a racially pejorative label. The reason for why "'Hottentot' nationalism" continues to be popular is largely due to the recognition that 'Hottentot' was "used by the people concerned themselves with a considerable degree of pride".

While early, tentative expressions of loyalism among Khoesan were apparent during the First British Occupation of the Cape (1795-1803), the notion became an important motivating factor for acts of resistance in the decades following the Second British Occupation, from 1806 onward. It is argued that a more comprehensive understanding of how 'Hottentots' related to being subjects of the emerging British Empire allows for accommodating the seemingly contradictory, dual responses of resistance and assimilation, whereby assimilation as subjects became a potent form of resistance in itself. Assimilation is used in this discussion to refer to a process of transformation, whereby the elements of identity are reordered in response to contextual influences and the contents of identity are reprioritised. Such shifts can occur gradually or at a rapid pace, depending upon the socio-political setting and the effects it has upon the identities of affected groups.⁹

There was no universal group response to settler-colonialism by the Cape Khoesan and the path to assimilated subjecthood was constrained by the individual's degree of exposure to ideas of imperial civic belonging. Colonial law, humanitarianism, imperial commissions of inquiry and the anti-slavery campaign all acted as important conduits of the notion of imperial subjecthood and profoundly shaped 'Hottentot' identity within the ambits of settler households and mission stations, as well as among some who were self-employed and eked out a semi-independent livelihood. This argument has been informed by a global shift in studies of colonialism that began to unfold in the early 1980s and is still running its course. At the heart of this conceptual transition has been a growing interest in the "active agency of colonised populations as they engaged and resisted colonial impositions, thereby transforming the terms of that encounter."¹⁰ Related to this, it is also now recognised that the implementation of colonialism was complex and layered. The architects of metropolitan policies were different from the local practitioners and the two did not always agree.¹¹ It is for this reason that the following analysis draws a distinction between the 'imperial' and the 'colonial', with the former referring to

⁹ Anderson, *Imagined Communities*, p. 49.

¹⁰ A.L. Stoler, 'Rethinking Colonial Categories: European Communities and the Boundaries of Rule', *Comparative Studies in Society and History*, 31 (1), 1989, p. 135.

¹¹ Stoler, 'Rethinking Colonial Categories', p. 135.

metropolitan ideals and preferences and the latter to the local constraints, impracticalities and power struggles which shaped the political, social and economic context in which imperial policies were supposed to be enforced.

Even as this thesis acknowledges the standard use of the portmanteau 'Khoesan' in contemporary academic parlance when referring to the Cape's indigenous hunter-gatherers and foragers, the label 'Hottentot' will be used when appropriate for the argument put forward. Following the Second British Occupation of the Cape Colony in 1806, the label 'Hottentot' came to refer to those of Khoekhoe or San descent, or indeed mixed parentage, who were working in some, generally servile, capacity in the settler economy other than under the bonds of slavery.¹²

While in no way downplaying the derogatory undertones of the label as it was ascribed to Khoesan labourers, it is crucial for the purposes of this thesis to acknowledge that 'Hottentot' identity was simultaneously aspired to. While the label 'Hottentot' came to refer to a legal category in the aftermath of the passage of the Caledon Code in 1809, it also signified British subjecthood with the label being used in imaginative and strategic ways by its bearers in subsequent years. As with all colonised peoples, Khoesan were subjected to disparaging Western images and ideologies of the 'native' at the time of the colonial conquest and settlement of the Cape.¹³ The dominating discourse of the 'other' in colonial settings has received

¹² S. Newton-King, 'The Labour Market of the Cape Colony, 1807-1828', in S. Marks & A. Atmore, (eds.), *Economy and Society in Pre-Industrial South Africa* (London: Longman, 1980), pp. 176-177.

¹³ N. Penn, 'Written Culture and the Cape Khoikhoi: From Travel Writing to Kolb's 'Full Description'' in A. Delmas & N. Penn (eds.), *Written Culture in a Colonial Context: Africa and the Americas, 1500-1900* (Cape Town: University of Cape Town Press, 2011), pp. 166-171; M. Van Wyk Smith, 'The most wretched of the human race: The Iconography of the Khoikhoi (Hottentots), 1500-1800', *History and Anthropology*, 5 (3), 1992, pp. 285-330; N. Parsons, *Clicko: The Wild Dancing Bushman* (Johannesburg: Jacana Media, 2009), pp. 14-15. See also W.M. Macmillan, *The Cape Colour Question: A History Survey* (London: Faber & Gwyer, 1927), p. 28 & C. Crais & P. Scully, *Sara Baartman and the Hottentot Venus: A Ghost Story and a Biography* (Princeton: Princeton University Press & Johannesburg: Witwatersrand University Press, 2009), p. 3. For examples of descriptions in travel writing, see I. Schapera (ed.), *The Early Cape Hottentots: Described in the Writings of Olfert Dapper (1668), Willem Ten Rhyne (1686) and Johannes Gulielmus de Grevenbroek (1695)* (Cape Town: Van Riebeeck Society, 1933); A. Sparrman, *Voyage to the Cape of Good Hope 1772-1776*, Vol. 1 (Cape Town: Van Riebeeck Society, 1975), pp. 178-183; A. Sparrman, *Voyage to the Cape of Good Hope 1772-1776*, Vol. 2 (Cape Town: Van Riebeeck Society, 1977), pp. 62 & 67 & V.S. Forbes (ed.), *Carl Peter Thunberg Travels at the Cape of Good Hope 1772-1775* (Cape Town: Van Riebeeck Society, 1986), pp. 174 & 316. For a recent study on nineteenth century comical representations of the Khoesan, see C. A. Holdridge, 'Sam Sly's African Journal and the Role of Satire in Colonial British Identity at the Cape of Good Hope, c. 1840-1850', M.A. thesis, University of Cape Town, 2010, Ch. 3.

extensive scholarly attention, which it fully warrants. In contrast, however, experiences of subalterneity and the self-perceptions of colonised, indigenous groups remains in need of further inquiry. This is not to downplay the contributions of numerous landmark studies within the 'new social' and cultural history frameworks. Yet recent acceptance of the multifarious ways in which indigenous resistance was manifested during the 'long nineteenth century' has prompted a re-conceptualisation of subaltern 'agency'.¹⁴ This master trope of the 'new social history' is rightly treated with caution in current scholarship. Nonetheless, the historical value of recapturing the experiences of indigenous peoples and their responses to colonialism remains.

The following discussion is framed by some of the most important social and political stimuli which influenced the emergence of an assertive 'Hottentot' civic identity, along with those processes of continuity and change which shaped the expression of this identity during this period. It is important at the outset to stress the highly heterogeneous nature of Khoesan identity by the turn of the nineteenth century. By this time, those who had become subsumed under the label 'Hottentot' did not originate from a homogeneous, ethnographic community, but were rather descended from a wide array of Khoekhoe polities and San groups; the latter often taking the form of kraals, which were small, mobile, extended families (see Map 1). All these indigenous groups had suffered extensive loss of land following the advent of European settlement at the Cape in the mid-17th century. The Khoekhoe had been the first indigenous group to come into sustained contact with the European presence at Table Bay and its immediate hinterland of the south-western Cape.

For those Khoekhoe who were not prepared to enter into the service of the VOC or the colonists, retreat into the Cape interior was the only option. This brought the Khoekhoe into prolonged contact with the Cape's other, prominent indigenous group, the San, who unlike the Khoekhoe, subsisted primarily by hunting and gathering. Pre-colonial interactions between Khoekhoe and San were complex, ranging from patron-client relations to conflict. The colonial factor altered this state

¹⁴ Dayton, 'Rethinking Agency, Recovering Voices', pp. 827, 839 & 842; B. Douglas, 'Provocative Readings in Intransigent Archives: Finding Aneityumese Women', *Oceania*, 70 (2), 1999, pp. 111-112 & A. Nygren, 'Struggle over Meanings: Reconstruction of Indigenous Mythology, Cultural Identity, and Social Representation', *Ethnohistory*, 45 (1), 1998, pp. 32-34, 37 & 55.

of affairs and groups of Khoekhoe lost more and more of their cattle holdings through unfair bartering practices and outright theft on the part of the colonists; thus they converted to a predominantly foraging mode of subsistence.¹⁵ From this time on, it became increasingly difficult to distinguish between these categories of peoples.¹⁶

When the British first acquired the Cape from the weakened *VOC* in 1795, amid fears of a French bid for control of the strategic shipping port, they inherited a well-established settler population in the south-western Cape along with a sparsely settled interior. The south-western settlers had become dependent upon slave labour, as well as the labour of dispossessed Khoesan. In contrast, the interior settler population had come to rely more upon Khoesan labour as they could not afford to purchase imported slaves in the distant frontier districts. As the trekboer communities beyond the interior escarpment had become accustomed to settling conflict with the San, 'Bushmen' and *drosters* on their own, they came to prove most troublesome to the British authorities based in Cape Town who wanted to impose their administrative will on the frontier.

In keeping with a trend in other settler-colonies across the nascent empire, Britain would find it difficult to maintain satisfactory control over both settlers and Khoesan. In time, the "imperial factor" would come to prove hugely influential in the emergence of nineteenth century South Africa.¹⁷ Though not without significant challenges to its authority, most notably in the form of the Frontier Wars and Great Trek, British imperialism was deliberately interventionist in order to bolster the Cape's capitalist economy. The Cape's economic output was moulded to suit Britain's financial imperatives, protecting its trading interests in South Asia and the East and the development of the metropolitan economy. Together with the important motivating factor of economic interest, Britain's imperial intervention in the Cape Colony would also, over the course of the early nineteenth century, come

¹⁵ S. Marks, 'Khoesan Resistance to the Dutch in the Seventeenth and Eighteenth Centuries', *Journal of African History*, 13 (1972), 55-80.

¹⁶ R. Ross, 'Khoesan and Immigrants: The Emergence of Colonial Society in the Cape, 1500-1800', in C. Hamilton, B. Mbenga & R. Ross (eds.), *The Cambridge History of South Africa. Volume 1, From Early Times to 1885* (Cambridge: Cambridge University Press, 2010), p. 173.

¹⁷ A. Atmore & S. Marks, 'The Imperial Factor in South Africa in the Nineteenth Century: Towards a Reassessment', *Journal of Imperial and Commonwealth History*, 3, 1974, pp. 108-111.

to be influenced by humanitarian sentiment. These two factors were not incompatible; humane working conditions were considered more conducive to productive labour.

Humanitarian imperialism imbibed both cultural chauvinism and the myth that indigenous peoples were backward, child-like and susceptible to corrupting influences, therefore requiring protection. This was especially so in those colonial settings with sizeable European settler populations, such as the Cape. Humanitarian imperialism was also 'conversionist' in orientation, in that it believed colonial *indigenes* were capable of being converted into equal subjects. This idea stemmed from a prevalent humanitarian doctrine at the time, namely, the unity, or 'oneness', of humankind. Though duplicitous, the predominance of this imperial viewpoint meant that for much of the period under investigation, "the road to Empire was paved with good intentions."¹⁸

For the Khoesan, their colonially-inspired ethnic identity was drawn from an assortment of pre-colonial ethnicities which bore linguistic, cultural and cosmological similarities, but which also exhibited variety and dissonance.¹⁹ Due to the ensuing collapse of Khoesan sovereignties, there were no "tribal political structures" to which their colonial-ethnic identity could be attached during the early nineteenth century. "[U]sing the semantic ground of the coloniser" for their own identity-making purposes, scores of Khoesan identified with the imperial power which exercised sovereignty over them directly, rather than through local power brokers.²⁰

In this analysis, settler-colonialism is employed to refer to the factors attendant with the settlement of Europeans, of both Dutch and British extraction. Though still in its infancy, studies on settler-colonialism (as a distinct form of colonialism) have helped to clarify its differences with imperialism – especially in

¹⁸ J. Heartfield, *The Aborigines' Protection Society: Humanitarian Imperialism in Australia, New Zealand, Fiji, Canada, South Africa, and the Congo, 1836-1909* (London: Hurst & Company, 2011), p. 303.

¹⁹ Consider the discussion by A. Barnard, *Hunters and Herders of Southern Africa: A Comparative Ethnography of the Khoisan Peoples* (New York & Cambridge: Cambridge University Press, 1992), Ch. 13 & 14, & N. Penn, *The Forgotten Frontier: Colonist & Khoesan on the Cape's Northern Frontier in the eighteenth Century* (Cape Town, Double Storey Books & Athens, Ohio University Press, 2005), p. 5.

²⁰ The quote is taken from Crais, 'Custom and the Politics of Sovereignty', p. 726.

terms of how each related to colonised indigenes. In a seminal work, Patrick Wolfe has argued that settler-colonialism sought “the dissolution of native societies” in order to create “a new colonial society on the expropriated land base.”²¹ Settler-colonialism was about establishing the permanence of presence. The Cape Colony, and subsequently South Africa, was different from other settler-colonies in that the European settler population remained a minority dependent on indigene labour. In the Cape context, the colonised were targeted for assimilation as a labouring underclass to serve the interests of the settler-colonial economy. British imperialism was complicit in this process during the early nineteenth century. However, as noted, it sought to bend settler-colonialism to its will, which at the time, was motivated by judicial and evangelical-humanitarian ambitions in addition to economic gain. The establishment of British imperial sovereignty was about imposing an image of Britain on the Cape. Though as Anthony Atmore and Shula Marks have observed, while British imperialism at the Cape “wore humanitarian garb” the British were primarily concerned with protecting their economic interests.²²

British imperialism has been a contested theme in South African historiography. Liberal historians, such as W.M. Macmillan and C.W. de Kiewiet, argued that British imperialism was for the most part beneficial for the Khoesan and Bantu-speaking populations of South Africa. Afrikaner, or pro-settler, historians, such as F.A. van Jaarsveld and C.F.J. Muller, forwarded a similar view of the effects of British imperialism; arguing that while it was advantageous for the African peoples of the region, it had adverse effects for Afrikaners. Atmore and Marks, in weighing up these interpretations, have insisted that British imperialist intervention entailed the establishment of “white colonist superiority”; that such superiority was “inseparable from the intimate involvement of metropolitan imperialist power in South Africa.”²³ British imperialism at the Cape presented an ambiguous paradox for the colony’s indigenes. For while British imperial power in the region advocated a

²¹ P. Wolfe, ‘Settler Colonialism and the Elimination of the Native’, *Journal of Genocide Research*, 8 (4), 2006, p. 388.

²² Atmore & Marks, ‘The Imperial Factor’, p. 108.

²³ Atmore & Marks, ‘The Imperial Factor’, p. 108.

liberal discourse that extended rights, established oversight and promoted protection in principle, it also engaged in aggressive colonial expansion and conquest. Furthermore, while British imperialism sought to contain the harsher aspects of settler-colonialism at the Cape, it nonetheless, envisioned the white settlers as political and economic allies. These contradictions presented challenges and constraints for Khoesan resistance, but they also opened up other possibilities for pushing back at the dispossessing effects of settler-colonialism.

After the British occupied the Cape for a second time in 1806, following a brief three year period of control by the Batavian Republic, the imperial administration sought to entrench its rule at no unnecessary cost to the Treasury. In order to achieve this, “a local group of collaborators” was required.²⁴ The Dutch-speaking landed gentry and merchant class were the most suitable owing to their interests in expanding the Colony’s trade after years of economically stifling, *VOC* rule. The British authorities set about concerning themselves with facilitating such trade and ensuring that the slaves and Khoesan provided the much-needed labour. However, as noted, the British imperial presence also brought with it the growing influence of the late eighteenth century evangelical revival and humanitarian movement in the political scene back home. At the forefront of the humanitarian agenda was the anti-slavery campaign, which realised its aim of having the slave trade abolished the year after the British re-acquired the Cape.

In the years and decades to follow, British control of the Colony would become despised by many settlers, as ameliorative laws pertaining to the treatment of slave and Khoesan labourers came to undermine the paternalist authority of Cape farmers and jeopardised the control European masters had become accustomed to exercising over their servants and slaves. The British acquisition of the Cape also ushered in a period of sustained missionary involvement in the affairs of the Colony, much to the angst of the settler population. Missionaries from a variety of different mission societies – most notably the Moravians, who were pioneers in the Cape mission field, and the London Missionary Society (LMS), who became political allies of the Khoesan – were to become central characters in the unfolding of the Colony’s social relations during the nineteenth century.

²⁴ Atmore & Marks, ‘The Imperial Factor’, p. 111.

What all colonies shared in common was the exercise of sovereign authority that had usually been attained in the first instance at least, through force.²⁵ Colonies were inescapably lands of conquest. However, for the British and the Khoesan, there was an intriguing twist on this otherwise standard imposition of colonial rule. The Khoesan had been dispossessed and forced into servitude in Cape colonial society by European settlers, predominantly of Dutch descent, during the period of VOC rule.²⁶ The British inherited an already subjugated Khoesan populace in the south-western Cape and a turbulent interior, where violent conflict between the trekboers and the Khoesan had been going on for close to a century.

As such, power dynamics in the Cape Colony following the First British Occupation were not solely shaped by the interactions of a single coloniser and the colonised. It is crucial to acknowledge this, as it complicates the way in which colonialism was experienced by the Khoesan in the Cape context. In a similar vein, John Comaroff has argued that colonialism “was shaped as much by political, social and ideological contests among the colonisers as by the encounter with the colonised.”²⁷ This observation has a strong bearing on this study. Colonialism at the Cape was neither a homogenous force nor monolithic. In effect, it was influenced by the different political, economic and moral interests of various groups, as well as regional factors; most notably the long distances between Cape Town and the interior districts to the north-east. There was no single colonising culture. Rather, there was a number of different colonising cultures, which were regularly in contest. These colonising cultures were systematically subsumed under an over-arching British colonising culture over the course of the early nineteenth century. Even so, British colonising culture was also not hegemonic.

The more permanent Second British Occupation from 1806 onward ushered in an imperial state determined to impose its rule. A great deal of the legislation introduced by the British at the Cape following the advent of the Second Occupation

²⁵ A. Pagden, ‘Fellow Citizens and Imperial Subjects: Conquest and Sovereignty in Europe’s Overseas Empire’, *History and Theory*, 44 (4), 2005, p. 30.

²⁶ M.F. Borch, *Conciliation, Compulsion, Conversion: British Attitudes Towards Indigenous Peoples, 1763-1814* (Amsterdam & New York: Rodopi, 2004), p. 126.

²⁷ J. Comaroff, ‘Images of Empire, Contests of Conscience: Models of Colonial Domination in South Africa’, in F. Cooper & A.L. Stoler (eds.), *Tensions of Empire: Colonial Cultures in a Bourgeois World* (Berkeley: University of California Press, 1997), p. 192.

was motivated by a metropolitan desire for the imperial state to impose itself upon an established, though embittered, European settler population that, for the majority, was not British in origin. As mentioned though, the Dutch-speaking farmers were also the local collaborators the British needed to effectively rule and make the Colony pay its way. The relationship was fraught with tension. It is clear from a wide variety of archival sources that this friction was not lost on Khoesan servants and it had significant consequences for master and servant relations within the domestic sphere, as both were now subjects of the Crown.

The resulting contests between master and servant statuses and their attendant rights were very much shaped by the introduction of legal reforms intended to regulate discipline and punishment within the domestic arena. Similar reforms affecting the rights of masters to discipline and punish their slaves were introduced from the mid-1820s through to the early 1830s, in expectation of eventual emancipation in 1838. Importantly, civil rights were imparted to the Khoesan through the colonial state and by extension, the imperial state, embodied in the Monarch and established via the authority of the Colonial Office in London. Even so, there was also an ongoing tussle among interested parties throughout the period under review concerning the recognition of the natural rights of indigenous peoples in Britain's colonial territories. This became a pertinent point of debate throughout the Empire during the 1830s, when indigenous rights to land *vis-a-vis* settler rights was brought into sharp focus by the evangelical-humanitarian lobby.

Nonetheless, the labour reforms introduced by the British at the Cape were in themselves not enough to ensure compliance on the part of masters and it required agency on the part of aggrieved Khoesan to pursue the legal recourse to which they were entitled. Before continuing with this introduction, it is worth drawing attention briefly to the use of the term 'agency' in this study. Historical analyses of the identities of colonised individuals and groups have often been conveyed via the discourse of resistance.²⁸ However, rather than being treated as synonymous with 'resistance', the term 'agency' is employed in this study in a more nuanced manner, in keeping with historiographical developments of the concept following the 'cultural turn' of the 1960s and 1970s. In this regard, Ann Stoler and Frederick

²⁸ For a brief discussion of this trend, see Stoler, 'Rethinking Colonial Categories', pp. 134-135.

Cooper have noted that resistance as a theme in colonial studies has been a popular choice among scholars since the 1960s.²⁹ They have cautioned against treating resistance as opposition only, arguing that such an approach fails “to capture the dynamics of either side of the encounter or how those sides were drawn.”³⁰ In addition, they also call for greater emphasis to be placed on hybridities as opposed to Manichean dichotomies, thereby bringing to light the “contingencies and contradictions” of colonial rule and how these came to bear upon indigenous responses.³¹

Since the 1980s and 1990s, the related Cape historiography has shown that Khoesan agency was not always subversive, nor necessarily resistant. Khoesan agency regularly revealed itself in the embracing of the modernity British imperialism brought with it – in new forms of law, literacy and Christianity, as well as the organisation of space and time. Many Khoesan were aware of the glaring contradictions “between the ideals espoused by British imperial statesmen in London” and Cape Town, on the one hand, and the oppressive realities of the settler regime, as manifested in daily interactions on farmsteads throughout the Colony, on the other.³² These contradictions played a fundamental role in shaping Khoesan responses to British imperialism and settler-colonialism; the ‘space’ between the competing aims of British imperialism and settler-colonialism provided Khoesan room for manoeuvre in their struggles over the composition of their everyday lives as servants and subjects.³³

The liberal (as defined by early nineteenth century standards) ethos of empire can be interpreted as having appeared as a beacon of hope compared to settler-

²⁹ A.L. Stoler & F. Cooper, ‘Between Metropole and Colony: Rethinking a Research Agenda’, in F. Cooper & A.L. Stoler (eds.), *Tensions of Empire*, p. 6.

³⁰ A.L. Stoler & F. Cooper, ‘Between Metropole and Colony’, in Cooper & Stoler (eds.), *Tensions of Empire*, p. 6.

³¹ A.L. Stoler & F. Cooper, ‘Between Metropole and Colony’, in Cooper & Stoler (eds.), *Tensions of Empire*, p. 18.

³² N. Etherington, ‘Indigenous Southern Africans and Colonialism: Introduction’ in P. Limb, N. Etherington & P. Midgley (eds.), *Grappling with the Beast: Indigenous Southern African Responses to Colonialism, 1840-1930* (Leiden & Boston: Brill, 2010), p. 4.

³³ For a comparative discussion, see A. Holland, ‘Introduction’ in A. Holland & B. Brookes (eds.), *Rethinking the Racial Moment: Essays on the Colonial Encounter* (Newcastle-upon-Tyne: Cambridge Scholars, 2011), pp. 2-7.

colonialism. Therefore, in this analysis, agency is used to refer to a challenge, with challenges having been varied, multiple and not mutually exclusive; ranging from desertion, theft and arson to strategies of accommodation and assimilation. It is important to stress that resistance has not been abandoned as an organising concept in the discussion to follow, but it has been defined broadly enough so as to incorporate assimilation, when this was done on Khoesan terms. Khoesan agency was more open-ended than straightforward counter-hegemony. As subordinate subjects, but subjects nonetheless, Khoesan, like slaves, did not always challenge the system of rule in revolutionary ways or outside the confines of the British imperial state.

The implementation of British imperial sovereignty in the Cape Colony following the commencement of the Second Occupation – while certainly an act of imposing European colonial imperatives over an indigenous people – would be misconstrued if only represented as having been destructive of Khoesan independence. Rather, a century and a half of settler-colonialism had already been destructive of Khoesan independence, characterised by extensive land, livestock and resource dispossession. British imperial sovereignty came to offer the idealistic prospect of a regained “independence” for Khoesan by means of their colonial status as British subjects.

While the Second British Occupation did not denote a clean break with the *VOC* past, it did usher in a period of notable reforms which numbers of Khoesan deftly employed to improve their lot as servants and fend off the worst excesses of settler-colonialism. As Saul Dubow has noted, the “British occupations signalled a profound shift in ideology and laid the foundation for subsequent structural reforms.”³⁴ The insertion of British sovereignty – in the form of the rule of law and ideology – between master and servant was in effect rather ambiguous for both the Khoesan and the settlers. Justice, as conceived by the Khoesan or their masters, did not neatly align with imperial prerogatives. But the prospect of redress remained nonetheless and this proved crucial to the way Khoesan responded to colonialism and negotiated their place as imperial subjects in an emerging settler society.

³⁴ S. Dubow, *A Commonwealth of Knowledge: Science, Sensibility and White South Africa, 1820-2000* (Oxford & New York: Oxford University Press, 2006), p. 20.

Colonial law became a useful tool employed by individual Khoesan early on in the nineteenth century, and then later by larger groups, often connected by mission networks, to shape life outcomes. While literacy was an essential marker of subject, and of course Christian, respectability, even Khoesan who were largely uneducated and who maintained tenuous ties to missions, were sometimes savvy legal actors. Numerous Khoesan were assertive in interpreting their rights as subjects. Indigenous agency is often treated as implying subordinates operated outside of the colonial legal framework. Yet, it will be shown that litigation rather than rebellion was also used to restrict and thwart the demands of masters.³⁵

While a sizeable and valuable historiography exists around how the slave reforms and legislative amelioration of the 1820s and 1830s influenced slave consciousness, the question of how laws regulating master and servant relations and concomitant matters of discipline and punishment, and importantly, labour contracts and compensation, affected Khoesan consciousness and assimilation as British subjects remains in need of further enquiry. This investigation asks questions about Khoesan agency that define the 'Hottentots' not only as labourers, but as householders, consumers, parents, spouses, street loiterers, and church-attendees, and most importantly, subjects. The crucial relevance of incorporating assimilation or acculturation in studies of Khoesan responses to colonialism was first emphasised in a seminal paper by Shula Marks in 1972. In addressing the "bad press" the Khoesan had received from contemporary European observers in the 17th and eighteenth centuries and by historians in nineteenth and 20th centuries, Marks noted that while the growth of the trekboer economy and its steady advance into the Cape interior ultimately brought about the destruction of the Khoesan's social systems, the process was complex.³⁶ Marks went on to argue that when investigating the "disappearance of the Khoisan as an ethnic identity, their propensity for acculturation" must be taken into account. Suggesting that their propensity to

³⁵ C.H. Dayton, 'Rethinking Agency, Recovering Voices', *The American Historical Review*, 109 (3), 2004, p. 833.

³⁶ S. Marks, 'Khoesan Resistance to the Dutch', p. 68.

acculturate was largely due to “their loosely knit social organisation”, Marks asserted that the Khoesan “literally acculturated themselves out of existence.”³⁷

In the colonial setting, assimilation, as a process, followed a fractured course of accommodation and opposition, and there was no single trajectory towards a universally-defined assimilated norm.³⁸ The potential for reverting to pre-assimilated roles and norms, or, for that matter, counter-assimilated roles and norms, was also ever present. It is also apparent that individuals and families were inclined to initially experiment with acculturative change before more extensive acculturation occurred on the larger level of ethnicities, cultures and societies.³⁹ Acculturated identities would have ranged from being quite fluid at times to being more fixed on other occasions depending upon their context and the predispositions of the individuals involved. Indeed, as Frederick Cooper and Rogers Brubaker have recently reminded us: “If identity is everywhere, it is nowhere.”⁴⁰ Warning against the “prevailing constructivist stance on identity”, Cooper and Brubaker draw attention to what they term the “hard dynamics and essentialist claims of contemporary identity politics.”⁴¹ While all identities at all times are dynamic and prone to unpredictable change, they are equally susceptible to essentialist claims on the part of their bearers.

As subordinated, colonial subjects of Britain, Khoesan resistance was influenced by sectional interests within the colonising culture; namely the tensions between British imperialism and settler-colonialism. This thesis promotes a case for Khoesan inventiveness in response to the contradictions within this incongruent

³⁷ S. Marks, ‘Khoesan Resistance to the Dutch’, p. 77.

³⁸ R. Shaw & C. Stewart, ‘Introduction: Problematizing Syncretism’, in Stewart, C. & Shaw, R. (eds.), *Syncretism/Anti-syncretism*, pp. 1-4.

³⁹ For example, H.L. Bennett, *Africans in Colonial Mexico: Absolutism, Christianity and Afro-Creole Consciousness, 1570-1640* (Indianapolis: Indiana University Press, 2003), Ch. 6; J.E. Kicza, ‘Introduction’ in J.E. Kicza (ed.), *The Indian in Latin American History: Resistance, Resilience, and Acculturation* (Wilmington, Delaware: Scholarly Resources, 1993), pp. xi & xx, & S.J. Stern, ‘Early Spanish-Indian Accommodation in the Andes’ in Kicza (ed.), *The Indian in Latin American History*, pp. 21 & 37.

⁴⁰ F. Cooper & R. Brubaker, ‘Identity’ in F. Cooper (ed.), *Colonialism in Question: Theory, Knowledge, History* (Berkeley & London: University of California Press, 2005), p. 61.

⁴¹ F. Cooper & R. Brubaker, ‘Identity’ in F. Cooper (ed.), *Colonialism in Question*, p. 61.

colonising culture. The analysis attempts to plot how Khoesan participated in constructing 'Hottentot' identity during the early nineteenth century by incorporating both the fluid and contested nature of 'Hottentot' identity-making, as well as how this identity congealed and crystallised at strategic moments.⁴²

II. Assessing the Historiography

For those living in the past (both colonised and coloniser) there was no stable, single trajectory toward colonial subordination. Khoesan responses to the imposition of British imperial sovereignty and settler-colonialism were complex and ambiguous. This study explores this "reality" via the lens of loyalism. In doing so, it ventures into a glaring contradiction at the heart of British imperialism in the Cape Colony. Contrary to the views of pro-settler historians – that Britain's imperial authorities, together with the missionaries, were biased towards the Cape's servants and generally hostile towards their masters – and the arguments of liberal historians – that British imperialism was characterised by moral motives – its effects can be described as conservative.⁴³ In essence, the British wanted to ensure a regular and stable labour supply on the Cape's farms while also safeguarding the colonists on the frontier. However, both required the imposition of regulation. And in regulating the labour supply through the introduction of labour reforms and legislation, British imperialism necessarily intervened in the established prerogatives of settler-colonialism by situating the imperial state as an intermediary and a perceived protector for the Cape Khoesan in the master-servant nexus.

Scholarly interest in indigenous responses to colonialism in southern Africa has to a large extent been shaped by local and international debates surrounding the concept of the frontier. In the Cape colonial setting, and indeed much of nineteenth century southern African history, the frontier has become an intellectual crucible against which ideas pertaining to hegemony and identity have been tested. The revisionist trend which emerged during the early 1970s was to a large extent driven

⁴² For a related discussion of this subject, consider H. Sutherland, 'Performing Personas: Identity in VOC Makassar', in N. Worden (ed.). *Contingent Lives: Social Identity and Material Culture in the VOC World* (Cape Town: University of Cape Town Press, 2007).

⁴³ Atmore & Marks, 'The Imperial Factor', p. 110.

by re-interpretations surrounding the role of the frontier in the shaping of modern South Africa. One of the landmark studies of the period was Martin Legassick's doctoral thesis, "The Griqua, the Sotho-Tswana and the Missionaries, 1780-1840: The Politics of a South African Frontier Zone".⁴⁴ This ground-breaking thesis forwarded a theoretical refinement of the concept of the frontier zone in the South African past.

In contrast to the predominant conceptualisation of the southern African frontier zone at the time (espoused by liberal historians seeking explanations for the twentieth century defeat of Cape liberalism by what they termed the 'frontier tradition'), Legassick questioned the rigidity of the categories in which the related frontier history had been framed. Drawing on the work of I.D. MacCrone and W.K. Hancock, both of whom had pointed out the limitations of a straightforward application of Fredrick Jackson Turner's American frontier thesis to the southern African context, Legassick argued that the frontier zone, rather than being a place of defined extremes, was a fluid space where there was no single source of legitimate authority, even though this would in time emerge.⁴⁵ He also placed equal emphasis on acculturation as an important theme in studies of the South African frontier. Again, contrary to the established interpretations of the day, Legassick favoured the notion of mutual acculturation; a process wherein the "new modes of life and new institutions" occurred "through the interaction between different cultures".⁴⁶

These theoretical innovations concerning the frontier zone rested upon two themes, theretofore neglected in spite of their significance in the nineteenth century history of South Africa, and two related qualifications, which underpinned Legassick's conceptual revision of the 'frontier tradition'. With regards to the two dominant themes of the nineteenth century, the first involved "the erosion of the political power of non-whites through their absorption into plural communities in a subordinate political status" and the second related to "the integration of the

⁴⁴ The thesis was submitted in 1969 at the University of California at Los Angeles and was only published in 2010 by Basler Afrika Bibliographien as *The Politics of a South African Frontier: the Griqua, the Sotho-Tswana, and the Missionaries, 1780-1840*.

⁴⁵ M. Legassick, *The Politics of a South African Frontier*, pp. 3-10.

⁴⁶ M. Legassick, *The Politics of a South African Frontier*, p. 6.

peoples of South Africa into a market economy linked ultimately with the industrializing, capitalist economy of Europe”.⁴⁷

Central to the overall argument was firstly, that the fact of the establishment of white supremacy had “been too often unquestioned” and that “the prior existence of autonomous non-white political communities” had been regularly “ignored or regarded as irrelevant”, stressing the military conquest of these communities while overlooking the “slow, complex, varied and partly peaceful manner in which non-white political power was eroded”; and secondly, that acculturation, or mutual acculturation, had been likewise neglected in the histories of the subordination of frontier societies to white-dominated political, economic and social modes.⁴⁸ The instability, dynamism and temporary nature of the frontier zone, together with the initial “absence of any single source of legitimate authority”, meant that an intriguing in-between stage of integration occurred for frontier communities – occurring after independence and before total subordination. Legassick referred to the communities at this stage of incorporation as “plural communities”.⁴⁹

While Legassick focused on one such plural community, the Griqua, the key ideas of his thesis have been developed and elaborated on in subsequent years. Legassick himself went on to debunk the ‘frontier tradition’ in “a paradigm-smashing seminar paper” presented at the Institute of Commonwealth Studies in London in 1970 and which has become a hallmark of South African revisionist historiography.⁵⁰ Written on the cusp of the revisionist trend, Legassick’s thesis and subsequent seminar paper were shortly thereafter accompanied by notable works by Shula Marks and still later, Herman Giliomee.⁵¹ Marks’ pioneering article, already briefly mentioned, debunked the myth of the Khoesan as passive victims and

⁴⁷ M. Legassick, *The Politics of a South African Frontier*, pp. 1-2.

⁴⁸ M. Legassick, *The Politics of a South African Frontier*, p. 2.

⁴⁹ M. Legassick, *The Politics of a South African Frontier*, pp. 7-8.

⁵⁰ Quote from Penn, *The Forgotten Frontier*, p. 10; M. Legassick, ‘The Frontier Tradition in South African Historiography’, in Marks & Atmore (eds.), *Economy and Society*, pp. 44-79.

⁵¹ S. Marks, ‘Khoisan Resistance to the Dutch’; H. Giliomee, ‘Processes in Development of the Southern African Frontier’, in H. Lamar & L. Thompson, *The Frontier in History: North America and Southern Africa Compared* (New Haven & London, Yale University Press, 1981), pp. 76-119.

discussed in detail the multiple forms which Khoesan acculturation into the nascent European settler economy took.

Marks took the prominent liberal historians of the 1930s to task for seeing the Khoesan in “clichéd terms”; as inevitable victims of colonialism.⁵² One such historian was J.S. Marais. In *The Cape Coloured People*, Marais focused on interactions between Europeans and non-Europeans at the Cape and how the latter became assimilated into the ‘Coloured’ political collective. Marais’ seminal study has been criticised for focusing too heavily on white colonial policy towards Khoesan and slaves. As such, Marais’ work does not constitute a history of the ‘Coloured’ people from within.⁵³ This is perhaps unfair, given the time at which Marais was writing; histories of colonised peoples “from within” began to emerge following the revisionist impulse of the 1970s. Indeed, as Dooling suggests, Marais’ work “brought neglected subjects to the foreground” and demonstrated that in order to understand the most important themes of South African colonial history, indigenous people and slaves had to “occupy centre stage.”⁵⁴

Some of Marais’ observations are worth revisiting. For example, Marais pointed out that while the labour laws implemented by the British following the Second British Occupation were criticised by missionaries and the Commissioners of Inquiry (who were sent to investigate the Cape’s affairs in 1823) for their coercive effects, these laws “marked a distinct advance in the status of the Hottentots.”⁵⁵ With regards to the Caledon Code of 1809, Khoesan servants “were no longer to be subject to the mere caprice of their masters.”⁵⁶ Though Marais made the point, he did so in passing without thoroughly interrogating it further. This shortcoming is taken up in Chapter One, in which the implications of the Caledon Code for Khoesan resistance and early expressions of loyalism are explored.

⁵² S. Marks, ‘Khoisan Resistance to the Dutch’, p. 56.

⁵³ C. Saunders, *The Making of the South African Past: Major Historians on Race and Class* (Cape Town: David Philip, 1988), p. 117.

⁵⁴ W. Dooling, *Slavery, Emancipation and Colonial Rule in South Africa* (Scottsville: University of KwaZulu-Natal, 2007), p. 15.

⁵⁵ J.S. Marais, *The Cape Coloured People, 1652-1937* (London: Longmans, Green & Co., 1939), p. 121.

⁵⁶ J.S. Marais, *The Cape Coloured People*, p. 121.

More recently, Nigel Penn's *The Forgotten Frontier* and Susan Newton-King's *Masters and Servants on the Cape Eastern Frontier* have been consummate additions to the canon of legacy literature stimulated, in one way or another, by Legassick's thesis. Penn sought to shift attention away from the eastern frontier to the largely neglected northern frontier and in doing so asked the question of what happened to the Khoisan societies of the Cape. For Penn, the answer was to be found in the eighteenth century, when the Khoisan succumbed to the colonial intrusion of the *trekboere*. Nonetheless, as Penn stresses, it was during the early nineteenth century, following British occupation, that a concerted effort was made to bring political closure to the frontier. For those Khoisan who had submitted to the colonial state, as opposed to those who had retreated or perished, their incorporation into Cape colonial society was brought about through the introduction of more comprehensive laws regulating their mobility and labour.

Penn has also revisited Marais' reflections on the Caledon Code. Marais suggested that the unpopular view of pro-settler historian, George McCall Theal, that the Caledon Code saved the 'Hottentots' from "utter destruction" perhaps had some merit.⁵⁷ Penn did so via his analysis of the British government's prosecution of the white perpetrators of the killing of two Khoekhoe vagrants and murder suspects in the Onder Bokkeveld in 1812. Though this was an isolated case in the distant northern frontier zone, Penn contends that it nonetheless reveals that the British colonial administration was prepared to intervene in master-servant relations in the aftermath of the Caledon Code. The case also illustrates that some Khoekhoe realised that "the government had both the desire and the ability to uphold justice and protect them from arbitrary or excessive punishment."⁵⁸

Newton-King has described her own study "as an extended interrogation of the views of... Legassick."⁵⁹ Arguing that Legassick's view of the frontier as an interstitial space "where enemies and friends were not (or not exclusively) defined by race" was itself in need of revision, Newton-King has shown that at least on the Eastern Cape frontier, relations between white colonists and the Khoisan were

⁵⁷ J.S. Marais, *The Cape Coloured People*, pp. 121-122.

⁵⁸ N. Penn, 'The Onder Bokkeveld Ear Atrocity', *Kronos: Journal of Cape History*, 31, 2005, p. 106.

⁵⁹ S. Newton-King, *Masters & Servants*, p. 9.

“fundamentally more antagonistic” than had been allowed and that historians ought to be weary of exaggerating the permeability of boundaries in frontier contexts.⁶⁰ The shift in thinking surrounding the frontier in historical analyses may have been too acute; from a place of extremes to one of “blurred outlines and overlapping categories”.⁶¹ For Newton-King, the antagonism that existed between master and servant on the eastern frontier was “both reflected in and mediated by an ideology of ethnic exclusivism.”⁶² Though Newton-King limits her argument to the period before 1803, white ethnic exclusivity continued to feature in Cape politics for the period under discussion in this thesis. The extensive reach of Christianity and respectability among Khoesan meant a degree of social levelling had occurred among the Cape’s white and indigenous populations. As Ross has argued, earlier, typical distinctions between those who were “saved” and those who were “damned”, or “between the respectable and disreputable” no longer held sway as markers of difference between whites and indigenes as the century progressed.⁶³

In their monumental study on the interplay between Christianity, colonialism and consciousness among the Southern Sotho-Tswana during the mid-nineteenth century, Jean and John Comaroff have asserted that “colonialism has been as much a matter of the politics of perception and experience as it has been an exercise in formal governance.”⁶⁴ By drawing our attention to the significant role of signs and symbols within the unfolding of the colonial encounter, the Comaroffs have shown that colonialism was as much about the merging of different social worlds, as it was about economic exploitation, and that these social worlds were “themselves in motion”.⁶⁵ In light of this, it is important to stress that at no point does this study suggest that it is tracing the socio-cultural transformations of a once pristine, pre-colonial group into a colonially inspired and unambiguous, syncretistic type.

⁶⁰ S. Newton-King, *Masters & Servants*, p. 9.

⁶¹ S. Newton-King, *Masters & Servants*, p. 9.

⁶² S. Newton-King, *Masters & Servants*, p. 9.

⁶³ R. Ross, “Missions, Respectability and Civil Rights”, p. 345.

⁶⁴ J. Comaroff & J. Comaroff, *Of Revelation and Revolution: Christianity, Colonialism and Consciousness*, Vol. 1 (Chicago: Chicago University Press, 1991), p. 5.

⁶⁵ J. Comaroff & J. Comaroff, *Of Revelation and Revolution*, p. 39.

Imperial sovereignty, settler-colonialism, Christianity and British subjecthood brought with them new signs and symbols that had profound effects upon Khoesan identity in the early nineteenth century. But rather than being passive recipients, Khoesan were active in engaging with the new, unstable colonial order of this period; sometimes appropriating signs and symbols, and sometimes rejecting them. Recent studies on the Cape Khoesan have tended to focus on the role of Christian missions in shaping their encounters with both British imperialism and settler-colonialism.⁶⁶ This is not surprising, given the wealth of source material contained in the mission archive, especially of the London Missionary Society.⁶⁷ So much of what we know about the Khoesan during the early to mid-nineteenth century has been determined by a dependence on this archive, although much of the excellent work done by Candy Malherbe is a notable exception.⁶⁸ The sheer numbers of Khoesan who took up residence at missions in the Colony, or who were loosely attached to mission stations through familial or kinship networks, nonetheless reinforces the significance of this archive to the history of these peoples during this period.⁶⁹ There are certainly still many more histories of the Khoesan to be told using the rich variety of records contained within the archives of the London and

⁶⁶ Most notably, Elbourne, *Blood Ground*. Other studies include: J. Sales, *Mission Stations and the Coloured Communities of the Eastern Cape, 1800-1852* (Cape Town & Rotterdam: Balkema, 1975); E. Elbourne & R. Ross, 'Combating Spiritual and Social Bondage: Early Missions in the Cape Colony', in R. Elphick & R. Davenport (eds.), *Christianity in South Africa: A Political, Social and Cultural History* (Cape Town: David Philip, 1997).

⁶⁷ See C. Saunders, 'Looking Back: 170 Years of Historical Writing on the LMS in South Africa', in J.W. De Gruchy (ed.), *The London Missionary Society in Southern Africa: Historical Essays in Celebration of the Bicentenary of the LMS in Southern Africa, 1799-1999* (Cape Town: David Philip, 1999), pp. 7-16. The Moravian archive has also produced rich histories of the Khoesan during the final years of VOC rule and the First British Occupation. For example, R. Viljoen, 'Moravian Missionaries, Khoesan Labour and the Overberg Colonists at the End of the VOC Era, 1792-5', in H. Bredekamp & R. Ross, *Missions and Christianity in South African History* (Johannesburg: Witwatersrand University Press, 1995), pp. 49-64.

⁶⁸ V.C. Malherbe, 'Colonial Justice and the Khoesan in the Immediate Aftermath of Ordinance 50 of 1828: Denouement at Uitenhage', *Kronos: Journal of Cape History*, 24, 1997, pp. 77-90; V.C. Malherbe, 'David Stuurman: Last Chief of the Hottentots', *African Studies*, 39 (1), 1980, pp. 47-64; V.C. Malherbe, 'Hermanus and His Sons: Khoehand and Conspirators in Reply to the Post-Rebellion Period (1803-1818)', *African Studies*, 39 (1), 1980, pp. 47-64 & V.C. Malherbe, 'The Life and Times of Cupido Kakkerlak', *Journal of African History*, 20 (3), 1979, pp. 365-378.

⁶⁹ For a discussion of the significance of mission archives to the study of indigenous communities under colonialism, see D.L. Robert, 'Introduction', in D.L. Robert (ed.), *Converting Colonialism: Visions and Realities in Mission History, 1706-1914* (Grand Rapids, Michigan & Cambridge, UK: Eerdmans, 2008), pp. 1-20.

Moravian missionary societies. However, striking an analytical balance between those Khoesan attached to missions and those Khoesan who came into minimal or limited contact with missions – such as those living on distant frontier farmsteads – will provide a more coherent, thorough account of Khoesan assimilation into colonial society as subjects.

It has been established in the related historiography that the Khoesan, throughout the Cape Colony and its peripheries, were confronted with the dire alternatives of submitting, retreating or perishing in the face of systematic colonial encroachments on their territories.⁷⁰ The question of what happened to those Khoesan who did not flee beyond the colonial frontier and who were not eradicated by violent conflict constitutes the initial departure point of this analysis. In recognising that such individuals, families and groups were eventually incorporated into the expanding settler society of the Cape Colony, the form and substance of how this process unfolded, and how Khoesan responded to, and shaped, the multi-layered manner of their subjugation and integration into the colonial state, frame the themes and arguments which follow.

Much attention has been granted to the political measures employed by the British administration to regulate and restrict Khoesan mobility within the Colony and provide the settler population with a stable and pliable labour force in the aftermath of the abolition of the slave trade in 1807.⁷¹ This thesis endeavours to enhance this historiography. It does so by highlighting the value of examining how the Khoesan imagined themselves as British subjects. While loyalism was transferred by missionaries, humanitarians and jurisdictional authorities, subjects

⁷⁰ M. Adhikari, *The Anatomy of a South African Genocide: The Extermination of the Cape San Peoples* (Cape Town: University of Cape Town Press, 2010), Ch. 1 & 2; Penn, *The Forgotten Frontier*, Ch. 4 & N. Penn, 'Fated to Perish: The Destruction of the Cape San' in P. Skotnes (ed.), *Miscast: Negotiating the Presence of the Bushmen* (Cape Town: University of Cape Town Press, 1996), pp. 81-91.

⁷¹ W. Dooling, 'The Origins and Aftermath of the Cape Colony's 'Hottentot Code' of 1809', *Kronos: Journal of Cape History*, 31, 2005, pp. 50-61; Z. Magubane, 'Labour Laws and Stereotypes: Images of the Khoikhoi in the Cape in the Age of Abolition', *South African Historical Journal*, 35 (1), 1996, pp. 115-118 & V.C. Malherbe, 'Indentured and Unfree Labour in South Africa: Towards an Understanding', *South African Historical Journal*, 24 (1), 1991, pp. 15-17; V.C. Malherbe, 'Diversification and Mobility of Khoikhoi Labour in the Eastern Districts of the Cape Colony prior to the Labour Law of 1 November 1809', M.A. thesis, University of Cape Town, 1978, Ch. 7; Newton-King, 'The Labour Market of the Cape Colony', in Marks & Atmore (eds.), *Economy and Society*, pp. 172 & 176-177.

also made themselves in response to these, sometimes inadvertent, conduits of loyalism. A critical understanding of the notion of 'Hottentot' subjecthood, which fashioned resistance on the level of the individual and larger, social collective, adds new insight to the extant literature.

Loyalism draws upon a transcendent conception of 'Empire' in the minds of colonial peoples, both settler and indigenous; that the local (the colonial) was connected to something beyond (the imperial) immediate social and political experiences and constraints.⁷² Internationally, there are three main areas of study which have engaged with the concept of loyalism. The first concerns the American Revolution. Loyalists to the British Crown in this context tended to believe they held the interests of colonial liberty at heart, fearing the types of laws a settler government would enforce. American loyalists were also motivated by an emotional attachment to the British Empire.⁷³ A second focal area relates to Unionist identity in Ireland. In the Irish context, British heritage along with Protestant religious identity constitute the most important factors in shaping an imagined British community.⁷⁴ Furthermore, at different intervals during the previous century, loyalism came to underpin a civic identity expressed in opposition to Irish identity. The third area of interest is connected to the Mau Mau uprising in Kenya in the 1950s. Those who refused to join the rebellion and instead assisted the British colonial government were known as loyalists. However, rather than representing two fixed extremes, resistance and collaboration were options open to different Kenyans at different times and their respective appeal was dependent upon

⁷² Studies which have proven valuable for the argument presented here, include: T. McCaskie, 'Cultural Encounters: Britain and Africa in the Nineteenth Century', in P.D. Morgan & S. Hawkins (eds.), *Black Experience and the Empire* (Oxford & New York: Oxford University Press, 2004), pp. 166-193; D. Killingray, 'A Good West Indian, a Good African, and, in Short, a Good Britisher: Black and British in a Colour Conscious Empire, 1760-1950', *Journal of Imperial and Commonwealth History*, 36 (3), 2008, pp. 363-381; T. Ranger, 'Making Northern Rhodesia Imperial: Variations on a Royal Theme, 1924-1938', *African Affairs*, 79 (316), 1980, pp. 349-373; and A.S. Rush, 'Imperial Identity in Colonial Minds: Harold Moody and the League of Coloured Peoples, 1931-50', *Twentieth Century British History*, 13 (4), 2002, pp. 356-383.

⁷³ R.M. Calhoun, 'The Loyalist Perception', *Acadiensis*, 2 (2), 1973, pp. 3-13.

⁷⁴ J. Todd, 'The Limits of Britishness', *The Irish Review*, 5, 1988, p. 11.

circumstance and limited opportunities for agency. According to Branch, much of the population actually “oscillated between loyalism and Mau Mau”.⁷⁵

All three of these examples display intriguing parallels with Khoesan loyalism at the Cape in the early nineteenth century. Khoesan loyalism was closely aligned with perceived guarantees of liberty, as understood in a colonial context. At times, Khoesan loyalists believed they were defending imperial liberal values in the face of settler-colonial efforts to undermine them. In addition, Khoesan loyalism was framed in accordance with a strong affinity to Protestantism in its evangelical-humanitarian guise. Loyalist identity also served to affirm Khoesan opposition to settler-colonial identity. Even so, loyalism was not defined in singular, fixed terms. Loyalism as collaboration and loyalism as resistance shared a common intellectual idiom.

Indeed, there was no standard form of loyalism in the Cape Colony. Loyalism meant different things to different people at different times. As Thompson has argued, “loyalism was a broad church in which very different kinds of imperial faith could (however uncomfortably) coexist.”⁷⁶ The performance and expression of loyalism depended in large part on the idea of Britain that different individuals and groups held. In essence, loyalism involved loyalty to an idea of the British Empire. As such, loyalism could accommodate a wide range of identities. Thompson points out that although the loyalist tradition in South Africa has often been considered to be the preserve of the pro-British settler elite, in terms of its instrumental appeal loyalism could be “fuelled by different interests and put to different purposes.”⁷⁷

Loyalism was inextricably linked to notions of ‘Britishness’. Saunders has noted that ‘Britishness’ is a relatively new term in studies of the British Empire, having only attracted sustained scholarly attention recently.⁷⁸ ‘Britishness’ refers to a sense of being British. It can also relate to an identification with Britain. Even so, ‘Britishness’ was a surprisingly fluid and adaptable condition in the hands of

⁷⁵ D. Branch, ‘The Enemy Within: Loyalists and the War against Mau Mau’, *Journal of African History*, 48 (2), 2007, p. 294.

⁷⁶ A. Thompson, ‘The Languages of Loyalism in Southern Africa’, p. 620.

⁷⁷ A. Thompson, ‘The Languages of Loyalism in Southern Africa’, p. 620.

⁷⁸ C. Saunders, ‘Britishness in South Africa’, *Humanities Research*, 8 (1), 2006, p. 61.

different colonial publics.⁷⁹ In generalised terms, 'Britishness' signalled loyalty to principles which Britain was regarded as being a proponent and defender of and considered British rule as "benevolent and positive" for the most part.⁸⁰ Examples of adaptations to this generic formulation of the concept can be found among the English-speaking settlers who arrived at the Cape in the early nineteenth century.

As a white minority in a predominantly Dutch colony, their collective identity was expressed through an assertive 'Britishness'. Intriguingly, their appeals to 'Britishness' were also deployed in reaction to the imperial government. Britain's policies on the Eastern Cape frontier were hugely unpopular with the English-speaking settlers during the 1830s and 1840s. The imperial government was regarded as being out of touch with local dynamics. In response, the settlers argued that they were the legitimate representatives of 'Britishness' in the Cape Colony. In spite of their criticisms of the imperial government, they nonetheless retained their cultural affinities with Britain. The settlers were also harshly criticised by members of the evangelical-humanitarian lobby for their attitudes toward the amaXhosa and Khoesan. Saunders suggests that their 'Britishness' – or stated otherwise, their imperial connection – acted as a source of security when they felt threatened. Most importantly, "cultural and political Britishness did not always go together."⁸¹ Nonetheless, for some bearers, 'Britishness' was defined in narrow, ethnic terms, thus seeking to essentialise its meaning.

Lester has explained that due to the growing momentum of the anti-slavery lobby during the late eighteenth century, slave owners in the West Indies were compelled to emphasise African racial inferiority in defence of their labour regime. Lester argues that influential evangelical sensibilities at the time worked to construct a new middle-class British identity "around a universalist conception of human nature."⁸² Individuals were regarded as having the capacity to contribute to society if afforded the opportunity, free from restrictions on their labour and

⁷⁹ For example, B.N. Newman, 'Contesting 'Black' Liberty and Subjecthood in the Anglophone Caribbean, 1730s-1780s', *Slavery and Abolition*, 32 (2), 2011, pp. 169-183.

⁸⁰ C. Saunders, 'Britishness in South Africa', p. 65.

⁸¹ C. Saunders, 'Britishness in South Africa', p. 62.

⁸² A. Lester, 'Colonial Settlers and the Metropole', p. 40.

movement. This respectable idea of 'Britishness' became intertwined with evangelical-humanitarian critiques of settlers in British territories as the nineteenth century progressed. Following the abolition of slavery in 1834, humanitarians turned their attention from the West Indies to the Cape Colony. The white settlers on the Eastern Cape frontier were portrayed in humanitarian narratives as enemies of the "morality of British colonialism."⁸³ Lester asserts that the ensuing struggle between the settlers and the humanitarians was a struggle "over the nature of Britishness itself."⁸⁴

Moreover, Killingray, in his analysis of 'Britishness' in the Atlantic world during the nineteenth century, has shown that "few whites across the Empire could conceive of Britons other than as white."⁸⁵ Though white loyalists sought to define loyalism according to ethnic or racial categories of belonging, colonial indigenes were capable of appropriating loyalist identities defined by civic notions of imperial belonging. According to Thompson, "loyalism was neither exclusively 'Anglo', nor exclusively white."⁸⁶ This argument is reiterated by Dubow, who has proposed a "more capacious formulation" of 'Britishness'. Dubow argues that "hyphenated forms of belonging" ought to be included in analyses of 'Britishness'.⁸⁷ In this sense, individuals could think of themselves as belonging to both a British identity and a Cape colonial identity. Dubow has shown how this was evident among the Cape's Anglophone elite, members of whom considered themselves to be both British and South African as early as the 1820s.⁸⁸ A hyphenated understanding of the condition highlights the multiple identities to which individuals aspired to simultaneously. Identifying as British did not preclude the possibility of identifying as African, or South African, at the same time. It follows that Khoesan were equally capable of laying claim to an identification with Britain, and the imperial connection, while also clinging onto their indigenous roots as the original inhabitants of the Cape.

⁸³ A. Lester, 'Colonial Settlers and the Metropole', p. 41.

⁸⁴ A. Lester, 'British Settler Discourse and the Circuits of Empire', p. 25.

⁸⁵ D. Killingray, 'Black and British in a Colour-Conscious Empire', p. 364.

⁸⁶ A. Thompson, 'The Languages of Loyalism in Southern Africa', p. 620.

⁸⁷ S. Dubow, 'How British was the British World? The Case of South Africa', p. 2.

⁸⁸ S. Dubow, 'How British was the British World? The Case of South Africa', p. 10.

While ideas of 'Britishness' were prone to manipulation based on geography, ideology and context, there were several elements which these ideas had in common, though not without contestation. In the early nineteenth century, British cultural and political identities in the expanding empire were open to contest. The evangelical-humanitarian lobby espoused a commitment to liberal imperial values, including free wage labour and equality before the law. For Khoesan aligned with missions, 'Britishness' became strongly associated with ideas of social respectability. Robert Ross has been the leading scholar on the theme of respectability in Cape colonial history for the past two decades. Ross' thesis on the centrality of respectability to an understanding of the Cape Colony during the eighteenth and nineteenth centuries was articulated in *Status and Respectability in the Cape Colony, 1750-1870: A Tragedy of Manners*. In the text, Ross highlights the crucial constituent elements of respectability at the Cape. Being closely interrelated with gentility, respectability was necessarily bound up with class and access to material belongings.⁸⁹ Indeed, a high premium was placed on the outward markers of respectability, including housing and clothing. Essentially, respectability was about role-playing; performing that which was expected of a reputable person of society. Though outward signs were the most obvious manifestation of respectability, it could be expressed in other ways as well, most notably through being educated and professing the Christian faith.

For Khoesan, the social barriers that stood in the way of acquiring education were mitigated to a large extent by the presence of missions. In the Protestant tradition, Christianity was considered to be a religion of the book and so literacy was fundamental to a proper Christian life. The two were inextricably linked. Yet, this thesis contends that there was another significant element to respectability as conceived of by the evangelical-humanitarian lobby from the 1820s onwards: loyalty to the British Crown.

Loyalism was inevitably tied up with 'Britishness', but those who were not ethnically British could still lay claim to being loyal. Loyalism, therefore, relates more specifically to political 'Britishness', but accommodates ethnic or racial differences. Loyalism held out the prospect of an overarching civic 'Britishness'

⁸⁹ R. Ross, *Status and Respectability in the Cape Colony, 1750-1870: A Tragedy of Manners* (Cambridge: Cambridge University Press, 1999), p. 78.

among indigenes. While respectability and Christianity have received their due attention, the role loyalism played in shaping 'Hottentot' civic identity and assimilation during the first half of the nineteenth century remains neglected. Ross contends that "[t]hroughout the Colony, and indeed beyond its borders, this combination of Christianity and respectability was attractive to a considerable number of the free people of colour".⁹⁰ This thesis argues that loyalism be considered as an additional influential element in the combination of factors that both moulded Khoesan identity and which Khoesan responded to and remoulded in turn.

As Ross has pointed out elsewhere, respectability relates to "culturally specific forms of behaviour" in one sense. But the concept also refers to self-respect. Taken further, the respect of others was equally important.⁹¹ The performance of loyalism to the British Crown may be added to the ambit of respectability. Loyalism, like respectability and Christianity, was based on the idea of reciprocation.⁹² Something was expected in return by those who expressed and performed loyalism. Those who embraced loyalism to the Crown chose to subject themselves to British imperial authority and sought the protection and recognition that accompanied their subject-status. Loyalism was linked with equality and held out the prospect of acting as a social leveller; even though, as Ross has reminded us, racism would ultimately trump "any ideas of a common behavioural code" in the Cape Colony.⁹³ Nonetheless, as with respectability, loyalism tested the social, and increasingly racial, boundaries of the Cape Colony.

Loyalism was expressed via contact with British state institutions. Perhaps the most crucial aspect to this in the Cape colonial context was the discourse of subjecthood and rights inspired by the evangelical-humanitarian movement. The campaign for equality before the law for all British subjects was particularly intense

⁹⁰ Ross, *Status and Respectability*, p. 119.

⁹¹ R. Ross, 'Missions, Respectability and Civil Rights: The Cape Colony, 1828-1854', *Journal of Southern African Studies*, 25 (3), 1999, p. 342.

⁹² For a valuable comparative discussion, see D. Ward, 'Constructing British Authority in Australasia: Charles Cooper and the Legal Status of Aborigines in the South Australian Supreme Court, c. 1840-60', *Journal of Imperial and Commonwealth History*, 34 (4), 2006, pp. 483-504.

⁹³ Ross, 'Missions, Respectability and Civil Rights', p. 343.

at the Cape during the early nineteenth century. As more and more Khoesan became aware of their rights as colonial subjects, so they fashioned their own kind of loyalist ideology. For colonial indigenes, viewing the British Crown as a source of protection came to underpin this particular strain of loyalism. The judicial reforms introduced by the British at the Cape during this period come into sharp focus in light of this. For Khoesan, equality before the law, in principle, was established with the passage of Ordinance 50 of 1828. However, even before then, British colonial law had become an avenue for resistance for Khoesan in the colony, as will be discussed in the first chapter. It will be argued that acts of resistance within the legal parameters of the British colonial state prior to 1828 were important early precursors to later, more overt Khoesan identification with the perceived status and security colonial law brought with it.

As is typical of identities everywhere, different brands of loyalism were constituted in opposition to other identities, and indeed, to other forms of loyalism. Even as pro-British, white settlers attempted to lay claim to loyalism in exclusive, ethnic terms, Khoesan held onto the idea of an inclusive British Empire. Loyalism reflected an idea; it held out the possibility of equality. Missionaries – especially those associated with the so-called radical clique of the LMS – had persuaded scores of Khoesan that “distinctions based on respectability and Christianity would be what counted in the new Cape Colony.”⁹⁴ In effect, as with respectability and Christianity, claims to, and expressions of, loyalism would fail to deliver on the promise of equality. Nonetheless, the idea still proved powerful, as will be illustrated in the discussion to follow.

A few South Africanist historians have considered indigenous expressions of loyalism in recent work. These include Nasson’s research on black support for Britain in the South African War and Sapire’s study of a surprisingly late flurry of African loyalist sentiment during the Royal Family’s tour of the country in 1947 (surprising, given the growing influence of African nationalism at the time).⁹⁵

⁹⁴ Ross, ‘Missions, Respectability and Civil Rights’, p. 345.

⁹⁵ See B. Nasson, ‘Why They Fought: Black Cape Colonists and Imperial Wars, 1899-1918’, *International Journal of African Historical Studies*, 37 (1), 2004, pp. 55-70; W. Dooling, ‘Reconstructing the Household: The Northern Cape Colony Before and After the South African War’, *Journal of African History*, 50, 2009, pp. 1-2; & H. Sapire, ‘African Loyalism and its Discontents: The Royal Tour of South Africa, 1947’, *Historical Journal*, 54 (1), 2011, pp. 215-240. A related analysis of the loyalism of early African National Congress leaders can be found in P. Limb, “No People Can Be Expected to Be Loyal

Nasson provides valuable insights into the appeal of loyalism for non-British subjects at the Cape and in doing so, highlights a crucial distinction between loyalism and 'Britishness'. Though both related to ideologies of security, loyalism was particularly bound up with an imagined "monarchical responsibility for, and protection of, subject races."⁹⁶ In this sense, "strategic deferential loyalism" allowed those who aspired to a sense of civic belonging to "exert moral claims" on the colonial state.⁹⁷

Nonetheless, as with other British colonial sites, loyalism remains an under-researched theme in South Africa's past, especially in the nineteenth century and even more so during the early nineteenth century.⁹⁸ Why so many Africans held on to an "optimistic faith in the British imperial project, despite its palpably wounding betrayal of their tenuous rights and interests" during South Africa's period of industrialisation following the Mineral Revolution is both intriguing and perplexing.⁹⁹ While this analysis does not attempt to make any links between displays of loyalism during the early nineteenth century and South Africa's post-industrial era, it does explore 'Hottentot' loyalism as a phenomenon created in response to the imperial - settler-colonial nexus in the pre-industrial Cape and in doing so, traces the earliest manifestations of loyalism among an indigenous group in South African history.

It is conceded that the expression, or performance, of loyalism by certain colonial subjects would have been made for strategic reasons at particular intervals and may, as a result, be labelled inauthentic or tantamount to unreflective imitation. However, this is only applicable if loyalism is narrowly defined as a political act. This thesis seeks to explore how loyalism became a crucial marker of 'Hottentot' civic

under Such Difficulties": Ambiguities and Identities of Early African National Congress Leaders in South Africa', *Social Dynamics*, 29 (1), 2003; pp. 3-12 being the most germane for this thesis.

⁹⁶ Nasson, 'Why They Fought', p. 55.

⁹⁷ Nasson, 'Why They Fought', p. 56.

⁹⁸ Loyalism in Ireland is a notable exception in an otherwise limited thematic historiography. See for example, J. Todd, 'The Limits of Britishness', pp. 11-16; and J. Todd, 'Trajectories of Identity Change: New Perspectives on Ethnicity, Nationality and Identity in Ireland', *Field Day Review*, 3, 2007, pp. 82-93.

⁹⁹ Nasson, 'Why They Fought', p. 55.

identity. This approach has recently been forwarded by Vivian Bickford-Smith in an article in which he considers the British loyalism of Tiyo Soga, the prize amaXhosa convert of the Scottish Presbyterian missionaries in the Eastern Cape in the mid-nineteenth century.¹⁰⁰ In his argument for recognising the important role played by loyalism in shaping colonial identities, Bickford-Smith points out the predominance of nationalism as an organising concept in studies of African resistance to colonialism. Yet, the life of Tiyo Soga illustrates “the inadequacy of simplistically bifurcated notions of loyalism and nationalism that pay insufficient regard to specific historical contexts and possibly multiple contemporary understandings of concepts such as ‘nation’.”¹⁰¹ Loyalism tends to be treated as less important than nationalism; at first glance, the two notions also appear incompatible, even contradictory.

Given Cape historiography’s general acceptance of ‘Hottentot’ nationalism as a defining feature of Khoesan political identity during the early nineteenth century, Bickford-Smith’s call for a more nuanced approach to the analytical use of ‘nation’ in specific historical contexts is worth responding to. Indeed, the ‘Hottentot’ nation that emerged in the 1830s in response to perceived threats on the rights gained in the 1820s was heterogeneous. ‘Hottentots’ by this time were not solely aboriginal Khoekhoe, but included members (some self-proclaimed) of European, amaXhosa and San commixture. It is argued that ‘Hottentot’ civic belonging preceded notions of the ‘Hottentot’ nation, facilitated by claims to loyalism. And that thereafter, loyalism continued to shape ‘Hottentot’ nationalism among its bearers.

III. Methodology and Sources

The analysis to follow has been borne out of a combined reading of two archival repositories: the Cape Archives and the London Missionary Society records. The rich

¹⁰⁰ V. Bickford-Smith, ‘African Nationalist or British Loyalist?: The Complicated Case of Tiyo Soga’, *History Workshop Journal*, 71, 2011, pp. 74-97. Soga was born in 1829 in the Eastern Cape. He was educated at the Scottish Presbyterian mission at Chumie, following which he studied at both Lovedale Mission College and Glasgow University. After his studies in Scotland, Soga returned to the Eastern Cape with his Scottish wife. He founded a mission at Mgwali and translated several books of the Bible, as well as *Pilgrim’s Progress*, into isiXhosa. Soga met Prince Alfred, Queen Victoria’s second son, in 1860, during the Prince’s tour of the region.

¹⁰¹ Bickford-Smith, ‘African Nationalist or British Loyalist?’, p. 76.

traces these two archives hold of a number of different episodes which occurred in the Cape Colony during the first half of the nineteenth century provide fruitful ground for uncovering Khoesan 'voices' and their experiences of British imperialism and settler-colonialism. The criminal and court proceedings, missionary correspondence and petitions, and Government inquiry reports which provide the source basis for each theme pursued in each chapter point towards complex Khoesan responses which included instances of straightforward counter-hegemony, such as desertion, destruction of masters' properties, and even murder, but also an array of responses which corresponded with assimilation as imperial subjects. While the discussion has been sensitive to gender, it does not offer an overtly gendered analysis of Khoesan responses. The 'voices' of both Khoesan women and men have been incorporated into the narrative, in keeping with a strategy borrowed from Norman Etherington in his exceptional work, *The Great Treks*, namely, the "significant anecdote".¹⁰²

The study draws extensively on first-hand missionary accounts and reports of proceedings at LMS missions, as well as those of travellers and explorers who visited both settler farmsteads and mission stations. Court cases relating to disputes between masters and servants have also been ploughed. References in these cases to settler household dynamics range from intimations to fuller disclosures. It is acknowledged that where Khoesan 'voices' do survive in these records, such as in the testimonies of court cases, these would have been mediated by judicial figures oftentimes through translation from Dutch, or early Afrikaans, to English. Although these are elite documents framed by colonial discourse, close textual analysis and critical reading expose silences, gaps and superficial statements in their representations which can prove revealing.¹⁰³ By consulting numerous cases, it is also possible to uncover common grievances and shared experiences of settler-colonialism for 'Hottentot' servants across time and space, thus painting a more reliable picture of Khoesan perspectives.

¹⁰² N. Etherington, *The Great Treks: The Transformation of Southern Africa, 1815-1854* (London: Longman, 2001), p. xviii.

¹⁰³ See the discussion by D. Washbrook, 'Orientals and Occidents: Colonial Discourse Theory and the Historiography of the British Empire', in R.W. Winks, *The Oxford History of the British Empire, Vol. 5, Historiography* (Oxford: Oxford University Press, 1999), pp. 596-611.

As the historiography has demonstrated, it is impossible to disentangle the history of the Cape Khoesan from the mission archive. And within the rich volume and variety of LMS sources lies an illuminating fact; namely, that the 'success' of the LMS among the Khoesan had as much, arguably more, to do with Khoesan actions and agencies than it had to do with missionary zeal or strategies.¹⁰⁴ The point is often made that missionaries sought to create 'civilised' Christians. While this was certainly the case, being 'civilised' within the British imperial setting was bound up with being subjects. Mission residents were not to become Christians only, but Christian subjects, or rather, subjects of the Crown who were also Christians; although this occurred to varying degrees, the sincerity or instrumentality of conversion always remained difficult to determine. Being British subjects had significant consequences for Khoesan agency, for subjecthood within the Cape colonial setting threatened the power masters held and it allowed scores of Khoesan to utilise the very discourse which had effected their colonisation to re-imagine themselves as belonging to an imperial civic nation with concomitant legal entitlements.¹⁰⁵

Both the colonial and mission archives are replete with Khoesan claims to subjecthood, with appeals to a status actually confirmed by colonial law. Within the context of settler-colonialism, imperial power for the Khoesan was not only a proscriptive force. Colonial law, emanating from both London and Cape Town, carried with it imperial ideology, which placed local authorities in a hierarchy of power, tying the locality, however distant, to the apex of empire.

This is apparent in the cases of complaint which began to appear before the *Landdrost* at Graaff-Reinet from 1809 onwards. Although a far-off frontier district – on the periphery of the imperial periphery – Graaff-Reinet was not isolated from political developments at the Cape and for that matter, the metropole. 'Hottentot' farm servants in the district began to use the new legal regime imposed on them and their masters by British imperial sovereignty to manage the harsher realities of

¹⁰⁴ For comparative analyses, see J.D.Y. Peel, *Religious Encounter and the Making of the Yoruba* (Bloomington: Indiana University Press, 2000), pp. 5-9 & R. Gray, *Black Christians and White Missionaries* (New Haven & London: Yale University Press, 1990), pp. 6-7 & 64-65.

¹⁰⁵ B. Majumdar, 'Citizen or Subject? Blurring Boundaries, Claiming Space: Indians in Colonial South Africa', *Journal of Historical Sociology*, 26 (4), 2013, p. 479.

settler-colonialism. The outcomes were not always favourable for the 'Hottentot' plaintiffs. However, within the context of settler-colonialism, the new legal regime did, at times, provide for the amelioration of working conditions. In these early cases, when masters were found guilty of infringing their servants' rights, the punishments, even though often minimal, were at the time handed down in the name of "His Britannic Majesty, King George the Third". Thus, the justice dispensed by the local authority invoked the imperial hierarchy into which it had been grafted and highlighted the central role which a distant monarch was to play in shaping master and servant relations on the Cape frontier.

In terms of the influence of the LMS upon Khoesan identity and subjecthood, the Society's narratives of indigenous lives were usually oppositional to settler-colonialism and highly critical of its effects upon the 'Hottentot' character. Notable figures such as the Society's Cape superintendent, Dr. John Philip, and the popular Rev. James Read Senior, espoused what were interpreted as radical political views by the Cape's settlers.¹⁰⁶ Philip and Read called for greater imperial intervention at the Cape, believing that the best prospects for the improvement of 'Hottentot' status lay with an involved, paternal-like metropole. Riding a wave of evangelical-humanitarian support in Britain during the 1820s, this sentiment was rewarded with the passage of Ordinance 50 of 1828 – hailed by Philip and Read and other contemporaries as the "magna carta of the 'Hottentots'". In short, this ordinance repealed all former repressive legislation, including those clauses of the Caledon Code (1809) which required 'Hottentots' to carry passes and have a fixed place of employment and abode.

Nevertheless, the related historiography has tended to downplay the real changes effected in the lives of colonial Khoesan by Ordinance 50. This interpretation requires reassessment. For many Khoesan, Ordinance 50 was much more significant than historians have allowed for. The effects of this piece of legislation were actually highly valued by many Khoesan. This was most apparent during the vagrancy bill agitation of 1834 when proposed vagrancy legislation by

¹⁰⁶ A. Bank, 'The Great Debate and the Origins of South African Historiography', *Journal of African History*, 38, 1997, pp. 261-265; A. Bank, 'The Politics of Mythology: The Genealogy of the Philip Myth', *Journal of Southern African Studies*, 25 (3), 1999, pp. 463-465 & C. Saunders, 'James Read: Towards a Reassessment', Institute of Commonwealth Studies, University of London, *Collected Seminar Papers on the Societies of Southern Africa*, 7, 1976, pp. 19-25.

the Cape's newly formed Legislative Council threatened to unpick the civil right of freedom of movement enshrined in Ordinance 50. In the end a vagrancy bill was passed by the local authority, but it was prevented from becoming law by the Colonial Office as it was found to be in contravention of Ordinance 50, which was protected by an Ordinance of the King in Council and therefore, could only be amended by London.

The petitions generated at the time of the anti-vagrancy protests in 1834 at a number of mission stations in the Colony were without doubt edited by missionaries. However, real grievances experienced by Khoesan servants and quasi-independent wood-cutters, wagon-drivers, masons, and others, point towards noteworthy Khoesan involvement in the drafting of the petitions. The 'reality' for the Khoesan was a peculiar one: the loyal tone of the discourse contained in the petitions unveils the extent to which imported, British liberal ideals had been grafted into their 'state of imagination' as imperial subjects and how these ideals clashed with their lived experiences amid settler-colonialism. Indeed, physical encounters between colonial actors were also "encounters of the mind".¹⁰⁷

It will be argued that the regular movement of Khoesan labourers between missions, villages and farmsteads did not only mean the transfer of various manufactures, but more importantly, the transmission of information and ideas of imperial significance. The vagrancy bill agitation of 1834 revealed just how well connected many mission Khoesan were with colonial and imperial news and developments, as well as the direct impact that decisions made in Cape Town and London had upon their lives and livelihoods.

The Cape's white settler population were well aware that "imperial intervention could profoundly affect colonial governance".¹⁰⁸ Missionaries across the empire shared this conviction. In significant ways, so too did indigenous mission residents. The growing scholarly interest in the role that information networks played in shaping the colonial encounter during the nineteenth century has revealed

¹⁰⁷ A.B. Fisher & M.D. O'Hara, 'Introduction: Racial Identities and their Interpreters in Colonial Latin America', in A.B. Fisher & M.D. O'Hara (eds.), *Imperial Subjects: Race and Identity in Colonial Latin America* (Durham & London: Duke University Press, 2009), p. 5.

¹⁰⁸ N. Etherington, 'Indigenous Southern Africans and Colonialism' in P. Limb, et. al (eds.), *Grappling with the Beast*, p. 4.

that missionaries, via their mission societies, were some of the most well informed and networked individuals in the emerging empire.¹⁰⁹ This had an important influence upon Khoesan notions of their place within the changing imperial and settler-colonial visions of the Cape Colony.

Noteworthy events of the early nineteenth century, as they related to Khoesan experiences of colonialism, are analysed with a view to revealing the imaginative use of the fact of empire on the part of the Khoesan. It is argued that subjecthood was both an experienced and an imagined process. For many, this was the foundational element of their assimilation to 'Hottentot' identity, even while that identity was fraught with contradictions and defined differently by various actors, whether European settlers, missionaries, colonial officials, or, indeed, 'Hottentots' themselves. Of course, these categories were internally heterogeneous in terms of political viewpoints and economic motives.

Describing empire as an imaginary place is important when investigating the constructions of indigenous, subject identities in colonial contexts on the part of the bearers of those identities themselves. It allows for uncovering the nuances in local struggles over social and political statuses and highlights how colonised peoples also shaped the notion of empire. This approach has been informed by developments in colonial and imperial history since the 1990s. For the past two decades, more and more historians have delivered histories situating both colony and metropole in "one analytic field".¹¹⁰ There has been a noticeable trend in the related historiography to explore the "connections among what were formerly considered separate and discrete phenomena."¹¹¹ Doing so is motivated by the "desire to understand complex phenomena such as slavery, migration, convict

¹⁰⁹ T. Bradford, 'World Visions: 'Native Missionaries', Mission Networks and Critiques of Colonialism in Nineteenth-Century South Africa and Canada', in P. Limb, et. al (eds.), *Grappling with the Beast*, pp. 312-313. See also, A. Lester, 'Humanitarians and White Settlers in the Nineteenth Century', in N. Etherington (ed.), *Missions and Empire* (Oxford: Oxford University Press, 2005).

¹¹⁰ A.L. Stoler & F. Cooper, 'Between Metropole and Colony', in F. Cooper & A.L. Stoler (eds.), *Tensions of Empire*, p. 15.

¹¹¹ P. Morgan, 'Encounters between British and "Indigenous" Peoples, c. 1500 - c. 1800', in M. Daunton & R. Halpern (eds.), *Empire and Others*, p. 41.

transportation, indigenous peoples' experiences of colonialism and missionary activity – all of which operated across and beyond the British Empire.”¹¹²

Missionaries and mission communities, with their own Khoesan educated elite were instrumental in facilitating this ‘state of imagination’ within the colonial context. Just as Khoesan took ownership of Christianity and made it their own, as demonstrated by Elizabeth Elbourne’s impressive work, so too they took ownership of subjecthood.¹¹³ All this points towards an intriguing interplay between empire, colony, mission and household and draws our attention to those ties that bound seemingly discrete populations and communities, even on the colonial frontier, to a much wider, imperial world. The making of moral claims on the imperial state and the monarch were not unreflective. Such expressions of deferential loyalty were instrumental in Khoesan responses to settler-colonialism. However, there remained a fundamental contradiction: the Crown was simultaneously the source of rights and complicit in conquest.

Indeed, there was much debate and considerable confusion over the extension of citizenship rights to the Khoesan throughout the period under investigation. Under British sovereignty, the Cape Colony followed a convoluted path of liberalisation, in both political and economic terms. Socially, the Khoesan were incorporated into the British imperial domain as colonial subjects, while the Cape’s Dutch settlers continued to embrace their *burgher* identity and its concomitant citizenship status.¹¹⁴ Nonetheless, notions of subjecthood and citizenship intersected in significant ways; ‘Hottentots’ – who were legally defined as subjects from 1809 onward – sought to claim citizenship rights while simultaneously appealing to the obligations of the Crown towards them as subjects.

Colonial law, imperial commissions of inquiry, radical evangelical-humanitarianism and the anti-slavery campaign all served to create expectations on the part of scores of ‘Hottentots’ that their subject-citizenship would be

¹¹² Z. Laidlaw, *Colonial Connections, 1815-1845: Patronage, the Information Revolution and Colonial Government* (Manchester and New York: Manchester University Press, 2005), p. 3.

¹¹³ E. Elbourne, *Blood Ground*, Ch. 4 & E. Elbourne, ‘Early Khoisan Uses of Mission Christianity’, *Kronos: Journal of Cape History*, 19, 1992, pp. 3-27.

¹¹⁴ E. Elbourne, ‘The Fact So Often Disputed by the Black Man: Khoekhoe Citizenship at the Cape in the Early to Mid Nineteenth Century’, *Citizenship Studies*, 7 (4), 2003, p. 385.

acknowledged by the metropole. Subject-citizenship was an idea imbibed and deployed by 'Hottentots' as a means of loyalist resistance. In this sense, 'Hottentots' acted as subjects of a rapidly expanding empire and as such, local power struggles occurred within an imperial, in addition to a colonial, space of ideas, imaginings and possibilities. Citizenship always remained an ideal and as Elbourne has pointed out, "a project under constant construction", with indeterminate, multiple and oftentimes disappointing outcomes for indigenous, colonial peoples who invoked it alongside their subject status.¹¹⁵

IV. Chapter Scheme: Arrangement and Scope

The main themes in this study have been organised according to a chronological framework. Not only does such an approach prove more conducive to a flowing narrative, but it also makes for a more comprehensible periodisation of the hypothesis, plotting the continuities and changes in Khoesan identity during the early nineteenth century and hopefully telling a good story along the way. The chapters have been arranged into five periods, which when taken together stem from 1795 through to 1858. These periods in no way constitute discrete categories and a degree of overlapping occurs for each. Nonetheless, they have been determined as appropriate on the basis of the significant political events which framed each and which serve as convenient chronological markers for what were new legal, political and social dispensations for the Khoesan in the Cape Colony.

The first chapter explores the period from 1795 to 1828. The turn of the nineteenth century was a politically tumultuous time for the Cape Colony, due to the interchanging *VOC*, Batavian and British administrations. It was after 1806 and the advent of the Second British Occupation that legislative schemes directed at formalising master and servant relations were pursued by what was regarded as a more intrusive British colonial government on the part of the Cape settler population. In 1809, the first major piece of legislation affecting Khoesan labour conditions in the Colony was passed, namely the Caledon Code. The effects of this Code, followed in 1812 by the implementation of an Apprenticeship Law under the

¹¹⁵ E. Elbourne, 'Khoekhoe Citizenship at the Cape', p. 397.

Governorship of Sir John Cradock, are analysed with a view towards the eventual culmination of the passing of Ordinance 50 in 1828.

This was an important period in the history of the incorporation of Khoesan labour into the settler economy, especially in the sector of wool production. It was equally important for the ways in which British imperial prerogatives led to the invention of 'Hottentot' subjects. It is argued that this was most apparent in the uses to which 'Hottentots' labouring in the Colony put the new legal measures for regulating relations between themselves and their masters.

The First and Second British Occupations did not signal a sharp break with the labour practices of the *VOC* period. For many Khoesan, their labouring conditions continued to bear many similarities with those of slaves. Crucially, however, they were not legally regarded as slaves by both the *VOC* and British administrations. The ambiguity of their status as free subjects was further complicated by the clauses of the Caledon Code which restricted freedom of movement within the Colony and sought to coerce Khoesan into work as servants. Nonetheless, it will be shown that those articles of the Caledon Code which provided for legal recourse were appealed to by Khoesan servants, who argued that their masters had not fulfilled their contractual obligations.

The focus of the chapter is on the complaints made by both servants and masters against each other in the north-eastern frontier district of Graaff-Reinet between 1810 and 1820. Graaff-Reinet was the largest frontier district in the Colony at the time of the Second British Occupation. It had a porous colonial boundary across which many Cape Khoesan traversed, sometimes temporarily, sometimes permanently; settling around and beyond the Gariep River and becoming absorbed into the emerging Griqua, Korana and Oorlam communities of the Trans-Gariep region. However, many other Khoesan continued labouring as 'Hottentots' in the settler economy. It is from among their ranks that individual 'voices' emerged in the notes of the Graaff-Reinet district court; these are the 'voices' of 'Hottentots' claiming legal rights to fair treatment and proper compensation for their labour in the face of resilient settler domination. Khoesan servants, responding to the legal jurisdiction imposed on them and their masters by the British colonial state, challenged how they were treated at the hands of the settlers and the legitimacy of settler claims to unhindered authority over their bodies, movements and labour.

This chapter also considers how notions of 'Hottentot' subjecthood began to emerge and were moulded by the rapid growth in number, and extensive influence of, Protestant missionaries within the Colony during this period. It was at this time that the roots of a budding 'Hottentot' Christianity are also to be found. The surviving records of various missionaries point to the assimilationist ethos of their proselytising endeavours among the Khoesan. Yet many prominent missionaries, especially those associated with the London Missionary Society, were openly antagonistic towards settler society. The publication in Britain of complaints of the abuse suffered by 'Hottentot' servants at the hands of their European masters resulted in the establishment of circuit courts, which began travelling through the Colony from 1811 onwards. These courts had the effect of bringing the intimacies of the settler household and farmstead into the public domain. It will be argued that the assimilationism embraced by many mission 'Hottentots' was very much informed by what was initially a missionary-invented romanticism of British subjecthood.

The second chapter continues to explore the complexities of the process of the invention of 'Hottentot' identity and subjecthood through the lens of San child experiences and their forced assimilation from hunter-gatherers to 'Hottentot' servants on the frontier. The process of identity transformation which accompanied the extensive dispossession of the Khoesan over the course of the eighteenth and nineteenth centuries is most clearly illustrated by the experiences of San children. Children were valued as servants by the farmers, as they were more malleable than their parents and more easily subjugated on the farmstead and in the household.

Most importantly, this chapter makes the argument that the fate of the 'Bushmen' was as a crucial, discursive factor for humanitarians and settlers alike when it came to representing the Cape Colony's expansion to both local and metropolitan audiences. Prominent missionaries at the Cape urged the metropolitan government to intervene on behalf of colonial indigenes and the San in particular. Missionaries called for humanitarian imperialism in order to save indigenous populations from the wanton destruction associated with settler-colonialism. In this vein, the legal incorporation of San children was actually welcomed by key humanitarian figures. It was argued that colonial, or 'tame', San could claim British subjecthood and its attendant protection, while 'wild' San could not. An analysis of

the public debate surrounding the fate of the Cape San during the 1820s and 1830s serves as an important and crucial conceptual link between chapters one and three, as it reveals humanitarian-imperialist discourse espoused by missionary figures who held important sway with Khoesan across the Colony.

Indeed, this chapter uses the case of San child experiences on the north-eastern Cape frontier as a lens through which to explore how 'Hottentotness' was entangled with subjecthood. The chapter's underlying theme is how 'Hottentot' subjecthood was framed in evangelical-humanitarian discourse. It is shown that while the San were situated as extra-colonial *indigenes*, 'Hottentots' were portrayed as British subjects. As such, they fell under the protection of the British colonial state and were entitled to certain legal rights. This sentiment served as a justification for the social assimilation of the San as 'Hottentots' by the evangelical-humanitarian lobby.

In the third chapter, the social aftermath of Ordinance 50 is explored during the six year interim between its passing in 1828 and the abolition of slavery and the commencement of Apprenticeship in 1834. The discussion will focus on how Ordinance 50, in spite of never fulfilling its liberal ideals in economic terms, was highly valued by many Khoesan. This was most apparent during the vagrancy legislation protests of 1834, when a proposed vagrancy bill by the Cape's Legislative Council threatened to repeal the fundamental civil rights contained in Ordinance 50. This chapter reconsiders the impact of Ordinance 50 on Khoesan lives and livelihoods, with a particular emphasis on loyalism among the Khoesan at the time. The memorials and petitions generated at the time of the vagrancy bill protests in 1834 at a number of mission stations in the Colony are closely analysed to draw out a predominant discourse of rights and subjecthood; as well as claims to autonomy as loyal subjects.

Several LMS missions were at the forefront of the ensuing contest over 'Hottentot' subjecthood. Membership of mission communities was established along the lines of patronage, kinship and marriage networks. With membership came expectations of certain forms of behaviour, from both the missionaries and 'Hottentot' members. The incentive to assimilate was stimulated by the precariousness of their socio-economic position. It was also stimulated by communal efforts to reclaim an honourable identity between the confines of the

settler-colonial state on the one hand and the idealised rewards of being British subjects on the other.

Chapter Four is chronologically framed by the period between 1830 and 1850. From 1834 to 1838, slaves were officially recognised as apprentices, in spite of remaining bonded to their former masters. As a result, the lines between Khoesan and slave labour became more blurred than ever before. As such, it has been argued that the period from 1834 onward was marked by a levelling out of social differences between the Khoesan and ex-slaves, especially as both were targeted by vagrancy legislation in the early 1840s. Post-emancipation assimilation into the settler economy as a working underclass saw both groups increasingly being referred to as 'Coloured' in colonial parlance.¹¹⁶ However, this chapter will argue that 'Hottentot' identity remained relevant and important, with ongoing appeals to the subject-status the identity had come to be moulded by.

This chapter also explores Khoesan claims to British subjecthood through the lens of 'moral community'. Moral community is concerned with how individuals conform to "certain acceptable standards of behaviour".¹¹⁷ In his work on the Cape gentry, Dooling has drawn our attention to the importance landed society attached to reputation, honour and shame.¹¹⁸ This analysis is extended here to include how notions of honour and shame affected Khoesan agency, as well as how it was shaped by the intersection of intimacy, space and moral community within the settler farmstead. It is argued that in light of the distances between frontier farms, each farmstead would have functioned as a moral community in itself. Yet, farmsteads were not fully discrete locales. Labour turnover together with the common transient nature of frontier farmsteads meant that they had porous boundaries. Like with mission stations, farmsteads were not isolated from a flow of ideas pertaining to how masters and servants ought to relate to each other; in terms of both settler-colonial and imperial prerogatives.

¹¹⁶ For a thorough discussion of the post-emancipation fusion of Khoesan and slave statuses and identities, see M. Adhikari, 'The Sons of Ham: Slavery and the Making of Coloured Identity', *South African Historical Journal*, 27, 1992, pp. 106-111.

¹¹⁷ W. Dooling, *Slavery, Emancipation and Colonial Rule in South Africa*, p. 46.

¹¹⁸ W. Dooling, "'The Good Opinion of Others': Law, Slavery and Community in the Cape Colony, c. 1760-1830", in N. Worden & C. Crais (eds.), *Breaking the Chains: Slavery and its Legacy in the Nineteenth Century Cape Colony* (Johannesburg: Witwatersrand University Press, 1994), p. 26.

If individual farmsteads are understood to have functioned as moral communities, with their own internal hierarchies, then the actions and reactions of its individual members come into sharper focus. This approach also highlights the importance of recognising that some 'Hottentot' servants were more assimilated as full-time labourers, or piecemeal farmhands, or mission residents, or Christians, or, indeed, subjects, than others (these categories were neither distinct nor detached). Notions of honour, status and shame had varying bearings upon assimilated individuals and their responses to British imperialism and settler-colonialism as a result.¹¹⁹ This chapter also points towards the variations in the degree of assimilation which occurred from individual to individual depending upon the circumstances under which their assimilation into the colonial underclass unfolded. While the loyalty of some servants could be more easily relied upon by the master's family, suspicion and feelings of mistrust characterised the closeness and intimacy of the settler household, as the loyalty of all the servants could not be guaranteed all the time.¹²⁰

The fifth chapter, 'Between Loyalty and Rebellion', covers the years from 1849 to 1858. This was a time of significant upheaval for the whole Colony. The protest politics of 1849 surrounding the British proposal to land convicts at Table Bay were at the forefront of the Colony's collective memory. In December 1850, the Eighth Frontier War between the Colony and the amaXhosa broke out on the eastern frontier, followed the next month by the Kat River Rebellion. By the end of 1851, rumours of a general 'Hottentot' insurrection were causing widespread panic among the settler population of the western districts of the Colony. Assimilation as British subjects continues to be pursued as a central theme in this chapter for understanding both the Squatter's Agitation and the aftermath of the Kat River Rebellion.

¹¹⁹ 'Status', 'respectability' and 'honour' have become popular themes in histories of the Cape Colony and are valuable concepts for assessing aspects of assimilation. Notable examples include, R. Ross, *Status and Respectability in the Cape Colony*; N. Worden, 'Armed with Ostrich Feathers: Militarism and Cultural Revolution in the Cape Slave Uprising of 1808', in R. Besel, N. Guyatt & J. Rendall (eds.), *War, Empire and Slavery, 1770-1830* (Basingstoke: Palgrave Macmillan, 2010), pp. 121-139 & Dooling, 'The Good Opinion of Others', in Worden & Crais (eds.), *Breaking the Chains*, pp. 38-43.

¹²⁰ Eugene D. Genovese has written on the centrality of the "Big House" to both slave assimilation and resistance in his seminal work *Roll, Jordan, Roll: The World the Slaves Made* (New York: Vintage Books, 1972), pp. 327-365.

Drawing on the discussion of moral dissent in chapter four, 'Hottentot' subjecthood is evaluated within the wider socio-political contexts of the Kat River Rebellion, which was an actuality, and the Squatter's Agitation, which never materialised and existed largely in the imagination of a nervous settler society. The Squatter's Agitation was indicative of the fact that settler-colonialism was in large part an intimate process, which unfolded in settler households and on settler farmsteads. During the mid-nineteenth century, settlers continued to attempt to impose colonial hegemony on the Khoesan within the scope of their interactions with them as masters. And yet, British imperial rule had equipped the Colony's indigenous subjects with the judicial and more importantly, ideological, means to challenge attempts to sustain hegemony in a decisive way.

During the 1840s and 1850s the ambiguities within the imperial state-making enterprise became more pronounced for 'Hottentots'. While the Cape increasingly clamoured for representative government, the prevailing sentiment in Britain was that the settler-colonies were not ready to govern themselves. In the years preceding the Kat River Rebellion, a fairly widespread, deferential loyalism was still evident among scores of 'Hottentots'. The political consciousness of many 'Hottentots' was not rebellious. Those who participated in the Rebellion were a minority – they were the exception. The participation of some 'Hottentot' individuals and families in the Kat River Rebellion can also be accounted for by a consideration of their concern over the imminent end of imperial rule. The delicate balancing act between settler interests on the one hand and metropolitan ideals of imperial governance on the other was not new by this time. 'Hottentot' agency had been informed by the tensions created by this obscurity since the advent of the First British Occupation in 1795.

The third section of the chapter is set within the political context engendered by speculation over what the granting of representative government to the Cape Colony would mean for 'Hottentot' subjecthood. In terms of the new Constitution that was adopted in 1853, Coloured men who owned fixed property to the value of £25 qualified for the franchise. This was a remarkable achievement for the liberal, humanitarian lobby, especially given its general decline in influence from the mid-1830s onwards. Nonetheless, 1856 marked the passage of a new Masters and Servants Act, which furthered the terms of the 1841 Masters and Servants

Ordinance, enforcing harsher penalties for desertion and making neglect and insubordination by servants, criminal offences.

It is clear that 'Hottentots' across the Colony during the early 1850s were generally apprehensive about the prospects of representative government. They had a sense of foreboding that measures such as the 1856 Masters and Servants Act would be introduced and their mobility would be curtailed. This foreboding became a crucial reason for participation in the Kat River Rebellion. Equally so, the expected detrimental implications for 'Hottentot' subjecthood that would accompany representative government was also responsible for influencing some to join the rebels. By this time, 'Hottentot' civic identity and claims to independence had become intricately bound up with British loyalism and subjecthood.

Even so, 'Hottentot' ethnic identity continued to hark back to ancient, historic ties to the land. A 'Hottentot' ethnic consciousness was apparent at the time of the Kat River Rebellion. So too, 'Hottentot' nationalism during the 1830s and after was inspired by Khoesan claims to being the original occupiers of the Cape. As 'Hottentot' civic identity with its concomitant British loyalism was rapidly eroded by being subsumed into the category 'Coloured', so 'Hottentot' ethnic identity came to the fore once again. This was most apparent in 'Hottentot' calls for land at a time when 'Hottentot' subjecthood was being diluted in the years following the advent of representative government. The final section of the chapter focuses on 'Hottentot' 'voices' revealed in the report of a Commission of Inquiry undertaken in 1858. The Commission investigated claims for compensation or the return of land to 'Hottentots' in the Kat River Settlement that had been lost as a result of the Eighth Frontier War and coinciding Rebellion.

This thesis will argue that rather than having been simply imposed on a resistant and rebellious indigenous population, British imperial rule at the Cape was consented to, in various guises and to different degrees, by many Khoesan who actually aspired to being British subjects. Due to the harsh realities of settler-colonialism which had come to shape Khoesan interactions with European modernity, the intervention of the British imperial state in Cape affairs was something actually welcomed. While labour laws, such the Caledon Code, were certainly coercive, they also established a legal framework for 'Hottentots' to 'manage' their treatment and seek recourse for what they deemed unfair.

The invention of the 'Hottentot' was not a straightforward imposition by the imperial state or the settler-colonial system. 'Hottentots' embraced the modernity that came with British imperialism and the accompanying evangelical-humanitarian movement, but not always on the terms desired by their representatives, nor indeed the Dutch and British settler societies of the Cape Colony. Loyalism emerges as a significant element in Khoesan efforts to negotiate their political and social status in the settler-colony of the Cape, which belonged to a larger, imperial sphere. The study that follows has been undertaken in order to highlight this aspect of 'Hottentot' identity during the first half of the nineteenth century and is the first broad investigation into the effects of loyalism among the Cape Khoesan. As a conceptual lens, loyalism allows for a richer and deeper understanding of how the Cape Khoesan responded to their context and challenged it in imaginative ways that have heretofore been understated in the literature.

Chapter One

Masters and Subjects:

British Occupation and Khoesan Assimilation, 1795-1828

On 7 July 1812, the 'Hottentot' labourer Lammert appeared before a hearing at the *drostdy* in the frontier town of Graaff-Reinet having lodged a complaint against his master, Abram Carel Greyling. Lammert claimed that Greyling had failed to feed him properly – a condition of contracts in the Colony. When Lammert had raised the matter with his master, Greyling had threatened him to beat him for complaining. In response, Lammert decided to abscond from service, fleeing what he termed “sure punishment”. Greyling’s character as a cruel master was confirmed by the revelation to the court that he had sent one of his slaves, still only a boy, to follow Lammert on horseback and to shoot and kill him should he catch up with him. In a further damning twist, Johannes Arnoldus Botma, Greyling’s son-in-law, testified that the other ‘Hottentot’ labourers in Greyling’s service had not received food for fourteen days.

Lammert submitted further complaints to the court: Greyling did not allow his ‘Hottentot’ labourers to slaughter their own cattle for consumption; he had never worked under contract for Greyling; and he had not received any remuneration. Lammert was particularly upset about not having accumulated any cattle while in Greyling’s service. He lamented the fact that “in all the years [he] served Greyling [he] never received anything for it”, only owning two cows which he received from his grandmother and with which he had only managed to breed four calves. In his defence, Greyling referred to Lammert as a “ferweele schelm”, literally a “velvet rogue”, asserting that he deserved the treatment he had received.

In weighing up the testimonies and evidence, the court asked Greyling to produce proof that Lammert had entered into his service under contract. To this, Greyling replied that he had taken over Lammert’s services from his deceased son, whose position, as field cornet, he also filled after his son’s passing. When asked for proof that Lammert had been hired by contract by his son, Greyling was unable to do so. The *landdrost* and *heemraaden* adjudged that Greyling had no binding contract over Lammert. In delivering their verdict, Greyling was ordered to excuse

Lammert from his service and allow him to take his two cows and four calves with him upon his departure.¹²¹ Thereafter, Lammert disappears from the archive and it is not known what became of him.

This case, like many others in Graaff-Reinet around the same time, reveals intriguing insights into the lives of the characters involved. Court cases such as these also “provide a lens” through which to view Cape society as well as “precious data about actual social relationships within households.”¹²² The proceedings in Lammert’s case are especially valuable as they illuminate the workings of the Caledon Code which had been passed into law a few years earlier, on 1 November 1809. The Earl of Caledon, in his capacity as the first civilian governor of the Cape since the beginning of the Second Occupation in 1806, introduced new legal measures intended to ensure that “individuals of the Hottentot nation, in the same manner as the other inhabitants, [were] subject to proper regularity in regard to their places of abode and occupations.”¹²³ The proclamation declared that it was necessary for ‘Hottentots’ to “find an encouragement for preferring entering the service of the inhabitants to leading an indolent life.”¹²⁴ In effect, the new law, also referred to as the ‘Hottentot Code’, instituted a legal obligation for Khoesan to enter the service of farmers. It also criminalised Khoesan mobility in the Colony.

The first clause stipulated that every ‘Hottentot’ was to have a “fixed place of abode” from which they were not allowed to leave without a certificate of consent from their district’s *landdrost*. In terms of the sixteenth clause, ‘Hottentots’ travelling in and between districts had to be provided with a pass, “either of their commanding officer, if in the military service, or the master under whom they serve, or the magistrate of the district”. Without a valid pass, they would be considered a

¹²¹ Western Cape Archives Repository, Cape Town, South Africa (hereafter, CA) District of Graaff-Reinet (hereafter, 1/GR) 14/11, Case Register: Jan. to Sep. 1812, case no. 21, Lammert vs. Abram Carel Greyling, 7 Jul. 1812.

¹²² R. Roberts, *Litigants and Households: African Disputes and Colonial Courts in the French Soudan, 1895-1912* (Portsmouth: Heinemann, 2005), p. 2.

¹²³ House of Commons Parliamentary Papers (hereafter, HCPP) No. 50, 1835, *Proclamations and Ordinances Issued Relative to the Hottentots*, p. 164. With the Napoleonic Wars having come to an end in 1814, Britain’s sovereignty over the Cape Colony was confirmed and made permanent by the Congress of Vienna.

¹²⁴ HCPP, No. 50, 1835, *Proclamations and Ordinances Issued Relative to the Hottentots*, p. 164.

vagabond and taken to the nearest field cornet or *landdrost* who were given free extensive legal leeway to do with them as they saw fit. This could mean imprisonment, but the 'Hottentot' in question was more likely to be assigned a new master given the constant demand for labour across the Colony.¹²⁵

As Dooling has demonstrated, for the Cape Khoesan the Code "marked the final step in [their] transformation from independent peoples to 'Hottentots', that is, subjugated Khoikhoi in the permanent and servile employ of white settlers."¹²⁶ In addition, it brought all Khoesan living in the Colony under the purview of colonial law. In this sense, 'Hottentots' were to be subjected to the will of the colonial state and the will of their masters. Though in many ways the master class and colonial state represented two sides of the same repressive coin, their prerogatives were regularly in contest. Much of the impetus for regulating 'Hottentot' labour also stemmed from humanitarian concerns over their treatment. The discussion to follow focuses on several other clauses of the Code which spelled out how 'Hottentots' were to be contracted as well as the legal recourse that was open to them in the event of their masters not adhering to the conditions of their employment. While the Code applied to the whole Colony, this chapter explores a string of cases which appeared before the *landdrost* and *heemraaden* in Graaff-Reinet, the seat of the *drost* of the vast, frontier district which bore the same name (see Map 2).

As a 'Hottentot' servant in Graaff-Reinet district in 1812, Lammert's position in Cape society was precarious. According to the Caledon Code, he was required to be in the employ of a white master or, if not, a permanent resident at one of the handful of mission stations in the Colony. He would have run the risk of being labelled a vagrant and forced into service if he travelled around the Colony without a pass to prove he was engaged in his master's business. And yet, he was also recognised by the British colonial authorities as a 'free' individual with certain labour rights. Somehow, Lammert was aware of his rights as a 'Hottentot'.

Governor Caledon had stipulated at the time the order was issued that a 'Hottentot' "from each house" in the various towns and divisions of the Colony was

¹²⁵ T. Keegan, *Colonial South Africa and the Origins of the Racial Order* (Cape Town & Johannesburg: David Philip, 1996), pp. 52-53.

¹²⁶ Dooling, 'The Origins and Aftermath of the Cape Colony's 'Hottentot Code' of 1809', p. 53.

to be appointed in order to explain the provisions of the Code to the household's other 'Hottentots'. This is perhaps how Lammert came to be aware of the new regulations. Realising that his master had infringed several of them, he felt confident enough to appeal to the local *landdrost* and *heemraaden* to rectify the situation.

Greyling's defence was weak and the incriminating testimony of his son-in-law must have come across as a damning portrayal of his character and honour to the court. This would have been most embarrassing to Greyling, who was serving as a field cornet. Though field cornets were subordinate to the authority of the *landdrost*, they still wielded a fair degree of power in their respective field cornetcies. His position as a field cornet perhaps explains why he did not adhere to the law to its full extent when it came to his legal obligations towards his servants. It must have come as a surprise to him that a field cornet could be summoned to appear at the *drostdy* in order to answer accusations of abuse and unlawful behaviour made by one of his 'Hottentot' labourers. His surprise may have turned to shock when he was found guilty of the offence and ordered to release the complainant from his service. Though he occupied a position of influence in his immediate community, this did not spare him the rebuke of the district's court. This case serves as a clear example of how the colonial prerogatives of an imperial state could intervene in master-servant relations, even in a remote, frontier district such as Graaff-Reinet.

This chapter explores how Khoesan labourers, designated 'Hottentots' by the legalese of the time, applied to courts to seek redress for their grievances with their masters. As Lammert's case indicates, some 'Hottentots' demonstrated a canny understanding of their legally-defined place in Cape society and were able to use a language of legal claims to improve their circumstances. Though largely coercive in tone and intended to provide a stable 'Hottentot' labour force for the Cape's agrarian and livestock based economy in the aftermath of the abolition of the slave trade in 1807, these laws were also informed by a desire to curb cruelty in the dispensing of punishment upon servants. The advent of British rule at the Cape "coincided with the early articulation of notions of trusteeship and the moral obligation to protect indigenous inhabitants in the colonies."¹²⁷ As briefly noted in the Introduction, these

¹²⁷ L. Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900* (Cambridge: Cambridge University Press, 2002), p. 174.

notions would also come to alter the ways in which slaves could be legally punished with the initiation of slave reforms in the 1820s and early 1830s.

The following analysis focuses on the labour laws introduced by the British following the Second Occupation and argues that they created the prospect for 'Hottentots' to imagine their place in Cape society in terms of a new political identity that transcended their local context. It analyses the role that the passage of the Caledon Code, which is explained in greater detail below, and the judicial reforms of Governor John Cradock played in the invention of 'Hottentot' subjecthood and its attendant loyalism. It also traces early indications of the emergence of a political identity based upon subjecthood among certain 'Hottentots' in Graaff-Reinet district. Remarkably, there is no clear evidence to suggest that the individuals who appear below had any direct interactions with missionaries, though this may have occurred. Even so, the influence of evangelical-humanitarianism on the invention of 'Hottentot' loyalism cannot be overlooked and will be discussed towards the end of the chapter.

The discussion begins with a brief, contextual description of the First and Second British Occupations. Though the early years of Britain's occupation of the Cape did not mark any significant break with the *VOC* past, resulting in important continuities, unlike the mercantilist-orientated *VOC*, the British brought with them an imperial outlook on Cape affairs with all the concomitant implications. As the Cape's economy and society were grafted into an emerging imperial world, both real and imagined, so too were Cape identities. Some identities became moulded by a rejection of imperial prerogatives, while others began to exhibit an embracing of British subjecthood.

The second and third sections argue that the introduction of new labour laws and judicial reforms in the years following the Second British Occupation contributed to the invention of 'Hottentot' subjects even while ushering in a more comprehensive colonisation of the Khoesan. In negotiating the contradictions between the interests of imperial sovereignty and settler-colonialism, elements of the law afforded numerous 'Hottentots' the prospect of self-construction as subjects. The fourth and final section elucidates how 'Hottentot' responses to these new measures brought the local and the imperial together and argues that these

individual acts of resistance amounted to early foreshadows of a more clearly defined and articulated 'Hottentot' loyalism in the 1820s and 1830s.

I. The British Colonial Turn and its Consequences for the Khoesan

In 1806, the Second British Occupation of the Cape Colony came into effect, marking the beginning of an imperial project aimed at transforming the Colony into a defined territory over which the British Crown could exercise sovereignty and legal jurisdiction. In this sense, the impact of British colonialism upon the Khoesan was similar in a number of ways to the impact felt by other indigenous peoples in other parts of the nascent empire. From New South Wales and New Zealand, to Canada and the Cape Colony, the early decades of the nineteenth century witnessed the transformation of fledgling, European settler territories into more defined, sovereign spaces. In the case of the Cape Colony, the British colonial authorities inherited a settler population largely descended from the early Dutch colonists. By 1806, these settlers had established themselves as landed, farming communities throughout most of the south-western Cape and its immediate hinterland. Settler expansion into the Cape interior over the course of the previous century and a half, dating back to the 1650s, when the *VOC* had first established a trading post at Table Bay, had been steady, but fraught with challenges and stop-starts.

The Khoekhoe and San communities of the south-western Cape proved to be a formidable enemy as they resisted settler encroachment on their lands and resources. San communities, which were more mobile than those of the Khoekhoe, retreated further and further into the Cape interior, beaten back by settler commandos.¹²⁸ Still, San resistance was formidable enough to have halted the frontier in its advance on several occasions. In the 1770s, the frontier had actually retreated owing to the scale and coordination of San guerrilla tactics along the length of the Cape's interior escarpment.¹²⁹ This escarpment, framed by the

¹²⁸ Penn, *The Forgotten Frontier*, pp. 117-125.

¹²⁹ Adhikari, *The Anatomy of a South African Genocide*, pp. 28-34.

Roggeveld, Nieuweveld and Sneeuwberg mountain ranges, marked the geographical divide between the winter and summer rainfall regions of the Cape interior.

In previous centuries, the Khoesan had used this natural feature to their advantage, following the winter and summer rainfall and assuring themselves perennial access to water. For the Khoekhoe, this was crucial for the sustenance of their livestock. However, over the course of the eighteenth century, and in spite of their brave struggle against settler encroachment, the Khoesan had been largely defeated, at least in the south-western Cape and its immediate hinterland. San communities continued to eke out an existence further in the interior, especially along the Gariiep River. So too did Khoekhoe groups who trekked northwards.¹³⁰

For many Khoesan, however, the eighteenth century was a period of unrelenting social upheaval. Ancient life ways were overhauled and undermined by the northward and eastward progression of the *trekboers*. Khoekhoe livestock was particularly sought after by the settlers to supply the demand for fresh meat at Cape Town. European notions of private property also meant that traditional modes of mobile subsistence were undermined. Dispossessed of their land and livestock, Khoekhoe along with San were coerced into the agricultural and cattle-farming economies of the emergent settler society. In order to survive in the territories which they had inhabited for thousands of years, they had no other option but to enter into the service of the settlers. On agrarian and cattle farms across the Colony, Khoesan became servants to European masters.

It is important to stress that this master-servant relationship was one shaped by the realities of a slave society. Chattel slaves had first been imported to the Cape in 1658, six years after the *VOC* had established a permanent presence. It had been the policy of the *VOC* from the beginning of the settlement not to enslave the Khoesan, but to rely upon imported slaves from across the Indian Ocean rim instead.¹³¹ The master-slave relationship which emerged at the Cape was analogous to master-slave relationships of the Atlantic World at the time as it was underscored

¹³⁰ P.J. Van der Merwe, *Die Noordwaartse Beweging van die Boere Voor die Groot Trek, 1770-1842* (The Hague: W.P. van Stockum, 1937), pp. 1-10.

¹³¹ R.C. Shell, 'The Tower of Babel: The Slave Trade and the Creolisation of the Cape, 1652-1834', in E.A. Eldredge & F. Morton (eds.), *Slavery in South Africa: Captive Labour on the Dutch Frontier* (Pietermaritzburg: University of Natal Press, 1994), p. 15.

by violence and intimidation. The importation of slaves never came to satisfy the labour requirements of the Dutch settlers in the south-western Cape. For those who trekked further into the interior, they came to rely on the Khoesan to meet their market-oriented, labour needs.¹³²

The predominant slave-owning mentality of the master class was to be a determining feature of European-Khoesan interactions on farmsteads across the Colony.¹³³ The right of the master to the compliance and submission of his slaves extended to the 'free' 'Hottentot' labourers in his service as well. Indeed, though never formally enslaved and never bought or sold, Khoesan labour experiences were often akin to those of the slaves, alongside whom they lived and worked. And yet, this system of coercion was built upon an inherent contradiction: for in spite of the harsh realities of settler-colonialism for the Khoesan, it would not have become as extensive and entrenched in the Cape Colony had it not been for the Khoesan. The settler economy of the Cape – certainly in the south-west, but also in the eastern and north-eastern frontier regions – was an exchange economy, influenced by market fluctuations. Settler expansion into the interior was very much stimulated by the local and international demand for Cape products.

This was especially true for the livestock farmers of the eastern frontier, who supplied much of the meat to Cape Town – a vital trading and refreshment port on the sea route between Europe and Asia.¹³⁴ Khoesan labour made it possible for the settlers to engage with this market.¹³⁵ Without Khoesan cattle-herds and wagon-drivers, the sheep and cattle of the Eastern Cape would not have made it to market in Cape Town. Interspersed among the derogatory descriptions used by the settlers for their Khoesan servants were regular praises. Khoesan farm labourers also played a crucial role in defending the frontier against San attacks in the late

¹³² S. Newton-King, 'Background to the Khoikhoi Rebellion of 1799-1803', University of London, Institute of Commonwealth Studies, *Societies in Southern Africa in the nineteenth and 20th Centuries*, Vol. 10, 1981, p. 1.

¹³³ S. Trapido, 'From Paternalism to Liberalism: The Cape Colony, 1800-1834', *The International History Review*, 12 (1), 1990, p. 79.

¹³⁴ E. Bradlow & F. Bradlow (eds.), *William Somerville's Narrative of His Journeys to the Eastern Cape Frontier and to Lattakoe, 1799-1802* (Cape Town: Van Riebeeck Society, 1979), p. 16.

¹³⁵ S. D. Neumark, *Economic Influences on the South African Frontier, 1652-1836* (Stanford: Stanford University Press, 1957), pp. 112-113.

eighteenth century.¹³⁶ This point alludes to the most significant difference between the Khoesan and slaves, in spite of the similarities apparent in their working conditions: the Khoesan were autochthonous. In many instances, they knew the landscape better than the Europeans.

Khoesan responses to settler-colonialism were diverse. The spaces in between European settlement were steadily narrowed over the course of the late eighteenth and early nineteenth centuries, affording few opportunities for an independent existence outside of settler society and the settler economy. Some Khoesan did choose a precarious existence on the margins of the Colony. Labelled *drosters* and vagabonds by the colonists, theirs was an existence based on theft and eluding capture.¹³⁷ Other Khoesan made their way to the Gariiep River and beyond where they joined the ranks of the Oorlams and later on, the Griquas.¹³⁸ Thousands, however, became 'Hottentots'; a servile proletariat upon whom the settler economy was dependent, especially in the north-eastern interior where there was no viable, alternative labour source.¹³⁹ Their subaltern status was reinforced by the caustic tone of European representations of them: backward, uncivilised, having no religion and lacking any cultural sophistication. Their legal status was, however, not well defined during the course of eighteenth century. There was a fair degree of confusion over the legal status of the Khoesan throughout the *VOC* period. Though the Khoekhoe were regarded as free and independent, numerous chiefs were transformed into *VOC*-approved captains during the seventeenth and eighteenth centuries, thus whittling down their independence.¹⁴⁰

Initially the *VOC* sought to avoid becoming involved in disputes between Khoekhoe. Individuals caught stealing by Company officials tended to be handed over to their chiefs to be punished. However, towards the end of the seventeenth

¹³⁶ Neumark, *Economic Influences on the South African Frontier*, p. 113.

¹³⁷ Penn, *Rogues, Rebels and Runaways*, pp. 147-149.

¹³⁸ For a more detailed analysis of this process, see Legassick, *The Politics of a South African Frontier*, pp. 50-60.

¹³⁹ Neumark, *Economic Influences on the South African Frontier*, p. 113.

¹⁴⁰ Elphick, *Kraal and Castle*, p. 188. Also, H.C. Bredekamp, A.B.L. Flegg & H.E.F. Plüddemann (eds.), *The Genadendal Diaries: Diaries of the Herrnhut Missionaries H. Marsveld, D. Schwinn and J.C. Kühnel*, Vol. 1, (Bellville: University of the Western Cape Institute for Historical Research, 1999), p. 91.

century, the Company had arrived at the position that it could exercise jurisdiction over Khoesan living and working within the Cape's poorly defined bounds.¹⁴¹ What started out as a system of legal pluralism steadily gave way to a legal regime that completely excluded Khoesan law. As permanent settlement began to unseat migration, and farming for trade replaced subsistence, so the Dutch legal system became more extensive.¹⁴²

As Khoesan were incorporated into the settler economy, so Company jurisdiction extended over them. The VOC was willing to allow Khoesan labourers the right to sue their masters in court, though there was no consistency in the matter.¹⁴³ The legal system was skewed towards the settlers and there was also a significant degree of confusion as to the types of legal rights Khoesan servants were entitled to. For example, in 1797 the *drostdy* of Stellenbosch decided not to hear a case of complaint made by Khoesan servant against his mistress. The servant claimed he was owed wages. The *landdrost* and *heemraaden* claimed that "they did not know whether a Hottentot had the right to sue a citizen in their court" and worried that if "this were allowed would it not encourage the Hottentots to think that they were of the same standing as a citizen?"¹⁴⁴ It was left up to the British colonial regime to enact a more comprehensive legal system in terms of codifying master-servant relations.

Following a brief discussion of the First British Occupation, which lasted from 1795 to 1803, followed by the short-lived Batavian Republic of 1803 to 1806, the chapter will go on to analyse how the establishment and exercise of British sovereignty in the Cape Colony over the course of the early nineteenth century laid the foundation for intriguing transformations in 'Hottentot' identity and the emergence of British loyalism via the conduit of colonial law.

¹⁴¹ R. Ross, 'The Changing Legal Position of the Khoisan in the Cape Colony, 1652-1795', in *Beyond the Pale: Essays on the History of Colonial South Africa* (Johannesburg: Witwatersrand University Press, 1993), p. 169.

¹⁴² E. Fagan, 'Roman-Dutch Law in its South African Historical Context', in R. Zimmerman & D. Visser (eds.), *Southern Cross: Civil Law and Common Law in South Africa* (Oxford: Clarendon Press, 1996), p. 40.

¹⁴³ R. Viljoen, 'Khoesan Labour Relations in the Overberg District During the Latter Half of the eighteenth Century, c. 1755-1795', M.A. thesis, University of the Western Cape, 1993, Ch. 5.

¹⁴⁴ J.S. Marais, *Maynier and the First Boer Republic* (Cape Town: Maskew Miller, 1944), p. 73.

The First British Occupation: Foreshadows of British Protectionism

The Cape was administered by the British for the first time from 1795 to 1803. A number of events which occurred during this period bear relevance to the discussion of the period after 1806 that is to follow. In elucidating these events, the intention is to begin to reveal how colonialism at the Cape was experienced by the Khoesan. The two periods of British occupation at the turn of the nineteenth century marked a significant moment in the history of Khoesan reactions to colonialism. What began to emerge at this time was an important experiential dichotomy for colonial Khoesan between the harsh realities of settler-colonialism on the one hand, to which they had been subjected for one and a half centuries, and the jurisdictional and liberal ideals of British imperialism on the other. It will be argued that the contradictory space between settler-colonialism and British imperialism would prove crucial to shifts in Khoesan assimilation and identity over the course of the next fifty years.

The geographical focus of this chapter rests on the important frontier district of Graaff-Reinet. At the turn of the nineteenth century, Graaff-Reinet was an extensive region, settled by European pastoralists seeking pasture for their flocks. The district had also witnessed some of the most intensive hostilities between the advancing *trekboers* and the San. Commandos managed to eventually crush San resistance, albeit not completely, and expeditions against the San continued well into the nineteenth century. The town of Graaff-Reinet, nestled in a sweeping crook of the Sundays River, was founded in 1786, becoming the seat of the district's *drostdy*. The period in the history of the town and district during the late eighteenth century which is most relevant for this discussion, relates to the turbulent terms in office of H.C.D. Maynier, who was first appointed *landdrost* of the district in 1793.

Maynier's approach towards the Khoesan stood in sharp contrast to the established nature of master-servant relations in Graaff-Reinet and indeed, throughout the Colony. J.S. Marais has argued that Maynier was a product of the French Revolution and influenced by the concept of the 'noble savage'.¹⁴⁵ While Maynier still regarded the Khoesan as a savage people, he continued to espouse the

¹⁴⁵ Marais, *Maynier and the First Boer Republic*, p. 36.

early VOC directive that they were a free people and should be treated as such. For Maynier, this meant that the Khoesan ought to have been allowed to choose who they wanted to work for and under what terms. In a district very much dependent upon Khoesan labour, it is not surprising that his policies were met with disdain on the part of the Boers.

Even so, Maynier's policies did find common ground with those of the new British authorities who set about to conciliate the Boers. They also wished to encourage 'Hottentots' to be loyal to the Colony in order to have them assist in its defence against extra-colonial threats. In March 1796, some six months after the capture of the Cape by the British, General J.H. Craig expressed his desire "to form an alliance with the Hottentots". He was keen on acquiring 'Hottentot' messengers who could be trusted to carry communiqués between strategic towns and military bases in the Colony.¹⁴⁶ Craig also wanted the 'Hottentots' to be "faithful and obedient" and believed this could be achieved by "protecting them against the injustices of the Burghers."¹⁴⁷ Craig's sentiments set a tone and others, such as Colonel Fulder King, thought that if the Government acted as a protector towards the 'Hottentots', they would be more willing to be employed in defending the eastern frontier against amaXhosa incursions and perhaps even "conciliate the Bushmen".¹⁴⁸ There was similar concern over "parties of wild Hottentots and Bosjiesmans" who were said to be "lurking" on the margins of the district. They were particularly troublesome as their thieving was said to be depriving "the capital [of] the necessary cattle".¹⁴⁹ Loyal 'Hottentots' were sought after as a means to contain these threats.

On 6 February 1795, Maynier had been expelled from the Graaff-Reinet *drostdy* by the rebellious Boer population, who moved to declare themselves a republic. The Boer rebels intended to hang the *landdrost*, though Maynier was spared this fate, and they declared that they wanted "nothing more to do with the

¹⁴⁶ W. Burchell, *Travels in the Interior of Southern Africa*, Vol. 1, (Cape Town: Struik, 1967), p. 162

¹⁴⁷ CA, Accessions (hereafter, A), 455/22, Sir Francis Dundas Papers, J.H. Craig to Major King, Stellenbosch, 14 Mar. 1796.

¹⁴⁸ CA, A 455/22, Sir Francis Dundas Papers, Col. Fulder King, Cape of Good Hope, 1 Nov. 1798.

¹⁴⁹ CA, First British Occupation (hereafter, BO), 68, F. Bresler to J.H. Craig, Graaff-Reinet, 30 Jan. 1796.

English Government.”¹⁵⁰ Maynier’s expulsion was due to two reasons: firstly, his policy towards the amaXhosa on the frontier, which the settlers considered weak and indecisive, and secondly, for his efforts to try improve the working conditions and treatment of the district’s Khoesan servants. Maynier’s administration was radical for the time. He allowed ‘Hottentots’ to appear in his court; he issued summonses to settlers demanding that they answer complaints against them made by their ‘Hottentot’ servants; he took exception to the widespread practice of seizing wives and children, as well as livestock and wages, by masters wishing to tie down whole families in a state of perpetual bondage; and he condemned the regular practice of denying ‘Hottentots’ the right to leave once they had concluded their term of service.¹⁵¹

Most significantly, Maynier predicted that the harsh treatment meted out to the ‘Hottentots’ could end up driving them into an alliance with the amaXhosa. This prediction came to pass in 1799 when the Third Frontier War between the Colony and the amaXhosa erupted, accompanied by a servant rebellion in the eastern districts. This episode has been described “as the cumulative reaction of the majority of Khoikhoi of the eastern districts to the colonial encroachment of the preceding three decades.”¹⁵² While J.S. Marais portrayed the rebellion as primarily a consequence of the ill-treatment suffered by ‘Hottentots’ in servitude, Newton-King and Malherbe have argued that it “should perhaps more rightly be called a war of independence” as it was motivated by Khoesan attempts to recover their “economic and social independence.”¹⁵³ The historical records suggest that both were key factors. It is reasonable to assume that those who had been assimilated as servants were more likely to join the rebellion in reaction to unfair treatment. At the same time, followers of quasi-independent Khoekhoe captains would have been stirred on by a lack of access to sufficient land and the want for greater autonomy.

¹⁵⁰ CA, BO 68, Despatch from Graaff-Reinet, 24 Feb. 1799.

¹⁵¹ Marais, *Maynier and the First Boer Republic*, pp. 70-72.

¹⁵² S. Newton-King & V.C. Malherbe, *The Khoikhoi Rebellion in the Eastern Cape, 1799-1803* (Cape Town: Centre for African Studies, University of Cape Town, 1981), p. 9.

¹⁵³ See Marais, *Maynier and the First Boer Republic*, pp. 48 & 62, & Newton-King & Malherbe, *The Khoikhoi Rebellion in the Eastern Cape*, p. 10.

Assimilation into colonial society was no guarantee of loyalty, especially if Khoesan were treated unfairly.

The British military authorities were faced with the difficult task of ensuring that Khoesan servants were afforded justice and the Boers who had taken flight were resettled.¹⁵⁴ The scale of the rebellion resulted in whole farming communities fleeing their wards, re-trekking westwards. Neumark has noted that this marked “the first great reverse in the whole history of the expansion” of the Colony eastwards.¹⁵⁵ The authorities in Cape Town were warned about the ensuing “depeopling” of the eastern sub-districts of “Bruinshoogte and Zwagershoek”.¹⁵⁶ News of the “distressful situation” to which the district of Graaff-Reinet was reduced “by the conspiracy of a numerous band of bloodthirsty Hottentots and [amaXhosa]” was relayed to Cape Town.¹⁵⁷ Such an alliance between the ‘Hottentots’ and the amaXhosa had the potential to seriously destabilise the entire Colony.

The language of those in authority reveals the ways in which ‘Hottentot’ loyalty was being constructed as desirable in colonial discourse. It was also hoped that British protectionism would inspire loyalty. Those who lived on the run along the frontier were labelled “wild Hottentots”, while those who aligned with the amaXhosa during the Third Frontier War were stigmatised as “vagabonds” and “bloodthirsty”.¹⁵⁸ ‘Hottentot’ loyalty was of strategic importance to the economic viability of the Colony, as well as the defence of its territory. Khoekhoe and San men had been used on Boer commandos for many years prior to the arrival of the British.¹⁵⁹ The Boers lauded their ability to track spoor and their knowledge of the terrain was also an advantage for commandos pursuing robber bands. Farmers often sent their servants on commando duty in their stead. Khoesan servants were also actively involved in the capturing of San women and children who became

¹⁵⁴ Newton-King & Malherbe, *The Khoikhoi Rebellion in the Eastern Cape*, p. 47.

¹⁵⁵ Neumark, *Economic Influences on the South African Frontier*, p. 113.

¹⁵⁶ CA, BO 68, F. Bresler to Francis Dundas, Graaff-Reinet, 6 Aug. 1799.

¹⁵⁷ CA, BO 68, F. Bresler to Francis Dundas, Graaff-Reinet, 29 Jul. 1799.

¹⁵⁸ For example, CA, BO 68, J. Barrow to F. Dundas, Zwartkop’s Bay, 15 Apr. 1799 & Bradlow & Bradlow (eds.), *William Somerville’s Narrative*, p. 25.

¹⁵⁹ Penn, *The Forgotten Frontier*, pp. 143-154.

forced labourers on frontier farms. Yet, even as Khoesan servants strengthened the commandos and were complicit in the fighting with the San and *drosters*, those who absconded took their guns with them along with an intimate knowledge of European farm life.¹⁶⁰

Given that numbers of dispossessed Khoesan men had become vital aides in frontier hostilities during the VOC period, it is not surprising that the British administration saw fit to continue, and enhance, this approach. It was during the First Occupation and the ensuing Boer rebellion in Graaff-Reinet that the British first organised Khoesan men into a designated regiment, the Cape Mounted Riflemen, also known as the Cape Corps from 1841. Initially, Khoesan were recruited to perform menial tasks for the British regiment based at the Cape. These included cooking and cleaning.

As their numbers grew, however, it was decided to create a Corps under the command of Lieutenant John Campbell. A contingent of the Cape Corps was despatched to Graaff-Reinet following the Boer rebellion there in 1795 and they engaged in quelling the insurrection under Brigadier-General Van de Leur. Some of the men were mounted, while others were employed as guides and for the carrying of despatches between Graaff-Reinet and Cape Town.¹⁶¹ General Craig endorsed the formation of the Corps and wished that more men would join. In June 1796, a planned expedition to Graaff-Reinet by those of the corps stationed at Stellenbosch under Major King, was suspended as Craig had received information to suggest that an attempted French invasion of the Cape was possible.¹⁶² They were also active at the time of the Third Frontier War, when a contingent was sent to Graaff-Reinet to support British infantry.¹⁶³

Given how indispensable the 'Hottentots' were to both the British authorities and settlers in terms of the security and economic viability of the Colony, the series of events that unfolded during the First Occupation provided crucial lessons for the

¹⁶⁰ Newton-King, 'Background to the Khoikhoi Rebellion of 1799-1803', p. 6.

¹⁶¹ R. Cannon, *History of the Cape Mounted Riflemen, with a Brief Account of the Colony of the Cape of Good Hope* (London: John W. Parker, 1842), pp. 10-11.

¹⁶² Bredekamp, Flegg & Plüddemann (eds.), *The Genadendal Diaries*, Vol. 2, p. 149.

¹⁶³ CA, BO 68, Major R. McNab, Graaff-Reinet, 21 Mar. 1799.

British in their endeavours to maintain 'Hottentot' loyalty. Influenced by the memory of the events which had unfolded in St. Domingo in 1791, the Acting Governor of the Colony, Major-General Francis Dundas, reinstated Maynier as *landdrost* of the district in 1799. He was given orders to resume his position and "to convince the Hottentots and [amaXhosa] that it was the intention of His Britannic Majesty's Government to alleviate the sufferings of the former, and to prevent future injustice which upon many occasions had been done the latter on the part of the farmers in their dealings with them."¹⁶⁴ Maynier was also instructed to establish a register of those 'Hottentots' in the service of the farmers, which was to include the particulars of the contracting parties as well as the terms of service. Finally, the re-appointed *landdrost* was directed "not to suffer with impunity any acts of violence or cruelty as have been usual on the parts of the farmers towards the Hottentots."¹⁶⁵ As J.S. Marais has pointed out, this was "the beginning of masters' and servants' legislation in South Africa."¹⁶⁶

While Maynier's policies towards the Khoesan proved unsustainable amid such hostility from the Boers and were unsuccessful in the short term, he did however establish an important precedent in the trajectory of master-servant relations in the district and the wider Colony. As Newton-King has observed, his approach to labour contracts, along with his refusal to hand over 'Hottentots' accused of murder to be tried and punished according to Boer standards of justice, as well as his association with the radical missionaries Johannes van der Kemp and James Read of the LMS, "opened new possibilities for the increasingly desperate", and most importantly, "sowed the seeds of a tentative faith in British justice."¹⁶⁷

Such a sentiment was expressed when Klaas Stuurman, one of the 'Hottentot' rebel leaders, met with the traveller John Barrow and Brigadier T.P. van de Leur in April 1799, just when the Third Frontier War was beginning to unfold. Stuurman explained that he and the large group of 'Hottentots' who were with him had quit

¹⁶⁴ Quoted in G.M. Theal, *Records of the Cape Colony from February 1793 to April 1831* (London: Government Printers, 1897-1905), Vol. 3, p. 53.

¹⁶⁵ Quoted in Theal, *Records of the Cape Colony*, Vol. 3, p. 53.

¹⁶⁶ J.S. Marais, *Maynier and the First Boer Republic*, p. 118.

¹⁶⁷ Newton-King, *Masters and Servants*, p. 211.

working for the Boers owing to the oppression they had been subjected to. It was also explained to Barrow and van de Leur that “some of their countrymen, not willing to throw themselves on the protection of strangers, had fled among the [amaXhosa], but that the greatest part were on the road to Algoa Bay, to lay their unhappy situation before the English general.”¹⁶⁸ Stuurman articulated very clearly his reasons for joining the rebellion. At various intervals, he relayed his reasons to the traveller John Barrow, the missionaries Van der Kemp and Read, and to the Batavian Governor, Janssens: “he had taken up arms in order to right the wrongs of his people”. He wanted ‘Hottentot’ servants to be guaranteed protection and he wanted a grant of land for himself and his followers.¹⁶⁹ Klaas Stuurman wasn’t to know it at the time, but his demands at the turn of the nineteenth century would come to constitute two key themes that would remain central to the ‘Hottentot’ question for the next fifty years: government protection and access to land.

The Second British Occupation brought with it an attempt to define the sovereignty of the Crown over the Colony and in doing so, establish a definable territorial unit over which imperial jurisdiction could be imposed. In practice, this was far from a straightforward process. The British colonial authorities, like the *VOC* before them, continually struggled to define the Colony as a territorial unit. In spite of the intentions of the British administration, the Cape was an unwieldy, geographical space. Official geographical boundaries were traversed at will by *indigenes* and white settlers, making it difficult for the colonial authorities to ensure compliance. The remote nature of the frontier districts compounded this challenge. The law also represents an ideology and it is meant to facilitate the enforcement of ideological imperatives upon those who fall under its jurisdiction, whether willingly or unwillingly. Not only did the British authorities at the Cape find it difficult to impose their worldview on the inhabitants of the Colony, but in order for jurisdiction to be effective, there has to be a clear demarcation of the territorial reach of the law. This is why the British were so concerned with defining the Cape’s borders and classifying its various inhabitants during the early nineteenth

¹⁶⁸ Quoted in J.S. Marais, *Maynier and the First Boer Republic*, p. 105.

¹⁶⁹ Marais, *Maynier and the First Boer Republic*, pp. 139-140.

century.¹⁷⁰ It is not surprising that the British authorities were so concerned with defining the territory's borders, for in the imperial setting, sovereignty equated to a "territorial measure of authority" and those living within the territory were regarded as subjects over whom imperial jurisdiction naturally extended.¹⁷¹ This was especially challenging along the eastern frontier, where extensive comingling between Gonaqua Khoekhoe and amaXhosa meant the existence of liminal individuals and families who could not be easily classified, thus complicating the extension of jurisdiction over them.¹⁷²

The nature of settler pastoralism meant that the boundaries of the territory continued to be fluid and porous, regularly shifting. This was the case for both the northern and eastern frontiers. Settler disregard for the intended rigidity of the Colony's boundaries proved impossible to restrain, contributing to violent conflict along the northern frontier with the San and along the eastern frontier with the amaXhosa well into the nineteenth century. As demonstrated by the events surrounding the Boer rebellion in Graaff-Reinet in 1795, the settler population was disinclined to surrender to the ideals of British imperial sovereignty. This was equally the case with British attempts to regulate master-servant relations.

Law and Identity in the Cape Colony

The imposition of colonial laws was an imperial imperative aimed at enforcing the imperial will on colonial subjects and classifying people according to their legal entitlements and place within colonial society. All colonies were built on hierarchies of power and colonial law was a foundational signifier of that power. In terms of the extension of rights, the law also evokes belonging. Individual identities may coalesce into a unifying identity in response to the ideals of civil rights laws, as well as the contradictions which often exist between those ideals and the disappointment that

¹⁷⁰ This was reflected in various pieces of legislation introduced in the years following the Second Occupation, for example, the Caledon Code and Apprenticeship Act. Both are discussed in more detail below.

¹⁷¹ L. Ford, *Settler Sovereignty*, p. 2.

¹⁷² By the early 1820s, it was reported that the Gonaquas had become "fully incorporated" with the amaXhosa. G. Thompson, *Travels and Adventures in Southern Africa* (Cape Town: Van Riebeeck Society, 1968), Part 1, p. 29.

comes with their elusiveness in certain contexts. In this sense, the law has an integrative power. Isolated individuals can become integrated into institutional and ideological systems via the law. It was colonial law that created the legal category of the indigenous British subject and as such, proved to be one of the most powerful integrative mechanisms of the Empire.¹⁷³

In his analysis of native and settler identities in colonial settings, Mamdani has argued that “the process of state formation generates political identities distinct from market-based identities and cultural identities.”¹⁷⁴ He suggests that the colonial state functioned as a complex legal and institutional system that produces and reproduces certain political identities. Most importantly for this discussion, Mamdani stresses that “the law does not just individuate” but “it also collates”.¹⁷⁵ In other words, the law also has the ability to create group identities. Each individual’s relationship to the state and to each other through the state is shaped by the law.

In the British colonial context, the ideal of equality before the law was not always realised, especially for those on the lower rungs of the local hierarchy. Yet, the mere prospect of redress was sufficient cause for action. Of course the introduction of laws was one of the principal means by which indigenous peoples were colonised. The establishment of imperial sovereignty was unavoidably destructive of indigenous rights to land and its resources. As noted in the Introduction, British imperial sovereignty at the Cape was superimposed over the Dutch mercantile system. The British occupied a colonial space in which the Khoesan’s natural rights had been largely destroyed or at least, undermined. By passing new laws that held out limited prospects for redress, the British administration incorporated the Cape’s ‘Hottentots’ into an imperial space that transcended local power structures to an extent. Colonial law flowed from Cape Town to interior *drostdies* with the endorsement of London.

In this vein, British reforms to the Cape’s labour economy created the possibility for ‘Hottentots’ to align their individual pursuits of redress with a

¹⁷³ For more on the integrative power of Empire which proved most valuable for this discussion, see T. Ballantyne, *Orientalism and Race: Aryanism in the British Empire* (New York: Palgrave, 2002), pp. 1-3.

¹⁷⁴ Mamdani, ‘Beyond Settler and Native as Political Identities’, p. 652.

¹⁷⁵ Mamdani, ‘Beyond Settler and Native as Political Identities’, p. 663.

budding, transcendental idea of the supremacy of colonial law, however unreliable it may have proven to be when tested. They were certainly not unique in doing so. Colonial subjects across the Empire “perceived the possibility of using these tensions to their advantage and devised legal strategies that explicitly exploited them.”¹⁷⁶ The Caledon Code was a contradictory piece of legislation. It was the most complete articulation of the colonisation of the Khoesan, while at the same time several of its clauses introduced a measure of equality before the courts. The Khoesan’s political independence was eradicated even as their social ‘independence’ as ‘free’ subjects was being established. The possibility of impartial, imperial intervention in local disputes between servants and masters via colonial law acted as a harbinger of British loyalism for ‘Hottentots’. The idea that equality extended to all subjects, whether white, black or brown, “did not have to be true, only to be believed to be so” by those who stood the most to gain.¹⁷⁷

The British authorities were faced with the dual challenges common to all colonial governments: they had to ensure the “maintenance of law and order to uphold the authority of the administration” while simultaneously collecting “adequate revenue with which to finance the running of the colony.”¹⁷⁸ The balancing of these two agendas was particularly difficult at the Cape. Humanitarian influences flowing from Britain called for the protection of indigenous labourers by limiting the power of masters over the bodies of their servants. This threatened to undermine the paternalistic regime which was entrenched and with it, the sufficient production of commodities for trade so that the Colony could pay its own way and not become a burden to the Exchequer.

In light of the events which unfolded in Graaff-Reinet during the First Occupation, the British authorities were cognisant of how their new Dutch subjects viewed them. As a result, imperial intervention following the Second Occupation

¹⁷⁶ Benton, *Law and Colonial Cultures*, p. 13.

¹⁷⁷ Killingray, ‘Black and British in a Colour-Conscious Empire’, p. 364.

¹⁷⁸ D. Killingray, ‘The Maintenance of Law and Order in British Colonial Africa’, *African Affairs*, 85 (340), 1986, p. 411.

was commenced with few changes to the “institutions that were familiar”.¹⁷⁹ The old judicial system of *landdrosts* and *heemraaden* was maintained along with Roman-Dutch common law. It was only in 1828 that substantial changes to the Cape’s judicial system were implemented. For the time being, the Second British Occupation created an incongruous social context where local authority remained in the hands of the Dutch, or Boer, elite, who filled the offices of *landdrost*, *heemraaden* and field cornets, but in which the power of the British Government and its representatives in Cape Town superseded the authority of local institutions. This incongruity was recognised and exploited by ‘Hottentots’ to varying degrees depending on their exposure to British legal ideals and in turn, loyalist sentiments. ‘Hottentot’ cases that were tried before the Graaff-Reinet *landdrost* and *heemraaden* in the years following the passage of the Caledon Code reveal intriguing patterns of complaint. Roberts, in his work on how Africans during the late nineteenth century used colonial courts to settle their own household grievances, refers to such patterns as “trouble spots”. While only a small number of disputes between servants and their masters would have been heard before the courts, the categories of complaint which emerge indicate “points of social conflict” within Cape society.¹⁸⁰ In numerous cases, ‘Hottentots’ sought legal intervention for the contravention of their contracts of employment by their masters, which points towards the role contracts played in shaping ‘Hottentot’ identity as subjects. The contract actually came to constitute a respectable form of employment in a society in which slavery was entrenched.

While slaves were legally regarded as property, after 1809, ‘Hottentots’ were required to work under contract, which spelled out the obligations of servants and masters towards each other. This system was open to abuse by masters and field cornets. Illiterate servants were particularly susceptible to exploitation. However, the emphasis that ‘Hottentot’ plaintiffs placed upon their contracts points towards an important means by which ‘Hottentots’ differentiated themselves from slaves. As suggested by Lammert’s case, respect for the conditions of the contract by both

¹⁷⁹ Macmillan, *The Cape Colour Question*, p. 40. See also, R. Viljoen, ‘Indentured Labour and Khoikhoi ‘Equality’ Before the Law in Cape Colonial Society, South Africa: The Case of Jan Paerl, c. 1796’, *Itinerario*, 29 (3), 2005, p. 58.

¹⁸⁰ Roberts, *Litigants and Households*, p. 9.

master and servant became a measure of moral community in Graaff-Reinet and no doubt, other districts. This is also borne out by other cases which will be discussed later on. While “it is tempting [...] to view any participation in an imposed legal system as collaboration”, in terms of the ways in which scores of ‘Hottentots’ challenged the conditions and full implementation of their contracts, collaboration and assimilation amounted to resistance.¹⁸¹

Though it is recognised that legal proceedings and testimonies of the sort recounted in Lammert’s case amount to mediated ‘voices’, court records have become valuable sources for social histories in colonial contexts. The types of complaints made by indigenous litigants to colonial courts allude to “the meaning of law” for that society, not only the operation of the law.¹⁸² Though impartial justice was far from guaranteed for non-European colonial subjects, the prospect of it resonated with indigenous litigants who sought to ensure their legal entitlements were honoured. In the first two decades following the Second British Occupation, the Cape’s labour laws did not extend equal citizenship to those Khoesan living and labouring as ‘Hottentots’ within the Colony. Even so, the law afforded proactive individuals the chance to test the social boundaries of citizenship and the meaning of the law in relation to their personal circumstances as colonised subjects.

Disputes that ended up in court would have begun as grievances between the plaintiff and defendant and may have remained unresolved in the private domain of the farmstead or household for an extended period of time before either party reverted to court. Undoubtedly, many grievances never made it to court. For those that did, the dispute entered the public domain. The nature of the master-servant relationship, which was usually a private matter contained within the household, was aired in public and judged according to legal criteria set out by the colonial state. However, the implementation of the law in colonial settings was not always about strict legal definitions and judgements, but was often swayed by concerns about social stability and harmony, and influenced by the workings of moral community. While the concept of moral community is explored in more depth in Chapter Four, it refers to social standards of appropriate behaviour among members of a

¹⁸¹ Benton, *Law and Colonial Cultures*, p. 17.

¹⁸² Roberts, *Litigants and Households*, p. 6.

particular community. As social entities, communities are less imagined than nations, as there tends to be a closer proximity between those who regard themselves as constituents. Notions of appropriate behaviour are more tangible in the community setting. Interactions between individuals and families of similar class, culture and religion facilitate the exchange of ideas about acceptable conduct, in both the public and private domains.

This concept has been useful in elucidating the outcomes of cases between masters and slaves at the Cape during the period of slave reforms which was concurrent with the period discussed in the first three chapters of this thesis. In his investigation of cases of complaint brought by slaves against their masters, Dooling has shown that “reputations of individuals were prime considerations” and that the social standing and character of the master factored into the court’s judgements.¹⁸³ In this sense, the outcome of the legal process for slave plaintiffs had less to do with the merits of their complaints, even if measured according to legal principles, and more to do with public reputation in settler society. Those slave-owners who exhibited a penchant for cruelly treating their slaves and who were known to do so among their immediate settler community were more likely to find themselves in trouble with the law than those of more reputable standing.

‘Hottentot’ servants, like slaves alongside whom they laboured, were also subjected to corporal punishment by their masters. The rights of masters to physically punish their servants and slaves were regarded as a necessary means to ensure due deference and compliance with the master’s will and a useful demonstration of the paternalistic authority wielded by the master over his household.¹⁸⁴ Writing about masters and servants on the eastern frontier during the late eighteenth century, Newton-King has suggested that relations between the two were “fundamentally antagonistic” and that for the masters, their hostility towards those whom they depended upon and who outnumbered them, was as a result of an

¹⁸³ Dooling, ‘The Good Opinion of Others’, in Worden & Crais (eds.), *Breaking the Chains*, p. 26.

¹⁸⁴ J.E. Mason, ‘Paternalism Under Siege: Slavery in Theory and Practice During the Era of Reform c. 1825 through Emancipation’, in Worden & Crais (eds.), *Breaking the Chains*, pp. 58-59; & J.E. Mason, *Social Death and Resurrection: Slavery and Emancipation in South Africa* (Charlottesville: University of Virginia Press, 2003), pp. 68-74.

ideology of “ethnic exclusivism.”¹⁸⁵ Newton-King’s line of reasoning arguably comes closest to unravelling an otherwise confusing state of affairs in which masters in precarious geographical locales and economic situations tended to treat the servants they relied on for survival and lived with in close proximity so harshly.¹⁸⁶ That being said, travellers’ and missionaries’ accounts reveal that while violent punishment was common, servants were subjected to varying degrees of chastisement with some more likely to receive harsher treatment than others owing to interpersonal tension between them and their masters.¹⁸⁷ Some observers asserted that the treatment of ‘Hottentots’ on settler farms amounted to a form of slavery and that many European masters had “no way of maintaining their authority but by the most wanton and barbarous acts of arbitrary punishment.”¹⁸⁸ Others portrayed the farmers they encountered in a more favourable light. For example, one traveller described a farm he visited as bearing an appearance both “patriarchal and picturesque” with the flocks attended by the farmer’s “wife, children, slaves and Hottentots.”¹⁸⁹

The notion of moral community is inadvertently bound up with respectability. John Iliffe, in his landmark study on honour in African history, has suggested that respectability in colonial contexts constituted the domestication of honour.¹⁹⁰ Respectability emphasised high-minded qualities such as duty and virtue and these were often grounded in domestic propriety. In order to be respected, individuals had to exhibit appropriate behaviour according to the cultural prerogatives of their time and place. Such prerogatives are certainly not static, but are bound to change

¹⁸⁵ Newton-King, *Masters and Servants*, p. 9.

¹⁸⁶ For a brief discussion on the extent to which white farmers depended upon their Khoesan servants for economic survival, see Mason, *Social Death and Resurrection*, pp. 132-133.

¹⁸⁷ R. Elphick & V.C. Malherbe, ‘The Khoesan to 1828’, in Elphick & Giliomee (eds.), *The Shaping of South African Society*, p. 29; & School of Oriental & African Studies, University of London (hereafter, SOAS) Council for World Mission (hereafter, CWM) South Africa, Incoming Correspondence, Box 6, Folder 4, Jacket B (hereafter, 6/4/B), J. Read, Grace Hill, 17 Sep. 1816.

¹⁸⁸ Bradlow & Bradlow (eds.), *William Somerville’s Narrative*, p. 25.

¹⁸⁹ Thompson, *Travels and Adventures in Southern Africa*, Part 1, p. 27.

¹⁹⁰ J. Iliffe, *Honour in African History* (Cambridge: Cambridge University Press, 2005), p. 246.

over time. Perhaps most importantly, individuals can only appeal to their respectability as a measure of their social worth if it is “admitted by others.”¹⁹¹

Respectability in the Cape Colony of the early nineteenth century was gendered and tended to pivot around key markers, namely literacy, Christianity, sobriety and appearance (incorporating dress and cleanliness). Iliffe makes the point that notions of respectability existed in pre-colonial Africa and as such, “It had no necessary connection with Christianity or European lifestyle.”¹⁹² Respectability was not something that missionaries and imperialists imposed on Africans. Rather, the markers of respectability were shifted and features of the dominant European lifestyle became the benchmark in colonial society.

While ‘Hottentot’ respectability often took the form of imitation of European colonial ideals during the period under review, these ideals were not uniform. British colonial officials, missionaries and Boers all held various notions of what constituted respectability, some of which were complementary and overlapped. Missionaries emphasised literacy and baptism as markers of Christian respectability.¹⁹³ Boers tended to measure respectability in terms of wealth, property and their *burgher* status while British colonial officials placed a high premium on rank, etiquette and dress.¹⁹⁴ Notions of honour and respectability transcend class even while they are constrained by class resources. The complete imitation of these European markers of respectability was unlikely for Khoesan given their underclass status. Most Khoesan could only hope to achieve some of these signifiers of respectability.

That being said, respectability was not only defined by material possessions and tangible criteria. Other, more ethereal concepts were also important. One of the most notable was the profession of faith. Respectability at the Cape was bound up with Christianity. As many Khoesan did not have sufficient economic independence

¹⁹¹ Iliffe, *Honour in African History*, p. 246.

¹⁹² Iliffe, *Honour in African History*, p. 246.

¹⁹³ For example, CA, BO 97, H. Marsveld, D. Schwinn & J.C. Kühnel to Governor Earl Macartney, Baviaan’s Kloof, 25 Feb. 1798. See also, Elbourne, *Blood Ground*, pp. 39-40 & 113-115.

¹⁹⁴ Burchell, *Travels in the Interior of Southern Africa* Vol. 2, p. 123; T. Baartman, ‘Protest and Dutch Burgher Identity’, in Worden (ed.), *Cape Town Between East and West*, pp. 67-70; Price, *Making Empire*, pp. 198-205. For other ritual forms of respectability, see also R. Ross, ‘The Etiquette of Race’, in *Beyond the Pale*, especially pp. 111 & 114-121.

to acquire many of the material markers of respectability, the adoption of Christianity acted as a powerful signifier of equality in a society that placed a high premium on religious persuasion and expression.¹⁹⁵ In his discussion on slaves and honour, Iliffe has drawn our attention to the prospect for those who are said to have had no honour in colonial societies, to acquire honour via their horizontal relationships.

Notions of honour and respectability were of course defined vertically in colonial contexts according to relations of power. The dishonour of those who were unequal, such as slaves and servants, acted as the counterpoint against which the masters' honour was juxtaposed. However, as Iliffe argues, this is only the case if honour is linked "inseparably to power".¹⁹⁶ It follows that even when slaves and servants were denied respect by their masters and other authorities, "they might assert it among themselves".¹⁹⁷ Those Khoesan who acquired literacy, for example, appeared more respectable to European society and to their underclass peers.

It is important to point out that Cape society also valued submission to authority as a marker of respectability. Servants and slaves who submitted to the authority and will of their masters were regularly referred to in a language which commended their underclass respectability for being dutifully subservient. For example, San were said to make excellent servants if they were captured young.¹⁹⁸ The encouragement of loyalty as a marker of respectability was also evident in the running of the Cape Corps. The Batavian administration maintained the 'Hottentot' regiment and upon the surrender of the Cape to the British for a second time in 1806 the Corps was made up of approximately 500 rank and file soldiers. Some of the Corps were stationed at Wynberg, near Cape Town, while others were sent to Fort Frederick at Algoa Bay. The Corps proved so useful that their numbers were increased to 800 in 1808, with many of the new men having been recruited by

¹⁹⁵ J.N. Gerstner, 'A Christian Monopoly: The Dutch Reformed Church and Colonial Society Under Dutch Rule', in Elphick & Davenport (eds.), *Christianity in South Africa*, pp. 24-30; & E. Elbourne & R. Ross, 'Combating Spiritual and Social Bondage: Early Missions in the Cape Colony', in Elphick & Davenport (eds.), *Christianity in South Africa*, pp. 31-32.

¹⁹⁶ Iliffe, *Honour in African History*, p. 119.

¹⁹⁷ Iliffe, *Honour in African History*, pp. 119-120.

¹⁹⁸ J. Barrow, *An Account of Travels into the Interior of Southern Africa in the Years 1797 and 1798*. (New York: Johnson Reprint Corporation, 1968), p. 236.

'Hottentot' captains who were paid by the British. Numbers were enlisted from the handful of mission stations that had been established, while still others volunteered to enrol.

Though many missionaries would in future years complain about the disruption that long periods of absence by men on Corps duty caused their missions, it is important to recognise that military service for the Crown acted as a means to encourage and instil loyalty.¹⁹⁹ Military conflicts of course occur between enemies and 'Hottentot' loyalty was juxtaposed alongside the disloyalty and non-subject status of those enemies of the British colonial state the Corps encountered in battles and skirmishes.²⁰⁰ In subsequent years, the Corps became involved in several campaigns along the eastern frontier in which the amaXhosa were pushed further eastwards to make way for European settlement. Those stationed on the frontier were also regularly deployed beyond the official boundary of the Colony in order to recover livestock allegedly stolen by the amaXhosa.

In 1815, a revolt among Graaff-Reinet farmers reacting to the introduction of British principles of justice and intervention in master-servant relations occurred.²⁰¹ This incident came to be known as the Slagter's Nek Rebellion and the Cape Corps, including members of Bethelsdorp, proved indispensable in crushing the uprising.²⁰² Notably, up to one hundred Corps enlistees attended the public execution of several of the European farmers who participated.²⁰³ The significance of their role on the side of the British administration in suppressing the disturbance of Boers was surely not lost on them.

From the 1830s onward, both 'Hottentot' servicemen and their missionary representatives complained bitterly that the state's promises of remuneration and

¹⁹⁹ CA, A 768, Return of the Institution of Bethelsdorp, 1825; & Killingray, 'Black and British in a Colour-Conscious Empire', p. 363.

²⁰⁰ This continued to be the case through the 1830s and 1840s. For example, CA, Lieutenant Governor of the Eastern Province (hereafter, LG) 385, Justice of the Peace, Fort Beaufort, 13 May 1836.

²⁰¹ M. Streak, *The Afrikaner as Viewed by the English, 1795-1854* (Cape Town: C. Struik, 1974), pp. 63-64.

²⁰² N. Mostert, *Frontiers: The Epic of South Africa's Creation and the Tragedy of the Xhosa People* (London: Jonathan Cape, 1992), pp. 402-406.

²⁰³ Cannon, *History of the Cape Mounted Riflemen*, pp. 18 & 23.

rationing for their active duty on the frontier were not being fulfilled. These complaints were fully warranted. Nonetheless, their loyalty to the Crown continued to be praised by various military commanders at the Cape. It was acknowledged that the “Cape Mounted Riflemen [were] intimately connected [...] with the advantages accruing to Great Britain from the possession” of the Colony.²⁰⁴ In 1842, in recognition of their “arduous exertions in the service of the Crown”, Queen Victoria ordered that a pair of regimental Guidons be presented to the Corps. It was hoped that “so gratifying a mark of the Sovereign’s approval cannot fail to prove acceptable both to the officers and men of this useful and efficient corps” and that the issuing of the Guidons would “afford an encouragement to their full exertions and good conduct.”²⁰⁵

Given that respectability acts as a marker of difference and social worth, the assertion of respectability by those who are deemed in vertical terms to be unrespectable, can pose a threat to the status quo. A rich collection of studies have demonstrated how the assertion of Christianity by scores of colonial Khoesan during the early nineteenth century did just this.²⁰⁶ The spread of Christianity among so-called ‘heathens’ threatened to level a social playing field built upon racial inequality and exploitation.

The passage of the Caledon Code in 1809, along with subsequent judicial reforms, facilitated the emergence of a ‘Hottentot’ political identity that also functioned as an unlikely social leveller among a collection of identities that were subsumed under the label: San; Khoekhoe from a variety of formerly distinct polities; ‘Bastaards’ of mixed Khoekhoe and European provenance; ‘Bastaard-Hottentots’, who were usually born of slave fathers and Khoesan mothers; and ‘Bosjesman-Hottentots’, who were of apparent, partial San descent. The Caledon Code, more than any other piece of legislation before, created and solidified the category ‘Hottentot’. The Code established a far more comprehensive legal regime in relation to how Khoesan servants were to be treated, not only by masters, but also

²⁰⁴ Cannon, *History of the Cape Mounted Riflemen*, pp. 31.

²⁰⁵ Cannon, *History of the Cape Mounted Riflemen*, pp. 31.

²⁰⁶ Exemplary contributions to this field include, Elbourne, *Blood Ground*, pp. 378-380; & B. Krüger, *The Pear Tree Blossoms: The History of the Moravian Church in South Africa, 1737-1869* (Genadendal: Moravian Book Depot, 1966), pp. 295-298.

by the state. 'Hottentot' became a defined legal category recognised by the colonial state with the full sanction of its imperial overseers. In sum, 'Hottentots' became subjects of the British Crown. By reverting to the law, 'Hottentots' who had been denied the respect they believed they were entitled to as contracted labourers could reclaim a sense of self-worth and respect, and do so in the public domain.

II. Invoking Loyalism: The Caledon Code

The impetus for the introduction of new, more comprehensive labour laws stemmed from the imperial ideal to establish legal jurisdiction over colonial territories and their inhabitants, both settler and indigenous alike. The invention and implementation of imperial sovereignty was far from straightforward and was largely shaped by the internal dynamics of different colonial territories, although there were, of course, trans-colonial similarities. For example, one striking similarity that the Cape Colony shared with Australia was the contest between imperial sovereignty and settler sovereignty that began to emerge during the mid-nineteenth century. While the former sovereignty relates to the efforts of the Colonial Office to administer British colonial territories according to the political whims of those walking its corridors of power at the time, the latter sovereignty refers to the interests of the settler societies themselves and their ambitions to define their own system of governance.

Lisa Ford has argued that efforts to establish settler sovereignty were characteristic of "Anglophone settler politics around the globe" from the 1820s onward. Crucially, for this discussion, she suggests that a key feature of this settler-colonial enterprise was "the ordering of indigenous people in space."²⁰⁷ This was certainly the case in the Cape Colony; though settler attempts to order Khoesan 'space' - socially, politically and economically - continued to be vigorously challenged by the British and, importantly, by the Khoesan themselves. At the forefront of the local and trans-colonial debate concerning the proper place of indigenous peoples in settler societies were also numerous missionaries, representing a number of missionary societies. In the Cape Colony, the LMS and its

²⁰⁷ Ford, *Settler Sovereignty*, p. 1.

representatives were the most vocal supporters of Khoesan rights, already alluded to in Maynier's interactions with the missionaries Van der Kemp and Read.

Though they had been preceded by the Moravians, the arrival of the LMS at the Cape in 1799 was to prove a crucial turning point for Khoesan interactions with both the colonial state and the emerging Empire. The Directors of the Society had assured Governor Macartney when applying for permission to send missionaries to the Cape that "an essential principle in the constitution of [the] Society [was] to abstain from all consideration of a political nature" and that their missionaries intended "to carry on [their] spiritual labours in peace and quietness."²⁰⁸ This initial intention did not last long. By 1808, Van der Kemp, the LMS' superintendent at the Cape, along with Read, his young protégé, were calling for the British authorities to limit the power of the farmers over their Khoesan servants. The implications of this for the colonial administration will be discussed in more detail below.

During the first decade of the Second Occupation three pieces of legislation were enacted in order to establish the supremacy of imperial sovereignty over local, interpersonal relations. These were: the Caledon Code of 1809; the establishment of Circuit Courts in 1811; and the Apprenticeship Act of 1812. These legislative measures gave legal sanction to the jurisdiction of British sovereignty over the Khoesan and settlers. This did not mean that in effect imperial 'justice' was even-handed in its application towards the Khoesan and the settlers, however, in principle and ethos it was represented as being even-handed. While certainly an act of imposing European colonial measures on an indigenous people, this process was destructive of Khoesan natural rights even as it extended new rights based on the recognition of 'Hottentot' subjecthood.

For now, what follows is an analysis of how 'Hottentots' in the district of Graaff-Reinet made use of the new legal regime imposed on them by British imperial sovereignty, in the form of the Caledon Code, in order to manage the harsh realities of settler-colonialism. As will be seen, the outcomes were not always favourable for the 'Hottentot' plaintiffs. However, within the context of settler-colonialism, the new legal regime certainly facilitated Khoesan agency and provided for the amelioration of working conditions. Much depended upon the ways in which individual Khoesan

²⁰⁸ CA, BO 97, Directors of the LMS to Gov. Macartney, London, 4 Oct. 1798.

presented their grievances to the court and the strength of their testimonies and those of other witnesses. The system was not necessarily as biased towards the master class as would be assumed.

As such, colonial law actually created the prospect for 'Hottentots' to "distinguish between the ideals espoused by British imperial statesmen in London" and Cape Town, and the oppressive realities of the settler regime in the districts of the Colony.²⁰⁹ In this sense, the liberal ethos of empire "could seem a beacon of hope" compared to settler-colonialism. The court cases discussed below reveal fleeting glimpses of Khoesan lives. While the individual complainants tend to disappear after their court appearance, a wider, representative group experience of the possibilities for taking advantage of the tensions between British imperial sovereignty and settler-colonialism for the Khoesan does begin to emerge.

The Caledon Code in Effect in Graaff-Reinet

In the case of Lammert vs. Greyling, which was outlined at the beginning of this chapter, Greyling was not able to provide proof of his servant's contract of hire. This was in contravention of the Caledon Code. It required farmers who engaged 'Hottentots' in their service for the period of one month or longer, to enter into a written contract. The contract was to be agreed to by both parties before the local *landdrost* and had to stipulate remuneration and when it would be paid, along with other terms of employment. The farmer was required to provide the servant, as well as the servant's family, "with the necessaries of life", including lodging. The Code also declared that "no wine brandy or other spirituous liquors" were to be considered "as necessaries of life".²¹⁰

The Code was made up of sixteen articles in total. As noted, Articles One and Sixteen were the most destructive of the remaining remnants of Khoesan independence in the Colony. The related historiography has rightly argued that the Caledon Code sealed the fate of the Cape's indigenous population. They were legally transformed from Khoesan into 'Hottentots'. Yet, the Code also stipulated the limits

²⁰⁹ Etherington, 'Indigenous Southern Africans and Colonialism: Introduction', in Limb, et. al (eds.), *Grappling with the Beast*, p. 4.

²¹⁰ HCPP, No. 50, 1835, *Proclamations and Ordinance Issued Relative to the Hottentots*, p. 165.

of the rights of masters over their 'Hottentot' servants, along with their legal obligations as employers. In this sense, the Code attempted to transform the farmers from masters to employers.

Two of the articles afforded 'Hottentots' legal recourse in the event that their masters did not fulfil their responsibilities towards them or if they were unfairly treated. Article Five stated:

*That the master shall be obliged to pay the wages agreed for strictly on the periods mentioned in the agreement; and that in case of neglect, upon the Hottentot's lodging a complaint, the case shall be tried by... the board of the respective landdrosts and heemraaden, which board, upon a summary investigation, shall administer justice, and in case the complaint is well founded, the master shall not only be obliged to pay his servant his wages, but shall over and above forfeit all claim to the further fulfilment of the contract [...]*²¹¹

Article Six meanwhile addressed the issue of unjust punishment. It declared that:

*[...] all cases in which a Hottentot lodges a complaint against his master for ill treatment; when if upon a summary investigation the fact be found true, the Hottentot shall be discharged from his service, and the master be fined [...] according to the nature of the ill treatment [...]*²¹²

These two clauses affirmed that as subjects of the Crown, 'Hottentots' were entitled to a measure of racial equality before the courts. When 'Hottentot' litigants met with success, word would have spread among fellow farm workers and travelled along family and kinship networks. The movement of 'Hottentots' as wagon-drivers between Graaff-Reinet district and other commercial hubs, such as

²¹¹ HCPP, No. 50, 1835, *Proclamations and Ordinances Issued Relative to Hottentots*, p. 165.

²¹² HCPP, No. 50, 1835, *Proclamations and Ordinances Issued Relative to Hottentots*, p. 165.

Cape Town and Algoa Bay would have also facilitated information exchanges. With this in mind, it is worthwhile delving into a few cases.

On 8 November 1811, the 'Hottentot' labourer Claas appeared before the *landdrost* and *heemraaden* of Graaff-Reinet. Claas had lodged a complaint of abuse against his master, Hendrik Davel, and wished to be released from all further duties as a result. In a demonstration of the widely accepted right to inflict physical punishment upon their 'Hottentot' servants, Davel admitted to this; even acknowledging the severity of the beating he inflicted on Claas. This, however, he believed was justifiable, as Claas had been insubordinate and "tempted him" too many times. Though the particulars of this are not apparent from the court records, Davel nonetheless claimed that Claas "had got the better" of him, the master, and so it was necessary to discipline him in a harsh manner.

Upon first laying the complaint on 10 October 1811, Claas had been examined by the District Surgeon, whose report was read out during the hearing, confirming that he had been severely beaten. Together with the District Surgeon's report and Davel's confession, the *landdrost* and *heemraaden* condemned Davel for his actions under the authority and jurisdiction of "His Great British Majesty George the Third, under article 6 of the proclamation sub dato the 1st November 1809." Davel was fined 30 Rixdollars and he was also required to cover the District Surgeon's fees, which came to sixty Rixdollars. In addition, Davel was found liable for the payment of the court fees. The court ruled that Claas was to be dismissed from Davel's service in accordance with article five of the Caledon Code.²¹³

In another hearing at the *drostdy* of Graaff-Reinet, held on 4 December 1813, a similar case appeared before the *landdrost* and *heemraaden*. Boebesak Dikkop, a 'Hottentot' herder in the service of Dirk Jacobus Coetzee, was present to complain about the beatings he had received at the hands of his master; beatings which he argued had been too severe and amounted to abuse. According to Dikkop, he was punished following an argument with Coetzee over missing sheep. Upon being questioned about the matter by his master, Dikkop allegedly answered that Coetzee had not provided him with gunpowder and bullets for the rifle and as such, he was not sufficiently equipped to defend himself and the sheep in the *veld*. Coetzee

²¹³ CA, 1/GR 14/11, Case Register: Feb. to Dec. 1811, case no. 30, Claas vs. Hendrik Davel, 8 Nov. 1811.

regarded this response as irrelevant and insubordinate. In his defence, Coetzee claimed that Dikkop had provoked him and that he no other choice but to punish him. Going on nothing more than the testimonies of the two witnesses, the master and the servant, the court decided to condemn Coetzee “in the name of His Majesty George the Third” according to section six of the Caledon Code. He was fined 20 Rixdollars and Dikkop was released from his service.²¹⁴

While the sums of the fines issued were trifling, that individual Khoesan could have their complaints heard before the district court and have their contracts cancelled and be released from their services to abusive masters is significant, especially given the prevailing settler mentality in a slave society: that in order to maintain discipline and order on the farmstead, violence towards slaves and servants alike was not only permissible, but necessary. The cases analysed here reveal the complexities of the ‘Hottentot’ labour system in the Colony amidst the imposition of a new, imperially inspired legal regime, the ideals of which were not full proof when it came to implementation, but that in certain cases did provide reprieve. Indeed, this discussion in no way suggests that ‘Hottentot’ grievances were always met with redress. What is worth noting, however, is that the courts were clearly being regarded by numerous ‘Hottentots’ in the district of Graaff-Reinet, and certainly other districts too, as potentially liberating, in spite of frequent disappointments.

For example, on 11 August 1810, Knuppel accused his master, Hendrik Lodewyk Momberg, of having forcefully made him drunk, thereafter hitting and wounding him. Upon examination of his wound, the District Surgeon concluded that Knuppel had actually fallen and hurt himself, probably while intoxicated. Momberg was found to have been without blame and Knuppel was held responsible for covering the costs of the court case. This outcome, however, did not prevent Knuppel from appearing in court again, this time three months later, on 13 November 1810. This time he complained that Momberg had beaten him with a *knob-kirrie* while he had been drunk and that Momberg did not provide him with sufficient, decent food. Interestingly, Knuppel also protested at the punishment his wife, who was a maid of another farmer, Barend Flotman, received for allowing

²¹⁴ CA, 1/GR 14/13, Case Register: Nov. 1813 to Oct. 1814, case no. 3, Boebesak Dikkop vs. Dirk Jacobus Coetzee, 4 Dec. 1813.

Momberg and Flotman's sheep to get mixed up. It appears that Knuppel's wife, who remained unnamed in the court records, did not want to press charges, but that Knuppel insisted. In the end, the court again found in Momberg's favour and ordered that Knuppel was to receive forty lashes and again pay for the costs of the hearing.²¹⁵ In another case, heard on 11 December 1810, Jacob, a 'Bushman' boy, was to be left equally disappointed in the outcome of his case. His complaint was against his master, Guilliam Johan Oberholzer, who, he claimed, had not paid him for the work he had done. In responding to the charge, Oberholzer admitted to the court that Jacob was indeed a 'Bushman' and that he had been "brought from [a] Bosjesmens *kraal*" and that he had raised him from childhood.²¹⁶ Oberholzer claimed that Jacob was compelled to serve him until he was 25 years of age and that he had been giving him a salary for the previous two years, amounting to four sheep. Estimating his age to have been sixteen or seventeen years at the time, the court ruled that Jacob still had to work seven consecutive years for Oberholzer. The court also instructed Oberholzer to ensure that at the end of each year, Jacob was engaged in a new hire contract.²¹⁷ Though Jacob was identified as a 'Bushman' in the court records, his status was conflated with the Colony's 'Bastaard-Hottentots'. Usually born of slaves fathers and Khoekhoe mothers, 'Bastaard-Hottentots' could be legally indentured until the age of 25.²¹⁸

For the time being, the children of Khoekhoe parents could not be indentured as they were considered free. This was to change in April 1812, when Cradock introduced a law to regulate the indenturing of 'Hottentot' children.²¹⁹ The Apprenticeship Act, as it was called, allowed farmers to indenture those children of their 'Hottentot' servants who had reached the age of eight for a further ten years,

²¹⁵ CA, 1/GR, 14/11, Case Register: Feb. to Dec. 1810, cases no. 11 & 20, Knuppel vs. Hendrik Lodewyk Momberg, 11 Aug. & 13 Nov. 1810.

²¹⁶ The incorporation of 'Bushmen' into the settler economy as 'Hottentot' servants will be discussed in detail in Chapter Two.

²¹⁷ CA, 1/GR 14/11, Case Register: Feb. to Dec. 1810, case no. 25, Jacob vs. Guilliam Johan Oberholzer, 11 Dec. 1810.

²¹⁸ It is apparent that prior to Cradock's Apprenticeship Act, 'Hottentot' children were deliberately conflated with 'Bastaard-Hottentot' children so that farmers could indenture them. See for example, CA, A 559, Vol. 3, Letters received and despatched, Bethelsdorp, J. Read, Jul. 1812.

²¹⁹ HCPP, No. 50, 1835, *Proclamations and Ordinances Issued Relative to Hottentots*, pp. 166-168.

until they turned 18. The measure was intended to provide an additional source of labour for the farmers who constantly complained about the short supply. It served to tie down whole families for extended periods of time, as parents were disinclined to leave a master who was legally entitled to the service of their offspring.²²⁰ The Act also gave legal sanction to a common practice on settler farms. This was indicated by the Act's retrospective scope; any 'Hottentot' children "antecedently born, while the parent was in the service of or residing with any farmer [...] and maintained by such" were to be apprenticed when they turned eight, in accordance with the new law.²²¹

The Apprenticeship Act also contributed to a greater legal blurring of the distinction between 'Hottentots' and 'Bastaard-Hottentots'. Indeed, Cradock's new measure did not only address the pressing issue of formalising child labour, it was also concerned with establishing how many 'Hottentots' fell under imperial jurisdiction. The first clause of the Act stipulated that in the return of the annual *opgaaf*, the boards of *landdrosts* and *heemraaden* were to include details "of all Hottentot institutions, *kraals* and detached dwellings" within their respective districts, "specifying the situation of such residences, the number of families dwelling at each place, and the number of individuals in each family". In addition, the new law advised that 'Bastaard-Hottentots' were to be included in the enumeration, "as in the case of Hottentots".²²²

The courts of the *landdrost* and *heemraaden*, which now operated under the direction of the British administration, were being recognised as public arenas where the interpersonal disputes between servants and their masters could be regulated and mediated.²²³ A remarkable view of this emerges in simply recounting the numbers of cases of complaint between 'Hottentots' and their masters which appeared before the court at Graaff-Reinet in the years subsequent to the Caledon

²²⁰ Elphick & Malherbe, 'The Khoisan to 1828', in Elphick & Giliomee (eds.), *The Shaping of South African Society*, p. 41.

²²¹ HCPP, No. 50, 1835, *Proclamations and Ordinances Issued Relative to Hottentots*, p. 167.

²²² HCPP, No. 50, 1835, *Proclamations and Ordinances Issued Relative to Hottentots*, p. 167.

²²³ CA, Court of Justice (hereafter, CJ) 3446, Reports of the Commissions of Circuit to Governors J. Cradock & C. Somerset, 1813-1814.

Code. From 1810 to 1814, the *landdrost* and *heemraaden* presided over, on average, 32 cases of complaint between 'Hottentots' and settlers per year.

The overwhelming majority of these cases involved complaints made by 'Hottentots' against masters. In fact, for the period from February 1810 to September 1812, all 89 cases that appeared before the court were brought by 'Hottentots' against their masters. From September 1812 onward, cases of complaint by masters against their servants began to appear, but these remained in the minority. Remarkably, between December 1814 and September 1815, 142 cases were heard. This dramatic increase in the number of cases continued in the following year, during which time 124 cases were tried, and between October 1816 and September 1817, 147 cases appeared before the court.²²⁴

In a number of cases, 'Hottentot' labourers deftly used the new legal regime to secure better payment, even though they remained in the service of the same master. This was evident in Jurgen Minnie's case for example. On 19 March 1811, Minnie appeared at the *drostdy* to query the expiration of his contract. Pieter Oberholzer, the master in question, did not want to dismiss Minnie, but wanted him to serve another year. Minnie, having no other complaints about his treatment by Oberholzer undertook "out of his own free will" to serve for another year. However, by bringing the case before the court, Minnie secured public recognition for the terms of payment. Oberholzer agreed, at the end of the year's service, to pay Minnie twelve sheep, one jacket and a shirt, and for Minnie's wife, a new set of clothes, including a dress. It seems that Jurgen Minnie placed emphasis on his demand for the set of clothes to be new, for Oberholzer assured the court that he would, if needs be, arrange it through a farmer he knew who resided near Cape Town.²²⁵

²²⁴ CA, 1/GR 14/11 to 14/14, Cases between 'Hottentots' & Inhabitants, Case Registers: Feb. 1810 to Sep. 1818.

²²⁵ CA, 1/GR 14/11, Case Register: Feb. to Dec. 1811, case no. 4, Jurgen Minnie vs. Pieter Oberholzer, 19 Mar. 1811.

III. Cradock's Judicial Reforms and the Making of 'Hottentot' Subjects

The passage of the Caledon Code was soon after followed by a colonial scandal. For several years, the missionaries Van der Kemp and Read had been collecting testimonies of cruel treatment meted out to Khoesan who had fled to their mission station at Bethelsdorp, near Algoa Bay. James Read was to become one of the most influential, and controversial, figures of the LMS at the Cape. As an ardent supporter of 'Hottentot' rights, many of his views were deemed radical and provocative by Cape settlers and various colonial officials, including a few Governors. Nonetheless, Read was a staunch loyalist and he believed that the local authorities in Cape Town could be petitioned to protect the 'Hottentots' against settler-colonial excesses. If this didn't produce the desired outcome, Read never shied away from imploring the humanitarian network in the United Kingdom to put pressure on the Colonial Office to compel the Cape Town officials to act.

Read was familiar with the unsavoury portrayals of the Boers in the travel accounts of former explorers of the Cape, such as Francois Le Vaillant and John Barrow. He invoked these representations in his own appeals to the LMS Directors, noting that while previous Governors such as Dundas and Janssens had been aware of the cruelties inflicted on the 'Hottentots', they had been "limited in what they could do" not having "enough time to effect real change." In addition, Read was also concerned that the British Government at the Cape was "making the colonists their friends."²²⁶

While at Bethelsdorp in August 1808, Read wrote about the ongoing plight of the 'Hottentots' and how he hoped that the colonial administration would undertake to address their alarming circumstances:

The poor Hottentots continue to be a suffering and a [sic] oppressed people, not by the Government at the Cape; on the contrary their pacific and liberal conduct is highly to be praised, and we doubt not if the Governor knew of the horrid crimes committed in the distant Districts,

²²⁶ SOAS, CWM, Incoming Correspondence, South Africa, 4/1/D, J. Read to Directors of the LMS, Bethelsdorp, 7 Nov. 1809.

*measures would be taken to restrain them [...] that our Government may be an instrument to use active means to discover and punish those crimes [...]*²²⁷

The testimonies Van der Kemp and Read collected told of horrific abuse and even the murder of 'Hottentots' by their European masters. These allegations made their way to Britain, where they were widely circulated by the evangelical-humanitarian network and printed in the LMS' official publication, *Transactions of the Missionary Society*.²²⁸ They eventually found their way to the Colonial Office in London. The allegations were then forwarded to the new Governor of the Cape, John Cradock, who had been appointed in 1811, with directives to investigate the claims and to take the necessary action. These instructions arrived just months after circuit courts had first been introduced to the Colony in 1811, to ensure adherence to the new legal regime in the more remote and distant parts of the Colony.²²⁹ Cradock had also found it necessary to despatch a commission to the frontier districts in order to investigate the operation of the law and come up with suggestions on how to improve the judicial administration of the Colony. The Commission for Administering Justice in the Country Districts advised Cradock that:

*[...] in future, inquests [...] should be made in the presence of commissioned Heemraaden [sic] or otherwise in the presence of the Field Cornet and witnesses, and that all those acts should be inserted in a Book [...] the same manner as is customary in Cape Town.*²³⁰

The Commissioners wanted to see judicial practice in the distant districts brought in line with standard procedure in Cape Town. In light of this recommendation, Cradock thought it necessary to convey his sentiments with

²²⁷ CA, CJ 3447, J. Read, Bethelsdorp, 30 Aug. 1808.

²²⁸ I.H. Enklaar, *Life and Work of Dr. J. Th. van der Kemp, 1747-1811: Missionary Pioneer and Protagonist of Racial Equality in South Africa* (Cape Town: Balkema, 1988), p. 181.

²²⁹ CA, Colonial Office (hereafter, CO), 5881, Proclamations for Country Districts, 16 May 1811.

²³⁰ National Archives, United Kingdom (hereafter, NA), Colonial Office (hereafter, CO), 48/13, Report of the Commission for Administering Justice in the Country Districts, 28 Feb. 1812, p. 318.

regards to the implementation of justice in the Colony to several *landdrosts*, including the *landdrost* of Graaff-Reinet. In a communiqué on 20 April 1812 he asserted:

*We are to bear in view, in that the dispensation of Justice, no distinction is to be admitted – whether the Complaint arise with the Man of wealth, or the poor Man, the Master, or the slave, the Christian or the Hottentot [...] I am desirous to impress, that it is not to the greater crimes, I so much point your attention [...] as it is to the lesser description of offences, which, from their obscurity and supposed insignificance, escape observation and punishment. To these I anxiously request your unceasing vigilance and prevention.*²³¹

Just five months later, in September 1812, Cradock despatched a Court of Circuit to the eastern districts to investigate the accusations made by Van der Kemp and Read. He believed that a “rigid inquiry upon subjects of so serious and interesting a nature to humanity and the character of [the] Colony and its Government” was absolutely necessary.²³² The consequent Court of Circuit became known as the ‘Black Circuit’ among the eastern settlers. In the end, many of the allegations were found to be without basis. A handful of farmers were found guilty and fined paltry sums. Still, the ‘Black Circuit’ put a way of life on trial and required whole communities with many notables among them to defend it. Over one thousand witnesses appeared before the judges to give evidence in cases ranging from murder to violence towards servants and slaves, as well as the unlawful detention of children and livestock. Although the outcome proved to be a bitter disappointment for the LMS, “Cradock’s government had shown its willingness to take allegations of cruelty” against the Khoesan “very seriously”.²³³ The ‘Black

²³¹ Quoted in N. Penn, ‘The Onder Bokkeveld Ear Atrocity’, *Kronos: Journal of Cape History*, 31, 2005, p. 84.

²³² NA, CO 48/13, Governor Cradock to Earl of Liverpool, Cape Town, 27 Jan. 1812.

²³³ Penn, ‘The Onder Bokkeveld Ear Atrocity’, p. 83. The ‘Black Circuit’ became a defining moment in the history of tensions between the Cape’s Dutch inhabitants and the British. It was ‘rediscovered’ in the late nineteenth century and incorporated into Afrikaner nationalist narratives.

Circuit' also provided the LMS with the means to press home the point among their metropolitan supporters that the Boers were not to be trusted in their dealings with the Cape's *indigenes* and imperial oversight was necessary to check wanton cruelty.²³⁴ Though the 'Black Circuit' focused on complaints emanating from the Eastern Cape, news of its proceedings spread across the Colony. The incident marked the most public intervention of the imperial state in the Colony's labour relations to date.

It is apparent that Cradock regarded the fair treatment of all the Cape Colony's subjects, under the auspices of British imperial sovereignty and jurisdiction, as a modernising and enlightening force.²³⁵ His personal duty as Governor was "to follow the instructions [he had] received from His Majesty's Government" and ensure "equal justice" and "equal protection" were extended to all classes in the Colony.²³⁶ The *landdrost* of Graaff-Reinet expressed similar sentiments in early 1817 while overseeing a case of excessive abuse against two brothers, Nicolaas Johannes and Pieter Willem van der Westhuizen.

They were both accused of "extreme abuse" of the 'Bushman-Hottentot' Klaas, who died shortly after being severely whipped with a *sjambok*. In introducing the case to the court, the *landdrost* emphasised the nature of the abuse and "the reflection [this bore] on the community and the general regression of humanity regarding the laws of the Bible and the general code of conduct between people of different classes", asserting before the court that "all classes have equal claim to justice".²³⁷ Cradock may have inherited the legal measures introduced by his predecessor, Caledon, but along with the introduction of the Circuit Courts, his tenure as Governor marked a significant period in a longer historical trajectory of Khoesan interactions with British imperial sovereignty and subjecthood. Contained in pieces of legislation such as the Caledon Code, which was typically colonial in that it contained inherently oppressive measures to be expected in the act of imposing

²³⁴ See the discussion by Streak, *The Afrikaner as Viewed by the English*, p. 60.

²³⁵ For example, Theal, *Records of the Cape Colony*, Vol. 10, pp. 1-5.

²³⁶ NA, CO 48/13, Governor Cradock to *Landdrosts*, Cape Town, 20 Apr. 1812

²³⁷ CA, Miscellaneous Documents (hereafter, M) 3(i), Criminal case, Graaff-Reinet, State vs. Van der Westhuizen.

external power on a colonised people, there were also legal measures which set British imperial sovereignty apart from settler-colonialism for the Cape's 'Hottentot' proletariat. For the Khoesan, these measures communicated the British government's intentions, however idealistic, to extend jurisdiction over them and their masters, and protect them from the excesses of settler-colonialism. The possibilities of the new legal regime captured the imagination of numerous 'Hottentots' who believed it was worth their while to seek redress.

It is intriguing to note the strategic choices made by various Khoesan in laying complaints against their masters and how they weighed up their options and prospects of success when it came to seeking legal redress. For example, when Swartbooi Dragonder lodged a complaint against Christoffel Botha Senior in March 1813, he arrived in Graaff-Reinet with a pass issued to him by the *landdrost* of Uitenhage, the neighbouring district to the south. Having been born and raised in a 'Hottentot' *kraal* near the Sunday's River, Dragonder entered colonial service in Graaff-Reinet with his parents and siblings. When his parents died, he absconded to the 'Hottentot' *kraal* of Captain Rondganger, at Grootvaders Bosch, in the district of Swellendam. It was while he was at this *kraal* that he was hired by Theunis Botha, the brother of the defendant, for an expedition to the Cape as a "losse osse jager", literally a "loose oxen catcher". It was during this time that Dragonder came to acquire a sizeable holding of livestock: some 31 cattle and approximately 200 sheep. He complained to the court that his livestock was being withheld from him by Botha even though he had left his service.

However, rather than laying the complaint with the *drostdy* in Graaff-Reinet, he fled to Uitenhage, because he believed that the *landdrost* of Uitenhage was "of more importance" than the *landdrost* of Graaff-Reinet and would offer him better assistance in getting his livestock back.²³⁸ He also stated that at the time he wanted to lodge the complaint, he had heard of the murder of six 'Hottentots' in the Graaff-Reinet district and that a local farmer, Abram Greyling (who appeared earlier in the

²³⁸ The *landdrost* of Uitenhage at the time was Jacob Glen Cuyler, an American of Dutch descent. Cuyler was appointed *landdrost* of Uitenhage in 1806 and retired from the post in 1827. The missionaries at Bethelsdorp often complained about Cuyler and they maintained a tense and sometimes openly hostile relationship with him. Cuyler was certainly no friend of the missionaries and he regarded missions as safe havens for vagrants, preventing local farmers from acquiring much-needed labour. For more on Cuyler and his interactions with Johannes Van der Kemp and James Read in particular, see Mostert, *Frontiers*, pp. 343-345.

case between himself and Lammert) had said to him: “Wait, let the people gather today, then you will see what will happen to you.” Dragoner declared that this frightened him and that he feared he would be persecuted even further for complaining.²³⁹

Settler intimidation certainly would have dissuaded scores of ‘Hottentots’ from seeking justice for their grievances. In the case of Swartbooij Dragoner, he initially sought redress at a distant *drostdy*, believing the *landdrost* there to be more influential – perhaps Dragoner assumed that the distance between the two *drostdies* would mean that the *landdrost* of Uitenhage would not be influenced by local Graaff-Reinet notables such as Greyling. The case of *landdrost* Paul Mare against the ‘Hottentots’ Jacob Snel, Europa and Catjou, which was heard on 19 June 1813 in the *drostdy* at Graaff-Reinet, illuminates these themes further.

The exchanges between the three defendants leading up to their arrest for horse theft, which they recounted in their testimonies before the court, reveal some of the intriguing perceptions they held of British imperial sovereignty. Jacob Snel had recently acquired a pass to go seek work with his former master, the butcher C.F. Heerer. On his way to Heerer’s place, Snel made a detour to a neighbouring farm to collect some of his belongings, suggesting that he may have worked on that farm at some point as well. It was then that he met Europa and Catjou. Europa had escaped from the prison at Graaff-Reinet where he had been held for malpractice, while Catjou had absconded from the service of Frederik Wilhelm Zagaenaer.

Catjou had intended to lay a complaint against his master, but he stayed in the *veld* for some time before doing so. It was while he was lingering in the *veld* that he first met Europa, who was also hiding out, avoiding re-arrest. Europa is said to have inquired as to where Catjou was headed. To this Catjou replied, “I am going to Graaff-Reinet to the Lord Fischer [the *landdrost*] to lay a complaint against my boss.” In response, Europa said his trip would be of little use and that he could easily end up getting a beating instead. Rather, Europa suggested that they should travel together to the Cape. It was around this time that Snel came upon them. Snel advised Europa to get a pass from the *landdrost* in order to make his way to the Cape. Of course this was not possible for Europa, as he had escaped from the *drostdy*.

²³⁹ CA, 1/GR 14/11, Case Register: Sep. 1812 to Aug. 1813, case no. 30, Swartbooij Dragoner vs. Christoffel Botha Senior, 29 Mar. 1813.

In his testimony, Catjou relayed Snel's response to him when he informed Snel of his intention to go complain to "Lord Fischer"; he said "I should rather go with him to the Cape where he will show me a better Lord to complain to".²⁴⁰ This final comment harks back to the sentiments expressed by Klaas Stuurman and his followers during the 'Hottentot' rebellion at the turn of the century. At that time, they wished to visit the "English general" at Algoa Bay to lay their grievances before him. British imperial sovereignty within the Cape colonial setting came to be regarded by numerous Khoesan as holding out prospects for protection and legal redress. In the case of Snel, it would seem that he was disillusioned with the *landdrost* of Graaff-Reinet, perhaps for some prior disappointing engagement of his own with the court, or due to the accounts of other Khoesan. Still, he was able to persuade Catjou and Europa that the justice they were seeking was to be found in Cape Town; the "better Lord" to which he referred was no doubt a reference to Governor Cradock.

Similarly, in the case of Baldik, Platje and Mauritz Erasmus versus Willem Jacobus van der Merwe, all three 'Hottentot' plaintiffs missed their court date on 27 November 1814 and were instead found making their way towards Cape Town. The case was eventually heard on 5 December. It was revealed that Mauritz Erasmus had actually been born on van der Merwe's farm and that he had grown up there. Van der Merwe explained that Erasmus "had received a salary many years and received livestock which [were] with his parents, who [were] still in his service and living with him". It is not clear whether Baldik and Platje had also been born and raised on the farm. Still, the three complained that van der Merwe refused to release them on 15 September from his service even though their contracts expired on that day. In fact, this wasn't the case.

Mauritz's contract was to expire on 25 September, while the contracts of Baldik and Platje were to expire on 27 November. Clearly having mistaken the terms of service in their contracts, the three had approached van der Merwe requesting passes seeing "according to them that their contract time had expired". Van der Merwe explained that he refused to issue them passes, but "gave them the freedom" to find out for themselves from the local field cornet whether their contracts had

²⁴⁰ CA, 1/GR 14/11, Case Register: Sep. 1812 to Aug. 1813, case no. 34, Landdrost Paul Mare vs. Jacob Snel, Europa & Catjou, 19 Jun. 1813.

lapsed or not. It was then that the three began to make their way to Cape Town. Again, as in the case above, Cape Town had become imagined as a place where British justice could be sought should it not prove to be at hand in the distant *drostdy* of Graaff-Reinet. In the end, the court ruled in favour of van der Merwe, and Baldik, Platje and Mauritz Erasmus were ordered to see out the term of their contracts.²⁴¹

IV. The Local and the Imperial: Re-prioritising Resistance

While it is recognised that the judicial system could be quite harsh on ‘Hottentots’ who overestimated the legal recourse they were entitled to, the examples from Graaff-Reinet district show that many cases were found in their favour. Khoesan individuals sought legal intervention and appeasement for an array of grievances. These ranged from non-payment to the provision of poor food, from salary disputes to unfair contract terms, from working on Sundays to abusive punishment. Some took up matters on the behalf of relatives, while others went to the court to test the legality of their contracts.

Some were specific in their terms of remuneration and enlisted the court’s acknowledgement of those terms to ensure follow-through on the part of their masters. Some even sought legal recourse for incidents of punishment which they deemed unwarranted many years earlier; in one case, heard before the court in 1813, the plaintiff wanted to recover livestock which had been denied to him by a former master in 1805, eight years earlier. James Read had likewise included an example of an atrocity committed against ‘Hottentots’ in his 1808 letter that had, in fact, occurred several years earlier. This related to the murder of a ‘Hottentot’ man along with his wife and child by a “savage Boer” that he had been “lately assured of”.²⁴² Upon investigation, the *landdrost* of Uitenhage, Jacob Cuyler, found the murders in question had actually occurred six years earlier.²⁴³

²⁴¹ CA, 1/GR 14/13, Case Register: Dec. 1814 to Sep. 1815, pp. 1-3, Baldik, Platje & Mauritz Erasmus vs. Willem Jacobus van der Merwe, 5 Dec. 1814.

²⁴² CA, CJ 3447, J. Read, Bethelsdorp, 30 Aug. 1808.

²⁴³ NA, CO 48/13, J. Cuyler to Governor Caledon, Uitenhage, 25 Oct. 1810.

These cases of complaint heard at the *drostdy* in Graaff-Reinet in the years following the Caledon Code show how 'Hottentots' responded to being British colonial subjects, over whom British imperial jurisdiction extended, just as it did the master class. An analysis of the effects of the Caledon Code upon the master-servant relationship reveals the contradictions inherent in British imperialism within the contexts of settler societies. There existed a tension between British imperial strategies of making the Colony economically viable and able to pay its own way, while also establishing British sovereignty as a morally legitimate authority in the eyes of both the settler and *indigene*; what John Lonsdale and Bruce Berman have called "the contradiction between the policy objectives of economy and morality."²⁴⁴ Settler capitalism was supported and encouraged, while also seeking to replace labour coercion with labour consent, and in doing so, the imperial state inadvertently created a paradox.

Collectively, the individual acts of resistance on the part of various Graaff-Reinet 'Hottentots' amounted to the articulation of discontent within the legal constraints of imperial jurisdiction. While there did not exist a broader, more coherent language of resistance as subjects at the time, this would eventually emerge in the late 1820s and 1830s in the aftermath of new, more liberal legislation. While only those Khoesan who had tied themselves to missions would have acquired a degree of literacy by this time, it is apparent that many were knowledgeable of the rights they were entitled to.²⁴⁵ Others clearly overestimated their legal entitlements, which could be put down to rumour and speculation. Still, missions and farms were connected by individuals moving between the two at regular intervals. News of the legal avenues open to them would have been carried along familial networks in the towns and countryside.²⁴⁶

As the British at the Cape endeavoured to perform a delicate balancing act reforming the old order while simultaneously ensuring a steady and reliable supply

²⁴⁴ J. Lonsdale & B. Berman, "Coping with the Contradictions: The Development of the Colonial State in Kenya, 1895-1914", *Journal of African History*, 20 (4), 1979, 492.

²⁴⁵ For a comparative analysis of the flow of information and ideas in colonial settings in spite of widespread illiteracy, see C.A. Bayly, *Empire and Information: Intelligence Gathering and Social Communication in India, 1780-1870* (Cambridge: Cambridge University Press, 1996), Introduction.

²⁴⁶ CA, CO 3896/81, Correspondence and memorials, Bethelsdorp, J. Campbell, 6 Apr. 1813.

of labour, Khoesan found room for manoeuvre and for seeking fairer treatment.²⁴⁷ A number of significant themes emerge from the cases that appeared before the Graaff-Reinet *landdrost* and *heemraaden* in the years following the introduction of the Caledon Code.

Firstly, numerous servants in a remote frontier district of the Cape were aware of the new law and the legal recourse it afforded them. While Khoesan servants had been allowed to lay complaints against their masters during the *VOC* era, those cases that did make it court often involved excessive physical violence.²⁴⁸ The Caledon Code, in contrast, spelled out very clear guidelines concerning the drawing up of contracts, the provision of clothing and shelter, and remuneration. Grievances pertaining to these matters of employment now came under the purview of the colonial state to a far greater extent than before. It follows that 'Hottentot' servants understood the transcendental nature of power at the Cape in the aftermath of the more permanent Second British Occupation.

The authority of the local *landdrost* and *heemraaden* was superseded by that of Cape Town and in turn, London. The colonial state was not easily defined, as the established officials remained in place. However, the imposition of the British colonial state on the settler-colonial order presented an opportunity for 'Hottentots' to appeal to a higher, more senior authority. The extent to which the imperial state could disrupt the settler-colonial social order, even if only temporarily, was made abundantly clear by the 'Black Circuit' and the Slagter's Nek Rebellion.

Secondly, the cases discussed above illustrate that scores of 'Hottentot' servants in Graaff-Reinet district were prepared to manage their living and working conditions via the law. This could only have stemmed from an understanding of the law and its implications. It is apparent that some individuals misunderstood the law, but many others were able to use certain clauses of the Caledon Code to their advantage. As such, some servants re-prioritised their resistance in favour of pursuing legal channels of redress. Other modes of resistance no doubt continued to

²⁴⁷ This approach by the British at the Cape was in keeping with a more general trend. When large numbers of European settlers arrived before the establishment of colonial sovereignty, settler practices often endured long after the formal exercise of colonial government. See S. Banner, *Possessing the Pacific: Land, Settlers, and Indigenous People from Australia to Alaska* (Cambridge, Massachusetts & London, England: Harvard University Press, 2007), pp. 316-318.

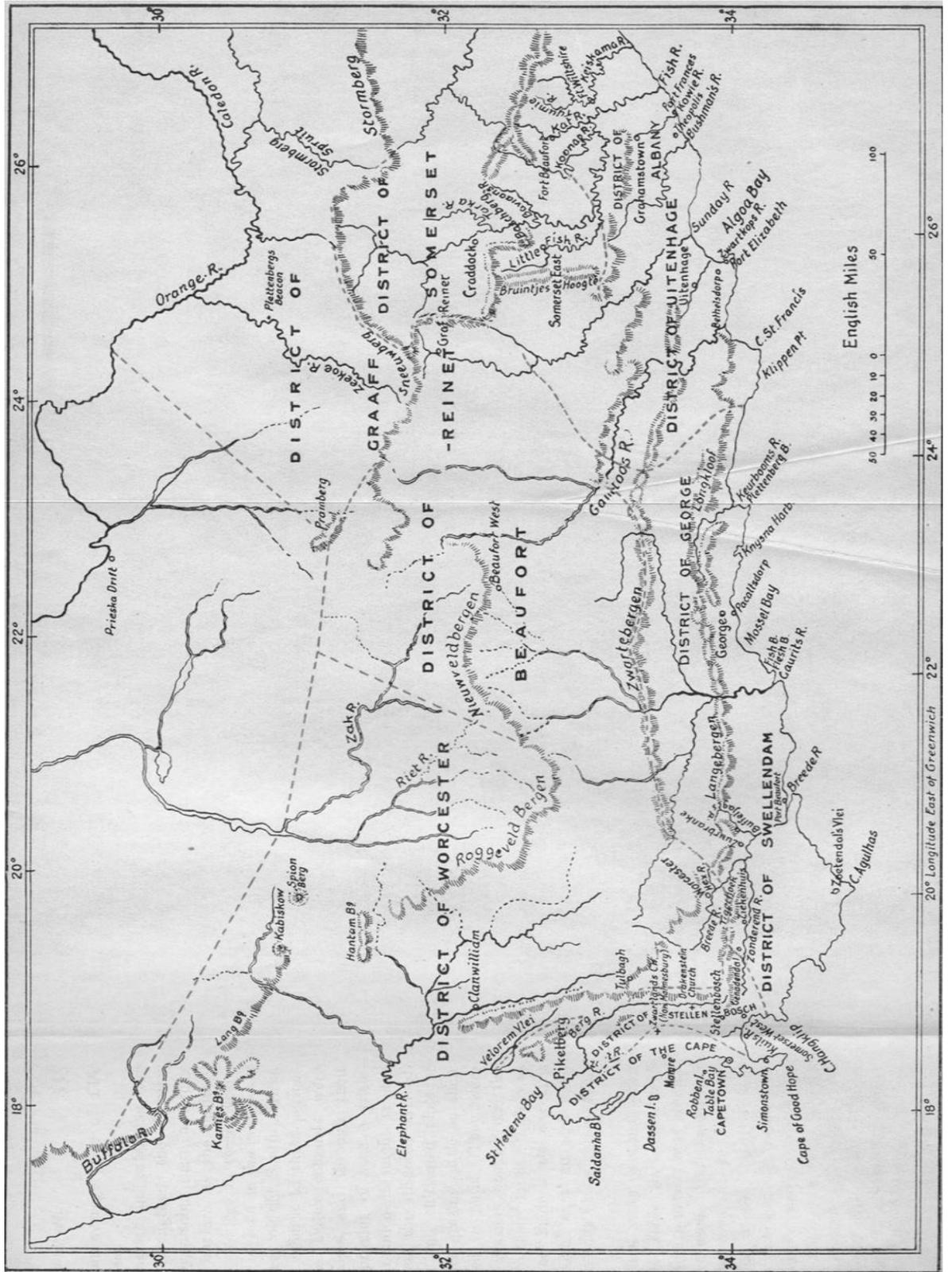
²⁴⁸ Ross, 'The Changing Legal Position of the Khoisan', in *Beyond the Pale*, pp. 174-178.

occur, such as desertion and arson. Nonetheless, the law became an important means of resistance.

This is significant, as it signalled the complainants' acceptance of their legally defined place in colonial society. 'Hottentot' status was codified in legal terms by the Caledon Code. As such, it constituted a noteworthy moment of invention of 'Hottentot' identity in the early nineteenth century. While the coercive clauses of the Code have been rightly discussed at length by a variety of scholars, the degree to which the Code influenced the emergence of a 'Hottentot' civic identity has been neglected.²⁴⁹ The Caledon Code instituted legal entitlements for 'Hottentots', even as it sealed their status as dispossessed labourers. Most importantly, the Code confirmed their status as British subjects. This leads on to the third theme which emerges from this period.

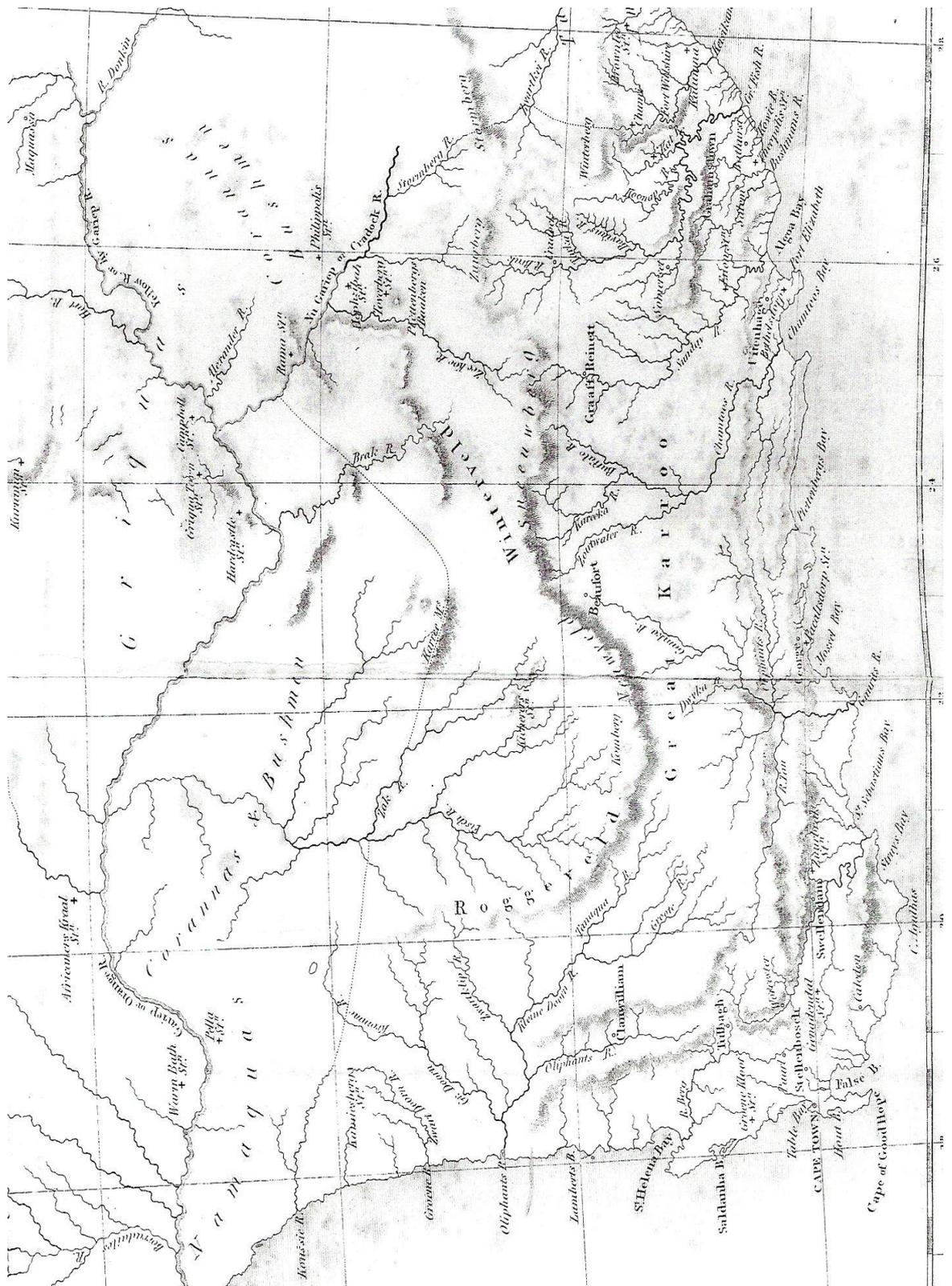
In intriguing and perhaps unexpected ways, colonial law acted as a conduit of 'Hottentot' loyalism to Britain and 'Britishness', though arguably to a limited degree at this time. It did so by extending imperial jurisdiction over all colonial Khoesan and defining 'Hottentots' as subjects of the Crown with narrow legal rights. The Caledon Code outlined the state's expectations of both masters and servants and as a result, indicated which grievances were legally legitimate and which were not and what the lawful punishments were. For those 'Hottentot' servants who were familiar with the Code, it became the guide to their resistance. When they were successful in having their complaints addressed and remedied, 'justice' was handed down in the name of the British monarch. The Caledon Code made them aware of their imperial subjecthood as it simultaneously portrayed the imperial state in an interventionist and protectionist guise. 'Hottentot' civic identity was gradually becoming bound up with subjecthood. The construction of 'Hottentot' subjecthood will be investigated in the next chapter.

²⁴⁹ For instance, Dooling, 'The Origins and Aftermath of the Cape Colony's 'Hottentot Code' of 1809'; & Elphick & Malherbe, 'The Khoisan to 1828', in Elphick & Goliomee (eds.), *The Shaping of South African Society*, pp. 35-43.



Cape Colony, with districts, 1826

(Theal, G.M. *History of South Africa since September 1795*, Vol. 1, 1908)



Cape of Good Hope and *Transgariep* frontier zone; illustrating the interior escarpment and the geographic distribution of the Griquas, Koranas and 'Bushmen'.

(Philip, J. *Researches in South Africa*, Vol. 2, 1828).

Chapter Two

Debating Subjecthood through the Lens of San Experience, 1820-1840

Loyalism was expressed via the embracing of subjecthood. As discussed in the Introduction, subjecthood in the Cape Colony referred to ideas of loyalty and belonging to a British civic polity that emphasised an imperial connection. The status also related to a relationship of reciprocation between those who were subjects and the authority to which they were subjected. This arrangement was not uniform and could be defined in different ways by the bearers of subject-status. In a colonial setting, subjecthood was necessarily imposed from above; dictated by the local colonial authorities as representatives of the ultimate seat of colonial power in the metropole. However, ideas of subjecthood were fashioned in specific contexts. The representatives of the colonial state in the Cape Colony were not the sole custodians of what subjecthood meant. In laying claim to subjecthood, its bearers were able to fashion a multiplicity of meanings. Different aspects of what it meant to be a subject could be emphasised by different elements of colonial society. While those who were considered subjects, by virtue of falling under British colonial jurisdiction, were expected to demonstrate sufficient loyalty to the Crown, subjecthood at the Cape also became entangled with a language of rights.

It was argued in Chapter One that colonial law, in the form of the Caledon Code, actually served as an inadvertent conduit of loyalism by clearly situating 'Hottentots' as subjects and situating the colonial state between master and servant. Even though some 'Hottentot' servants were unsuccessful in their appeals to the law in order to fend off the worst excesses of settler-colonialism, it is important to recognise the legal processes and mechanisms through which they made their claims. The involuntary nature of subjecthood was being rearticulated into voluntary acts of defiance using the official legal channels of the colonial state. Subjecthood inspired claims to rights and protection for Khoesan.

This chapter is concerned with how a discourse of subjecthood and its attendant protection was moulded and disseminated by influential humanitarian characters at the Cape during the early nineteenth century. In doing so, it plots the

trajectory of another conduit of loyalism in the Cape Colony: evangelical-humanitarianism. Cape historiography has a rich collection of work dealing with the interactions between Protestant missions and the Khoesan. Early contributions to the field were mainly narrative and tended to be hagiographic; lauding the European missionaries for their efforts to Christianise the aboriginal inhabitants of southern Africa.²⁵⁰ More recent studies have presented critical observations of how evangelical missionaries carried a message of social equality along with the promise of salvation. As Elphick has noted, the conversion of the Khoesan threatened to unravel “the fabric of the racially based, hierarchically organised social order” of the Cape.²⁵¹ Arguably the most significant work on Khoesan reactions to the missionaries and their uses of Christianity has been Elizabeth Elbourne’s *Blood Ground: Colonialism, Missions and the Contest for Christianity in the Cape Colony and Britain, 1799-1853*.

Elbourne suggested that with the language of Christianity, particularly Protestantism, being articulated in competing ways during the early nineteenth century – to shape identities, to justify and challenge social stratification, and to vindicate interactions with other communities – the encounter between the missionaries “and a colonised group in this context could never be about religious belief alone.”²⁵² Khoesan adoption of Christianity challenged and disrupted existing power relations. Khoesan identification with Christianity has also been analysed within the ambit of respectability. Along with a variety of markers of respectability, including appropriate Western dress, housing and literacy, observance of the Christian faith functioned as a powerful symbol of respectable status in a society in which religious identity held profound importance.

This chapter seeks to explore how humanitarians at the Cape thought about and articulated ideas of subjecthood in relation to the San. As mentioned, it is argued that humanitarianism, together with its evangelical counterpart, functioned as a

²⁵⁰ A notable example is J. Du Plessis, *A History of Christian Missions in South Africa* (Cape Town: Struik, 1965).

²⁵¹ R. Elphick, *The Equality of Believers: Protestant Missionaries and the Racial Politics of South Africa* (Charlottesville & London: University of Virginia Press, 2012), p. 27.

²⁵² E. Elbourne, *Blood Ground: Colonialism, Missions, and the Contest for Christianity in the Cape Colony and Britain, 1799-1853* (Montreal & Kingston: McGill-Queen’s University Press, 2002), p. 7.

hugely influential means by which subjecthood and loyalism were disseminated among the Khoesan. The discussion focuses on the San experience for three reasons.

Firstly, the colonial status of the San was contested during the period under review. Different ranks of colonial authorities were unsure about what jurisdictional status ought to be extended to the San. Were they, or were they not colonial subjects? Secondly, while it is understood that scores of San were forcefully incorporated into the labour category of 'Hottentots', especially along the north-eastern frontier, the role that humanitarian imperialist thinking played in this process is under-researched and under-represented. Thirdly, humanitarianism experienced the zenith of its influence upon colonial affairs at the Cape during the 1820s and 1830s. In addition to the Christianising ethos of humanitarianism, the idea also emphasised the protection of the Cape's indigenes, especially the San who were considered to be particularly troublesome and vulnerable to the risk of total eradication. In calling for the extension of British colonial oversight of the San, humanitarianism reaffirmed the link between subjecthood and protection.

The 1820s and 1830s were marked by vociferous debate over the place of the San in the Cape Colony and to what extent they ought to be treated as subjects with civil rights. Those in favour of a more assertive humanitarian imperialism argued for the incorporation of the San in order to prevent their wanton destruction by settler-colonialism. The fate of San children became a focal point within this broader debate. Though the British authorities wished to see an end to the use of *commandos*, the forced incorporation of San children continued apace during this period. It will be shown that the legal incorporation of San children was actually welcomed by key evangelical-humanitarian figures. It was argued that colonial, or 'tame', San could claim British subjecthood and the protection that was supposed to go with it, while 'wild', extra-colonial San could not. An analysis of the public debate surrounding the fate of the San and their subject status during the 1820s and 1830s serves as an important conceptual link between chapters one and three, as it reveals the characteristics of the discourse of subjecthood espoused by well-known humanitarians who held important sway with 'Hottentots' across the Colony.

The chapter is divided into four sections. The first section provides the historical context in which San, settler and missionary encounters unfolded on the Cape's north-eastern frontier during the early nineteenth century. The second

section examines San child abduction and forced labour, and the absorption of San children into Cape society as 'Hottentots', while the third section discusses the role this played in shaping debate about the subject status of the Cape's indigenes in an imperial context. The fourth and final section sets out the argument that the fate of the San served humanitarian efforts to push for the extension of British protection over the Khoesan, thus reinforcing its connection to subjecthood and the value of embracing loyalism.

I. San, Settler and Missionary on the Cape's North-eastern Frontier

The early nineteenth century heralded a crucial period for the survival of the San on the fringes of the expanding Cape Colony. Their formidable resistance to the encroachment of settler stock-farmers in the north-eastern reaches of the Cape frontier during the closing decades of the eighteenth century had been weakened, but not defeated, by the time of the advent of the First British Occupation in 1795.²⁵³ Owing to their loss of land and resources, the San's ability to muster sufficient resistance to stem the tide of settler advance had been curtailed. For the *trekboers*, the commando system's programme of extermination proved the most effective means for clearing the land of its indigenous population, opening it up for extensive stock-farming. Several thousand San were killed by the commandos.²⁵⁴

The San were not, however, completely eradicated from the northern frontier zone during the late eighteenth century. Still, the scale of destruction wrought by the commando system meant that subsequent acts of resistance against the colonists

²⁵³ As mentioned in Chapter One, the north-eastern Cape frontier, which had reached the escarpment by the late eighteenth century, was a crucial zone for both San and colonist alike. For millennia, the San had traversed the escarpment following seasonal rainfall patterns. The consolidation of European settlement along this divide between the winter and summer rainfall zones meant that the San were faced with the prospect of being confined to the more arid interior, dramatically disrupting their transhumant hunting and gathering. Penn has argued that this was a crucial reason why San resistance was so fierce against settler encroachments beyond the escarpment. See Penn, *The Forgotten Frontier*, pp. 82-85; & N. Penn, 'Fated to Perish: The Destruction of the Cape San', in P. Skotnes (ed.), *Miscast: Negotiating the Presence of the Bushmen* (Cape Town: University of Cape Town Press, 1996).

²⁵⁴ Adhikari, *The Anatomy of a South African Genocide*, p. 86.

amid the 'closing' of the frontier were uneven and often isolated.²⁵⁵ Large-scale, collective resistance, such as that which had occurred during the 'Bushmen Wars' of the 1770s and 1780s was unfeasible in the early nineteenth century. The social fabric of San society had been too radically disrupted. Nonetheless, attacks by San groups or *kraals* on frontier settler homesteads continued well into the 1800s.²⁵⁶ Even small bands were capable of inflicting dreaded losses on the stock-farmers through the use of guerrilla-style tactics.²⁵⁷

While the commando system of the late eighteenth century had the full sanction of the VOC, having been deployed within the context of a frontier war between the Cape's hunter-gatherers and European settlers, the commando was reluctantly permitted by the new British administration from the turn of the century onwards.²⁵⁸ Still, the British colonial authorities inherited the ongoing conflict between the settlers and San on the northern and north-eastern frontiers. Although abated, the British were eager to see the conflict resolved and wanted to check the wanton destruction inflicted by the commando system upon San life.²⁵⁹

It was in the context of this ongoing frontier conflict that the LMS established its first mission among the San in August 1799. The effort was undertaken to limit the extent of settler violence perpetrated against the San, as well as to assimilate them into colonial society. Much of the impetus lay with Lord George Macartney's Governorship during the First British Occupation of the Cape. In 1798, a year before the arrival of the LMS, Governor Macartney issued a proclamation intending to alter the state of incessant violence that had plagued the northern and north-eastern

²⁵⁵ For a discussion of the 'open', 'closing' and 'closed' phases in the progression of the frontier in southern Africa, see H. Giliomee, 'Processes in Development of the Southern African Frontier', in H. Lamar & L. Thompson (eds.), *The Frontier in History: North America and Southern Africa Compared*, (New Haven & London: Yale University Press, 1981), Ch. 4.

²⁵⁶ HCPP, No. 50, 1835, *Reports and Papers relating to Depredations of, and Expeditions against, the Bushmen, from 1817 to 1824, in the Districts of Graaff Reynet, Cradock, Beaufort, Worcester and Clanwilliam*, p. 56.

²⁵⁷ Newton-King, *Masters and Servant*, p. 146.

²⁵⁸ CA, Verbatim Copies (hereafter, VC) 888, Donald Moodie, manuscripts, General Craig communiqué, 2 Jan. 1797; & Dooling, *Slavery, Emancipation and Colonial Rule in South Africa*, p. 60.

²⁵⁹ Dooling, *Slavery, Emancipation and Colonial Rule in South Africa*, p. 60.

frontiers.²⁶⁰ The proclamation emphasised the adoption of means to facilitate the 'civilisation' of the San in a more conciliatory manner than that which had been pursued during the previous twenty years.²⁶¹ A strategy of gift-giving was one of three policies outlined by the proclamation, along with the demarcation of 'Bushmanland' (an ill-defined region to the north of the Sak River) and the commencing of mission activity among the San. In time, the gift-giving scheme broke down as farmers were unwilling to make the contributions and 'Bushmanland' was traversed at will by *trekboers* and hunting parties alike. The mission to the San was a far more complex process, in terms of its efforts, duration and consequences – for both the San and the LMS.²⁶²

One of the two earliest missions established by the LMS in the Cape Colony was located a day's journey north of the Sak River, where the missionary, Johannes Kicherer, met with little success in settling, 'civilising' and converting the San in the vicinity to Christianity.²⁶³ His mission was abandoned in 1806 due to San hostility. However, this early setback did not prevent subsequent attempts to re-establish LMS missions directed specifically towards the San. In 1814 and 1816, two missions, Toornberg and Hephzibah respectively, were founded in the Seekoei River Valley, a few days journey north of the important frontier town of Graaff-Reinet.²⁶⁴ While drawing in large numbers of San, the two missions were ordered to be closed in 1817 by the then Governor of the Cape Colony, Lord Charles Somerset. His order for their abandonment was indicative of the concern generated by the large numbers of

²⁶⁰ HCPP, No. 50, 1835, *Proclamations and Orders Relative to Commandos and Institutions, from 1796 to 1824*, pp. 51-55; & Theal, *Records of the Cape Colony*, Vol. 35, p. 309.

²⁶¹ J. Wright, *Bushman Raiders of the Drakensberg, 1840-1870* (Pietermaritzburg: University of Natal Press, 1971), p 27.

²⁶² N. Penn, 'Civilising' the San: The First Mission to the Cape San, 1791-1806', *Basler Afrika Bibliographien Working Paper*, 3, 2001, pp. 8-13. These initiatives are also discussed at some length in P.J. van der Merwe, *The Migrant Farmer in the History of the Cape Colony, 1657-1836*, translated by R.G. Beck (Athens: Ohio University Press, 1995).

²⁶³ J.J. Kicherer, *The Rev. Mr. Kicherer's Narrative of His Mission to the Hottentots, Transactions of the Missionary Society* (London: London Missionary Society, 1804), p. 6. The other LMS mission was initiated by Johannes van der Kemp and John Edmond among the Xhosa.

²⁶⁴ K. Schoeman, 'Die Londense Sendinggenootskap en die San: Die Stasies Toornberg en Hephzibah, 1814-1818', *South African Historical Journal*, 28, 1993, pp. 221-234.

San assembled at the two sites (estimated to have been at 1 700 at the time of their closure).²⁶⁵

Due to the history of violent conflict on the northern frontier between the San and the colonists, the concentration of so many San at the missions was deemed to be a danger to the frontier farmers. There was also mounting hostility between the frontier settlers and the missionaries over labour shortages.²⁶⁶ The farmers tended to tolerate the presence of the missionaries while they were ministering to those San considered “wild Bushmen”. The situation became untenable for the Government when the missionaries at Toornberg and Hephzibah were accused of harbouring San farm workers who had fled from their service in the Colony. It was largely in response to these accusations that the government felt obliged to act. The *landdrost* of Graaff-Reinet, Andries Stockenström, wrote to Erasmus Smit, missionary at Toornberg, in October 1817, stating that “Continual complaints are sent in respecting persons who have run away from their masters being kept at your institution.”²⁶⁷

In 1822, another effort was made to establish a mission among the San, this time at an institution whose namesake was dedicated to the new superintendent of the LMS in the Cape Colony, John Philip.²⁶⁸ Philippolis, the location where Philip’s meeting with the “Bushman ambassador” occurred in 1842, was, however, to become part of a more ambitious scheme to consolidate the Griqua people into captaincies, recognised by the Cape colonial government.²⁶⁹ By 1826, four years after its founding, the San residents at the mission were being squeezed out by the Griquas.

²⁶⁵ Philip, *Researches in South Africa*, Vol. 2, p. 21.

²⁶⁶ SOAS, CWM, South Africa, Incoming Correspondence, 7/2/B, W. Corner to Directors of the LMS, 26 Jul. 1817.

²⁶⁷ Quoted in W.M. Macmillan, *The Cape Colour Question: A Historical Survey* (Cape Town: Balkema, 1968), p. 130. Initially, Smit had met with much resistance from the San in the vicinity. They were suspicious of his motives, believing that he would “betray them into the hands of the colonists”. CA, 1/GR 16/4, Despatch, *Landdrost* of Graaff-Reinet to Colonel Bird, 30 May 1815.

²⁶⁸ K. Schoeman, ‘Die Londense Sendinggenootskap en die San: Die Stasies Ramah, Konnah en Philippolis, 1816-1828’, *South African Historical Journal*, 29, 1993, pp. 132-152.

²⁶⁹ Legassick, *The Politics of a South African Frontier*, pp. 234-239.

Two year later, in response to the marginalization of the San at Philippolis, the missionary assistant, James Clark, initiated a mission for the San near the confluence of the Gariiep and Caledon Rivers, named Bushman Station.²⁷⁰ Like Toornberg and Hephzibah before it, Bushman Station met with some initial success for the missionary. A sizeable population of approximately one hundred San was assembled at the site within a year and the prospects for the mission were promising, apart from the effects of an enduring drought.²⁷¹ However, increasing instances of Boer incursions into the territory meant that the mission's longevity was precarious at best. Dissatisfied with Clark's efforts, Philip decided to release the mission to the Paris Evangelical Missionary Society in 1833, who shortly thereafter re-directed its focus towards the BaThlaping.

Apart from the subsequent establishment of a San out-station at the Kat River Settlement, also referred to as Bushman Station and which was placed under the direction of Rev. James Read and his son Joseph (the younger and less famous brother of James Read junior), the sporadic efforts of the LMS among the San of the northern Cape frontier came to an uneventful end with the release of Clark's mission in 1833.²⁷² In the end, the LMS' track record among the San was disappointing – if assessed according to missionary criteria. Certainly, the San were reluctant to adopt a fully-fledged sedentary mode of subsistence, even though there were instances of a syncretistic acculturation to the missionary model, exhibited in the embracing of agro-pastoralism without a complete abandonment of hunting and gathering.²⁷³ Opportunities to eke out a quasi-independent existence in the interstices of the frontier continued through the mid-nineteenth century, as evinced by the San *kraal* which the “Bushman ambassador” represented in 1842. These remnant San communities were an inconvenient reminder to frontier society of the former hostilities and those ‘Bushmen’ who had survived were to be employed in a contest

²⁷⁰ K. Schoeman, ‘Die Londense Sendinggenootskap en die San: Die Stasie Boesmanskool en die Einde van die Sending, 1828-1833’, *South African Historical Journal*, 30, 1994, pp. 85-9.

²⁷¹ J. Philip, ‘Report of the South African Missions, 1830’, in S.H. Pellissier, *Jean Pierre Pellissier van Bethulie* (Pretoria: Van Schaik, 1956), pp. 179-180.

²⁷² See M. Szalay, *The San and the Colonisation of the Cape, 1770-1879: Conflict, Incorporation, Acculturation* (Köln: Rüdiger Köppe, 1995), p. 46.

²⁷³ Adhikari, *The Anatomy of a South African Genocide*, p. 67.

of narratives over the legitimacy of expanding European settlement in British territories. The San were also the one indigenous group in the Cape and its frontier hinterland whose fate was most similar to that of indigenes in New South Wales, Van Dieman's Land, New Zealand, and North America during the same period of expanding European settlement. Their demise proved to be a convenient discursive tool for the evangelical-humanitarian lobby at the Cape, which during the 1820s and 1830s held considerable clout in the corridors of power in London.

Through the combination of a variety of factors and processes – including the pecuniary difficulties of the LMS, drought, missionary in-fighting, executive decisions and political agendas – the LMS missions to the San were ultimately a failure. For figures such as John Philip, it was crucial for the legitimacy of his Society in the Colony, and indeed in Britain, to establish that the disappointments of this campaign to 'Christianize' the San could not be based on anything distinctly San, but on these other influences. The debate that developed during the 1820s and 1830s concerning the prospects and likelihood of aboriginal peoples to convert to Christianity and adopt its accompanying existential markers of 'civilisation' was contested among missionary, settler and British colonial-governmental circles. Notwithstanding their participation in European colonialism, the missionaries were convinced of their moral authority in settler-colonies. They occupied an anomalous position in settler societies: like other colonists, they also sought to attain authority over aboriginal peoples, yet simultaneously, they attempted to fend off destructive colonial forces. The vibrant missionary movement in the Cape Colony of the early nineteenth century, spearheaded by the representatives of the LMS, became embroiled early on in defending the humanity of the San.

The narratives presented by key missionary figures and widely disseminated in the official publications of the LMS at the time, endeavoured to re-cast these 'savage' figures in a mould recognisable to a British audience who had become increasingly sensitive to discourses of liberty in the aftermath of the abolitionist campaign. Contrary to settler notions of the San's savagery and significantly, their alleged lack of religion, protagonists such as the LMS' Cape Superintendent, drew on their links to trans-colonial networks to gain metropolitan sympathies for their plight.

In spite of the intentions of the British authorities in Cape Town, the frontier could not and would not be contained. What followed over the course of the next

forty years was the introduction of several pieces of legislation intended by the British to quell the violence of the frontier and to bring the San to 'peaceable' means.²⁷⁴ Under British rule at the Cape, the San continued to be pursued and murdered by commandos along the north-eastern frontier. At the same time, those remnant San who survived the violence of the commandos were steadily incorporated into the Colony's labour market and according to Stockenström increasingly confounded with the Khoekhoe.²⁷⁵

The apparent contradiction that existed between the extensive massacring of San by the commandos along with the reality that the frontier stock-farmers depended upon indigenous labourers to survive economically, points towards a neglected aspect of the destruction of San society in the related historiography. Indeed, the lives of numerous San women and children were spared by the commandos. The survivors were distributed among participating *trekboers*, as well as their families and acquaintances, with a view to satisfying the growing labour needs of the expanding European stock-farming population beyond the Cape's interior escarpment. San children, in particular, were sought after as livestock herders and domestic servants. In spite of their vilification, it was widely acknowledged in settler society that if 'tamed', San could make very valuable labourers, especially as herders.²⁷⁶ Within the context of the turbulent frontier, trading in San children emerged as a common and widespread practice among the stock-farming communities. The forced assimilation, or 'taming', to use the choice settler term, which followed the capture of San children amounted to the eradication

²⁷⁴ HCPP, No. 50, 1835, *Reports and Papers relating to Depredations of, and Expeditions against, the Bushmen*, p. 56.

²⁷⁵ R. Ross, *The Cape of Torments: Slavery and Resistance in South Africa* (London & Boston: Routledge, 1983), p. 42; & Z. Magubane, 'Labour Laws and Stereotypes: Images of the Khoikhoi in the Cape in the Age of Abolition', *South African Historical Journal*, 35 (1), p. 115.

²⁷⁶ H. Cloete, *Three Lectures on the Emigration of the Dutch Farmers from the Colony of the Cape of Good Hope, and Their Settlement in the District of Natal* (Pietermaritzburg: J. Archbell & Son, 1852), p. 19. For a related discussion of San as farm labourers, see M.G. Guenther, 'Bushman Hunters as Farm Labourers', *Canadian Journal of African Studies*, 11 (2), 1977, pp. 195-203.

of their hunter-gathering culture as they were moulded into supposedly 'loyal' servants.²⁷⁷

As discussed in the previous chapter, following the Second British Occupation in 1806, legislative measures were introduced to regulate the employment of Khoesan labourers and the treatment of imported slaves and their descendants.²⁷⁸ These pieces of legislation actually added to, rather than diminished, the ambiguity of the legal status of abducted San children and this was deftly exploited by commercial stock-farmers. The ambiguity stemmed from the challenges facing the full implementation of Cape legislation in a region of the Colony such as the north-eastern frontier.

This region was sparsely populated by settlers who owned large tracts of land for grazing their herds of livestock.²⁷⁹ The distances between individual farms were often extensive. Likewise, distances between farmsteads and local authorities, and in particular magistracies, were just as vast. In a frontier zone, legislation affecting labour relations between masters and servants lacked the necessary oversight to ensure full compliance on the part of the stock-farmers. As will be demonstrated, this meant that settler abuse of what was intended to be a more regulated, formalised system of San child labour continued well into the nineteenth century.²⁸⁰ Most San children, whether abducted or handed over by their parents, disappear from the records the moment they were apprenticed or indentured. Many appear only fleetingly as forenames in registers of indentures.²⁸¹ Sometimes their age at the time of their indenture was recorded, although this was almost always an estimate.²⁸² In a few instances, the names of their mothers and their places of origin

²⁷⁷ See for example, C. Card, 'Genocide and Social Death', *Hypatia*, 18 (1), 2003, pp. 63-79; & R. Van Krieken, 'Rethinking Cultural Genocide: Aboriginal Child Removal and Settler-Colonial State Formation', *Oceania*, 75 (2), 2004, pp. 125-151.

²⁷⁸ See Dooling, *Slavery, Emancipation and Colonial Rule in South Africa*, pp. 58-101.

²⁷⁹ Van der Merwe, *The Migrant Farmer*, p. 155.

²⁸⁰ HCPP, No. 584, 1830, *Hottentot population, Cape of Good Hope. Copies of all reports of His Majesty's Commissioners of Inquiry relating to the condition of the Hottentots, Bushmen, Caffres, and other native tribes of South Africa*, p. 10.

²⁸¹ For example, CA, 1/GR 15/71, *Register der Aanbesteding van Bosjesmen Kinderen*, 1823.

²⁸² John Philip noted that it was in the farmers' favour to misrepresent the ages of children in their service; to deliberately underestimate their ages so as to allow them to apprentice children for

were noted by officials. This tended to happen when San children were either voluntarily given up by their parents, as they could no longer ensure their children's survival, or when child recruiters ventured beyond the frontier to seek out San child labourers to take back to the Colony. The incorporation of San children into the Cape's frontier labour force did not only transpire when commandos were active. Owing to the dire circumstances in which San communities found themselves during the early nineteenth century, child bartering and recruiting independent of commandos also took place. The following section will discuss the extent of frontier trafficking in San children and this contributed to the incorporation of the San into colonial society under British rule.

II. The "Cruel Barbarous Custom": Frontier Trafficking in San Children

The use of child labour at the Cape was common practice in the early nineteenth century and it already had a long history. Dating back to the early eighteenth century, children born to parents of mixed slave and Khoesan descent were classified as 'Bastaard-Hottentots' and farmers were entitled to have such children born on their farms indentured until they turned 25.²⁸³ The use of child labour at the Cape was in keeping with common labour practice in pre-industrial society, including Europe, where it was taken for granted that children were a source of labour. In both metropole and colony, child labour was not regarded as amounting to child abuse in itself. British colonial authorities at the Cape, however, did recognise that child labourers were vulnerable to ill-treatment. It was also apparent to the British that some San children were being captured on the frontier and sold in the Colony, thus resulting in their enslavement.

Before proceeding, the use of 'forced labour' to describe the position of San children after their capture requires a brief note of clarification. A staple of South African historiography has been to draw a clear distinction between Khoesan and

longer, beyond their eighteenth birthdays and well into adulthood. See Philip, *Researches*, Vol. 1, p. 180.

²⁸³ R. Viljoen, 'Indentured Labour and Khoikhoi 'Equality' before the Law in Cape Colonial Society, South Africa: The Case of Jan Paerl, c. 1796', *Itinerario*, 29 (3), 2005, p. 60.

slave statuses, with the former having remained outside the legal framework of chattel inflicted upon the latter.²⁸⁴ As noted already, the VOC insisted that the Khoesan were not to be enslaved.²⁸⁵ However, applying a neat dichotomy between free Khoesan and chattel slave to the labour regime of the Cape is untenable, for 'unfree' status took on multiple forms. Indeed, as Malherbe has noted, instances where the distinctions between slavery, indenture, contract labour and apprenticeship were blurred abound in the early nineteenth century Cape.²⁸⁶ Arguably the most pertinent embodiment of this blurring was exhibited in the *krijgsgevangenen*, or prisoners of war, captured and indentured during the 'Bushman Wars' of the late eighteenth century along the Cape's north-eastern frontier.²⁸⁷

From the time of its arrival at the Cape, the LMS had focused its attention on the Khoesan rather than slaves. The early work of Van der Kemp and Read at Bethelsdorp set a trend in this regard. Philip took up this mantle following his appointment as Superintendent of the LMS in southern Africa in 1819. The LMS was often at pains to stress the difference between the legal statuses of 'Hottentots' and slaves. Though prior to 1828, 'Hottentots' were bound by the coercive clauses of the Caledon Code, Philip and his missionary colleagues were adamant that the 'Hottentots' were a free people. References to the freedom of the 'Hottentots' by representatives of the LMS should, however, not be confused with a more modern understanding of the term. Legally speaking, 'Hottentots' were free in that they were not slaves. However, 'Hottentots' fell under the authority of a colonial power and as such, their social and political 'freedom' was bound up with their subjecthood.

²⁸⁴ It has only been during the last twenty years or so that historians have begun to argue that the Khoesan were enslaved. See for example, Y. Abrahams, 'Disempowered to Consent: Sara Bartman and Khoesan Slavery in the Nineteenth Century Cape Colony and Britain', *South African Historical Journal*, 35 (1), 1996, p. 90.

²⁸⁵ Ross, *The Cape of Torments*, p. 43.

²⁸⁶ V.C. Malherbe, 'Indentured and Unfree Labour in South Africa: Towards an Understanding', *South African Historical Journal*, 24 (1), 1991, p. 5. For a related analysis of farm labour and slavery, see M. Russell, 'Slaves or Workers? Relations between Bushmen, Tswana and Boers in the Kalahari'. *Journal of Southern African Studies*, 2 (2), 1976, pp. 178-197.

²⁸⁷ Newton-King, *Masters and Servants*, p. 117, & Malherbe, 'Indentured and Unfree Labour', p. 6.

The LMS was well aware of the blurring of statuses between ‘Hottentots’ and slaves which had been occurring since before the British Occupations. Given this, it is not surprising that Philip paid as much attention as he did in his writings and correspondence to the abduction of San children on the frontier. His primary concern – which was shared by the British authorities – was that such children were being deliberately confounded with the Cape’s slaves as opposed to the ‘Hottentots’. It was widely known “that the masters exercised the same discretionary powers over their Hottentots which the laws had granted them over their slaves” and that this was “the source of numerous well founded complaints on the part of the Hottentots.”²⁸⁸ While the LMS at the Cape supported the emancipation of the slaves, slavery provided a counter-status against which ‘Hottentot’ subjecthood was juxtaposed.

In the case of San children, whether they were removed from their parents by force, or given up by their parents out of desperation, they became legally bonded to farmers until adulthood. As such, they were never legally recognised as slaves and they were entitled to choose to leave their master’s service upon reaching adulthood. Still, their childhood was shaped by the demands of forced labour which bore striking similarities to slavery. They were expected to serve their masters faithfully and productively and as with slaves and other bonded servants, they were subjected to domestic correction and corporal punishment if they didn’t perform their duties as expected. They could not be legally traded, although this did occur, and their status may not have been inherited by their offspring, yet, forced removal from their natal communities and subsequent bondage amounted to “something like slavery.”²⁸⁹

After the Second British Occupation of the Cape, British authorities along with their local collaborators were prepared to facilitate the apprenticeship of San children to farmers. Rather than being concerned that San children were used as labourers, the British colonial administration was worried about how San children were being procured. The prospect that San children were being captured and

²⁸⁸ CA, M 142/1, *Laws respecting Hottentots and Bastards at the Cape of Good Hope*, 1826.

²⁸⁹ The phrasing in this sentence is a deliberate allusion to the title of Shirleene Robinson’s seminal work *Something like Slavery? Queensland’s Aboriginal Child Workers, 1842-1895* (Melbourne: Australian Scholarly Publishers, 2008).

enslaved along the Cape frontier in the years following the abolition of the slave trade was embarrassing to the colonial government. In an attempt to monitor the procurement of child labour, elaborate rules were introduced to regulate the apprenticeship system. These measures proved ineffective and lacked sufficient supervision to curb the practice of kidnapping and enslaving in the frontier districts of the Colony.

Commandos and the Capturing of San Children

Slaves at the Cape were not only imported from across the Indian Ocean trading network, but also acquired along the Colony's frontiers.²⁹⁰ European slaving on the north-eastern frontier was motivated by the dual desires to procure free labour and to eradicate the threat posed by San communities to stock-farming in the region. On the first point, settlers in all corners of the Colony regularly complained about labour shortages. This was a perennial complaint for those settlers residing in the more distant parts of the Colony; especially so for those living on the periphery of the Colony in the extensive frontier district of Graaff-Reinet.²⁹¹ With chattel slaves being concentrated in the south-western Cape, where wine and grain dominated the local economy, settlers in the interior relied upon the Khoesan to meet their labour needs. In the late 1790s, John Barrow, while touring the frontier districts on behalf of the Government, recorded that the farmers made use of 'Hottentot' labour as it was too expensive to purchase slaves.²⁹² He estimated that in the whole of Graaff-Reinet district there were no more than seven hundred slaves. He put the number of 'Hottentots' at ten thousand. Given the prolonged conflict and concomitant slave-raiding which had beset frontier relations in this district for the two decades prior to Barrow's tour, it is highly likely that a sizeable portion of the ten thousand 'Hottentots' were 'tamed' San.

²⁹⁰ E.A. Eldredge, 'Slave Raiding Across the Cape Frontier', in E.A. Eldredge & F. Morton (eds.), *Slavery in South Africa: Captive Labour on the Dutch Frontier* (Pietermaritzburg: University of Natal Press, 1994), pp. 93-94 & 101.

²⁹¹ See for example Marais, *Maynier and the First Boer Republic*, Ch. 6.

²⁹² Barrow, *An Account of Travels into the Interior of Southern Africa*, p. 163.

It was in the context of frontier conflict between European stock-farmers and the hunter-gatherers during the eighteenth century that forced labour akin to slavery emerged and became an accepted part of frontier life for colonists. Conflict facilitated slaving and as the frontier advanced, so too did slave-raiding.²⁹³ The second *landdrost* of Graaff-Reinet, Honoratus Maynier (who we encountered in Chapter One), had sought to implement measures to conciliate the farmers and San in the early 1790s.²⁹⁴ He ordered that large commandos against the San, sometimes numbering 200 to 300 men, should come to an end. Maynier also introduced regulations relating to the treatment of labourers. As discussed in the previous chapter, the response from the Graaff-Reinet settlers was so hostile that Maynier was expelled from his office in an open rebellion. Among other demands, the rebels wanted to be permitted to trade in San abductees. They wished to be able to buy and sell commando captives and bind them to service for life.²⁹⁵

Newton-King provides the most detailed analysis of the scale of San capture and enslavement, arguing that the labour regime which emerged in the closing decades of the eighteenth century in the eastern districts was “consistent with the concept of slavery”.²⁹⁶ This labour regime materialised out of the ‘Bushman Wars’ of the period and was moulded by the slave economy of the Colony. Those *trekboers* who sought land and pasturage in the Cape interior brought with them a set of ideas about labour and its recruitment which were shaped by slavery. The most apparent way in which a slave mentality was at work among the frontier stock-farmers was to be found in the “persons of the captives taken by the commandos”.²⁹⁷ This is not meant to imply that slave-raiding was the primary purpose of the commandos. Newton-King has argued that “slaving was a by-product of a commando’s activities” and the most important objective for the commandos was to “incapacitate their

²⁹³ Eldredge, ‘Slave Raiding Across the Cape Frontier’, p. 93.

²⁹⁴ Marais, *Maynier and the First Boer Republic*, pp. 64-6.

²⁹⁵ L. Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900* (Cambridge: Cambridge University Press, 2002), p. 174.

²⁹⁶ Newton-King, *Masters and Servants*, p. 117.

²⁹⁷ Newton-King, *Masters and Servants*, p. 117.

enemies”, with captive labourers “a valuable perquisite”.²⁹⁸ However, extermination and slaving were both very much characteristic of commando operations. Commandos seldom engaged in either slave-raiding or extermination, but rather often undertook both activities simultaneously.

Even the infamous General Commando of 1774, which had set out to inflict a death blow on the San, returned with 289 captives.²⁹⁹ The VOC neither sanctioned nor prohibited the taking of San captives. This ambivalence meant that the brutality inflicted by individual commandos on San *kraals* and whether more San were killed than captured or vice versa, was dependent upon the whims and inclinations of those leading and participating in the commandos. In some instances, men and women were murdered and their children enslaved.³⁰⁰ In other cases, men were killed and considerable numbers of women and children were taken captive. It is apparent that this trend continued into the nineteenth century. For example, Thomas Pringle, well-known writer, poet and humanitarian, recorded the eyewitness account of a Field Commandant from Cradock district who relayed to him a commando experience of his which occurred in 1821: “The *kraal* was surprised, the males consigned to indiscriminate slaughter, and such of the women and children as survived the massacre were carried into captivity.”³⁰¹ It is worth noting that those women and children who survived the initial attack were then taken captive. In this case it certainly seems that the intention of the commando was to eradicate the threat of this San *kraal* first and only take advantage of what labour could be procured afterwards. The killing of San adults and the capture of San children both served the purpose of eliminating the hunter-gatherer threat to livestock and livelihoods.

Nonetheless, children were also killed by the commandos. A frightful glimmer into the genocidal impulse which underlay the commandos’ attacks on the San was

²⁹⁸ Newton-King, *Masters and Servants*, p. 120.

²⁹⁹ Penn, *The Forgotten Frontier*, p. 117.

³⁰⁰ Bradlow & Bradlow (eds.), *William Somerville’s Narrative*, p. 60.

³⁰¹ T. Pringle, *Narrative of a Residence in South Africa* (London: Edward Moxon, 1835), p. 242. Pringle believed that disturbances on the frontier were often caused by banditti made up of runaway ‘Hottentots’ and that San were wrongfully accused in their stead. See for example, R. Vigne (ed.), *The South African Letters of Thomas Pringle* (Cape Town: Van Riebeeck Society, 2011), pp. 192-194.

revealed by *Landdrost* Maynier, who had been “made acquainted with the most terrible atrocities... such as ordering the Hottentots to dash out against the rocks the brains of infants (too young to be carried off by the farmers for the purpose to use them as bondsmen), in order to save powder and shot.”³⁰² Only useful children, of an age when they weren’t burdensome to the commando, were spared and carried back to the Colony.

At other times it was reported that “Bosjesmen women” were “put to death by the commandos”, with the farmers then taking away “a number of children”.³⁰³ Indeed, women were not necessarily spared by virtue of them being women. A case in point relates to the account of a ‘Dutch colonist’ who told Pringle about a commando he had served on in his youth.³⁰⁴ After the commando had “destroyed a considerable *kraal* of Bosjesmen” and the firing had ceased, it was discovered that “five women were still living”. Their lives were initially spared, as some of the farmers “wanted a servant for this purpose, another for that.” When it was determined that the five women were hindering the progress of the commando on its return to the Colony, Carl Krotz, the leader, ordered they be shot. Four of the women were murdered on the spot, but one, “who clung on to a farmer”, was spared. It was said that she was taken back to the Colony by him and that she “served him long and faithfully”, eventually dying while still in the service of his family. As far as captives were concerned, however, children were the most sought after.³⁰⁵

Regardless of the intentions of individual commandos, the overarching goal was to eliminate the San threat to stock-farming settlement in the north-eastern interior. The capture of San children was a crucial element of this broader campaign to eradicate San society. Given this reality, the apparent discrepancy which existed between the extermination of the San on the one hand, and the stock-farmers’ demands for labour on the other, was not as contradictory as it may seem. By

³⁰² HCPP, No. 425, 1837, *Report from the Select Committee on Aborigines (British settlements); with the minutes of evidence, appendix and index*, p. 27.

³⁰³ Quoted in Eldredge, ‘Slave Raiding Across the Cape Frontier’, p. 97.

³⁰⁴ Pringle, *Narrative*, p. 238.

³⁰⁵ See Bradlow & Bradlow, *William Somerville’s Narrative*, p. 60; W.F. Lye (ed.), *Andrew Smith’s Journal of his Expedition into the Interior of South Africa, 1834-36: an authentic narrative of travels and discoveries, the manners and customs of the native tribes, and the physical nature of the country*, (Cape Town: Balkema, 1975), p. 284; & quotes in Eldredge, ‘Slave Raiding Across the Cape Frontier’, p. 97.

forcibly incorporating San children into the settler stock economy of the frontier, the threat of San attacks was reduced and a much needed source of malleable labour was created.

Newton-King has estimated that by 1795, “upwards of 1000 war captives” were working for the farmers of Graaff-Reinet district.³⁰⁶ In 1798, captives constituted one-eighth of the total population of servants.³⁰⁷ While it is not possible to determine how many of these captives were children, it is safe to assume that a high percentage, and arguably the majority, were. This can be based on the propensity of the farmers to favour children labourers, as well as the stark reality that children would have been protected by their parents during commando attacks, with most men dying during assaults, as well as scores of women. Children would not have been engaged directly in the defence of the *kraal* and so would have been more likely to survive and then taken captive. San women would have accounted for the second largest contingent of captives, with minimal numbers of men.

The closing decades of the late eighteenth century were a high point of commando activity. San resistance did, nonetheless, continue well into the nineteenth century. This state of affairs provided a means to justify the continuing use of commandos against the San under the new British administration, which expressed dismay at the wanton bloodshed and destruction that was meted out by the settlers in the period prior to their occupation of the Cape.³⁰⁸ Although perturbed by the commando system, there was no viable alternative available on the frontier to check San depredations and the system was allowed to continue. Official commandos were, however, more regulated. For example, in February 1822, a request to send out a commando of one hundred and fifty men to pursue San stock thieves was declined by *Landdrost* Stockenström of Graaff-Reinet.³⁰⁹ Due to the drought which had inflicted the region, the *landdrost* argued that the thieves had been “urged on by want” and “driven to desperation”. As such, he did not think that

³⁰⁶ Newton-King, *Masters and Servants*, p. 117.

³⁰⁷ Newton-King, *Masters and Servants*, p. 118.

³⁰⁸ Barrow, *An Account of Travels into the Interior of Southern Africa*, p. 237 & HCPP, No. 50, 1835, *Proclamations and Orders, Relative to Commandos and Institutions, from 1796 to 1824*, pp. 53-54.

³⁰⁹ HCPP, No. 50, 1835, *Reports and Papers relating to Depredations of, and Expeditions against, the Bushmen*, p. 57.

the thefts which had occurred warranted a commando. Unofficial commandos, organised on a whim by disgruntled farmers either without the knowledge of the local authorities, or in collusion with Field cornets and Field Commandants, no doubt continued to attack and raid San *kraals*.

In Graaff-Reinet district, between 1813 and 1824, twenty-one official commandos were despatched “against the Bosjesmen” with the *landdrost’s* sanction. During this period, ninety-seven San were killed and two hundred and eighty taken prisoner.³¹⁰ The difference in the number taken captive to those killed is telling; especially when compared with commando figures provided by other districts. Between 1797 and 1824, fourteen commandos from Stellenbosch district took only twenty-two captives, while the eighteen commandos that set out from Worcester district during the same period did not return with any prisoners.³¹¹ Of course one ought to be sceptical of these numbers, as they were probably much lower than the actual numbers killed, and for that matter, captured. That only three San are recorded as having been wounded by the Graaff-Reinet commandos between 1813 and 1824 appears especially dubious. In spite of their unreliability, these figures do illustrate that commandos continued to take captives through to the mid-1820s.

The previous decade, as we have seen, saw the British administration introduce a more formal and codified system of labour recruitment in the Colony. The two most significant pieces of legislation to affect the Khoesan were the ‘Hottentot’, or Caledon, Code of 1809 and the Apprenticeship Law of 1812. As already noted, the ‘Hottentot’ Code essentially coerced all Khoesan living in the Colony into the service of the colonists.³¹² The Apprenticeship Law is, however, more important for this discussion. Introduced in April 1812 by the Governor of the Cape, Sir John Cradock, the Apprenticeship Act allowed farmers to apprentice ‘Hottentot’ children who had been born to parents in their service. In order to secure their services, the child had to have grown to the age of eight before the farmer could

³¹⁰ HCPP, No. 50, 1835, *Reports and Papers relating to Depredations of, and Expeditions against, the Bushmen*, p. 56.

³¹¹ Dooling, *Slavery, Emancipation and Colonial Rule in South Africa*, p. 62.

³¹² Magubane, ‘Labour Laws and Stereotypes’, p. 117.

seek their apprenticeship for a further ten years, until they turned 18.³¹³ This act gave legal sanction to an old tradition in the Colony. Farmers believed that they were entitled to the labour of those children who had been born on their properties, reflecting yet again the slave-holding mentality which pervaded labour relations in the Colony.³¹⁴ Just as farmers were entitled to the labour of slave children, so too, they were now entitled to the labour of 'Hottentot' children.

This new, codified labour regime of apprenticeship was to have important repercussions for the perpetuity of San identity, as these regulations which were intended to apply to 'Hottentot' children began to be applied to San children as well. While apprenticeship placed certain obligations upon masters for the care and treatment of their servants, the system of child apprenticeship also made it possible for farmers to confound the status of captive San children with those of 'Hottentot' children.

Masters were expected to provide for the basic needs of the apprentice, including sufficient, "wholesome" food, suitable shelter and decent clothing. Child apprentices were also to be instructed in the "Christian religion" and the "English language".³¹⁵ In the case of children, the indenture of apprenticeship recorded the name and approximate age of the child, along with the trade the apprentice would be instructed in. The tasks child apprentices were to be instructed in were hardly "trades" as most children were sought after as herds, cattle-drivers, or domestic servants. Nonetheless, for children separated from their families and communities and held in settler custody, the humane intentions of the apprenticeship system led to a cruel irony. While it was meant to ameliorate their lot, the assimilation of San children as apprentices into the settler economy of the frontier also served to eradicate their identity as hunter-gatherers.

³¹³ Dooling, *Slavery, Emancipation and Colonial Rule in South Africa*, p. 64.

³¹⁴ Trapido, 'From Paternalism to Liberalism', p. 79.

³¹⁵ CA, 1/GR 15/72, *Indentures of Apprenticeship*.

Legislating Assimilation

On 5 May 1817, Graaff-Reinet *landdrost*, Andries Stockenström, wrote to Lieutenant-Colonel Christopher Bird, the Colonial Secretary to the Cape Governor, Lord Charles Somerset, in order to draw his attention to what he termed a “cruel barbarous custom”.³¹⁶ Stockenström’s letter conveyed his personal alarm at the ongoing occurrence of this “custom” on the frontier, stressing that he believed it required “the immediate interference of Government.” He transmitted the following:

The cruel barbarous custom so prevalent among the Bosjesmen of murdering or exposing such of their children as they cannot provide for, or parting with them on any terms whatever, has induced several farmers to procure some of those children, by giving their unnatural parents some trifles for them in exchange, for the purpose of keeping them as servants [...] or some from a mere humane principle, only to save their lives [...]

The *landdrost* raised the matter with the Governor at this time owing to the arrival of “two little Bosjesmen girls” in the town of Graaff-Reinet.³¹⁷ The girls had been brought through the village by Jacob Theron, a Cape Town merchant. Upon questioning him, Stockenström reported that Theron would not provide any details other than “that he had got them at a Bosjesmen *kraal*, where he was told that they were orphans.” Stockenström had a reputation of being well disposed towards the San. This was apparent from a number of his public orders respecting the extension and official demarcation of the Colony’s recognised boundaries. In 1826, in response to questions from the Commissioners Colebrooke and Bigge, who were undertaking an inquiry into the “Condition and Treatment of the Native Inhabitants of Southern Africa”, Stockenström asserted that:

³¹⁶ HCPP, No. 202, 1826-7, *Accounts of all commandos or expeditions against the Bonshmen, which have taken place at the Cape of Good Hope, since 1797; stating the number of Bonshmen killed, wounded and taken prisoner; stating also what had been done with the prisoners*, p. 23.

³¹⁷ HCPP, No. 202, 1826-7, *Accounts of all commandos or expeditions against the Bonshmen*, p. 24.

*The encroachments on the aborigines began at Cape Town, and never ceased to extend by degrees until the colonists had got to where they now are [...] If the government had had sufficient knowledge of the interior and sufficient authority in it, when the first settlers came to the chain of the Sneeuw and Nuweld-bergen, and there had fixed the boundary [of the Colony][...] the Bosjesmen might have remained in peaceable possession of the country beyond [...]*³¹⁸

The *landdrost* was also a staunch advocate of the establishment of missions among the San.³¹⁹ He argued that mission stations provided the most feasible means for settling the San and instilling in them an appreciation for a sedentary lifestyle and agro-pastoral subsistence. Stockenström's sentiments towards the San were atypical of those held by settler society at the time given their humanitarian tone. In this sense, his position was more akin to that propagated by members of the Cape's evangelical humanitarian lobby; in particular, agents of the LMS, including John Philip. Stockenström was also critical of the apprenticeship system. He believed that the Apprenticeship Law of 1812 was prone to abuse and that it was "capable of being made most oppressive to the Hottentot race."³²⁰ Nonetheless, he considered it more desirable for San children to come under the legal purview of apprenticeship than risk them becoming *de facto* slaves.

Even so, like the missionaries, Stockenström thought little of the San's ancient life-ways. Given that the steady northward progression of the frontier was unlikely to be halted, the best that could be hoped for was the conciliatory incorporation of the San into the Colony. This, then, explains Stockenström's pragmatic approach towards the frontier San. The dispossession of land and resources which had fomented the 'Bushman Wars' of the late eighteenth century was set to continue apace. Yet, during the course of the early nineteenth century, it was intended that

³¹⁸ HCPP, No. 50, 1835, *Papers relative to the Measures taken for fixing the Boundaries of the Colony of the Cape of Good Hope upon the Eastern and Northern Frontiers*, p. 117.

³¹⁹ HCPP, No. 50, 1835, *Papers relative to the Measures taken for fixing the Boundaries of the Colony of the Cape of Good Hope upon the Eastern and Northern Frontiers*, p. 118.

³²⁰ CA, VC 883, Donald Moodie, manuscripts, Stockenström to Commissioners Bigge and Colebrooke, 5 Jan. 1824.

the San should be peacefully incorporated into settler society as a sought after alternative supply of labour. Equally so, Stockenström and the colonial Government hoped this would be achieved without the violence and mass slaughter which had accompanied earlier encounters.

Life for the San along the Cape's fluid north-eastern frontier became increasingly precarious during the early nineteenth century as the spaces between colonial settlement diminished rapidly. There were few options open to them to sustain their hunter-gathering mode of subsistence. Some fled further into the interior, beyond the Gariep, where they either entered into patron-client or hostile relations with the Griqua polities emerging in the region. Wedged in by various agro-pastoral groups in all directions, those San who survived the commandos had few other options of survival but to engage in patron-client relations with the *trekboers* or the Griqua.³²¹

Those who interacted with the *trekboers* became tied to settler society as a result, but such relations afforded some San *kraals* a limited degree of manoeuvre and independence. For other *kraals*, the socio-cultural adaptations expected of them by the *trekboers*, colonial authorities and missionaries alike were too far removed from their established subsistence mode. The continuing resistance of such groups played into the hands of those most disparaging of the San. It provided legitimacy for the ongoing, though less regular, use of the commandos to track down *kraals* which had stolen livestock and in some instances wreaked havoc on frontier farmsteads: murdering 'Hottentot' labourers and settler families alike, setting fire to buildings, stealing livestock and maiming those animals which could not be carried away. These violent acts of defiance on the part of the San served two important functions in their struggle against settler encroachment: they struck fear into frontier settler society, while also inflicting heavy financial loss on farmers, which at times spelt their financial ruin³²²; and the livestock stolen provided the San with food to survive in circumstances that would have otherwise meant a choice between surrender or starvation.

³²¹ For example, HCPP. No. 50, 1835, *Extract from Mr. C.J. Reyneveldt's Report of the Commission of Circuit to Lieut. General Sir J.F. Cradock, Cape of Good Hope, 28 Feb. 1812*, p. 407.

³²² Van der Merwe, *The Migrant Farmer*, p. 161.

It is in light of these dire circumstances in which the San found themselves that Stockenström's alarm at the "cruel barbarous custom" mentioned above finds resonance for this chapter. In spite of his tendency to lament the plight of the San, the *landdrost* was not completely disinclined to employ the usage of dehumanising representations of the San prevalent in settler society. His letter to the Governor concerning the fate of San children is a case in point. His suggestion that San parents were prepared to murder their children or expose them to the elements was a common feature in disparaging characterisations of the San at the time. Still, frontier colonial realities had become so devastating for the San that it is likely this was in fact taking place.

To discount Stockenström's claim that San parents were murdering or exposing their children to such an extent as to label it a "custom" would be unreasonable, given that he was drawing upon personal experience and eyewitness accounts which had been relayed to him. As mentioned, Stockenström, unlike most local colonial administrators, exhibited a remarkable degree of neutral insight into the reasons for the demise of San society and for the hostilities which had plagued the frontier for the previous half-century.³²³ The use of the term "custom" serves to reinforce how dramatic the scale of destruction wrought by the northward progression of the colonial frontier was on the Cape San. Parents were faced with the real prospect of having to kill their own children or hand them over to the settlers.

Nonetheless, this representation of San parents as unfit parents both fed upon and strengthened deep-seated disparaging views of the hunter-gatherers.³²⁴ By the early nineteenth century, such views had a history as long as that of European settlement at the Cape. The accusations surrounding the cruel treatment of hunter-gatherer children at the hands of their parents were an important means by which the San were further dehumanised by settler society – in a sense positing them as lower than animals, which tend to be highly protective of their young. Most

³²³ HCPP, No. 50, 1835, *Papers relative to the Measures taken for fixing the Boundaries of the Colony of the Cape of Good Hope upon the Eastern and Northern Frontiers*, p. 117.

³²⁴ For a comparative discussion, see M.D. Jacobs, 'Maternal Colonialism: White Women and Indigenous Child Removal in the American West and Australia, 1880-1940', *The Western Historical Quarterly*, 36 (4), 2005, pp. 453-476.

importantly, it served as a convenient justification for the procurement of San children by frontier stock-farmers under the guise of saving their lives from their “unnatural parents”.³²⁵

As in other colonial contexts, many settlers believed that indigenous children were best moulded into assimilated servants in the workplace.³²⁶ For the colonists, the most effective way to assimilate children into subservient labourers was to remove them from their parents. Indeed, “children were also central to the “remedial process” of civilising and Christianising” and the colonial state felt fully entitled to regulate indigenous parent/child relations.³²⁷ This was apparent in numerous pieces of legislation passed by the Cape Government during the early nineteenth century, including Ordinance 50 of 1828; the most significant colonial order to affect the Cape Khoesan.³²⁸ The Ordinance granted them legal equality with the Cape’s settlers. It also afforded a greater degree of freedom of movement by annulling pass legislation. What is worth pointing out, however, is that eight of the Ordinance’s 25 clauses dealt with matters pertaining to ‘Hottentot’ children and their labour.³²⁹ While Ordinance 50 sought to remove former abuses in the child labour system, it nonetheless reiterated the colonial state’s power and prerogative to manage Khoesan families and their labour.

In returning to representations of the inhumane disposition of San parents towards their children, so pervasive were such sentiments that in April 1824, the Commissioners of Inquiry, when obtaining evidence from Robert Moffat, prominent missionary of the LMS at Kuruman, felt inclined to inquire: “Are the Bushmen in general attached to their children?”³³⁰ Moffat confirmed that they indeed were. He

³²⁵ HCPP, No. 50, 1835, *Reports and Papers relating to Depredations of, and Expeditions against the Bushmen*, p. 56.

³²⁶ A. Haebich, *Broken Circles: Fragmenting Indigenous Families, 1800-2000* (Fremantle: Fremantle Arts Centre, 2000), p. 79.

³²⁷ Haebich, *Broken Circles*, p. 69.

³²⁸ Ordinance 50 of 1828 will be discussed in detail in Chapter Three.

³²⁹ HCPP, No. 339, 1829, *South Africa. Return to an address of the Honourable House of Commons, dated 5th June 1829; copy of the order in council relative to the natives of South Africa*, pp. 1-8.

³³⁰ HCPP, No. 50, 1835, *Evidence of Mr. Moffat, a Missionary, Resident with the Bichuana Tribes at Latakoo, dated 20 April 1824*, p. 127.

commented that although “the practice is not yet extinct of obtaining Bushmen children by barter of sheep and goats, which children are permanently separated from their tribes and families” that “many applications” for San children “had been rejected by the parents.”³³¹ According to Moffat, “the price offered had been raised with a view to tempt them”, in one case with which he was familiar, a cow had been offered as compensation. In reply to questions from the Commissioners, Stockenström stated:

[...] although it was impossible to maintain that these children were always well treated and decently brought up... [it was] preferable that they should be received by the boors [sic] to being strangled or dashed to pieces by their parents from absolute want of food, or to being left exposed to the wild beasts [...] ³³²

This sentiment was also expressed by Governor Somerset. When he decided to introduce legislation protecting against settler attempts to barter for San children, he noted that such acts “may induce savage parents, for paltry bribe, to divest themselves of their natural feelings, and sell their children.”³³³ Similar representations of ‘Hottentot’ parents’ unnatural feelings towards their children were also widely held among the settlers and used as a defence for the apprenticeship system. John Philip argued that the claim “that Hottentots are deficient in kindly affections to their children” was a regular justification forwarded for apprenticeship. In a bid to refute this conception, Philip asserted that in his experience “the Hottentots [were] remarkable for an excess of affection for their offspring.”³³⁴

³³¹ HCPP, No. 50, 1835, *Evidence of Mr. Moffat, a Missionary, Resident with the Bichuana Tribes at Latakoo, dated 20 April 1824*, pp. 126-127.

³³² G.M. Theal, ‘Report of J.T. Bigge upon the Hottentot and Bushman Population of the Cape of Good Hope, and of the Missionary Institutions’, *Records of the Cape Colony, December 1827 to April 1831*, Vol. 35, (London: Government Printers), p. 326.

³³³ CA, CO 5881, Proclamations for Country Districts, 1806-1820, *Bosjesmen Children*, 8 Aug. 1817.

³³⁴ Philip, *Researches*, Vol. 1, p. 178.

It also happened that San parents who had given up their children to the farmers, due to their inability to look after them, found their pleas for their children to be returned when they were capable of providing for them refused.³³⁵ Recognising this, Stockenström went on to communicate the following to the Governor:

*[...] this (as it is called) ancient custom is beginning to be seriously abused, that these children got in the above manner are transferred from one hand to another, and that payment is secretly taken; that many by these means are gradually taken from the frontier, brought into the inner districts, and passed off as orphans [...]*³³⁶

Stockenström was so convinced of the scale of the abuse that he referred to the practice as a “traffic” in “Bosjesmen” children.³³⁷ Of particular interest, is his reference to the gradual removal of such children from the frontier. The implication of this is that San children were not only procured during commando attacks and raids, but under separate circumstances as well. Stockenström’s remark about such children being “passed off as orphans” is significant, for it sheds light on how the Colony’s labour laws which applied to ‘Hottentots’ were being used to justify the procurement and indenture of San children in the frontier districts; in particular, the Apprenticeship Law of 1812. When it came to the San, the implementation of these laws was irregular. Yet, it was this ambiguity in the application of the laws which fuelled the possibilities for the apprenticing of San children and passing them off as ‘Hottentot’ children or orphans, even when their parents were still alive and they had been kidnapped or bartered for.

³³⁵ HCPP, No. 202, 1826-7, *Accounts of all commandos or expeditions against the Bonshmen*, p. 23.

³³⁶ HCPP, No. 202, 1826-7, *Accounts of all commandos or expeditions against the Bonshmen*, p. 57.

³³⁷ HCPP, No. 202, 1826-7, *Accounts of all commandos or expeditions against the Bonshmen*, p. 56.

Somerset's 1817 Proclamation

In August 1817, just three months after the matter of child trafficking had first been brought to his attention, Governor Somerset instituted many of the recommendations which Stockenström had proposed in his earlier letter. The Governor issued an official proclamation regarding the apprenticing of San children.³³⁸ Somerset's proclamation set out a series of "lenient principles" intended to regulate the practice. It affirmed that "for some time past", the San had been "in the habit of leaving their children" with the farmers and that the farmers, rather than maintaining them "until reclaimed by their parents", had developed "a tendency to abuse the best principles" of such arrangements.

Further, members of the frontier stock-farming community had sought to "induce savage parents, for paltry bribe, to divest themselves of their natural feelings, and sell their children, or by fraud or force, or even murder, to acquire possession of the children of others for the purposes of sale."³³⁹ While designed to put an end to "acts of so atrocious a nature", the proclamation did not, however, outlaw the practice of procuring and apprenticing San children. Rather, it explained when procurement would be deemed appropriate and how, in such circumstances, the apprenticeship of the child or children ought to be formalised.

In order to bring about legally legitimate apprenticeships of San children, the farmer who acquired such children had to ensure that the lives of the children were in imminent danger and that if not removed would have succumbed to harm or death. It was also ordered that "no inhabitant, without the previous knowledge of the Field-Cornet nearest to his residence, shall take, receive or give any gratuity for a child to his parents, guardians or others offering to dispose of such child."³⁴⁰ In keeping with the kinds of regulations which were already in place for the apprenticing of 'Hottentot' children, it was stipulated that if acquired when under the age of five and then maintained by a farmer until the age of ten, such child could then be apprenticed for a further ten years, until 20. Though if a child was acquired

³³⁸ CA, CO 5881, Proclamations for Country Districts, 1806-1820, *Bosjesmen Children*, 8 Aug. 1817.

³³⁹ CA, CO 5881, Proclamations for Country Districts, 1806-1820, *Bosjesmen Children*, 8 Aug. 1817.

³⁴⁰ CA, CO 5881, Proclamations for Country Districts, 1806-1820, *Bosjesmen Children*, 8 Aug. 1817.

when he or she was older than five, but younger than eight years, and such child was maintained until the age of 12, then the child could also be apprenticed for a further ten years, to the age of 22. It is hardly surprising that in spite of the intentions of this proclamation, its convoluted design meant it was bound to be manipulated – especially in a frontier region which was sparsely populated and in which numerous farmers lived long distances from field cornets and *landdrosts*.

These stipulations gave legal sanction to the confounding of the status of San children with that of ‘Hottentot’ children. This had been Stockenström’s idea. He had argued that such children as had been received in keeping with the reforms should be placed “upon the same principle and under the same restrictions as [had] been established with respect to Hottentot children, by the Proclamation of 23 April 1812.”³⁴¹ Likewise, he recommended that San orphans be bound to farmers as Hottentot children were – to “place them by degrees in the same light with respect to the laws of the Colony as the Hottentots now stand.”³⁴²

Herein lay a crucial means by which scores of San came to be subsumed under the label ‘Hottentots’. Indeed, San children, acquired in numerous, dubious ways were forced into the frontier stock-farming economy as apprenticed ‘Bushmen’ and legally assimilated into ‘Hottentot’ status. While in childhood they had been ‘Bushmen’, by adulthood they had become ‘Hottentots’. While Somerset’s proclamation of August 1817 appears to have done little to prevent the ongoing suspicious procurement of San children by frontier farmers, it did provide such farmers with a legal framework that they were able to manipulate to their advantage once they had acquired such children.

In spite of the humanitarian intentions of the 1817 proclamation, the actions of Somerset’s Government with regards to the relations between the San and the Colony point towards the primary motive for issuing it. This was apparent with regards to the founding of missions to the San, which, as mentioned earlier, had been regarded as a suitable means of conciliation since the time of the First British Occupation. This view had been endorsed by others, such as Colonel Richard Collins.

³⁴¹ HCPP, No. 50, 1835, *Reports and Papers relating to Depredations of, and Expeditions against, the Bushmen*, p. 57.

³⁴² HCPP, No. 50, 1835, *Reports and Papers relating to Depredations of, and Expeditions against, the Bushmen*, p. 57.

He had toured the Cape interior in 1809 and had recommended the use of missions to the Government in its ongoing efforts to maintain peace along the north-eastern frontier.³⁴³ The San missions that were established were only tolerated as long as the missionaries were engaged in ministering to 'wild Bushmen'.³⁴⁴

When the missionaries were accused of providing sanctuary for San farm labourers who had fled from service in the Colony, Somerset decided to act. Stockenström was likewise disappointed that this had been occurring, only too aware of the pressing demands for labour in the Graaff-Reinet district and in particular, in the wards closest to the frontier. That 'tame Bushmen' were running away from Graaff-Reinet farms to seek refuge at Toornberg and Hephzibah went against the purpose for which the colonial authorities supported missions to the San. For the colonial authorities and stock-farmers alike, the missions were supposed to fashion San individuals into ready, reliable labourers for the settler economy. When the missions became places of refuge for San fleeing their European masters, this support was quickly withdrawn.

It is necessary to bear this in mind when assessing Somerset's subsequent concern for the fate of San children which motivated him to issue the proclamation of August 1817. It is apparent from the proclamation that his apprehensions stemmed not from the use of San child labour, but rather from how such labour was being acquired and whether the children were being treated as slaves. Somerset conveyed these sentiments to Stockenström in May 1822, when he asserted that the retaining of San women and children "ought never to take place without the greatest precaution, for the future treatment of these unfortunates, and prevention of the possibility of their merging into the class of slaves."³⁴⁵ The approach taken by both Somerset and Stockenström was couched in humanitarian reasoning. The proclamation of 1817 clearly reflected this. In article 12, it instituted that San orphans were to be apprenticed to "respectable and humane inhabitants."³⁴⁶ By

³⁴³ HCPP, No. 50, 1835, *Reports and Papers relating to Depredations of, and Expeditions against, the Bushmen*, p. 57.

³⁴⁴ Szalay, *The San and the Colonisation of the Cape*, p. 55.

³⁴⁵ HCPP, No. 202, 1826-7, *Accounts of all commandos or expeditions against the Bonshmen*, p. 17.

³⁴⁶ HCPP, No. 202, 1826-7, *Accounts of all commandos or expeditions against the Bonshmen*, p. 21.

being so placed, it was intended that such children would then be ‘tamed’ and raised as assimilated labourers. For the colonial government, the crux of the matter was that it was acceptable for San children to be incorporated as ‘Hottentot’ labourers, but not as slaves.

The extent to which the 1817 proclamation was able to ensure this was always going to be limited in a frontier region such as that which existed along the Cape’s north-eastern border. It often happened that even when local authorities such as Field cornets were in close proximity to farmers implicated in bartering for or kidnapping San children, they did little to stop these practices. Field cornets were farmers themselves, sometimes slave-owners, and similarly bent on acquiring cheap or, even better, free labour. They were hardly the best suited individuals for implementing the Government’s vision for a more transparent system of San child labour in the interior. This is made apparent by Stockenström’s re-issuing of key directives which he found necessary to do in December 1822. Entitled “Instructions respecting the introducing, permitting, and apprenticing of Bosjesmen children in the District of Graaff-Reinet”, the practices which this order sought to reiterate as illegal reveal much about the continuing nature of the system of San child labour in spite of the 1817 proclamation, as well as the likeness the system bore to slavery.

Article One stipulated that at the next *opgaaf*, in 1823, the name and age of each child on the farmstead had to be provided, along with an explanation of how the child came to be in the Colony. There was, however, an important caveat:

*Such of the Bosjesmens children who from long residence have mixed with the Hottentots, and have been considered as such, and who have as Hottentots [sic] children been apprenticed among the inhabitants, by any of the landdrosts, are not here included; in future, however, this mixing of these two descriptions of people shall not be permitted, but the registers of them be kept separate.*³⁴⁷

³⁴⁷ HCPP, No. 202, 1826-7, *Accounts of all commandos or expeditions against the Bonshmen*, p. 21.

Along with various other points, the Instructions legislated that should the “good treatment” of children be doubted by any *landdrost*, the child should be “placed under better care.”³⁴⁸ Those children received from their parents were to be presented before the *landdrost* or his deputy “within a month after having been received.” This was meant to ensure that they had been obtained by parental consent and not by force. Evidently this measure was hardly a safeguard against wrongful procurement. The lawful lapse of one month before the required presentation of a San child before the authorities was no doubt due to the distances most farmers had to travel to reach town. Indeed, the geographical expanse of the Cape’s north-eastern interior acted as an obstacle to the more effective administration of justice on the frontier.

In addition, the 1817 order also stipulated that orphan children captured during commandos were “to be put out with respectable and humane inhabitants.” However, this provided an incentive for commandos to create orphans by killing their parents. Another telling proviso was that if captured together, parents and children were “not to be separated.”³⁴⁹ The inclusion of this point suggests that parents and children had been separated in the past. If so, this bears a striking similarity to slave experiences. It was only in the late 1820s and early 1830s that ameliorative legislation prevented the separate sales of parents and children at slave auctions. Article Ten of the Instructions alluded to the growing numbers of San being forced to take up employment with the farmers, declaring that with regards to those “Bosjesmen” desirous of entering into contract work that such arrangements were to be “considered equally binding as that entered into between the inhabitants and the Hottentots.”³⁵⁰ Farmers were warned that they would face a fine of 50 Rixdollars “for every Bosjesmen wrongly detained.”³⁵¹

The figures provided by the *opgaaf* of 1823 provide numerical insight into the numbers of San children living and working on colonial farms. Yet, the numbers can safely be regarded as gross underestimates. In Graaff-Reinet, the district most

³⁴⁸ HCPP, No. 202, 1826-7, *Accounts of all commandos or expeditions against the Bonshmen*, p. 21.

³⁴⁹ HCPP, No. 202, 1826-7, *Accounts of all commandos or expeditions against the Bonshmen*, p. 22.

³⁵⁰ HCPP, No. 202, 1826-7, *Accounts of all commandos or expeditions against the Bonshmen*, p. 21.

³⁵¹ HCPP, No. 202, 1826-7, *Accounts of all commandos or expeditions against the Bonshmen*, p. 22.

dependent upon Khoesan labour, most involved in commando activities on the frontier and administered by the selfsame *Landdrost* Stockenström who had initiated the 1817 proclamation, 1823 was the first year that the numbers of San child labourers were formally counted. Similarly, when asked for the numbers of 'Hottentot' children apprenticed in the district by the Commissioners of Inquiry, records from 1821 only could be provided.³⁵² Nonetheless, for 1823, 155 San children had been "placed under the care and protection" of settlers in Graaff-Reinet. The number officially apprenticed stood at 49. These figures do not reflect those children acquired and apprenticed before 1823. In contrast, the report of the Graaff-Reinet sub-district of Cradock included all San children and adults, designated "Ingeboekte Bosjesmans", then residing with the farmers, not only those acquired or apprenticed in 1823. The number of San below the age of 16 stood at the time at 437, while those above 16 amounted to 405.³⁵³ Some farmers in Cradock had as many as 20 San, both adults and children, in their service. Many more had between ten and 15.³⁵⁴

Slipshod record-keeping of the number of San children in settler employ favoured the interests of farmers. Commissioner Bigge, in his report on the San noted that throughout the Colony, the rate of wages was lowest in Graaff-Reinet. This, he said, was "attributable to the facility with which the farmers [had] been able to procure the services of the Bushmen."³⁵⁵ For the stock-farmers, incentive lay in subverting whatever regulations were introduced. The blurring of the distinction between San and 'Hottentots', which was continuing apace in the 1820s, facilitated such subversion. Indeed, in 1824, Stockenström reported that in the seven years since the passage of the 1817 proclamation, only two farmers, J. Pyper and C. Jantzen, had been prosecuted for transgressing its provisions and that there had been no convictions before the circuit court.³⁵⁶ The prosecution of only two farmers amid numerous reports of the abduction of San children in missionary correspondence,

³⁵² Theal, 'Report of J.T. Bigge', p. 321.

³⁵³ HCPP, No. 50, 1835, *Employment of Bosjesmen, and Apprenticing of Children*, p. 143.

³⁵⁴ HCPP, No. 50, 1835, *Employment of Bosjesmen, and Apprenticing of Children*, p. 144.

³⁵⁵ Theal, 'Report of J.T. Bigge', p. 315.

³⁵⁶ HCPP, No. 50, 1835, *Employment of Bosjesmen, and Apprenticing of Children*, p. 140.

Government despatches and travel writing, highlights the difficulties the Cape Government faced in imposing its will on frontier society.

The unwillingness on the part of the local authorities to regulate the acquisition of San child labour according to the letter of the law was also reflected in a case which came to the Government's attention in November 1826. Major Andrews, who was commanding a military post on the north-eastern frontier, reported that two San men had complained about "unprovoked aggression... by the Border farmers." The men accused two farmers "of having murdered some of their children, and forcibly carried off others of them into slavery."³⁵⁷ Stuurman and Ackerman, the San men laying the complaint, informed Andrews that they had not bothered to take up the matter with the local Field cornet or his deputy, "thinking that doing so would be useless." Andrews noted that if true, this complaint went some way in accounting "for the very great degree of dissatisfaction evinced by the farmers residing in this part of the frontier at the arrival troops in their neighbourhood.". The presence of the troops meant that the San were afforded a new avenue for laying complaints against local farmers. It was this that irked the farmers, who were consistently opposed to British interference in the labour relations on the frontier.

Both Stuurman and Ackerman implicated the stock-farmers Hans and Johannes Van Tonder.³⁵⁸ Stuurman, who lived on the northern side of the Gariep River and as such, beyond the official boundary of the Colony at the time, complained that in September 1826, Van Tonder came to his *kraal* and "without saying a word to him... took away his youngest child, a boy about five years of age." When Stuurman followed Van Tonder, he threatened to shoot him and so he turned back. The second complainant, Ackerman, from another *kraal* in the vicinity told of how several months earlier, a group of farmers and 'Hottentots' approached his *kraal* asking for children. Ackerman explained to the group that there were only two children left in the *kraal*, with all the others having already been taken. He requested that the two

³⁵⁷ HCPP, No. 50, 1835, *Papers relative to Acts of Aggression and Commandos against the Hottentots, and Capture of Bushmen Children*, pp. 148-157.

³⁵⁸ Johannes Van Tonder also appears as John Van Tonder in the records. Both Hans and Johannes also appear initially with the surname Van Zender, but later on, following an investigation and the questioning of witnesses, they appear as Van Tonder.

remaining children be left with him as he was old and required their assistance. Upon making this request, Ackerman alleged that Hans Van Tonder assaulted him, beating him “so severely that he was unable to stir for some days.” The group then, without his permission, took away his son aged 13. At some point later on they returned and took away his seven year old daughter. This case serves to show that by the 1820s, many San *kraals* were unable to defend their children from being kidnapped. Children were also summarily abducted by farmers whenever they were in need of labourers and not only during commando operations.

During the investigation it was discovered that the Van Tonders had fourteen San in their service, including six children, with four of the adults having been in their service since childhood. All fourteen San individuals gave testimonies to the inquiry. None of them complained about the treatment they received, nor did they implicate the Van Tonders in child raiding, even though each was asked if they knew whether their masters went “across the boundary to steal Bushmen children” and “fire on the Bushmen kraals.”³⁵⁹ Many of the responses were vague. In answering the question of how long they had been in the service of the Van Tonders, half replied “very long”. Though obscure, it was a salient answer given that some of the San were estimated to be between ten and fourteen years old at the time. Andries, aged about twenty-five, recounted how he had lived with Hans Van Tonder since his infancy. In explaining how he came to reside with Van Tonder he stated:

*The Bushmen had stolen horses, and done other mischief. A commando went in pursuit of them and after the cattle. My master found me there. I had no parents living, and therefore willingly came with my master [...]*³⁶⁰

Generally, the San servants found the Van Tonders agreeable and were happy to remain in their service. It is highly likely the Van Tonders intimidated their servants into giving favourable evidence. In the end the Van Tonders were not prosecuted. Still, the *landdrost* must have remained suspicious, for in order to ensure that no similar

³⁵⁹ HCPP, No. 50, 1835, *Papers relative to Acts of Aggression and Commandos against the Hottentots, and Capture of Bushmen Children*, p. 152.

³⁶⁰ HCPP, No. 50, 1835 *Papers relative to Acts of Aggression and Commandos against the Hottentots, and Capture of Bushmen Children*, p. 153.

complaints arose in the future, he directed that “All the Bushmen, women and children then be called in [to the court], and the contents of the proclamation of 8 August 1817 clearly explained to them, and the particular attention of the field cornet called to it.”³⁶¹ As far the law of the Colony was concerned, the 1817 proclamation was still recognised as legitimate. As far the farmers were concerned, its provisions could be regularly circumvented. Apart from the insight this episode sheds on some of the dynamics at play in the acquisition of child labour on the frontier, the case of Stuurman and Ackerman and the San servants of the Van Tonders is also a rare instance in which San ‘voices’ appear in the records of the period.

It is evident that San children were not only captured during commando raids, but were also removed from their parents by farmers who traversed the official boundary of the Colony with the primary objective of acquiring child labourers. While it is most likely that numerous children were passed off as orphans so as to allow for their easier indenture with so-called ‘humane’ farmers, the case of Andries suggests that some children were bona fide orphans. Many children’s parents would have died at the hands of the commandos. The parents of others may have succumbed to starvation and the hardships of hunter-gathering life on the colonial frontier. Numerous observers noted that the San had been reduced to a deplorable condition. George Thompson, a traveller and explorer, wrote in 1824 of the San on the north-eastern frontier:

*The Bushmen on this frontier, whatever may have been the original condition of their progenitors, are now entirely destitute of cattle or property of any description, and now that the larger game have been generally destroyed, or driven out of the country by the guns of the Boors [sic] and Griquas, they are reduced to the most wretched shifts to obtain a precarious subsistence [...]*³⁶²

³⁶¹ HCPP, No. 50, 1835, *Papers relative to Acts of Aggression and Commandos against the Hottentots, and Capture of Bushmen Children*, p. 157.

³⁶² Thompson, *Travels and Adventures in Southern Africa*, Part 2, p. 4.

It is not surprising that in such circumstances, a sizeable number of San children would have been orphaned. They were the most vulnerable victims of the frontier. Some children only appeared in the colonial records as apprentices many years after they had first been acquired. In spite of the flaws in the system of apprenticeship, some farmers did heed the new regulations and sought to apprentice children that had been in their custody for several years. The return of figures of San children apprenticed in Graaff-Reinet in 1823 reveals that many of the children had been held for up to eight years already. With the average age for those children apprenticed in 1823 standing at eight, some of them had either been acquired at a very young age, while infants, or their ages were being deliberately underestimated so as to extract labour from them for longer.³⁶³

The Reconfiguring of Hunter-Gatherer Identity: From San to 'Hottentot'

This chapter has demonstrated that the removal of San children from their families was an integral part of the history of the destruction of the Cape's hunter-gathering communities. Children were victims of the violence meted out by the commandos. Some were killed by the commandos, while others were captured and raised as forced labourers on settler farmsteads.³⁶⁴ For the stock-farmers, the abduction of these children served two practical purposes. Firstly, it eliminated a future threat, removing the children from the land and their kinship groups before they could reach an age when they would have become capable of participating in raids and open resistance. Secondly, they acquired scarce labour resources. Abducted children would have become entirely dependent upon their new masters, with their ties to their families, culture and land severed.³⁶⁵ In this regard, the fate of San children on the Cape frontier during the early nineteenth century bears a striking similarity to

³⁶³ CA, 1/GR 15/71, *Register van de Aanbesteding van Bosjesmans Kinderen in het District Graaff-Reinet*.

³⁶⁴ Delius and Trapido have investigated how the custom of abducting and enslaving children was carried over from the Cape Colony into the Zuid Afrikaansche Republiek (ZAR) following the Great Trek of the 1830s. P. Delius & S. Trapido, 'Inboekselings and Oorlams: The Creation and Transformation of a Servile Class', *Journal of Southern African Studies*, 8 (2), 1982, pp. 214-242.

³⁶⁵ F. Morton, 'Small Change: Children in the Nineteenth Century East African Slave Trade', in Campbell, Miers & Miller (eds.), *Children in Slavery through the Ages*, p. 58.

the treatment of Aboriginal children in colonial Australia, in particular, Queensland.³⁶⁶ There too, indigenous children were not only caught up in the violence of the frontier, but their forced removal from their communities formed ‘an integral part of Aborigine’s experiences of colonisation’. Child removal in both arenas destabilised and diluted Aboriginal identity and undermined Aboriginal claims to the land, resulting in rapid depopulation.³⁶⁷

It seems contradictory and self-defeating to suggest that the settlers sought to eliminate those individuals upon whom they relied as labourers. This is where a greater recognition of the role played by the abduction of San child labourers in the settler economy of the frontier can shed some light. In the case of the San, the commandos did the work of crushing resistance and clearing the land for stock-farming. Many thousands of San lost their lives in the resulting frontier warfare. Those who survived commando attacks were subjected to forced assimilation as labourers. The threat posed by the San to European stock-farming and settlement in the Cape interior was eliminated by both means: slaughter and the abduction of survivors.

Many, perhaps even the majority, of the survivors of commandos were children. Acknowledging the forcible transfer of San children to Boer society reconciles the otherwise apparent contradiction between the outright killing of San and the stock-farming economy’s dependence upon San labour. Writing about Australia, Van Krieken argues that ‘The predominant aim of Indigenous child removals was the absorption or assimilation of the children... so that their unique cultural value and ethnic identities would disappear.’³⁶⁸

In the Cape, it was the colonial state’s position that such children should become subsumed with the ‘Hottentots’ and this is what transpired, with those traces of their San origins being lost as a result, at least in the colonial records. As children, they were particularly susceptible to “internalising colonial ideas of race

³⁶⁶ Robinson, *Something like Slavery?*, p. 10 & P. Hetherington, *Settlers, Servants and Slaves: Aboriginal and European Children in Nineteenth Century Western Australia* (Nedlands: University of Western Australia Press, 2002), p. 3.

³⁶⁷ Haebich, *Broken Circles*, p. 70.

³⁶⁸ Van Krieken, ‘Rethinking Cultural Genocide’, p. 129.

and negative stereotypes”.³⁶⁹ They would have internalised their inferior status as they grew up. John Philip realised the crucial role that the indenturing of children played in assuring settler society of the lasting subservience of the ‘Hottentots’:

*As early impressions are the most abiding, and as the future character is formed in early life, the habits acquired during these ten years’ bondage, must stick to the individual during life; and a very serious question arises out of these circumstances, namely, what are the habits the young Hottentots are likely to acquire during this servitude?*³⁷⁰

Philip was of the opinion that child apprenticeship perpetuated “the slavery of the parents and the whole family.”³⁷¹ Philip recounted how in 1825, while lodging with a “respectable farmer” in the Cape interior, he was told by the farmer that he had a family consisting of ten ‘Hottentot’ brothers in his service. The farmer commented to Philip:

*That family, sir, is my wealth; they are better to me than slaves, for they cost me nothing; and I shall have them apprenticed to me till they are twenty-five, perhaps till they are twenty-nine years of age, and perhaps I may be able to keep them forever.*³⁷²

San children, like Aboriginal workers in colonial Australia, were not “slaves in the strict sense” of the term, “but neither were they free”.³⁷³ And while they weren’t legally bonded in perpetuity, many remained in the service of their childhood masters well into adulthood. From the 1830s onwards, the fate of San children who were reaching adulthood became intertwined with the fate of the colony’s ‘Hottentots’ and slaves. The abolition of slavery in 1838 meant that the former legal

³⁶⁹ Haebich, *Broken Circles*, p. 79.

³⁷⁰ Philip, *Researches in South Africa*, Vol. 1, p. 183.

³⁷¹ Philip, *Researches in South Africa*, Vol. 1, p. 183.

³⁷² Philip, *Researches in South Africa*, Vol. 1, p. 183.

³⁷³ Robinson, *Something Like Slavery?*, p. 9.

distinctions between 'Hottentots' and slaves were removed. Thereafter, 'Hottentots' and liberated slaves came to constitute a new, social conglomerate, increasingly referred to as Coloureds in contemporary parlance. Captive and indentured children followed a trajectory of cultural erasure from San to 'Hottentots' to Coloureds. In between, many such captive children were subjected to an upbringing and status akin to slavery.

Rather than preventing the "ancient custom" of kidnapping and bartering for San children, the apprenticeship system introduced by Governor Somerset and *Landdrost* Stockenström afforded the practice a legal legitimacy that was manipulated on the frontier. The records of the Graaff-Reinet district reveal a clear lack of political will to see the regulations fully implemented; even on the part of Stockenström himself. Farmers, with or without the complicity of the local authorities, could easily conceal the means by which they had acquired San children; if necessary, claiming to have taken them in as orphans who would have otherwise perished. Thereafter they could then seek the legal indenture of such children, at least until they became adults. The way in which San children were then subsumed into 'Hottentot' identity points towards an important process by which San identity and culture disappeared. The following section goes on to examine how the plight of San on the frontier fed into a wider debate about indigenous subjecthood. It is argued that the subsuming of San, especially San children, under the category 'Hottentot' was welcomed by key humanitarian figures in a trans-colonial exchange of ideas about the desirability of humanitarian imperialism.

III. Communication Networks and the Extermination of the Cape San

Apart from featuring in a number of narrative histories³⁷⁴, the frustrations concomitant with the San mission project have been regarded as insignificant in the overall standing of the LMS in the Cape Colony.³⁷⁵ However, the ineffective missions

³⁷⁴ Such as K. Schoeman, *J.J. Kicherer en die Vroeë Sending, 1799-1806* (Cape Town: South African Library, 1996) and K. Schoeman, *The Early Mission in South Africa, 1799-1819* (Pretoria: Protea Book House, 2005).

³⁷⁵ For example: J. Comaroff and J. Comaroff, *Of Revelation and Revolution*: (Chicago: University of Chicago Press, 1991), p 45; J. Du Plessis, *A History of Christian Missions in South Africa* (London:

to the San played a far more prominent role in the contemporary colonial discourses of the early nineteenth century, especially with regards to the capabilities of the missionary cause to instruct and 'civilize' indigenes. This history also suggests how indigenous subjecthood in the Cape colonial setting was conceived of by key humanitarian figures, in particular, Philip. To illustrate this, it is necessary to take into account the important role which networks of 'knowledge' exchange across colonial sites played in shaping the debate concerning indigenous rights. As Andrew Porter has argued, "Too many studies of missionary enterprise focus on the transmission of missionary ideas outwards from a single centre, and fail to understand that most often missionary thought and plans were the product of exchanges between several such centres."³⁷⁶ The LMS was a global organisation and Philip, like many other missionaries in other fields, was aware that he was working in an imperial setting.

Missionaries, settlers, colonial authorities, metropolitan Britons and, indeed, indigenous peoples, all constituted different, connected audiences in these trans-colonial exchanges of 'knowledge' and debate. Cape settlers were acutely conscious of the imperial reach that missionary publications had in Britain. As mentioned in Chapter One, an early precedent had been set by James Read. He had drawn metropolitan attention to the abuses suffered by Khoesan labourers at the hands of their European masters in 1809 with the publication of a letter in the *Transactions of the Missionary Society*.³⁷⁷ Keeping in step with the LMS, settlers at the Cape were equally determined to craft their own counter-discourse, calling into question the justifications for missionary labours and the ways in which the Cape's indigenous peoples were being represented to metropolitan audiences. The Cape's British settlers were especially concerned about the way they being were portrayed as deviant, backward Britons by humanitarians.³⁷⁸ Fears over Khoesan labour

Longman, 1911), p 106; & G. Stow, *The Native Races of South Africa* (London & New York: Swan Sonnenschein & Macmillan, 1905), p 157.

³⁷⁶ A. Porter, 'North American Experience and British Missionary Encounters in Africa and the Pacific, c. 1800-50', in Daunton & Halpern (eds.), *Empire and Others*, p. 347.

³⁷⁷ J.. Boas & M. Weiskopf, 'The Activities of the London Missionary Society in South Africa, 1806-1836: An Assessment', *African Studies Review*, 16 (3), 1973, p. 421.

³⁷⁸ Lester, 'British Settler Discourse and the Circuits of Empire', p. 39.

rebellion and amaXhosa retaliation for encroachment on their lands meant that Eastern Cape settlers were sensitive to the perceived lack of sympathy on the part of the metropole.³⁷⁹ Networks of communication between metropole and colony, as well as between different settler-colonies, were central to the construction and defense of settler and humanitarian arguments, and in turn, identities.³⁸⁰

By the late 1820s, the LMS' greatest prospects for creating a viable, Christian peasantry lay among the Griquas of the Trans-Gariep and the Khoekhoe of the Kat River Settlement founded in 1829 on the Eastern Cape frontier (the latter will be discussed in more detail in Chapter Three). As indicated by the outcomes of the missions at Philippolis and Bushman Station, the missions to the San were by this time being sidelined due to more ambitious schemes such as these. The Griqua had also launched commandos from Griquatown and Philippolis against San in retaliation for stock theft. Even so, some in the LMS, such as the missionary at Griquatown, Henry Helm, "proposed to the Griquas to incorporate the Bushmans with themselves", especially given that the Griqua "wanted them to be their servants."³⁸¹

By the early 1830s, Philip wanted to see the Griqua "incorporated into the Colony on the same terms as the inhabitants of the Kat River Settlement."³⁸² This was one of the clearest examples of Philip's humanitarian imperialism. The call for the Crown's formal annexation of territories on the margins of settler-colonies was a trademark of the humanitarian-imperialist agenda. The Aborigines' Protection Society, which was founded in 1837 after the investigations of the Select Committee on Aborigines were completed, actively campaigned for the annexation of territories that were susceptible to settler encroachments.³⁸³ The concept of the Protectorate

³⁷⁹ See the discussion by A. Lester, 'Reformulating Identities: British Settlers in Early Nineteenth-Century South Africa', *Transactions of the Institute of British Geographers*, 23 (4), 1998, pp. 520-523.

³⁸⁰ A. Lester, 'Humanitarians and White Settlers in the Nineteenth Century', in N. Etherington (ed.), *Missions and Empire* (Oxford: Oxford University Press, 2005), p. 65.

³⁸¹ SOAS, CWM, Incoming Correspondence, 8B/5/D, H. Helm to Directors of the LMS, Griqua Town, 27 Dec. 1822.

³⁸² Legassick, *The Politics of a South African Frontier*, p. 230.

³⁸³ Heartfield, *The Aborigines' Protection Society*, pp. 6-9 & 303.

emerged as a result. This led to the further conquest of Aboriginal lands in the name of protecting their occupants and the incorporation of yet more indigenous subjects. At the Cape, the fate of the San continued to be debated in reference to the Cape Colony's future relations with its neighbours and the opposing humanitarian and settler visions of the colony's expansion. The so-called 'Bushmen Wars' some sixty years earlier became a crucial factor in the public contest over settler and 'Hottentot' identities that occurred in the 1830s.³⁸⁴ The Colony's 'memory' and settler identity were tested in a propaganda war during this time, at the centre of which was Philip. The debate was set in motion in 1828, when Philip published his widely distributed *Researches in South Africa*. The two-volume work caused a stir at the Cape. A libel suit brought against Philip by the *landdrost* of the district of Somerset was successful and he had to rely on the financial support of evangelicals in Britain to spare him financial ruin.³⁸⁵ Philip's unpopularity with the settlers reached its zenith. In the ensuing debate over the legitimacy of his arguments in the *Researches*, the Colony's historical interactions with the San were to prove a focal point.

The debate was very much influenced by the Colony's interactions with its frontiers and those groups who stood in the path of the Cape's geographical expansion. And while the Eastern Cape frontier and wars with the amaXhosa were the flashpoint of the period, the earlier conflict on the northern frontier during the late eighteenth century was vociferously contested in the public domain owing to the important historical precedent it held for future frontier relations. The dispute was aired in public by the two leading newspapers in the Colony: the settler-backed *Graham's Town Journal* edited by the 1820 settler, Robert Godlonton, and the humanitarian mouthpiece *South African Commercial Advertiser*, edited by John Philip's son-in-law, John Fairbairn.

An emerging, assertive settler identity, especially in the Eastern Cape, informed the debate as settler apologists sought to defend and laud the settler

³⁸⁴ For more on the 'Bushmen Wars' of the 1770s see Newton-King, *Masters and Servants*, pp. 72-76 & Penn, *The Forgotten Frontier*, pp. 108-125.

³⁸⁵ R. Ross, 'Donald Moodie and the Origins of South African Historiography', in *Beyond the Pale*, p. 201.

character in response to humanitarian accusations.³⁸⁶ Godlonton was a supporter of settler interests on the frontier and his rebukes of Philip, Stockenström and Pringle were scathing, with Philip labeled the “Reverend agitator” and Pringle the “calumniator of the Colony”.³⁸⁷ All three were depicted as hypocrites, as they supported the establishment of the Kat River Settlement on what used to be amaXhosa land, while condemning white settlers for occupying similar lands.³⁸⁸ While the amaXhosa were a very different enemy to the San, owing to their military strength, socio-political organisation and sheer numbers, the earlier, and ongoing, plight of the ‘Bushmen’ served the humanitarian lobby’s trans-colonial alarm at the consequences of settler-colonialism for indigenous populations well.

In light of modern, ongoing disagreements over the cultural distinctiveness of the San and Khoekhoe, it is necessary to note that humanitarian use of the appellation ‘Bushmen’ in this contest did not necessarily imply a distinct racial or ethnic identity.³⁸⁹ Rather, it was a label applied to those who existed on the margins of colonial society, driven there by the advance of the *trekboers*. Though his usage of the colonial labels ‘Hottentot’ and ‘Bushmen’ in his writings were far from consistent, it is clear that Philip regarded the ‘Bushmen’ as dispossessed ‘Hottentots’. For Philip, the vilified, ‘thievish’ ‘Bushmen’ were a colonial creation. He tended to portray them as the manifestation of the evils of unrestrained European settler-colonialism. Philip reiterated this when he commented that “the most miserable specimens of the Bushmen race are to be found amongst the frontier boors [sic], or in the immediate vicinity of the Colony”, while “many of the more remote hordes, still remaining in a state of comparative independence, are much

³⁸⁶ See the discussion by Keegan, *Colonial South Africa and the Origins of the Racial Order*, pp. 196-201.

³⁸⁷ *GTJ*, 3 Jan. 1839 & 5 May 1836.

³⁸⁸ *GTJ*, 29 Dec. 1836.

³⁸⁹ Shula Marks suggests that hunter-gatherer and herder modes of subsistence were interchangeable, depending upon opportunities to acquire livestock and access to sufficient water and grazing. See ‘Khoisan Resistance to the Dutch’, pp. 58-60 for a brief discussion of this argument. Richard Elphick has also argued that hunter-gatherers and herders were on different stages of an economic cycle, which often exhibited a combination of the two modes of subsistence. He sets out this argument in *Kraal and Castle*.

superior in stature, and have a vivacity and cheerfulness in their countenances which form a striking contrast with the others.”³⁹⁰

While settler accusations against the mission stations as safe havens for vagrants and as islands of indolence continued, Philip used his *Researches* to demonstrate how missionary labours had been obstructed by the laws of the Colony and the actions of public officials, such as the *veldkornets* and *veldwagtmeesters*. Within this narrative framework, the San were portrayed as victims of unchecked colonial advances, against which at times even the missionaries could not assist.

The amount of attention Philip granted to the closure of the San missions at Toornberg and Hephzibah in the *Researches* reveals the extent to which this episode, which had occurred before his arrival at the Cape, had alarmed him.³⁹¹ Although Somerset’s 1816 ban on missionaries working beyond the Colony’s borders had been relaxed following Philip’s arrival at the Cape, the unpopularity of the LMS among the settler population remained a constant challenge. The return of Lord Charles Somerset to commence his second term as Governor in November 1821 compounded this challenge. After all, it was Somerset who had ordered the closure of Toornberg and Hephzibah. His private correspondence with Earl Bathurst at the Colonial Office revealed the extent of his dislike for Philip. He referred to Philip’s growing influence in the Colony as “hostile”, asserting that he “mingled” in political affairs in order to acquire political influence for himself.³⁹²

In response to Somerset’s hostility, Philip adopted a language which placed increasing emphasis on the positive role the missionaries and mission stations could play in inculcating an appreciation for labour among the Khoesan.³⁹³ In subsequent years Philip was able to take full advantage of his contacts with prominent figures in Britain, finding a sympathetic ear with the likes of William Wilberforce and Thomas Fowell Buxton.³⁹⁴ His personal influence went beyond the Cape government

³⁹⁰ Philip, *Researches in South Africa*, Vol. 2, p. 7.

³⁹¹ Philip, *Researches in South Africa*, Vol. 2, pp. 23-54.

³⁹² CA, Government House (hereafter GH) 23/7/118A, Governor Somerset to Earl Bathurst, 11 October 1824.

³⁹³ A. Bank, ‘The Great Debate and the Origins of South African Historiography’, *Journal of African History*, 38, 1997, pp. 262-263.

³⁹⁴ J. Boas & M. Weiskopf, ‘The Activities of the London Missionary Society in South Africa’, p. 421.

to the Colonial Office and the House of Commons. He also enjoyed close ties with the organizers and missionaries of the American Board Commission for Foreign Missions, as well as with other missionaries in Australasia.³⁹⁵ Philip's reputation was global in scope.

To be 'Hottentots' is to be Subjects

If the 'Bushmen' are recognised as having been cast in humanitarian discourse in a mode more akin to an organising concept for those indigenous groups dispossessed and literally pushed to the margins of the Colony by settler-colonialism, as opposed to a distinct ethnicity, then Philip's representation of these people within both the local and trans-colonial contexts of the time comes into sharper focus. This discursive technique situated the plight of the San within a trans-colonial narrative which highlighted the devastating consequences of settler-colonialism on *indigenes* in other territories of the emerging British Empire. The primary concern for the humanitarian lobby, of which Philip was a prominent representative both locally and internationally, was the debasement of Aboriginal peoples as a result of settler-colonialism. Interactions with settlers were said to result in social ills such as alcoholism among *indigenes*.³⁹⁶ The pristine, or 'noble savage', was thus reduced to a desperate life of wandering, robbery and addiction.

Philip framed the San as a product of settler-colonial expansion. This view held that if it weren't for the settlers, the San would be able to return to their former status as 'Hottentots'. Further assimilation into Christian subjects could then occur under the guidance of missionaries. As such, this chapter argues that the debate surrounding San provenance during the 1830s was shaped by evangelical-humanitarian concern for the recognition of indigenous subjecthood along with its attendant rights and protection. Though Philip was critical of the British Government at times, his goal was not the curtailing of imperialism, but the

³⁹⁵ A. Porter, 'North American Experience and British Missionary Encounters in Africa and the Pacific, c. 1800-50', in Daunton & Halpern (eds.), *Empire and Others*, p. 351.

³⁹⁶ D. Gordon, 'From Rituals of Rapture to Dependence: The Political Economy of Khoikhoi Narcotic Consumption, c. 1487-1870', *South African Historical Journal*, 35, 1996, pp. 83-85.

extension of it, as long as it was humanitarian imperialism. Central to this philosophy was the argument for the allocation of civil rights to indigenous subjects. In his *Researches* Philip called upon the British Government to “do justice to the aborigines of the country, by imparting to them liberal institutions, and just and equal laws.”³⁹⁷ Though the effects of settler-colonialism on the Cape’s indigenes were regrettable, he believed that “Britain [could] redeem her character” by ensuring that the “acknowledged civil rights” of the ‘Hottentots’ were adhered to.³⁹⁸ He urged the British Government “to declare to the world whether those rights [were] to be realised to them”, stressing that “the Hottentots, despairing of help from every other quarter, now look to the justice and humanity of England for deliverance.”³⁹⁹ Philip believed he was merely asking the British Government to live up to the expectations it had created in the minds of the ‘Hottentots’:

In the proclamations of the colonial government, in the official documents of the government at home [...] the Hottentots are, indeed, represented as a free people, free labourers, and British subjects: but it will be seen [...] that their real condition is that of the most abject and wretched slavery. ⁴⁰⁰

Philip went on to discuss at length the closure of the San missions at Toornberg and Hephzibah. He argued that their closure had been due to “false representations of the farmers” at a time “when [a] traffic in children was going on.”⁴⁰¹ He lamented the loss of these missions as the resident San were said to have shown “the greatest readiness to lay aside their savage life, and become useful members of religious and civil society.”⁴⁰² In keeping with the cultural chauvinism characteristic of nineteenth century missionaries, Philip avowed that religious institutions were “the channels

³⁹⁷ Philip, *Researches in South Africa*, Vol. 1, p. 381.

³⁹⁸ Philip, *Researches in South Africa*, Vol. 1, p. 400.

³⁹⁹ Philip, *Researches in South Africa*, Vol. 1, p. 400.

⁴⁰⁰ Philip, *Researches in South Africa*, Vol. 2, p. 259.

⁴⁰¹ Philip, *Researches in South Africa*, Vol. 2, p. 277.

⁴⁰² Philip, *Researches in South Africa*, Vol. 2, p. 279.

[...] by which the ideas of order, of duty, of humanity, and of justice, flow through the different ranks of the community.”⁴⁰³ It is important to note that his argument for the desirability of missions due to their Christian influence was equally framed by a concern over the civic identity of the ‘Hottentots’.

Both Philip and the Directors of the LMS in London stressed the need for the British Government to acknowledge that scores of ‘Hottentots’ had begun to submit to the authority of the monarchy it represented. While such representations were no doubt made to bolster the position and image of the LMS at the Cape, they also point towards the emphasis the missionary effort placed on subjecthood. In reference to the ‘Hottentots’ of Uitenhage who had become associated with Bethelsdorp, Philip insisted that “those people who had formerly been the terror of that District of the Colony” had become “steadily attached to the British Government.”⁴⁰⁴ The Directors of the LMS agreed, declaring that the ‘Hottentots’ of Bethelsdorp, through service to the “District and the Colony at large”, had “powerfully recommended themselves to the paternal care and protection of His Majesty’s Government.”⁴⁰⁵

As far the San were concerned, Philip believed missions provided the best means to return them to the status of ‘Hottentots’. It is apparent that he was not the only prominent missionary to consider the San as despoiled ‘Hottentots’. James Read thought the same, suggesting that some of the tensions between San labourers and farmers stemmed from the San’s lack of understanding of how the law as it pertained to ‘Hottentots’ worked: “They have no idea of the laws made for Hottentots, but think themselves at liberty to return to their *kraals* at their pleasure, and to take their children back when they please.”⁴⁰⁶ Read also maintained that with regards to the ‘Hottentots’ and ‘Bushmen’, he was “fully convinced that [they were]

⁴⁰³ Philip, *Researches in South Africa*, Vol. 2, p. 361.

⁴⁰⁴ CA, GH 1/39 591, Missionary lands at Bethelsdorp, J. Philip to Earl Bathurst, 1824.

⁴⁰⁵ CA, GH 1/40 608, Selected letters and memorials, Directors of the LMS to Earl Bathurst, 11 Dec. 1824.

⁴⁰⁶ Philip, *Researches in South Africa*, Vol. 2, p. 278.

one and the same nation” and that “no visible difference [could] be seen in their persons, and their manner of living customs.”⁴⁰⁷

In promulgating the necessity for extending laws as they applied to ‘Hottentots’ to the San as well, Philip stressed that “the liberty we ask is not an exemption from the law, but its protection”; “we simply ask that the colonists, and the different classes of the natives, should have the same civil rights granted to them.”⁴⁰⁸ For Philip and Read, as well as other equally enthusiastic humanitarian imperialists, it was desirable for the San to become ‘Hottentots’ as they could then claim their British subjecthood.

IV. The Fate of the ‘Bushmen’ in the Service of ‘Hottentot’ Subjecthood

The trans-colonial reach of Philip’s influence was most evident during the investigations of the Select Committee on Aborigines, convened in 1836. The convening of the Committee marked the apogee of humanitarian influence across the Empire. Philip’s *Researches* was an important point of reference for the Committee, who interviewed 46 witnesses, 29 of whom had had direct personal experiences of the Cape Colony.⁴⁰⁹ It was with the publication of the report of the Select Committee in 1837 that the effect of settler-colonial encounters on aboriginal subjects found trans-colonial significance. The report sent “shockwaves across the Empire that were felt in Sydney, Cape Town, and Hudson’s Bay.”⁴¹⁰

Philip’s testimony to the Committee was published along with a number of appendices submitted by the Committee Chair, Thomas Fowell Buxton. These included reports from Van Dieman’s Land, New South Wales and New Zealand, all recounting the miserable state of the aboriginal inhabitants of these territories due

⁴⁰⁷ SOAS, CWM, Incoming Correspondence, 6/4/B, J. Read to Directors of the LMS, 4 Oct. 1816.

⁴⁰⁸ Philip, *Researches in South Africa*, Vol. 2, p. 327.

⁴⁰⁹ Z. Laidlaw, ‘Aunt Anna’s Report: The Buxton Women and the Aborigines Select Committee, 1835-37’, *Journal of Imperial and Commonwealth History*, 32 (2), 2004, p. 23.

⁴¹⁰ Heartfield, *The Aborigines’ Protection Society*, p. 7.

to European settlement and the effects of land dispossession.⁴¹¹ Settler treatment of *indigenes* stood as a glaring indictment of the British Government and its lack of control over its emerging settler societies, even those inherited from previous administrations, such as the *VOC*. The demise of the Cape's indigenous peoples at the hands of wanton settler provocation was a conclusion the Select Committee drew in the opening paragraph of its official report on South Africa, asserting that returning visitors to the Cape interior would, after a twenty year absence, be inclined to ask where the aboriginal populace had disappeared to.⁴¹² So influential were Philip's submissions to the Committee, that it even adopted his position on the 'Bushmen'/'Hottentot' question. The Committee's Report declared that the Aborigines of South Africa could be "classed under two distinct races", namely the 'Hottentots' and the Bantu. The 'Hottentots' were said to be "divided into two branches, the "tame" or colonial Hottentots, and the wild Hottentots or Bushmen."⁴¹³

While after 1806, and the commencement of the Second British Occupation of the Cape, the northern frontier was both less threatening and less economically important, the events which had occurred along this frontier in the late eighteenth century were to prove crucial in the debates inspired by the evangelical-humanitarian lobby during the 1820s and 1830s. Though the humanitarian campaign aimed at promoting native rights and protecting aboriginal peoples in colonial societies provided powerful ideological validation for the extension of British imperial rule, in doing so, it cast European settlers in disparaging terms. Humanitarians made allegations of rapacious misconduct and outright cruelty towards colonial *indigenes* by settlers. Alan Lester has shown how the ensuing contest over settler identity in imperial nodes such as New South Wales, New Zealand and the Cape Colony, resulted in a struggle "over the nature of Britishness itself."⁴¹⁴

⁴¹¹ HCPP, No. 538, 1836, *Report from the Select Committee on Aborigines (British settlements); together with the minutes of evidence, appendix and index*, pp. 679-685.

⁴¹² CA, HCPP, No. 425, 1837, *Report from the Select Committee on Aborigines*, p. 25. See also SACA, 'Present State of Some of the Tribes on the Northern Frontier of the Cape Colony', 11 Jan. 1826.

⁴¹³ CA, HCPP, No. 425, 1837, *Report from the Select Committee on Aborigines*, p. 25.

⁴¹⁴ Lester, 'British Settler Discourse and the Circuits of Empire', p. 25.

The combined indictment of Philip's *Researches* and the Report of the Select Committee on Aborigines upon settler respectability and 'Britishness' did not go unchallenged at the Cape. As Andrew Bank has argued, "Ascendant Cape liberalism prompted Dutch settlers to defend their national character" and to "actively construct a specifically colonial history and identity."⁴¹⁵ This identity was being invented within the context of an ongoing, violent frontier conflict with the amaXhosa on the eastern margins of the Colony and its history makers looked to refute the accusations Philip had made concerning the frontier conflict with the San of the late eighteenth century.

At the forefront of this endeavour was Donald Moodie, a former lieutenant in the Royal Navy who became a prominent Cape settler. In 1828, he was appointed to the post of Clerk of the Peace in the District of Albany.⁴¹⁶ His compilation of documents (published between 1838 and 1841 as *The Record, or A Series of Official Papers Relative to the Condition and Treatment of the Native Tribes of South Africa*) relating to the history of the Colony was intended to serve as a rebuttal to Philip's arguments in the *Researches*, as well as the Report of the Select Committee on Aborigines. With regards to the investigations of the Select Committee, Moodie maintained that much of the evidence presented was "dependent as much upon memory as upon political feeling."⁴¹⁷ Moodie's own 'history' of the Cape disputed allegations of settler atrocities perpetrated against the San during the late eighteenth century and that the San were a colonial creation. Moodie rejected the claim that the San had "descended from the pastoral to the hunting state" and that this change was a consequence of European oppression.⁴¹⁸

Of particular controversy was Philip's claim that in 1774 the Council of Policy at the Cape had issued an extermination order against the 'Bushmen'. Moodie contested this claim, having failed to find a copy of the order in the archives. The

⁴¹⁵ Bank, 'The Great Debate and the Origins of South African Historiography', pp. 261-281.

⁴¹⁶ V.C. Malherbe, 'Donald Moodie: South Africa's Pioneer Oral Historian', *History in Africa*, 25, 1998, p. 172.

⁴¹⁷ CA, VC 888, Donald Moodie, manuscripts, 'Notes by D. Moodie on Van der Kemp, Philip and Read', undated.

⁴¹⁸ D. Moodie, *A Voice from the Kahlamba: Origin of the Bushmen* (Pietermaritzburg: May & Davies, 1855), p. 1.

implication for Philip was that he had fabricated it. Moodie publicly questioned whether Philip had made a mistake or if he had invented the extirpation order in order “to attain an ambitious object, by ministering to the morbid sentimentality of a weak and most mistaken set of men in the mother country.”⁴¹⁹ Philip had indeed gotten the date wrong, as the extirpation order had been issued in 1777.⁴²⁰

Apart from prompting the earliest debate concerning the history of the Colony, this episode is significant given the centrality of the fate of the San in the debate. Philip was accusing the Boers of having committed horrendous acts against the San during the course of the late eighteenth century. This was anathema to white settler consciousness and respectability at a time when Cape settler identity was becoming increasingly assertive. Moodie was at the helm of a settler inspired discourse that sought to distance the Cape Colony of the 1830s from the earlier period of extermination against the San.

Given Moodie’s intentions, his collection of notes, some of which were taken during interviews with a wide range of respondents including both settlers and ‘Hottentots’, reveals some awkward admissions. One farmer living in the Camdeboo named B.J. Burger recounted how commandos in the 1770s and 1780s acting “under orders to destroy the Bushmen.”⁴²¹ Burger recalled one struggle at which 300 San were killed. He added that the commandos “always considered carrying away the children.” While there were numerous reports of the “cruel and rapacious” nature of the San, or “Bushmen Hottentots”, as they were often referred to, others reported that “when domesticated”, the San made “trustworthy servants.”⁴²²

Most notably, Moodie recognised how ‘Hottentot’ identity and subjecthood were being constructed and disseminated by the humanitarian lobby and in particular, Philip. He noted that the extension of equal civil rights to the ‘Hottentots’ by Ordinance 50 had created difficulties for frontier farmers in need of labour, especially in terms of ensuring compliance and loyalty on the part of their servants:

⁴¹⁹ D. Moodie, ‘Dr. Philip and the Extermination of the Bushmen’, *GTJ*, 3 Jan. 1839.

⁴²⁰ Ross, ‘Donald Moodie and the Origins of South African Historiography’, pp. 207-208.

⁴²¹ CA, VC 874, Memorials, instructions to Field cornets, reports of returns of stolen cattle, 1801-1839, Statement of B.J. Burger, Camdeboo, Mar. 1836.

⁴²² CA, VC 886, Civil Commissioner, Graaff-Reinet, relations between Government and the Bushmen Hottentots & CA, VC 874, Statement of C. Greyling, 29 Mar. 1836.

The patriarchal power of maintaining household discipline which had naturally arisen out of the circumstances in which the remote inhabitants were placed was patiently submitted to by the Hottentot races while ignorant of their legal rights. ⁴²³

Moodie attested to the appeal of 'Hottentot' civic identity among 'Hottentots' themselves when he observed that the political feelings espoused by missionaries and humanitarians "induced the colored [sic] man of Albany, or Kat River, to call himself a Hottentot" and "thereby [being] entitled to a more immediate share of the sympathy produced upon the public mind."⁴²⁴ This theme will be explored in more detail in the next chapter.

For the humanitarian lobby of the 1830s, the fate of the San served as a historical warning against the kind of settler-colonialism which was occurring at the time along the Cape's eastern frontier, highlighted by the Sixth Frontier War, or Hintza's War, which broke out in December 1834. Philip was well aware of the negative representations of the frontier Boers in the travel literature of the late eighteenth and early nineteenth centuries. He regularly referred to the writings of John Barrow in the *Researches* for instance. Barrow had toured the north-eastern boundary of the Colony in 1797 at the request of the Governor, George Macartney. His detailed accounts of how the commandos operated influenced "British perceptions of Boer brutality towards the San for a long time thereafter."⁴²⁵ Barrow's accounts were a convenient reference for Philip as he sought to delegitimise Boer claims to land and predominance on the eastern frontier. The argument followed that future relations between the Colony and the amaXhosa were to be viewed with the lamentable precedent set by the Colony's interactions with the San in mind.

⁴²³ CA, VC 888, Donald Moodie, manuscripts, undated, 'Social Position of the Coloured Classes since 1780'.

⁴²⁴ CA, VC 888, Donald Moodie, manuscripts, undated, 'Social Position of the Coloured Classes since 1780'.

⁴²⁵ Penn, *The Forgotten Frontier*, p. 224. Barrow's recommendations also formed the basis for Macartney's 1798 proclamation which was discussed earlier.

During the 1820s and 1830s, contests over settler and indigenous identities, inspired by competing histories of previous events on the frontier, were relayed with much enthusiasm to the metropole. This was done with a view to influencing public sentiments in Britain and its colonies in respect to the impact of settler-colonialism on *indigenes*. The 1840s would witness the beginning of “a shift in the discursive terrain”, as “an increasing turn to the language of race to explain and justify the inequalities and persistent differences between peoples” started to take hold in Britain.⁴²⁶ Andrew Bank has argued that the decline of the civilising mission during the 1840s was influenced to a large extent by the Frontier Wars in the Eastern Cape, especially Hintza’s War in 1834/5 and the War of the Axe in 1846.

Historians have tended to focus on later events, such as the Indian Mutiny in 1857 and the Morant Bay Rebellion in Jamaica in 1865, in search of reasons why “the age of humanitarianism” was replaced by an “age of imperialism” during the latter half of the century.⁴²⁷ Bank suggests that the Xhosa Frontier Wars were an earlier, significant precursor in the decline of humanitarianism across the Empire. “Cape liberalism was thrown into crisis” by these wars and even missionaries and humanitarian supporters became disillusioned with the prospects of assimilation.⁴²⁸

In spite of this, Philip was still defending the continuing efforts of his Society within the narrative framework of its wider, imperial significance and the limiting effect it could have on settler atrocities against the Khoesan. In response to a challenge from a LMS missionary, William Elliott, who in 1848 suggested that the Society had arrived at a crisis in the Colony requiring a complete change in its management, Philip was quick to reassure his British audience as follows:

The conversion of so many individuals from among a people supposed to be the lowest of the human race, whose claims to be regarded as of the

⁴²⁶ C. Hall, *Civilising Subjects: Metropole and Colony in the English Imagination, 1800-2000* (Cambridge: Polity Press, 2002), p. 338.

⁴²⁷ P. Curtin, *The Image of Africa: British Ideas and Action, 1780-1850* (London: Macmillan, 1965), p. vi.

⁴²⁸ A. Bank, ‘Losing Faith in the Civilising Mission: The Premature Decline of Humanitarian Liberalism at the Cape, 1840-60’, in Daunton & Halpern (eds.), *Empire and Others*, p. 366.

same stock with the rest of mankind, had been long denied and practically rejected; their elevation from savage to civilised habits, and the education of their children, and the deliverance of their whole nation from the fate of the aborigines in so many other countries, when seized by Europeans, and the effect which all this had on the condition of the coloured people generally, not only in South Africa, but throughout the British dominions, are known to all the world. ⁴²⁹

This chapter has argued that the presence of the San on the Cape's north-eastern frontier posed difficult challenges for the British colonial authorities and the LMS, the only missionary society to actively proselytise among them. Both the colonial authorities and the LMS were alarmed by the condition of the San during the early nineteenth century. While the British were reluctant to allow the continued use of commandos, they carried on and so too did the abduction of San children who became forced labourers. The procurement of San children did not offend the British authorities, though they wanted to prevent such children becoming slaves. It has been shown that colonial leaders such as Governor Somerset and *Landdrost* Stockenström actually welcomed the incorporation of San children as labourers and their forced assimilation as 'Hottentots'. Remarkably, prominent figures in the LMS such as John Philip and James Read also regarded the assimilation of the San into 'Hottentots' as desirable. Philip actually believed the San were merely "wild Hottentots", driven to a life of desperation by the European settlers and their commandos.

This was due to there being laws pertaining to 'Hottentots', but not 'Bushmen'. There was a general sense that the San, by virtue of being frontier people, were beyond the purview of colonial law and therefore, beyond the reach of the authority and protection of the Crown.⁴³⁰ In this sense, the approach of the colonial authorities to the use of San child forced-labour and the LMS' humanitarian campaign aimed at

⁴²⁹ J. Philip, *Letter to the Directors of the London Missionary Society, On the Present State of Their Institutions in the Colony of the Cape of Good Hope* (Cape Town: London Missionary Society, 1848), p. 25.

⁴³⁰ This view continued well into the 1830s. See for example, National Library of South Africa, Cape Town, (hereafter NLSA), William Porter Collection, MSB 392, Diary of William Porter, 10 Oct. 1839.

promoting a civic identity among the Cape's indigenous subjects, found common ground. 'Bushmen' were not under the law, but 'Hottentots' were. Colonial law became a designator of labels. It also served as a marker of who qualified as a British subject at a time in Cape colonial history when settler and indigenous identities were in contest.

This chapter has explored the exchange of ideas about the historical plight of the San in Cape society during the 1820s and 1830s. In doing so, it has argued that the colonial administration and the humanitarian lobby both thought it was desirable for the San to be legally assimilated as 'Hottentots'. The ways in which settler and indigenous identities were constructed in the heated debate over the fate of the San were also discussed. The flow of ideas and information across networks of communication was extremely important in shaping this debate, as each side sought to defend its position. The contest was simultaneously local and imperial in scope.

At the heart of the dispute were competing visions of subjecthood. For settler apologists and humanitarians alike, subjecthood was deployed as a means to gain the favour of the Crown towards their constituents, though across the Empire, settlers would also begin to call for representative government as they became disillusioned with metropolitan control. The Cape was no exception.⁴³¹ The next chapter considers to what extent the humanitarian construction of 'Hottentot' identity via trans-colonial networks of communication shaped 'Hottentot' responses to settler-colonialism at a time when evangelical-humanitarian sentiment still held sway on imperial affairs.

⁴³¹ For example, *SACA*, 3 Dec. 1828.



Bethelsdorp

(Le Cordeur, B. & Saunders, C. *The Kitchingman Papers*, 1976)



Philippolis

(CA, Morrison Collection, M 255)

Chapter Three

Civil Rights and Subjecthood: 'Hottentot' Loyalism in Contest, 1828-1834

As discussed in Chapter One, 'Hottentot' efforts to seek legal redress for grievances with their masters reveal much about their daily experiences in the Cape Colony, as well as how they responded to the dual forces of settler-colonialism and British imperialism. It was argued at the end of Chapter One that colonial law served as a conduit of 'Hottentot' subjecthood. Though the Caledon Code was largely coercive and subsequently criticised by the likes of John Philip, it nonetheless defined 'Hottentots' as imperial subjects with limited legal rights.⁴³² In Chapter Two, the construction of 'Hottentotness' in relation to subjecthood by colonial officials and evangelical-humanitarian figures was outlined. The subject-status of 'Hottentots' became clearer when juxtaposed alongside the extra-colonial status of the 'Bushmen'.

Building upon the arguments laid out in Chapters One and Two, this chapter explores how 'Hottentot' experiences of colonial subjecthood continued to unfold in the years following the enactment of the most significant piece of legislation to affect them, Ordinance 50. This chapter also follows on from Chapter Two in that it considers to what extent the colonial and mission-inspired discourse of 'Hottentot' subject-status mattered to 'Hottentots' themselves and how they contributed to the construction of 'Hottentot' civic identity. Essentially, this chapter focuses on the ways in which British subjecthood was deployed by 'Hottentots'. During the period stemming from 1828 to 1834, residents of the Cape Colony witnessed two key legislative moments that together provided the space for a budding 'Hottentot' civic identity to find public expression. These two moments were: the passage of Ordinance 50 in 1828 and the proposed vagrancy legislation of 1834, along with the vagrancy bill agitation it precipitated.

By appealing to the recognition of their rights as subjects, colonial indigenes made a bold, uncomfortable claim: that they were legally and morally entitled to be

⁴³² Philip, *Researches in South Africa*, Vol. 1, pp. 42-74.

included in the world of the coloniser. Subjecthood was a status that could be acquired without racial qualification. As noted, subjecthood was also inextricably linked to the legal authority of the Crown and subject-status was regarded as a guarantee of Crown jurisdiction over the individual. By the late 1820s, civic rights had become incorporated into the ambit of subjecthood. In a sense, subjecthood took on a new meaning as a humanitarian brand of British imperialism held sway at the Cape Colony during this period. Though it was not to last, the moment presented an opportunity for subjecthood to move beyond a doctrine of loyalty, allegiance and belonging to incorporate ideas associated with citizenship.

Subjecthood and citizenship tend to be treated as discrete, even disparate, categories. Citizenship implies a relationship between an individual and the state in which the state extends certain rights. In turn, the individual may place demands on the state to ensure his/her rights are observed and protected. Of course, the state can exert control by denying rights to those that fall under its legal jurisdiction. Nonetheless, rights relate to what behaviour is considered acceptable and lawful as well as what is considered improper or immoral. David Washbrook has noted that “[t]he law may be seen to represent a set of general principles through which political authority and the state [however constituted] attempt to legitimise the social institutions and norms of conduct which they find valuable.”⁴³³ The colonial state expressed its intentions to those who were subjected to its authority via colonial law. However, in order to control colonial spaces and bodies, the colonial state depended upon local bureaucracies and procedures in order to implement its intentions. In a colonial setting where subjecthood was complex and in contest, it is understandable that the practicalities of applying the law created tensions in the related identity struggles.

Within the Cape colonial context of the 1820s, the colonial state oversaw the extension of rights to both Khoesan and slaves. Members of these social categories acquired rights pertaining to mobility, employment and legal recourse by virtue of being subjects of the Crown. The distinction between subjecthood and citizenship was blurred as a consequence. The appeals to indigene subject rights that followed indicated a breaching of the boundary between subjecthood and citizenship in

⁴³³ D. Washbrook, ‘Law, State and Agrarian Society in Colonial India’, *Modern Asian Studies*, 15 (3), 1981, p. 649.

'Hottentot' identity politics, with citizenship normally considered to be the preserve of the White settlers. Mamdani has labelled this contradictory paradigm "a double-sided affair". On the one hand, the colonial state governed a racially-defined citizenry via a regime of rights and the rule of law. On the other hand, the colonial state ruled over racially-defined subjects in a manner that was usually coercive and motivated by administrative justice and economic concerns.⁴³⁴ However, the extension of legal rights and in principle, legal equality, to the Cape's 'Hottentots' unsettled this neat dichotomy. Rather, there was a duality as subjects could claim a legal status normally associated with being a citizen. As such, subjecthood transformed into an imagined subject-citizenship.

'Hottentot' claims to equal status within the Cape Colony, which was on the brink of radical change in terms of labour relations owing to the approaching abolition of slavery in December 1834, were framed in a language that tied the injustices of slavery to their own sense of social vulnerability.⁴³⁵ While acknowledging the close ties that existed between 'Hottentots' and slaves, who laboured alongside each other, intermarried, attended Sunday worship services together and even at times, rose up in mutual rebellion against their masters (such as during the Galant slave revolt of 1825), the focus here remains on 'Hottentot' experiences of this process; in particular, on the ways in which they experienced and negotiated their ongoing incorporation into the settler economy as a working underclass.⁴³⁶

Nonetheless, the enactment of Ordinance 50 in 1828 and the anti-vagrancy legislation protests of 1834, while being legislative moments that directly affected the 'Hottentots', must be understood within the context of a slave society expectant of emancipation.⁴³⁷ 'Hottentot' reactions to, and interactions with, these two key

⁴³⁴ M. Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (Princeton: Princeton University Press, 1996), p. 19.

⁴³⁵ SOAS, CWM, South Africa, Incoming Correspondence, 14A/2/A, J. Philip to T. Buxton, Cape Town, 13 Aug. 1834.

⁴³⁶ For a detailed analysis of the Galant rebellion, see P. Van der Spuy, 'Making Himself Master: Galant's Rebellion Revisited', *South African Historical Journal*, 24, 1996, pp. 1-28.

⁴³⁷ Comparative literature that has proven valuable for this discussion includes, J. Tutino, *From Insurrection to Revolution in Mexico: Social Bases of Agrarian Violence, 1750-1940* (Princeton: Princeton University Press, 1986), pp. 22-25; M.K. Huggins, *From Slavery to Vagrancy in Brazil: Crime and Social Control in the Third World* (New Brunswick: Rutgers University Press, 2007), pp. 35-39; D. Chang, *Citizens of a Christian Nation: Evangelical Missions and the Problem of Race in the Nineteenth*

legislative moments reveal the kinds of contests over civic identity that were occurring among this ethnic assortment of autochthonous people, as well as the narratives of subjecthood that they were using to protect the civil liberties they had been granted. At the forefront of the public debate at the time were notable figures of the LMS. Philip, Read and a number of other LMS missionaries publically and vociferously campaigned for the protection of civil liberties on behalf of the 'Hottentots'. The LMS' missions were also focal points for the defence of Ordinance 50 in the years following its passage when it came under threat of being repealed by the Cape's Legislative Council.

This chapter will commence with a reappraisal of Ordinance 50, exploring its influence upon 'Hottentot' civic identity. It will also consider how 'Hottentot' mobility within the Colony's labour market was influenced by this significant piece of legislation and how it engendered a vibrant working class respectability among 'Hottentots'. In the following sections, the chapter will proceed to discuss the proposed vagrancy ordinance of 1834 and the concomitant 'Hottentot' resistance against this measure. The chapter explores the dynamic ways in which 'Hottentot' identity had begun to coalesce into a more clearly defined subject identity during the period under review.

I. A Reappraisal of Ordinance 50 of 1828

The late 1820s and early 1830s marked the political heyday of the LMS in the Cape Colony. John Philip was well connected with leading members of the anti-slavery lobby in Britain; in particular, the House of Commons MP Thomas Fowell Buxton. Drawing on these influential networks, Philip was able to successfully campaign for the granting of civil liberties to the 'Hottentots'. In this endeavour, Philip appears to have skirted the issue of confronting slavery head on, and in so doing, the

Century (Philadelphia: University of Pennsylvania Press, 2010), Introduction; M. Turner, 'Introduction', in M. Turner (ed.), *From Chattel Slaves to Wage Slaves: The Dynamics of Labour Bargaining in the Americas* (London: James Currey, 1995); T. Ballantyne & A. Burton (eds.), *Bodies in Contact: Rethinking Colonial Encounters in World History* (Durham & London: Duke University Press, 2005); R.W. Strayer, *The Making of Mission Communities in East Africa: Anglicans and Africans in Colonial Kenya, 1875-1935* (London: Heinemann, 1978), pp. 59-70; & D. Nugent, *Modernity at the Edge of Empire: State, Individual and Nation in the Northern Peruvian Andes, 1885-1935* (Stanford: Stanford University Press, 1997), pp. 5-14.

complicated matter of government interference in the institution of private property, of which he was an ardent supporter. He accomplished this by conflating the condition of the 'Hottentots' with what was to be expected for the slaves once freed.

The amelioration of the labour and living conditions of the slaves was a heated topic of the period, overlapping with the 'Hottentot' labour question.⁴³⁸ Major pieces of legislation were passed in 1826 and 1830 directly addressing the extent and types of punishments masters could mete out to their slaves.⁴³⁹ In light of this, Philip framed his arguments against the Caledon Code of 1809 and the Apprenticeship Act of 1812 within the discourse of the abolitionist cause, as well as within the free-market narrative which he had inherited from his Scottish Enlightenment roots. For instance, in his correspondence with Buxton, Philip had argued that the 'Hottentots' should have the "liberty to bring their labour to the best market".⁴⁴⁰

Due to the significant influence the LMS could boast of having in the Colonial Office in London during the 1820s and 1830s, much of the related historiography has tended to focus on this aspect of the framing and passage of Ordinance 50 – the most important piece of legislation to affect the Cape Khoesan. However, apart from the work of Malherbe, which has explored in detail Khoesan livelihoods before and after Ordinance 50, little attention has been paid to how the Ordinance reinforced an idea that was already in circulation among 'Hottentot' constituents; that is, imperial subjecthood.⁴⁴¹

This reappraisal is intended to stand in the breach and provide new insight into the ways in which 'Hottentots' actively participated in the invention of themselves as British subjects in response to Ordinance 50. Participation was, of course, far from uniform. It is fair to assume that numerous 'Hottentots' would have participated, if at all, reluctantly. Nonetheless, as will be shown, Ordinance 50 along

⁴³⁸ J.E. Mason, 'The Slaves and Their Protectors: Reforming Resistance in a Slave Society, the Cape Colony, 1826-1834', in *Journal of Southern African Studies*, 17(1), 1991, pp. 103-128 & Trapido, 'From Paternalism to Liberalism' pp. 76-104.

⁴³⁹ Dooling, *Slavery, Emancipation & Colonial Rule in South Africa*, pp. 85-86.

⁴⁴⁰ Quoted in Macmillan, *The Cape Colour Question*, p. 217.

⁴⁴¹ Malherbe, 'The Cape Khoesan in the Eastern Districts of the Colony before and after Ordinance 50 of 1828'.

with its subsequent public defence in 1834, resulted in a revitalised sense of what colonial subjecthood could accrue to a dispossessed and marginalised indigenous community caught up in the turbulences and harsh realities of settler-colonialism. Trapido, in a seminal paper presented at the Institute of Commonwealth Studies, University of London, in 1992, situated the introduction of Ordinance 50 within the Cape's brief experiment with liberalism. The late 1820s and early 1830s were marked by contests between the competing interests of different groups. These included the slave-owning Dutch gentry, the new English merchant class (following the UK Government's 1820 settlement scheme), and the British colonial officials under direction from their imperial overseers. Added to this mix were the missionaries, along with a few independent journalists.⁴⁴² The latter two, together with the humanitarian Governor, Richard Bourke (1826-1828), were the most instrumental actors in the liberal agenda at the time.

It was during Bourke's governorship of the Colony that the new Charter of Justice (1827) and Ordinance 50 were introduced. The Charter of Justice was adopted in accordance with the recommendations of the Commissioners Colebrooke and Bigge, who investigated the Cape's judicial system as part of their Commission of Eastern Inquiry.⁴⁴³ As a consequence of the new Charter, the *Raad van Justitie* was replaced by the Cape Supreme Court in early 1828. The new Supreme Court was managed by four judges, including a chief justice, all brought to the Cape from Britain. The *Fiscal* was also supplanted by an Attorney-General and the courts of *landdrost* and *heemraaden* were replaced by the appointment of Resident Magistrates and Civil Commissioners.⁴⁴⁴ A jury system was also initiated for criminal cases. Though the Cape's civil law would remain Roman-Dutch, this constituted a thorough overhaul of the Cape's judicial system and with the removal of the boards of *landdrosts* and *heemraaden* the gentry lost a valuable ally in the

⁴⁴² S. Trapido, 'The Emergence of Liberalism and the Making of Hottentot Nationalism, 1815-1834', in University of London, Institute of Commonwealth Studies, *Societies in Southern Africa in the 19th and 20th Centuries: Collected Seminar Papers*, Vol. 17, 1992, p. 34. The most prominent of these journalists was John Fairbairn, who became the editor of the liberal *South African Commercial Advertiser*. Fairbairn was also John Philip's son-in-law.

⁴⁴³ CA, CJ 3198, Instructions of His Majesty's Government upon the report of the Commission of Inquiry, 1827; & CA, CJ 3662, Judicial report of the Commission of Inquiry, 1826.

⁴⁴⁴ Fagan, 'Roman-Dutch Law in its South African Historical Context', in Zimmerman & Visser (eds.), *Southern Cross*, pp. 50-51.

maintenance of their power.⁴⁴⁵ The primary intention behind the new Charter was to make the courts “as independent of the Executive Government of the Colony as possible, and to prevent [...] any risk of collusion between the court and the Executive Government.”⁴⁴⁶

One of the new puisne judges of the Supreme Court was William Westbrooke Burton. He held unpopular views with many in settler society. Burton placed a premium on English as the judicial language. He did not consider it appropriate for individuals who could not speak the language to serve as jurors. A close friend of Governor Bourke, Burton also drafted Ordinance 50 and in a reflection of his liberal sentiments he insisted that ‘Hottentots’ should be able to approach magistrates with ease and without fear of intimidation.

On 17 July 1828, Ordinance 50 was passed in the House of Commons and later confirmed by an Order of the King in Council. This meant that it could not be amended or repealed by the Cape Government without the sanction of the House of Commons. Ordinance 50 removed all legal obligations on the ‘Hottentots’ to work for the settlers and put them on an equal legal footing with other non-slave members of Cape society. The Ordinance emphasised personal liberty, but rather than this being framed as an inalienable human right, it flowed from the benign favour of the monarch and British Parliament.

This amounted to a colonial paradox. Rights discourse, as promulgated by humanitarian sympathisers and backed up, for the time being, by the Colonial Office, was an important means by which colonialism was legitimised.⁴⁴⁷ At the same time, the extension of legal equality to all British subjects provided colonised *indigenes* with a powerful, ideological tool of resistance. In the case of Ordinance 50, it constructed ‘Hottentotness’ in imperial terms to a far greater degree than ever before. By 1842, much of Ordinance 50 had been unpicked by the Cape’s Legislative

⁴⁴⁵ CA, 1/GR 17/46, D. Cloete, Cape Town, 7 Mar. 1828, concerning the power of field cornets and the weight of their testimonies in court; & CA, 1/UIT 16/58, Clerk of the Peace, explanation in the prosecution of three criminal cases, Niekerk, Scheepers and Jacob Jacobs, 8 Apr. 1829. See also the discussion by J.B. Peires, ‘The British and the Cape’, in Elphick & Giliomee (eds.), *The Shaping of South African Society*, p. 502. Also, J.L. McCracken, *New Light at the Cape of Good Hope: William Porter, The Father of Cape Liberalism* (Belfast: Ulster Historical Foundation, 1993), pp. 60-61.

⁴⁴⁶ CA, CO 337/4, Judge Menzies, Cape Town, 28 Jan. 1828.

⁴⁴⁷ B. Ibhawoh, *Imperialism and Human Rights: Colonial Discourses of Rights and Liberties in African History* (New York: State University of New York Press, 2007), p. 8.

Council with the implementation of a Masters and Servants Ordinance coming into effect that year. This was followed in 1856 by an even more stringent Masters and Servants Act, this time under the oversight of the Cape's new representative assembly. These acts will be analysed in greater detail in the following chapters. For now, it is worth noting that Ordinance 50 did not result in any substantial economic benefits for the 'Hottentots'. This aspect of the Ordinance's failing has been dealt with by a number of scholars.

The consensus in the related historiography is that Ordinance 50 did not radically transform settler society. The colonial authorities were not prepared to introduce a minimum wage and the lack of sufficient land for 'Hottentot' peasants to settle on meant that in material terms the Ordinance did not amount to any significant structural change in the Cape economy.⁴⁴⁸ In legal terms, the new judicial administrative structure was not always able to ensure strict compliance with the new measures on the part of masters. The colonial state's shortcomings in this regard meant that legal equality did not necessarily translate into equal justice. Even under the new legal dispensation, some 'Hottentots' who sought the intervention of the courts in disputes with farmers found their prospects for a fair hearing and 'impartial justice' aided by the assistance of prominent humanitarians.⁴⁴⁹ In addition, with the Ordinance's provisions applying specifically to "Hottentots and other free persons of colour", it actually served to reify racial stereotypes of the Khoesan.

In terms of 'Hottentot' civic identity, however, knowledge of what came after has led to a disregard for the kinds of real changes that were effected in the lives of 'Hottentots' in the interim. This serves as a detriment to the historiography, as a more critical appraisal of the ways in which 'Hottentots' imagined their place in Cape colonial society and the British Empire, and articulated the defence of their new civil

⁴⁴⁸ H. Giliomee, 'The Eastern Frontier, 1770-1812', in Elphick & Giliomee (eds.), *The Shaping of South African Society*, p. 452; & Newton-King, 'The Labour Market of the Cape Colony, 1807-1828', in Marks & Atmore (eds.), *Economy and Society*, pp. 199-200. See also, M. Legassick, 'The State, Racism and the Rise of Capitalism in the Nineteenth-Century Cape Colony', *South African Historical Journal*, 28 (1), 1993, pp. 329-368.

⁴⁴⁹ CA, CO 2710, Report, D. Moodie, Cases against Scheepers and Van Niekerk, Graham's Town, 24 Apr. 1829.

liberties can shed new light on a crucial period in the history of their contested identity as a colonial underclass of imperial subjects.

As with the Caledon Code of 1809, the passage of Ordinance 50 highlighted the contradictions inherent in the humanitarian ideals of British imperialism within settler societies during the 1820s and 1830s. In the Cape Colony, the period after the advent of the Second British Occupation witnessed the tensions between British imperial strategies of making the Colony economically viable and able to pay its own way, while also establishing itself as a morally legitimate authority in the eyes of both settler and *indigene*.⁴⁵⁰ In endeavouring to support settler capitalism, while simultaneously seeking to replace labour coercion with labour consent, the imperial state inadvertently created a paradox. For settler capitalism to remain viable, it required a steady and readily available supply of labour. And yet the harsh labour regimens to which the Khoesan and slaves had been subjected offended metropolitan sentimentalities.

In the wake of Britain's abolition of the slave trade in 1807, followed by the move towards eventual, complete emancipation in 1838, the Khoesan continued to find themselves in the contradictory space between settler-colonial interests and the prerogatives of imperial sovereignty. This colonial paradox afforded room for social and economic manoeuvre on the part of the Khoesan as they sought to fend off settler-colonial demands on their labour. For many, their alliance with the missionaries of the LMS afforded them an additional means of leverage: the principles of the evangelical-humanitarian lobby.

'Hottentots' (mission 'Hottentots' in particular) were well aware of the dominant ideas of the time, especially as they pertained to subjecthood. The ways in which they used these ideas against those seeking to maintain a firm grip on their labour and livelihoods also reveals how they oscillated between what Scott has called the public and hidden transcripts of subaltern behaviour and resistance.⁴⁵¹ In terms of the "public transcript", Scott argues that "peasants assume the role

⁴⁵⁰ Lonsdale & Berman, 'Coping with the Contradictions' p. 492.

⁴⁵¹ J.C. Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance* (New Haven & London: Yale University Press, 1985), p. 231.

expected of them.”⁴⁵² This transcript alludes to strategies of assimilation to dominant modes of thought and behaviour, and in the Cape colonial setting these were largely moderated by missionaries of the LMS. That is, the master class did not hold sway on colonial thought. ‘Hottentots’ were well aware of the contests over social order between the competing groups outlined earlier on. It is apparent that at times, such as when Ordinance 50 was enacted, the British imperial state appeared aligned with the missionary caucus. The “public transcript” of resistance was therefore profoundly shaped by imperial subjecthood. As has been argued in Chapter One, British imperial sovereignty was equally influential in shaping the Khoesan’s assimilationist aspirations. With regards to the “hidden transcript”, in Scott’s analysis, this refers to “everyday forms of resistance” and importantly, the construction of “an alternative image” of the oppressors. In the Cape colonial context, this pertained to settler society, rather than the imperial state and its local representatives.⁴⁵³ It will be illustrated later on that ‘Hottentots’ seeking to defend their civil liberties during the mid-1830s juxtaposed their respectable subjecthood alongside the dubious loyalty of the Boers.

Ordinance 50 had the effect of reinforcing a nascent ‘Hottentot’ civic identity. In contrast to a number of studies that have emphasised ‘Hottentotness’ as an ethnic identification, this discussion stresses the identity’s civic expression.⁴⁵⁴ The concept of civic nationality captures a sense of belonging to a transcendent imperial identity. As will be illustrated below, in spite of its numerous failings to radically alter the racial hierarchy of the Cape, Ordinance 50 afforded ‘Hottentots’ the opportunity to imagine themselves as belonging to a British civic nation. The introduction of civil rights further enforced the idea of being subject-citizens of the British Empire. This is not to suggest that ‘Hottentot’ civic nationality was devoid of ethnic undertones.

⁴⁵² Scott, *Weapons of the Weak*, p. 231.

⁴⁵³ Scott, *Weapons of the Weak*, p. 231.

⁴⁵⁴ Ross, ‘The Kat River Rebellion and Khoikhoi Nationalism’, pp. 91-92; & Elbourne, ‘The Fact So Often Disputed by the Black Man’, p. 385.

The continuing importance of 'Hottentot' ethnic identity was most evident in appeals for land, to which several petitioners claimed an ancient right.⁴⁵⁵ The third clause of Ordinance 50 instituted the right for 'Hottentots' to purchase land and in January 1829, the same month that the Ordinance came into effect at the Cape, members of Bethelsdorp submitted two memorials to Governor Cole requesting land. The petitioners noted that the "want of land [had] checked the natural increase of their cattle" and had deprived them of "just reward" for their industry. They indicated that they were eager to acquire land near the sea, between the Bushmen and Sunday Rivers, as well as at other locations between Bethelsdorp and Theopolis.

The memorialists were clearly aware that the long term advantages of Ordinance 50 depended upon the acquisition of more land.⁴⁵⁶ They underlined their right to land by reminding the Governor that it once "belonged to their fathers". Malherbe has argued that this episode illustrates that 'Hottentots' were attempting to assert a *burgher* right to the land.⁴⁵⁷ As such, the tone and wording of the memorial suggest that 'Hottentots' were increasingly regarding themselves as Cape citizens. However, the Bethelsdorp 'Hottentots' also reiterated their loyalism. In fact, before stating their request for grants of land, the petitioners informed the Governor that most of them had been "faithful soldiers in regiments, or upon commandos" and had "served the public well."⁴⁵⁸ The petitions were thus tinted with a sense of valid expectation that their loyalty would be duly rewarded with grants of land. Notions of citizenship were understood to flow from their subject status.

The Bethelsdorp petitioners were to be left disappointed, as the colonial government decided that seeing as Ordinance 50 allowed individual 'Hottentots' to purchase and own land, it was not necessary to allocate communal lands. This stance

⁴⁵⁵ For example, SOAS, CWM, South Africa, Africa Odds, J.J. Freeman Deputation Papers, 1/6/B, D. Helm, Zuurbraak, 25 Oct. 1849; & 1/4/A, Memorial from Hottentots concerning Fingo squatters, 16 Jun. 1849.

⁴⁵⁶ The missionary at Hankey recognised this as well. J. Melvill to Governor Cole, Hankey, 16 Jul. 1833.

⁴⁵⁷ Malherbe, 'Testing the 'Burgher Right' to the Land', p. 4.

⁴⁵⁸ CA, CO 362/3, Memorial, inhabitants of Bethelsdorp to Governor Cole, Jan. 1829. Also quoted in, S. Bannister, *Humane Policy, or, Justice to the aborigines of new settlements essential to a due expenditure of British money and the best interests of the settlers, with suggestions how to civilise the natives by an improved administration of the existing means* (London: Thomas & George Underwood, 1830), Appendix 13.

on the part of Governor Cole's administration was hugely disingenuous, as very few 'Hottentots' had the financial means to purchase land. The only substantial allocation of land to occur was the creation of the Kat River Settlement later in 1829, however, the motives behind the scheme were influenced by strategic military concerns on the frontier rather than by the best interests of the land-hungry 'Hottentots'.⁴⁵⁹ The valley surrounding the head-waters of the Kat River lay in what was called the "ceded" territory. In 1819, Ngqika, a chief of the amaXhosa, agreed to the area becoming a neutral territory, in which neither colonist nor amaXhosa could settle. This agreement was never considered binding by other chiefs and by 1829, the area had been occupied by Ngqika's son, Maqoma, and his followers. Andries Stockenström, who had been appointed the commissioner general of the eastern frontier, regarded Maqoma's presence in the neutral zone as a serious threat to the Colony's security. Stockenström was able to persuade the Legislative Council that it was in the best interests of the Colony to expel Maqoma and his followers and settle 'Hottentots' in the territory instead. Stockenström intended for the new 'Hottentot' settlement to act as a buffer zone between the amaXhosa and the Colony.⁴⁶⁰

Stockenström recruited James Read in making the arrangements for the relocation of families from Bethelsdorp and Theopolis to the new Settlement.⁴⁶¹ Read conveyed his delight at the news of the settlement scheme in a letter to Stockenström in June 1829. He declared:

I cannot help embracing this opportunity of expressing my feeling of gratification at the present prospects of the Hottentots [...] Government will find it is helping itself and the country at large and forwarding the great plan of general improvement and civilization [...] The frontier will be secured by a race of people you have done them justice in calling, in

⁴⁵⁹ This was admitted by Stockenström, see A. Stockenström, *Light and Shade: as shown in the character of the Kat River Settlement and in the conduct of the colonial government towards them, being the substance of a speech by Sir Andries Stockenström in the Legislative Council* (Cape Town: Saul Solomon & Co., 1854), p. 5.

⁴⁶⁰ See the discussion by T. Stapleton, *Maqoma: Xhosa Resistance to Colonial Advance* (Johannesburg: Jonathan Ball, 1994), pp. 53-62; & Elbourne, *Blood Ground*, pp. 262-264.

⁴⁶¹ Le Cordeur & Saunders, *The Kitchingman Papers*, p. 129.

your correspondence with government, a loyal and courageous people
[...]⁴⁶²

In April 1830, Read would be called by the residents of the Settlement to be their minister, to which Philip acquiesced. The sense of gratitude felt for the humanitarian efforts of those in Britain was illustrated by the names chosen for the different villages that sprung up in the Settlement: Buxton, Wilberforce, Wilsonton (Treasurer of the LMS). Two other hamlets would be called Philipton and Readsdales in recognition of the Cape's LMS Superintendent and his political ally, and arguably the most popular missionary among the 'Hottentots'. While the Settlement was inadequate for the numbers of 'Hottentots' who were settled there, it nonetheless came to occupy a place of special significance for those still residing at missions.⁴⁶³ Indeed, while many 'Hottentots' fled to mission stations when the rumours of renewed vagrancy legislation began to circulate in 1834, others attempted to flee to the Kat River Settlement.

In April 1834, the Civil Commissioner for Albany wrote to the Governor to inform him that "large numbers of Hottentots from Beaufort, Hantam, Sneeuwberg [sic] and other parts of Graaf-Reinet [sic]" had "set out with their movable property for the settlement at the head of the Kat River, and that the more advanced of them had passed Somerset on their route".⁴⁶⁴ A rumour had also spread that they would be assigned land in the Settlement. The Civil Commissioner expressed his uneasiness with the situation, noting that there were reports of a "constant influx of bordering tribes, Gonnahs, Bechuanas, Tambookies, Fingoes and loose Hottentots and runaway slaves" into the Kat River Settlement. In a bid to turn them back, the Commissioner had instructed the Field-Cornets to dispel the falsehood of the rumour and dissuade them of the "delusion" under which they had undertaken the journey.

⁴⁶² Quoted in Le Cordeur & Saunders, *The Kitchingman Papers*, p. 133.

⁴⁶³ For example, CA, LG 556/1059, Memorial, Theopolis, 25 August 1845.

⁴⁶⁴ CA, District of Albany (hereafter 1/AY) 9/7, Civil Commissioner to the Secretary to the Governor, 8 Apr. 1834.

The establishment of this quasi-independent enclave (which functioned to some extent as a precursor to the protectorate model) did not mean that British loyalism no longer mattered. Read was of the opinion that the Settlement stood as a reward for 'Hottentot' loyalty. Others commented on the sense of loyal attachment to the British Crown evident among residents of the Settlement as well. One such observer was William Menzies, puisne judge of the new Supreme Court. Menzies visited the Kat River Settlement, together with Stockenström, in April 1830. Apart from being surprised by the "greatest industry" on display, Menzies noted that the 'Hottentot' settlers were "fully sensible of their present comfort and independence" and "grateful to the government by whom these had been bestowed".⁴⁶⁵ The grant of independence was not considered as being tantamount to the removal of the Kat River 'Hottentots' from under the purview of the imperial state, but rather their new autonomy was because of the imperial will.

Most importantly for this argument, Ordinance 50 meant that 'Hottentot' civic identity would remain relevant even after the abolition of slavery and the ex-slaves were incorporated into the Cape's wage-labour underclass alongside the 'Hottentots'.⁴⁶⁶ As Duly has argued, prior to 1828, the issues of slave and Khoesan labour at the Cape tended to be dealt with together by the Colonial Office.⁴⁶⁷ During the early 1820s, however, Philip's campaign on behalf of the Cape Khoesan created a distinct "Hottentot Question".⁴⁶⁸ Ordinance 50 was intended to address this question and thereafter, the fate of the 'Hottentots' received less interest from the Colonial Office as it turned its attention towards the treatment of the soon-to-be-free slaves and aboriginal neighbours across the Empire.

⁴⁶⁵ CA, CO 379/162, Judge Menzies to Governor Cole, Graham's Town, 18 Apr. 1830.

⁴⁶⁶ Defendants were still being identified as 'Hottentots' in criminal cases during the 1850s. There was also ongoing confusion as to the identity of some accused. See for example, CA, District of Fort Beaufort (hereafter, 1/FBF) 1/1/2/1/1, Case of Nicholas Williams, Fort Beaufort, 12 Aug. 1858; CA, 1/FBF 1/1/2/1/1, Case of Malone and Boyne, Fort. Beaufort, 24 Jan. 1860; & CA, District of Stockenström (hereafter, 1/SMR) 1/1/1/1, Case of Hendrick Platjes, Circuit Court, Stockenström, Apr. 1855.

⁴⁶⁷ L.C Duly, 'A Revisit with the Cape's Hottentot Ordinance of 1828', in M. Kooy (ed.), *Studies in Economics and Economic History: Essays in Honour of Professor H.M. Robertson* (Durham: Duke University Press, 1972), p. 45.

⁴⁶⁸ SOAS, CWM, South Africa, Africa Odds, John Philip Papers, Box 10, Report, 'Hottentot Population and Missionary Institutions', 1830. Also, Cloete, *Three Lectures on the Emigration of the Dutch Farmers*, pp. 17-20.

Upon coming into effect in the Cape Colony in January 1829, Ordinance 50 repealed six pieces of legislation which had theretofore worked to initially erode and eventually eradicate Khoesan independence. Both the Caledon Code of 1809 and the Apprenticeship Act of 1812 were repealed, as well as other legislation dating back to 1787 and 1803, before the Colony was under British control. The most important changes ushered in by the Ordinance are relayed in its second clause:

*[...] whereas by usage and custom of this Colony, Hottentots and other free persons of color have been subjected to certain restraints, as to their residence, mode of life and employment, and to certain compulsory services to which other of His Majesty's subjects are not liable... no Hottentot or other free person of color, lawfully residing in this Colony, shall be subject to any compulsory service to which other of His Majesty's subjects therein are not liable [...]*⁴⁶⁹

This meant that 'Hottentots' were no longer required to have fixed places of abode and they could move freely about the Colony without the fear of arrest or imprisonment for vagrancy. This too was confirmed in the second clause, which ordered that the Khoesan were not to be subjected "to any hindrance, molestation, fine, imprisonment or punishment of any kind whatsoever, under the pretence that such person has been guilty of vagrancy or any other offence, unless after trial in due course of law [...]"⁴⁷⁰ Together, these two clauses enforced the decriminalisation of 'Hottentot' mobility.

In light of these stipulations, Ordinance 50 drew out a sharp distinction between 'Hottentots' and slaves. Although still landless (except for those who acquired land at mission stations and in the Kat River Settlement) and still bound to submit to labouring for the colonists owing to few other alternatives for survival, the Ordinance gave the Khoesan basic civil liberties within the broader context of what

⁴⁶⁹ HCPP, No. 339, 1829, *Return to an Address of the Honourable House of Commons, dated 5th June 1829; copy of the order in council relative to the natives of South Africa*, p. 2.

⁴⁷⁰ HCPP, No. 339, 1829, *Return to an Address of the Honourable House of Commons, dated 5th June 1829; copy of the order in council relative to the natives of South Africa*, p. 2.

was still a slave society.⁴⁷¹ Slavery, though, had also come under scrutiny from the metropole's humanitarian gaze. Legislation aimed at ameliorating the working conditions of slaves had been passed at the Cape in preceding years.⁴⁷²

Even so, the wording and ethos of Ordinance 50 clearly positioned the 'Hottentots' as British subjects. This new legislation confirmed what numerous 'Hottentot' individuals had already appealed to in earlier years: legal recourse on the basis of their subjecthood. By doing so, the passage of Ordinance 50 meant that the social and political boundaries of the Cape's "public transcript" were widened dramatically, creating new possibilities for a more layered 'Hottentot' identity to emerge. While settler society was vehemently opposed to the Ordinance and many farmers sought to circumvent its provisions, scores of 'Hottentots' took full opportunity of the civil liberties it afforded them.

II. Proposed Vagrancy Legislation and 'Hottentot' Responses

While exact numbers are difficult to determine, it is apparent that a substantial number of 'Hottentots' relocated to vacant or Crown lands following the passing of Ordinance 50, sometimes even on the outskirts of villages. James Kitchingman, missionary at Paarl at the time, commented that in the immediate aftermath of the Ordinance becoming public knowledge "many left the places where they were born and brought up and rambled to different parts of the country".⁴⁷³ While a sizeable number had also initially taken to squatting on the fringes of Paarl, with many choosing to leave their current masters' service, they could not sustain themselves for long outside the settler economy. Kitchingman noted in 1831 that "since that period", referring to the time when the Ordinance came into effect, "numbers have engaged in the service of the inhabitants and they appear to be in an improving state". This account highlights two noteworthy themes: how the ensuing contests

⁴⁷¹ It was observed that when well treated by their masters, many ex-slaves felt "no disposition to change", knowing that "they must either work or starve". SOAS, CWM, South Africa, Incoming Correspondence, 16A/2/B, H. Calderwood to Directors of the LMS, Cape Town. Dec. 1838.

⁴⁷² Dooling, *Slavery, Emancipation and Colonial Rule in South Africa*, pp. 82-91.

⁴⁷³ SOAS, CWM, South Africa, Incoming Correspondence, 12/4/C, J. Kitchingman to Directors of the LMS, Paarl, 24 Jan. 1831.

over settler authority and hegemony which followed the Ordinance were reflected in 'Hottentot' mobility and in terms of the negotiation of space; and in addition, what civil liberty meant to a population alienated from its ancestral lands.

In reality, the free 'Hottentots' had limited options. They could either take up residence at mission stations, which by this time were dotted throughout the Colony; enter the casual labour market, which large percentages of mission residents in the south-western Cape were required to do anyway; or flee the Colony. Evidence to support the latter is very thin, nonetheless, there is little doubt that certain families and kinship groups would have pursued this option. The large mission communities situated at Philippolis and Griquatown would have been appealing, as they were beyond the official boundaries of the Colony and offered some of the last vestiges for engaging in independent pastoral activities at this time. Numbers may have also travelled eastwards, seeking land in the interstices of the more thinly settler populated eastern districts. D.W. Ryneveld, Civil Commissioner for Stellenbosch, the wine growing heartland of the south-western Cape, noted in June 1834 that the number of 'Hottentots' in his district had decreased by 40% since 1828, from 1 646 to 988.⁴⁷⁴

Following the passage of Ordinance 50, the Khoesan were increasingly accused of stealing farmers' livestock. This mounting fear of criminal activities was accompanied by constant alarm at the prospect of 'Hottentot' reprisals against former masters. The potential for combined 'Hottentot' and *droster* attacks on frontier farms was also dreaded. The attendant settler vilification of the 'Hottentots' stemmed from these perceived dangers and the threat their freedom was assumed to pose to the civil order. The themes of order and disorder feature prominently in the exchanges between various missionaries at the time. The mass relocation of 'Hottentots' from farms to vacant lands "as soon as their liberties were made known" was regarded as disorderly and detrimental to the cause of liberty by many missionaries and needless to say, settler society. In his report to the Legislative Council in June 1834, the Civil Commissioner for the Cape District, W.M. Mackay, noted that numbers of 'Hottentots' in the district had assembled into "regular

⁴⁷⁴ HCPP, No. 425, 1837, *Report from the Select Committee on Aborigines in British Settlements*, pp. 153-154.

banditti”, attacking “the lives of their former employers”.⁴⁷⁵ He also asserted that “a reference to the records of the circuit and magistrate’s courts [would] show the increase of crime attendant on the promulgation of that ordinance”, referring to Ordinance 50.⁴⁷⁶

James Kitchingman forwarded a defence of the ‘Hottentots’, as well as an explanation for the growing public apprehension around the alleged increase of crime on colonial farms. He suggested that slaves who engaged in criminal acts were frequently protected by their masters “who [did] not want to risk losing their services” at a time when hired labour was becoming more expensive due to greater ‘Hottentot’ mobility.⁴⁷⁷ Masters, he argued, meted out their own punishments upon those slaves who had stolen stock for instance. However, with regards to ‘Hottentot’ servants in the aftermath of Ordinance 50, he commented that “no one has any interest in screening them from the hand of justice”.

Kitchingman believed this accounted for the perception that crime had increased in the years after 1828. Indeed, owing to the powers afforded to resident magistrates in the years following the Commission of Inquiry, crime and its punishment became increasingly part of public knowledge. Kitchingman mentioned this in his communication with the Directors of the LMS, noting “that under the old system many crimes were punished by the masters and field-cornets and the public never heard of them”, whereas under the new legal system every case was “tried by the magistrates and publicly reported in the newspapers”.⁴⁷⁸

Crime and vagrancy were increasingly regarded as the evil consequences of Ordinance 50 by both Dutch and English settlers alike.⁴⁷⁹ Apart from their concerns about labour shortages, an ideology of contempt for ‘Hottentot’ autonomy pervaded

⁴⁷⁵ HCPP, No. 425, 1837, *Report from the Select Committee on Aborigines in British Settlements*, p. 151.

⁴⁷⁶ HCPP, No. 425, 1837, *Report from the Select Committee on Aborigines in British Settlements*, p. 152. See also, CA, CO 3968/39, Memorial, inhabitants of the Koue Bokkeveld, 25 Mar. 1834; CA, CO 372/9, Office of the Judge of Police, Cape Town, 10 Jan. 1829; CA, CO 372/33, Observations, Judicial System and Civil Establishment of the Colony, Judge Menzies, Cape Town, 16 Feb. 1829; & CA, CO 4002/136, Complaint, Van Reenen to Governor Napier, Cape Town, 2 Sep. 1839.

⁴⁷⁷ SOAS, CWM, South Africa, Incoming Correspondence, 12/4/C, J. Kitchingman to Directors of the LMS, Paarl, 24 Jan. 1831.

⁴⁷⁸ SOAS, CWM, South Africa, Incoming Correspondence, 12/4/C, J. Kitchingman to Directors of the LMS, Paarl, 24 Jan. 1831.

⁴⁷⁹ CA, CO 3941/16, Memorial, inhabitants of Albany to Governor Cole, Sep. 1829.

the reports of the Civil Commissioners as well as numerous petitions of protest drafted by settlers.⁴⁸⁰ The ameliorative laws enacted by the colonial government with regard to the treatment and punishment of slaves and the recruitment of 'Hottentots' had struck at the very foundation of white hegemony.⁴⁸¹ 'Hottentots' were able, in the short term, to invoke the rights that they had been afforded, as well as to mobilise key representatives, such as notable LMS 'converts', in defence of their fragile civil liberties. In doing so, a distancing between those who identified themselves as loyal British subjects and those who engaged in crime, drunkenness and vagabondism occurred, as was demonstrated in the vagrancy bill agitation of 1834.

Owing to a general, deep-rooted distrust of the local authorities, in the form of the Field-Cornets, Deputy Field-Cornets, Field Commandants and later on, Justices of the Peace, many 'Hottentots' who had sought legal redress before the passage of Ordinance 50 had tended to rely upon the missionaries as intermediaries. This was certainly apparent at the time of the 'Black Circuit' in 1812 for example. However, as already illustrated, many other 'Hottentots' who weren't necessarily members of mission stations also attempted to take advantage of the legal recourse afforded them by the Caledon Code. While the missionaries continued to perform a role as political intermediaries following Ordinance 50, it does appear that the Khoesan felt more emboldened to sideline the local authorities in the Eastern Cape and express their grievances with the colonial authorities in Cape Town directly.⁴⁸² Not surprisingly perhaps, this was especially so with those 'Hottentots' who had close ties with mission stations.

⁴⁸⁰ For example, CA, LCA 6/20, Report, Civil Commissioner, Cape District, 23 Jun. 1834; LCA 6/22, Report, Civil Commissioner, Stellenbosch, 27 Jun. 1834; & LCA 6/23, Report, Civil Commissioner, Albany, 11 Jul. 1834.

⁴⁸¹ R.L. Watson, "Slavery and Ideology: The South African Case", in *The International Journal of African Historical Studies*, 20(1), 1987, pp. 27-43.

⁴⁸² For instance, in 1845, the inhabitants of Theopolis wrote to Governor Maitland requesting that the mission's land be divided up into erven as at the Kat River Settlement. They also wanted to select a field cornet from among themselves to preside over local disputes. The resident missionary, Robert Taylor, was concerned that the inhabitants had not consulted him before posting the memorial and wrote to the Governor himself noting a "spirit of lawlessness" among the people. CA, LG 556/1059, Memorial, inhabitants of Theopolis, Albany, 25 Aug. 1845; & CA, LG 556/1070, Memorial by R. Taylor, Theopolis, 16 Oct. 1845, in reference to earlier memorial. Also, CA, LG 565/2, Memorial, inhabitants of Bethelsdorp, 3 May 1847, in opposition to the establishment of a liquor canteen in the vicinity.

Many Khoesan continued to embrace a general faith in the goodwill and intentions of the British colonial authorities while also holding onto suspicions and misgivings about the local authorities.⁴⁸³ One of the ways in which this sentiment was revealed following Ordinance 50 was in the emergence of a new tradition of memorial and petition writing among residents at numerous mission stations under the auspices of the LMS. Although the influence and direction of the superintending missionaries are certainly apparent in the wording of these memorials, it is equally apparent that members of these communities – many of whom were actually loosely tied to the missions – were articulating very specific injustices suffered by ‘Hottentots’, which speak of first-hand experiences and grievances. Whatever the local missionaries knew and understood about the daily struggles of the ‘Hottentots’ and were able to convey to metropolitan audiences had been conveyed to them by their mission residents and irregular attendees.

The loose connections many so-called mission residents held with these institutions is evident early on in the records of Bethelsdorp for instance.⁴⁸⁴ In the early 1820s, the missionaries Kitchingman, Barker and Read received frequent notes from the *Landdrost* of Uitenhage, Jacob Cuyler, demanding men for public works and commando duty.⁴⁸⁵ The missionaries regularly responded that they were unable to meet these demands, as there were no men to spare. In May 1821, James Kitchingman wrote to Cuyler noting that “many able bodied men” were away and not present at the mission.⁴⁸⁶

Kitchingman explained that these men were, by necessity, working among the farmers of the district and would be away for several months. As such, if he were to recall any of them to the mission to report for public works duty, he would have incurred the ill will of the farmers in the vicinity. Kitchingman took this opportunity to inform *Landdrost* that most of the mission’s men were away for four to six months at any time, placing their families who remained at the institution in a precarious

⁴⁸³ See for example, *SACA*, 13 Mar. 1830; *SACA*, 20 Mar. 1830; & *SACA*, 27 Mar. 1830.

⁴⁸⁴ William Anderson, missionary at Pacaltsdorp, also indicated this. See *CA*, *LCA* 6/21, W. Anderson to Directors of the LMS, Pacaltsdorp, 20 Jun. 1834.

⁴⁸⁵ For example, *CA*, A559, Vols. 1 & 3, Bethelsdorp Missionary Institution, correspondence, Feb. 1820 - Mar. 1832.

⁴⁸⁶ *CA* 559 Vol. 1, Bethelsdorp Missionary Institution, correspondence, G. Barker, 14 May 1821.

situation as they had to fend for themselves during that time, especially as it was common practice for the farmers to only pay the men at the expiration of their term of employment and they were, as such, unable to send home their wages during their absence.

It was also the case that 'Hottentots' claimed to be residents of Bethelsdorp when they were not. For example, in February 1820, George Barker, one-time missionary at the station, replied to a request from Cuyler for the 'Hottentot' Windvogel Jacob to report to the *Drostdy* in order to respond to a complaint that had been laid against him.⁴⁸⁷ Barker noted that the said Jacob was not residing at the mission and did not belong to the institution. He conveyed his frustrations to Cuyler over matters such as this, stating that mistakes of this nature happened frequently due to the general lacklustre inspection of passes which occurred in Uitenhage district. Barker's sentiment points towards his apprehension with regards to the public standing of the mission during a precarious time for missions generally in the Colony – and especially for Bethelsdorp, which was a focal point of settler ire towards the LMS. He lamented that many 'Hottentots' in the district were "vagabondizing the country under the pretence of belonging to Bethelsdorp". Both exchanges reveal that the missions were only able to exercise a limited amount of control over their residents and attendees, with many men moving regularly between the missions and the farms in the various districts; so much so, that some, like Windvogel Jacob, could not be traced by the local authorities or the missionaries.

Indeed, disputes over passes and whether they were in proper order or not feature often in the Bethelsdorp records. There existed a very real concern on the part of the local authorities for keeping track of where 'Hottentot' individuals were within their wards and districts. Operating at the time under the directions of the Caledon Code, the pass system was intended to do just this, however, it appears that desertion and 'vagabondizing' occurred regularly. Given the porous nature of property and district boundaries which existed, it is not too surprising that some 'Hottentots' took advantage of the shortcomings of the pass system when it was in their best interests to do so.

⁴⁸⁷ CA 559 Vol. 1, Bethelsdorp Missionary Institution, correspondence, G. Barker, 23 Feb. 1820.

In February 1821, for example, two 'Hottentot' men, Dragonder Magerman and Magerman Witbooy, requested permission from *Landdrost* Cuyler to move to Bethelsdorp. The request was written on their behalf by James Kitchingman.⁴⁸⁸ Upon the return of Dragonder Magerman to the mission, Kitchingman found that he had been ordered by Cuyler to find work and register with a master within three days. A similar reply was written on the pass of Magerman Witbooy. When neither of the men had appeared before Cuyler within the three days, he inquired as to their whereabouts with Kitchingman. The missionary confirmed that he hadn't seen either of them since they had returned and shown him their passes with Cuyler's instructions three days earlier. Others in the mission indicated that the men had left immediately after. Kitchingman expressed his discontent with the matter noting that Dragonder Magerman had served in the Cape Corps for ten years, from 1809 to 1819, and that he had been honourably discharged after honest and faithful duty during that time.⁴⁸⁹

This incident indicates that mission stations were not always places of refuge for 'Hottentots' wishing to escape the labour demands of the local farmers and authorities. Some missionaries were reluctant to go against the orders of the *landdrosts* or field cornets, leaving desertion from the mission as the only prospect for an independent life either beyond the Colony's boundaries, or, more precariously, eking out an evasive existence within the Colony, in the closing spaces between colonial settlement. Following the passage of Ordinance 50, however, the prospects for eking out a less restrictive life within the Colony greatly improved. This was largely due to the efforts of the British colonial authorities during the late 1820s to formalise and better regulate the making and issuing of contracts between masters and 'Hottentots', or "other free persons of colour", and the removal of the pass system, which had previously limited their mobility.

⁴⁸⁸ CA 559 Vol. 1, Bethelsdorp Missionary Institution, correspondence, J. Kitchingman, 21 Feb. 1821.

⁴⁸⁹ CA 559 Vol. 1, Bethelsdorp Missionary Institution, correspondence, J. Kitchingman, 26 Feb. 1821.

Mobility under Threat: The Proposed Vagrancy Bill of 1834

In 1834, the Cape's Legislative Council was constituted. One of its first proposed measures was the re-introduction of vagrancy legislation. Motivated by labour shortages in the aftermath of Ordinance 50, as well as rumours and reports of increased crime, and most importantly, apprehensions about the impending freedom of the slaves, the Civil Commissioners of every major district in the Colony petitioned the Council on behalf of the colonists to legislate a vagrancy ordinance.⁴⁹⁰ News of this proposal spread quickly throughout the Colony, triggering several 'Hottentot'-led public meetings and counter petitions. It was reported at the time that the "public attention was engrossed, and the public feeling intensely excited".⁴⁹¹ In order to emphasise the significance of the mission protests that occurred in response to the Council's proposed bill, a brief foray into mission population figures is useful.

In 1830, the combined population of five of the Colony's most prominent LMS mission stations, and for whom population statistics are most reliable (Bethelsdorp, Theopolis, Pacaltsdorp, Zuurbraak and Hankey), stood at approximately 2 200. In 1834, this number was estimated to be at approximately 4 200; the increase accounted for by the fear generated by the possible renewal of vagrancy legislation that saw thousands of 'Hottentots' flee to missions. If added to the number of residents in the Kat River Settlement, which was estimated to be at 3 000 during the early 1830s, then the total number of 'Hottentots' and other "free people of colour", to employ the colonial parlance of the time, resident at these LMS missions and affiliate stations fluctuated between 5 200 and 7 200. Given that the total size of the Khoesan population was estimated to be around 32 000 in 1836, then at the height of the panic surrounding the proposed vagrancy ordinance in 1834, some 23% of the total 'Hottentot' population was located at these LMS missions alone.⁴⁹² This

⁴⁹⁰ HCPP, No. 425, 1837, *Report from the Select Committee on Aborigines in British Settlements, Appendix No. 7, Vagrant Ordinance, Reports of the Civil Commissioners*, pp. 151-166. See also the discussion by E. Bradlow, 'The Khoi and the Proposed Vagrancy Legislation of 1834', p. 101.

⁴⁹¹ NA, CO 48/156, K.B. Hamilton, Clerk of the Legislative Council, Cape Town, 27 Oct. 1834.

⁴⁹² These figures are taken from the mission reports to the LMS Missionary Chronicle for 1830 and 1834, which included population numbers for all five stations. The total population estimate of

figure does not include the residents of other LMS missions or those of the Moravians.

The petitions that were drafted and signed by mission residents in the latter months of 1834 provide crucial insight into the kinds of contestations over status and identity that were occurring within 'Hottentot' mission communities at the time. They are also largely free of missionary mediation and as such serve as some of the very few sources of what may cautiously be regarded as 'authentic' 'Hottentot' voices in the missionary archive. Individual 'Hottentots' were expressing views on behalf of their communities, without being directly represented by missionaries and as such, the vagrancy bill agitation of 1834 acted as a significant moment of self-construction at a time of genuine fear that Ordinance 50 would be annulled.⁴⁹³ Indeed, events surrounding the proposed vagrant act and the protests against it point towards the kinds of real changes which had taken place for 'Hottentots' since the passage of Ordinance 50.

The rhetoric employed by community spokespersons at public meetings held at various missions in the Colony is of particular interest, as it clearly demonstrates the extent to which Christianity had become incorporated into a new, assertive identity. As organising concepts, loyalism and respectability were invoked in the objections made against the proposed vagrancy legislation. The public discourses of rights accompanied by responsibilities, and the manner in which the community's public demonstrations of decency and virtuous behaviour were invoked as a challenge to the proposed vagrancy act are indicative of the instrumental ways in which Christianity and loyalism were being used.

However, this ought not to detract from the very clear link drawn between the instrumental and emotive uses of loyalism and Christianity in the complaints. 'Hottentots' at the missions took such exception to the proposal, because they regarded themselves as a Christian people, treating the label 'Hottentots' as tantamount to loyal, Christian subjects of the Crown. Rather than the instrumental acting as a stand-alone function of Christianity, in this instance it arguably stemmed

32 000 is taken from evidence given to the Select Committee on Aborigines in British Settlements. See HCPP, No. 425, 1837, *Report from the Select Committee on Aborigines in British Settlements*, p. 598.

⁴⁹³ E. Elbourne, 'Freedom at Issue: Vagrancy Legislation and the Meaning of Freedom in Britain and the Cape Colony, 1799-1842', in *Slavery & Abolition*, 15(2), 1994, p. 138.

from the emotive. Such an approach steers clear of discounting the instrumental, while recognising that not all claims to being Christian and loyalist were necessarily due to resistance only and that when resistance did occur, it equally may have been motivated by the emotive functionality of their new found faith and loyalty to the Crown.⁴⁹⁴

This is quite apparent in a memorial drawn up by the inhabitants of the mission at Theopolis in October 1834 which was sent to Governor D'Urban in protest. Theopolis was one of the oldest LMS mission stations in the Colony, having been founded in 1814 and it is worthwhile plotting the period between its founding and the vagrancy bill protests some twenty years later. At the time of its establishment, a number of inhabitants at Bethelsdorp, the LMS' first mission along the eastern frontier, founded in 1802, relocated to Theopolis due to overcrowding. Bethelsdorp had been the LMS' flagship mission while it was under the administration of Van der Kemp and his assistant James Read. Both men gained notoriety among the settler population for the accusations of maltreatment of Khoesan labourers they brought against a number of prominent settlers. As shown in Chapter One, Read was particularly active in alerting metropolitan audiences to abuses of 'Hottentots'. The claims of ill-treatment of 'Hottentot' labourers at the hands of the colonial farmers made by Van der Kemp and Read in 1811 challenged the widely held view of the Cape authorities that relations between farmers and the indigenous populace were on the whole good natured and much improved than during the era of interchanging British and Dutch administrations at the turn of the century.⁴⁹⁵

The subsequent turmoil created by Read's impregnation of a 16 year old girl at Bethelsdorp in 1816 while he was the acting superintendent of the LMS in the Cape, saw the home society despatch Rev. John Philip to reclaim legitimacy for the Society in the Colony. Nonetheless, the model created by Van der Kemp and Read

⁴⁹⁴ J.D.Y. Peel, 'Syncretism & Religious Change', *Comparative Studies in Society & History*, 10(2), 1968, pp. 121-141 & T. Ranger, 'Religious Movements and Politics in Sub-Saharan Africa', *African Studies Review*, 29(2), 1986, pp. 32-41.

⁴⁹⁵ This view was promulgated by Col. Richard Collins, who undertook a tour of the Cape interior at the behest of Governor Caledon in 1809. HCPP, No. 50 (4), 1835, Extract of a Journal of a Tour to the North-Eastern Boundary, the Orange River, and the Storm Mountains, by Col. Collins, 1809, pp. 34-51.

proved a lot more durable than anticipated. In a short space of time, Philip and Read were close allies and together they continued to call for the amelioration of the conditions of employment under which the Khoesan laboured. Philip would go on to achieve his own notoriety among the settler community, in particular after the publication of his book, *Researches in South Africa*, in 1828, which proved most influential in shaping public opinion in Britain and which has been linked to the passing of Ordinance 50 in the same year.

It is worthwhile recounting this earlier history of the LMS at the Cape as there is a very clear trajectory between the style of mission enacted by Van der Kemp and Read at Bethelsdorp and the subsequent history of mission resistance seen at missions such as Theopolis and indeed, among the residents of the Kat River Settlement, many of whom were also formerly residents at Bethelsdorp. Both communities were vocal at the time of the vagrancy bill agitation in 1834, with the Kat River community at Philipton submitting the largest petition with over 400 signatures.⁴⁹⁶ It is reasonable to suggest that what was at work among certain mission communities with direct familial and kinship links to Bethelsdorp during the decade of amelioration under discussion is what may be termed the 'Bethelsdorp tendency'.

This tradition was characteristically millenarian in orientation. Van der Kemp believed that the Second Coming of Christ was imminent and while other missionaries certainly would have thought the same, he didn't spend as much time concerned about 'civilisation' and its outward markers or legitimation, allowing Bethelsdorp residents to continue wearing the *kaross* for example. For Van der Kemp, the link between Christianisation and civilisation was not a straight line. At one point he was even accused by a notable LMS representative in the Colony of imitating the Khoesan in his way of life.⁴⁹⁷ Read was very much the heir of this tradition. He quickly fell out of the LMS mainstream following Van der Kemp's death in 1811. The sex scandal he precipitated in 1816 provided those missionaries who were dissatisfied with the 'Bethelsdorp tendency' with the grounds to push for a

⁴⁹⁶ Elbourne, 'Freedom at Issue', p. 135.

⁴⁹⁷ J. Campbell, *Travels in South Africa, Being a Narrative of a Second Journey in the Interior of that Country* (London: Francis Westley, 1822), Vol. 1, p. 248.

reorientation of the LMS and its activities at the Cape.⁴⁹⁸ What emerged was an internal division among missionaries associated with the Society.

The anti-Read camp favoured a more colonial method to missions that met with the expectations of settler society. Most missionaries in the services of the LMS at the Cape did not necessarily take a firm position on this matter. However, Read's public misdemeanours and the settler antagonism felt towards him certainly made him a popular figure among mission communities both within and beyond the Colony. As noted, this was most evident when the new inhabitants of the Kat River Settlement requested that the LMS appoint Read as their superintending missionary.

To suggest that there was a direct historical line from Van der Kemp and Read at Bethelsdorp to the vagrancy bill agitation in 1834 is supported by the active participation of Theopolis and Kat River residents in the agitation. The rhetoric employed by various speakers at a public meeting at Theopolis in October 1834, as well as the language contained in the memorial agreed upon by those in attendance, reveal much about the tensions inherent in a free community "caught up in the ambiguities of a slave colony".⁴⁹⁹ The vagrancy bill agitation was a crucial moment in the shaping and articulation of a new, 'Hottentot' civic identity, which had strong loyalist undertones.⁵⁰⁰ George Barker, LMS missionary at Theopolis, remarked that the protests of the "Hottentots and free persons of colour" signalled a "new era in the history of the Colony". In their act of petitioning the Governor they had "come forward for the first time in defence of their civil rights".⁵⁰¹

Rev. James Read weighed in on the debate at this time as well, drawing on his thirty-four year long residence in the Cape Colony to justify his opposition to the measure. In spite of his disdain for the excesses of colonialism and the 'civilisation'

⁴⁹⁸ D. Stuart, 'The Wicked Christians and the Children of the Mist: Missionary and Khoekhoe Interactions at the Cape in the Early Nineteenth Century', University of London, Institute of Commonwealth Studies, *Societies in Southern Africa in the 19th and 20th Centuries: Collected Seminar Papers*, Vol. 18, 1992, pp. 1-10.

⁴⁹⁹ Elbourne, 'Freedom at Issue', p. 115.

⁵⁰⁰ S. Trapido, 'The Emergence of Liberalism and the Making of Hottentot Nationalism, 1815-1834', in University of London, Institute of Commonwealth Studies, *Societies in Southern Africa in the 19th and 20th Centuries: Collected Seminar Papers*, Vol. 17, 1992, pp. 34-60.

⁵⁰¹ SOAS, CWM, South Africa, Incoming Correspondence, 14A/2/B, G. Barker, Theopolis, 6 Oct. 1834.

it was supposed to impart to the indigenous population, Read was aware of which strategy to employ to persuade his friends and colleagues in Britain of the detrimental effects such an ordinance would have on the 'Hottentots' should it succeed. The picture he painted of the 'Hottentots' in 1834 was one of an industrious community, in which thousands could read the Bible.⁵⁰² A community of masons, carpenters, blacksmiths and wheelwrights clothed in European manufactured clothes stood hostage to the labour demands of the white settlers.

John Philip drew up his own personal memorial opposing the act. In it he too employed the tactic of establishing the 'Hottentots' credentials of respectability.⁵⁰³ According to Philip, they "were better clothed and better fed" than before Ordinance 50. He even suggested that the Khoesan "were permitted to enter the houses of their masters and to stand erect before them" and that "humanity" had taken hold "in the conduct of both masters and servants towards each other".⁵⁰⁴

When this claim is viewed in light of the rallies held in towns and villages across the Colony by the colonists in support of the vagrancy ordinance, it comes across more as naive optimism than as a valid reflection of the ways in which relations between masters and servants had changed in the years following Ordinance 50. If such information had been relayed to Philip on one of his many tours of inspection through the Colony, it is likely that it reflected isolated instances of feelings of humanity between masters and servants, and not something more representative. George Barker noted at the beginning of October, when the vagrancy issue was at its height, that colonists had held public meetings in order "to strengthen... the hands of the Council" and that "Grahamstown was foremost" among those settlements that rallied around the calls for new vagrancy legislation.⁵⁰⁵

The vocal support of the English settlers for the ordinance, such as that demonstrated by the residents of the 1820 settler town of Graham's Town, proved to be an important moment in 'Hottentot' disillusionment with the English, who had

⁵⁰² SOAS, CWM, South Africa, Incoming Correspondence, 14A/1/C, J. Read, Philipton, 3 Jul. 1834.

⁵⁰³ R. Ross, 'Missions, Respectability and Civil Rights: The Cape Colony, 1828-1854', *Journal of Southern African Studies*, 25(3), 1999, pp. 336-337.

⁵⁰⁴ SOAS, CWM, South Africa, Incoming Correspondence, 14A/1/C, J. Philip, Cape Town, 2 Jun. 1834; & CA, LCA 6/19, Memorial, J. Philip, 29 May 1834.

⁵⁰⁵ SOAS, CWM, South Africa, Incoming Correspondence, 14A/2/A, G. Barker, Theopolis, 2 Oct. 1834.

been widely regarded among the 'Hottentots' as political allies against the oppressive Boers.⁵⁰⁶ The significance of this was certainly not lost on the missionary at Theopolis, who stated that "the most lamentable feature in the case [was] the feeling of the English settlers against the natives".⁵⁰⁷ Likewise, in his assessment of the motivating factors that led to the Kat River Rebellion, James Read Junior, the son of Rev. James Read and his Khoekhoe wife, Elizabeth Valentyn, commented that the "first event which shocked the moral sense of the Kat River Settlement... and affected their confidence in the Colonial Government was the Vagrancy Act" of 1834.⁵⁰⁸

The 'Hottentots' now threw in their lot with the missionaries even more so than they had done before.⁵⁰⁹ This is apparent in the testimony of Andries Stoffels to the inquiry of the Select Committee on Aborigines in British Settlements for example. Born in the Zuurveld at the Bushman's River sometime between 1776 and 1786, Stoffels began living at Bethelsdorp shortly after it was founded by Van der Kemp in 1803. He would subsequently become one of the first 'Hottentot' settlers in the Kat River Settlement in 1829 and one of the LMS' prize converts. Indeed, he was chosen to represent the Kat River communities at the inquiry of the Select Committee in London in 1836, where he gave his testimony. Sadly Stoffels died on the return voyage from England before returning to the Kat River Settlement. Still, as a long time resident at both Bethelsdorp and the Kat River, his testimony provides valuable insight into the growing disillusionment with the English settlers by the 1830s. Stoffels commented that "when the English first came, the Hottentots said, "Our friends have come", and they used to work together, to assist each other; but I do not know what to say of them now", later adding that "since the Hottentots went to the Kat River, and got ground, it appears that the English settlers are angry about it, and say everything that is bad against us".⁵¹⁰

⁵⁰⁶ Elbourne, 'Freedom at Issue', p. 136.

⁵⁰⁷ SOAS, CWM, South Africa, Incoming Correspondence, 14A/2/A, G. Barker, Theopolis, 2 Oct. 1834.

⁵⁰⁸ Elbourne, *Blood Ground*, p. 278.

⁵⁰⁹ CA, Cape Colony Publications (hereafter, CCP) 1/2/1/5, Report of the Select Committee on the subject of missionary institutions, 23 Apr. 1858.

⁵¹⁰ Testimony of A. Stoffels, HCCP, No. 425, 1837, Report from the Select Committee on Aborigines in British Settlements, p. 589.

The kinds of frustrations that were being felt by individuals such as Stoffels are particularly apparent in the remarks made to the public meeting at Theopolis, bringing us back to October 1834 and the vagrancy bill agitation. The act of drafting petitions in order to lobby the Governor and colonial administration points towards 'Hottentot' initiative in negotiating a new, colonial identity. References to the favour of the monarch in the memorials also highlight the imperial scope of this new identity. Notably, by petitioning the Governor, the participants were acknowledging the power of the colonial administration in their context and recognising its authority over them as colonial subjects. While there were clear ethnic undertones, expressions of 'Hottentot' civic identity were also deployed by the speakers. By sending the Governor a memorial relaying their concerns, the petitioners were also seeking inclusion in the colonial order as equal subjects.⁵¹¹

Glimpses of the narrative threads of loyalty and autonomy so prevalent in the LMS' grand narrative of opposition to settler-colonialism are apparent in the speeches that were made. The first to address the meeting was Andries Jager, no doubt, as with the other speakers, a respectable member of the mission community. He first called for each speaker who would follow him to "be careful so as to give offence to nobody" before recounting his upbringing under the "old system" before Ordinance 50, asserting that it was "a system of oppression".⁵¹²

Surprisingly, Jager then went on to explain his understanding as to why the vagrancy ordinance had been proposed in the first place, stating: "It is true that our nation has abused the liberty that was granted us by the 50th Ordinance, but let us pray to God for pardon". The sentiment this statement reflected is also evident in the memorial drafted by the mission for the Governor, which will be discussed later on. Valentyn Jakobs, the next to address the meeting, also invoked the label "nation" in his speech. He associated the poverty of his people with the loss of their land and with the introduction of brandy, which he argued had reduced them to a despicable state. The numerous references made to the 'Hottentot' nation by the men who

⁵¹¹ See the discussion by R. De Costa, 'Identity, Authority and the Moral Worlds of Indigenous Petitions' *Comparative Studies in Society and History*, 48 (3), 2006, pp. 669-698.

⁵¹² SOAS, CWM, South Africa, Incoming Correspondence, 14A/2/B, G. Barker to Directors of the LMS, Theopolis, 6 Oct. 1834.

addressed the meeting have been considered indicative of nationalist thought. However, expressions of loyalty to the Crown were also made.

In spite of the support shown for the ordinance by the English settlers, Philip Campher was very clear that he still felt a sense of allegiance to the Crown commenting that “Since our king, the king of England has ruled us, we have become men and the missionaries have done that for us, that our forefathers never thought of.” Campher reiterated that it was due to the work of the missionaries that the ‘Hottentots’ were in a position to resist the introduction of the vagrancy measure at all. He noted that “In other times no Hottentot could have read this resolution”. Also taking exception to the detrimental effects which alcohol had had on his people, Campher nonetheless pointed out that “When a white man drinks he only is blamed, but if a Hottentot becomes a drunk, the whole nation is blamed”.

No women addressed the meeting, but a number of other men did, including the likes of Jan Boezak, Zwartbooy Ruiters, and Slinger Booy; the latter taking a sarcastic swipe at the Boers who were in the process of moving beyond the boundaries of the Colony into the southern African interior in a protracted exodus that would later on come to be known as the ‘Great Trek’. Slinger asked of the Governor, “why not oppose those persons who go over the limits with gunpowder”, adding “there are the vagrants”. For a number of these men, their very names reflected the prejudice under which they had been raised before Ordinance 50 and their impassioned pleas to the Governor to prevent the passing of the ordinance were very much framed by their recent memories of how life was before 1828. Following these addresses, the members of the mission agreed to a memorial, in which they stated their position as a collective, asserting that there was “nothing in the existing circumstances of the Colony to call for a new vagrant act”.

Describing the effects of vagrancy legislation as akin to the conditions of slavery two months prior to the abolition of slavery and the commencement of the apprenticeship period was most certainly deliberate and strategic. In doing so, the ‘Hottentots’ at Theopolis were identifying with the soon-to-be-free slave community and the very real prospect that their post-emancipation existence would be as oppressive as the pre-Ordinance 50 existence of ‘Hottentots’ should the proposed vagrancy ordinance come into effect.

The reference to the civil disorder exhibited by 'Hottentots' who frequented canteens is equally noteworthy, but what is perhaps most striking about the Theopolis memorial, is the amended vagrancy act which the community proposed instead of the one that was then under review by the Legislative Council. They noted that they would "most cordially unite in approving an act" that would "subject every Hottentot found in a canteen to twelve months hard labour". This, they argued, would solve what they referred to as the "evils of vagrancy" and it would do so "without plunging the whole of the coloured classes into a state of slavery".

As such, in spite of the community's resistance to the proposed vagrancy legislation, their objections were framed in such a way that they appealed to imperial and missionary sensibilities of orderliness and appropriate social behaviour. This certainly indicates an awareness of their social vulnerability and their acquiescence to colonial norms in order to defend the civil liberties they had been awarded. Their resistance, therefore, must be seen as resting on a foundation of subordination, but with enough political leverage to challenge subordination of a more oppressive kind.

Furthermore, just as drunken and disorderly behaviour were certainly acts of independence without fear of punishment after Ordinance 50 for certain individuals, so too appeals to respectability were articulated by other 'Hottentots' in such a way as to represent claims to legitimate social independence.⁵¹³ Indeed, this was expected to be the reward for assimilation as subjects. In addition, several of the 'Hottentots' of the Eastern Cape missions, and especially those resident at Theopolis and in the Kat River Settlement, began to constitute a 'Hottentot' elite at this time. Certainly those mission residents engaged in public meetings and the drafting of memorials and petitions in 1834 reflected this in their rhetoric. By virtue of being literate, these mission residents could lay claim to a marker of respectability that many others in the Colony, including large numbers of whites, could not. That the Theopolis memorial called on the government to allot more land for the creation of more 'Hottentot' settlements, such as those that existed at the Kat River, further reflected the aspirations of a mission influenced elite, who saw their prospects for

⁵¹³ CA, CO 2721/39, J. Walken, Constable, Cradock, 20 Feb. 1830.

prolonged social independence bound up with access to land, but still under imperial oversight.

In addition, it was noted by W.M. Mackay, Civil Commissioner of the Cape District, in June 1834 that “no class of persons complain so much, or have so much cause to complain of the want of a vagrant law, as the Hottentots and other people of colour who are proprietors of land”. Continuing, Mackay remarked that “crowds of wanderers from all directions flock round them, on the plea of a relationship or acquaintanceship, paralysing all their endeavours at improvement”.⁵¹⁴ While the testimony of a Commissioner clamouring for renewed vagrancy legislation ought to be treated with all due scepticism, his comment does, however, suggest that there were divisions among the ‘Hottentot’ populous on the basis of access to land, and in turn, subsistence and respectability.

These were the sentiments of a new moral community. Membership was determined by family and kinship networks, and brought rewards such as a greater sense of social cohesiveness and status. However, the boundaries of membership were also shaped by the expectation of certain, respectable forms of behaviour, on the part of ‘Hottentots’ themselves. Understandably, much of this was undertaken by missionaries. And yet, as demonstrated by the memorials of the vagrancy bill agitation, ‘Hottentot’ members of mission communities also engaged in imposing boundaries of respectability upon other Khoesan. Respectability functioned on a symbolic level to indicate both moral excellence and subject status. Yet, it was not necessarily a straightforward emulation of respectability from above, that being respectability of the settler society. Rather, it was associated with the radical missionaries of the likes of Van der Kemp, Read and Philip, who were vocal in expressing their disdain for the colonists. Indeed, in attempting to establish the legitimacy of their own respectability, the Theopolis residents challenged the legitimacy of the respectability of the colonists. Moreover, the loyalist undertones of the protests imply that their opposition to the measure was not revolutionary, but rather stemmed from a sense of effrontery that such a law could be applied to equal subjects.

⁵¹⁴ HCPP, No. 425, 1837, *Report from the Select Committee on Aborigines in British Settlements*, p. 152.

III. 'Hottentot' Subjecthood in Defence of Civil Liberty

The ability for 'Hottentots' to move around the Colony with more ease after Ordinance 50 came into effect was made apparent at the time of the vagrancy bill agitation of 1834. Indeed, the clamouring by the colonists for legislation to curb and control vagrancy was due to the large numbers of 'Hottentots' living on government land, commonages and other public spaces in most of the towns and villages in both the western and eastern divisions of the Colony.

Equally so, 'Hottentots' increasingly began to hire themselves out when they preferred to or when it was necessary for them to do so in order to acquire wages or other items of remuneration, such as clothing or livestock. Concerns over vagrancy continued to feature in public debates for many years. Throughout the 1840s and 1850s, petitions and memorials from farmers in most districts lamented the extent of vagrancy in their neighbourhood and appealed to the government to intervene and introduce new legislation.

The public meetings held throughout the towns and missions of the Colony at the time of the proposed vagrancy ordinance in 1834 reveal how contentious the issue was and how seriously 'Hottentots' regarded it.⁵¹⁵ It was described in several mission memorials as a direct assault on their civil liberties which had been gained in 1828. The residents at the Pacaltsdorp mission were forthright in their condemnation of the proposal when they drafted a memorial opposing it in September 1834.⁵¹⁶ It was of particular importance for the drafters of the memorial to denounce the accusations made by many colonists that Ordinance 50 had resulted in an increase in crime throughout the Colony. The Pacaltsdorp petitioners insisted that crime in their district had actually been on the decrease since 1828 and that the real motive of those who were in favour of the ordinance was to place them back under settler control.⁵¹⁷

The indignation felt by respectable 'Hottentots' at the prospect of being labelled vagrants if not employed by the colonists was illustrated in the Pacaltsdorp

⁵¹⁵ CA, LCA, 6/61, Memorial, Pacaltsdorp, 8 Sep. 1834; CA, LCA 6/57, Memorial, Graham's Town, 1834; & CA, LCA 6/46, Memorial, Caledon Missionary Station, 11 Aug. 1834.

⁵¹⁶ CA, LCA, 6/61, Memorial, Pacaltsdorp, 8 Sep. 1834.

⁵¹⁷ CA, LCA, 6/61, Memorial, Pacaltsdorp, 8 Sep. 1834.

memorial, which recounted the case of Jonas Botha. Botha was said to have owned “personal property”, which assumedly referred to livestock, “equal to that of many of the Boors.”⁵¹⁸ He had also paid his taxes. Following the announcement that a proposed vagrancy ordinance was under review by the Legislative Council, several Field-Cornets had begun to impose restrictions on ‘Hottentot’ movements, believing the legislation had already been sanctioned. As such, Botha had had to acquire written permission to leave Dyzels Kraal, the grazing place of Pacaltsdorp, in order to visit the mission.

The Pacaltsdorp memorial also noted that 450 ‘Hottentots’ had fled to the mission since May, when a draft of the ordinance had appeared in the Government Gazette. Of those, “not a single individual” had been “charged with an overt act or crime”. The memorial of the “free coloured inhabitants of Grahams Town” echoed this sentiment, also stating that the incidence of crime had decreased since Ordinance 50 had come into effect. They argued that if it seemed that offences had increased, this was in fact due to the transformation of the judicial system which had occurred following the recommendations of the Commissioners of Inquiry.⁵¹⁹ Masters were required to bring grievances against their servants before magistrates, who decided upon appropriate punishment. As such, more cases were heard before the magistrates than before, when masters tended to mete out their own punishments against their servants.

This appears to have been met with much opposition amongst the colonists, in particular the Field-Cornets and other local authorities, who had been accustomed to taking punishment into their own hands. Indeed, William Westbrooke Burton, who had been sworn in as a judge in the new Supreme Court in December 1827 and who had undertaken the first circuit court in the eastern districts of the Colony under the new judicial system, encountered the apprehensions held by many among the colonists with regards to the new applications of the rule of law.

On circuit in January 1829, Burton heard that many Field-Cornets were claiming that their efforts to maintain law and order and prevent vagrancy in their

⁵¹⁸ CA, LCA 6/61, Memorial, Pacaltsdorp, 8 Sep. 1834.

⁵¹⁹ CA, LCA 6/57, Memorial, Graham’s Town, 1834.

wards had been paralysed by Ordinance 50.⁵²⁰ He also found it necessary, in a series of cases which involved the alleged murders of “Bushmen” by farmers, to impress upon the jurors the weight of their duty. In three such cases, Burton instructed the jurors that they were to make no distinction whether the victims were “black, white, heathen or Christian” and that they were to treat the cases “as if the person slain were a Christian man and our own brother”.⁵²¹

Many ‘Hottentots’ were well aware of the investigations being conducted by the Commissioners of Inquiry during the 1820s and the implications their recommendations had for ‘Hottentot’ status in the Colony.⁵²² With many of the Commissioners’ proposal having been brought into effect at the Cape, the metropolitan influence on local affairs was apparent to ‘Hottentots’ and settlers alike.⁵²³ Philip was especially keen to submit information on the state of the ‘Hottentots’ to the Commissioners, believing that the inquiry provided a valuable opportunity to push London for redress and change. This was not lost on ‘Hottentots’ associated with the LMS, who clearly grasped the imperial influence that the Commissioners represented.

The regard held for the efforts of the Commissioners Colebrooke and Bigge to investigate the condition of the ‘Hottentots’ was evident at a public meeting held in Philipton on 5 August 1834.⁵²⁴ The meeting was convened in order to discuss the Legislative Council’s proposed vagrancy ordinance. Andries Stoffels, whom we met earlier, addressed the gathering, noting that it was the first time he had been “allowed to speak on behalf of his nation.”⁵²⁵ He followed this statement by declaring his thanks to God, “the King and his Council” and Governor Cole. Stoffels relayed to those present how “that the Hottentots were first consulted about their grievances by His Majesty’s Commissioners, and after their return to His Majesty, the 50th

⁵²⁰ CA, CO 372/23, Judge Burton to Governor Cole, 29 Jan. 1829.

⁵²¹ CA, CO 372/23, Judge Burton to Governor Cole, 29 Jan. 1829.

⁵²² CA, CO 3941/80, Memorial, Members of Bethelsdorp to Governor Cole, 1829.

⁵²³ See Z. Laidlaw, ‘Investigating Empire: Humanitarians, Reform and the Commission of Eastern Inquiry’, *Journal of Imperial and Commonwealth History*, 40 (5), 2012, pp. 752-755.

⁵²⁴ Both Colebrooke and Bigge were of the opinion that the ‘Hottentots’ had “a claim to the protection of the Colonial Government”. See CA, CO 250/15, Report of Commissioners, 1823.

⁵²⁵ CA, A 50, Report of Philipton meeting, 5 Aug. 1834.

Ordinance came out; then did we first taste freedom.” He went on to express his disdain for the English settlers, adding that it was them who were clamouring for a vagrancy ordinance and “not the Government”.

Though Stoffels was grateful for the civil liberties that had been granted with imperial sanction, he was distressed by the failings of Cape equality. He argued that while the “first to the last Settler [was] provided for” as well as the “first to the last Boor [sic]”, the “greatest number of the Hottentots [were] not provided with lands.” He encouraged the meeting’s scribes to “write hastily to the King” so that he would become aware of their situation.

Stoffels’ address was followed by one made by James Read Junior. Although Read Junior was half-European, he identified as a ‘Hottentot’ and was able to speak Khoe. He had wanted to remain a “passive spectator” during the meeting, but felt compelled to speak given “the present position of the Hottentot Nation”.⁵²⁶ Read Junior focused on the colour-blind language of the draft vagrancy bill. Indeed, the proposed ordinance did not apply to ‘Hottentots’ specifically, but rather vagrants in general, regardless of race. Even so, Read Junior was convinced that the bill was designed to target ‘Hottentots’ who were not in the employ of the settlers. He told those gathered:

[...] it is said the Law will only operate on the idle and vicious and that the respectable Hottentots have nothing to fear [...] I think the proposed vagrant act is nothing but the introduction of the old system, at least no one has proved it to be otherwise. To shew [sic] the workings of that system I appeal to the Report of the Commissioners of Inquiry [...]

Like Read Junior, several other speakers referred to the state of the “‘Hottentot’ nation” in their comments to the public meeting. Intriguingly a number of these individuals were not ethnic ‘Hottentots’. For example, Esau Prinsloo introduced himself as “a Boor’s [sic] child”. His mother was a ‘Hottentot’ and though he was half-European, he considered himself to be a ‘Hottentot’. In a striking indication of the extent to which he had personally imbibed the conversionist philosophy of evangelical-humanitarianism, Prinsloo conveyed to those present

⁵²⁶ Read Junior was reluctant to speak as he was still very young. He was 23 years old at the time.

how others often told him that he had “Christian blood”, but that he knew “only of one blood that God [had] made”. At least one other speaker was also born of a Boer father and a ‘Hottentot’ mother. Another speaker, Mr. Bergman, identified himself as “a Bushman”.

Meanwhile, Windvogel Smit recalled how his father would go about “with [a] bow and arrows” when he was young, suggesting that his father may have been San. It is not clear if his mother had been a slave, but he remembered her being tied to a window and branded by her master after which she fled to the “wilderness among the wild beasts.” Smit was left with the master for whom he had to herd the sheep. He was pleased to see “one of [his] own nation sitting and writing” down the testimonies. Mr. Magerman recounted a similar experience as a child. He had been “ingeboeked”, or indentured, for ten years to a farmer in the Camdeboo. Though the farmer had undertaken to instruct him and raise him as his own child, Magerman told of how he had to “lie among the dogs in the ashes”. He received no instruction and no clothes and after both his parents ran away, he also decided to flee his master. He reunited with his mother “in the neighbourhood of the Cape”, probably referring to Cape Town, and later found his father working in Graaff-Reinet. The family subsequently moved to the Kat River Settlement.⁵²⁷

As the testimonies and identities of these individuals demonstrate, ‘Hottentotness’ was being shaped by civic notions of belonging. The varied ethnic backgrounds of those who spoke were being re-formulated into an overarching, civic identity. The frequent references to the “‘Hottentot’ nation” were made along with frequent mention of the benign rule of the British monarch.⁵²⁸ Almost every speaker also praised Ordinance 50 for how it had transformed their lives, most notably, by granting them the right of mobility. It was acknowledged time and time again that the present state stemmed from imperial intervention, for which they were thankful. The workings of the Legislative Council were, however, not to be trusted, given that some of its members supported settler interests. One of the more serious concerns over the possible re-introduction of vagrancy legislation related to

⁵²⁷ See also *SACA*, 3 Sep. 1834 for the testimonies made at the public meeting on 5 August.

⁵²⁸ This sentiment had been expressed in previous memorials sent to Governor Cole following the passage of Ordinance 50. For example, CA, CO 3941/79, Memorial, Members of Bethelsdorp to Governor Cole, 1829.

the power of the local authorities. One Kat River resident, Antony Pieterward, wrote to the *South African Commercial Advertiser* warning its readers that the draft bill was dangerous, as it would give “the Field-cornet the power to apprehend on suspicion” and empower the Magistrate to pass sentence “without due proof.”⁵²⁹ Pieterward appealed to the transcendent power of the King to ensure that the bill was not passed into law.

A second public meeting was held at Philipton on 12 August 1834. As had been the case in the previous meeting, the statements made by various speakers were informed by loyalist sentiments.⁵³⁰ James Clark (former missionary to the San at Bushman Station) opened the debate by commending those present for the “decorum” they had demonstrated at the former gathering. Clark hoped that “they would end their discussions that day in such a spirit that the King [would] be pleased with their loyalty, and the Governor, or the Civil Commissioner, would be always ready to grant them the privilege of meeting together for similar purposes at any future opportunity.” Clark went on to propose a resolution which laid the blame for the draft vagrancy bill on the settlers rather than the colonial government. The resolution read:

That this meeting does not consider that the proposed Act has its origin with His Excellency the Governor and the Legislative Council, but with those their fellow subjects who wish to benefit by this law in getting the Hottentots into their service, and it is feared not so much to prevent crime as is pretended by some, and should crime prevail more in and near the villages than elsewhere, it is to be ascribed more to the canteens than anything else [...]

Clark’s resolution represented the general opinion of those present. The colonial government was not the enemy, but rather the settlers who regularly petitioned for the introduction of a vagrant law. And though they did not deny that incidents of crime occurred from time to time, they argued that these were due to

⁵²⁹ SACA, 16 Aug. 1834.

⁵³⁰ SACA, 6 Sep. 1834.

the influence of alcohol. Respectability was clearly tied to matters such as sobriety and self-control, but equally so, it was also performed by loyal conduct and speech.

Some of the speakers expressed their shock at the realisation that “the same people (the English) who had sent the Hottentots the Gospel” would then wish to “throw them back into the hands of the Boers”. The British settlers had previously been considered political allies, but they were now being conflated with the Boers, the old enemy. Several former soldiers from the Cape Regiment also made speeches. Some, such as Daniel Hans, were dissatisfied with what they had to show for years of service. In his case, he had received an account of his good character upon his discharge and nothing else. Nonetheless, others expressed their loyalism with a sense of pride. Hans Tromp described himself as an old soldier, who had served his King and Country faithfully. Cobus Jager declared that he had “served the King long and was never wanting in [his] duty.” Yet another speaker lamented the feelings of the British settlers towards the ‘Hottentots’, stating that while they were “all subjects of one King” so there ought to be “one sympathy.”

The years immediately after Ordinance 50 appear to have emboldened mission ‘Hottentots’ in particular and a political consciousness of loyalism began to take root during this time to a far greater extent than ever before. References to land ownership, civil liberties and the rights of ‘natives’ as subjects feature regularly and prominently in many of the memorials and petitions written to the seat of Government in Cape Town.⁵³¹ This was occurring in a socio-political context in which ameliorative measures were being introduced to slave legislation. ‘Hottentots’ also became more astute when it came to the drafting of contracts of service, especially with regards to matters of remuneration.

A review of the contracts signed during the last quarter of 1828 in the Graaff-Reinet and Uitenhage districts reveal this. However, it must be noted that only 25 contracts were entered into during this three month period, with many of them between masters and servants residing in Graaff-Reinet town.⁵³² This would seem to suggest that the formalising of contracts before a magistrate that was being increasingly insisted upon was still to influence master and servant relations in the

⁵³¹ These are discussed in more detail in Chapter Five.

⁵³² CA, 1/GR 15/49, Graaff-Reinet, Contracts of Service, Sep. to Dec. 1828.

more remote parts of the district. Of the 25 contracts agreed to, 23 were between 'Hottentots' and masters, while one was agreed to by a "Bootchuana" and another by a "Bastard Hottentot". Out of the 25 contracts, 16 servants agreed to work for a period of 12 months. Eight of the servants were female and in five cases, both husband and wife hired themselves out. When this view is extended, it becomes apparent that 'Hottentot' servants preferred shorter terms of employment, not remaining "with their employers for any length of time."⁵³³ For example, from January to December 1830, 114 contracts were entered into, with 73 for 12 months and 26 for six months. The remaining contracts stemmed from one to nine months in duration.⁵³⁴ This trend continued through the 1830s.

Unlike before Ordinance 50, remuneration also became very specific, detailing much of the following: payment per month, or after three, six or twelve months, that is at the expiration of the contract (in the majority of cases, payment was to be made monthly); payment at the expiration of the contract was often in the form of livestock, such as sheep or goats, and suits of clothing (this was also very specific, with the items of clothing to be provided stipulated in the contract; for example: spencers, trousers, handkerchiefs, which in one case had to be red, jackets, hats, etc.). The masters were also obliged to undertake to provide "sufficient" and "wholesome" food for the duration of service. In cases where the wives and children of male workers were also allowed to reside on the farmer's property, the farmer was expected to provide shelter and food for them as well.

A review of the contracts signed in Uitenhage district during the same period reveal the extent to which the passage of Ordinance 49, also of 1828, had influenced the steady incorporation of workers from other frontier groups into the colonial labour market.⁵³⁵ Of the 53 contracts signed between September and December, 33 were entered into by 'Hottentots', while the remaining 20 were agreed to by other "free persons of colour". The contracts also exhibited the new emphasis placed upon

⁵³³ Cape of Good Hope. Minutes of Evidence taken before the Select Committee of the House of Assembly on Granting Lands in Freehold to Hottentots, 1856, (hereafter, Granting Lands in Freehold to Hottentots), p. 39.

⁵³⁴ CA, 1/GR 14/49, Graaff-Reinet, Contracts of Service, Jan. to Dec. 1830.

⁵³⁵ CA, District of Uitenhage (hereafter, 1/UIT) 14/11, Uitenhage, Contracts of Service, September to December 1828. Labourers who fell under the auspices of Ordinance 49 also had a tendency to opt for monthly contracts. CA, CO 2721/40, Resident Magistrate, Somerset, 10 Mar. 1830.

points of remuneration, as in Graaff-Reinet district. In general, 'Hottentots' were favoured as agricultural workers, while those designated as "free persons of colour of the [amaXhosa] tribe" were favoured as herdsmen. However, the predilection of 'Hottentots' to enter into shorter term contracts, which was common in the months after the passage of Ordinance 50, appears to have been resisted by farmers. In spite of the overhaul of the justice and contract system which had occurred in the preceding years, and the emphasis placed upon the formalising of terms of employment and remuneration, the farmers were still able to find ways of sidelining their obligations.⁵³⁶

The memorial of the Pacaltsdorp residents against the vagrancy ordinance highlighted this as one of their more serious criticisms of the proposed legislation, which in effect, would have left them with "no alternative but to enter into contracts, or leave the service of their masters and thus become subject to be apprehended as vagrants". Monthly contracts were favoured over longer terms of service as this was said to "force masters to be more regular in their payments". Yearly contracts also resulted, on average, in lower wages; generally paying half per month on a yearlong contract than what could be earned from a month by month arrangement. Owing to the masters' responsibility to provide shelter and food for the labourer and his family during the term of employment, it appears that payment was still often refused at the expiration of the contract on the basis that their maintenance during service was payment enough.⁵³⁷

Essentially, the proposed vagrancy ordinance threatened to curtail, and indeed eradicate altogether, the 'Hottentot' penchant to only enter into monthly contracts, which when expired could be re-entered into depending upon their satisfaction with their payment and treatment. The Pacaltsdorp petitioners asserted that they had "no objection to enter into contracts when assured of civil treatment and a fair price for their labour".⁵³⁸ Though exploitation no doubt continued to occur, by limiting the

⁵³⁶ It was, however, more difficult for farmers to refuse to agree to contracts with their servants, as had been common before Ordinance 50. CA, CO 323/17, R. Miles to R. Plasket, Cape Town, 24 Jul. 1827.

⁵³⁷ CA, LCA 6/61, Memorial, Pacaltsdorp, 8 Sep. 1834.

⁵³⁸ CA, LCA 6/61, Memorial, Pacaltsdorp, 8 Sep. 1834.

duration of their contracts to one month intervals, 'Hottentot' labourers protected themselves from excessive exploitation over an extended period.

The conviction that the real enemies of the 'Hottentots' were the local authorities in their positions as Field-Cornets, Field-Commandants and Justices of the Peace, was very clearly articulated in a number of the memorials. The "free coloured inhabitants of Grahams Town" regarded the local authorities as "uneducated men", who were either slave owners themselves or well acquainted with slave owners in their district, and who publicly expressed their opinion that the farmers were entitled to the "compulsory services of the natives".⁵³⁹ For the Pacaltsdorp residents, the general neglect of record keeping on the part of the local authorities meant they were regularly harassed for infringements which they had not committed. This they put down to the fact that "few of them can write [as] well as the children in our Hottentot schools".⁵⁴⁰

The political consciousness of loyalism expressed by 'Hottentots' was influenced by their experiences in the interim between Ordinance 50 and the vagrancy bill agitation of 1834, when it found its first organised public expression. This would continue to be the case throughout the remainder of the decade and into the 1840s and 1850s, with settler demands for vagrancy legislation continuing as a serious threat to the civil liberties they had been granted by Ordinance 50. The vagrancy ordinance was eventually passed by the Legislative Council of the Cape Colony on 8 September 1834, by a majority of three. However, it was subsequently prevented from passing into law by Lord Aberdeen at the Colonial Office.⁵⁴¹ In keeping with the advice given to the Council by the judges of the Supreme Court before they voted, the acceptance of the resolution into law would have required the repeal of the second clause of Ordinance 50, which was a step too far for the Home Government.⁵⁴²

Apart from its spiritual connotations and observance, Christianity in this instance acted as a social tool of legitimacy for respectable subjects, which was

⁵³⁹ CA, LCA 6/57, Memorial, Graham's Town, 1834.

⁵⁴⁰ CA, LCA 6/61, Memorial, Pacaltsdorp, 8 Sep. 1834.

⁵⁴¹ Elbourne, *Blood Ground*, p. 278.

⁵⁴² HCPP, No. 425, 1837, *Report from the Select Committee on Aborigines in British Settlements*, p. 174.

invoked to resist and challenge further oppression. The inhabitants of Theopolis were taking ownership of respectable forms of public performance and employing them in defending themselves against the very system that espoused such sentiments. Within the Cape Colony, Christianity was often at the very heart of public contests over civil liberties. Both were cultural imports within the colonial context and they simultaneously informed 'Hottentot' subjecthood. This was not lost on the slaves who attended services at the mission at Paarl for instance, who stated: "We have made our Saviour to be abhorred in the eyes of our Masters".⁵⁴³ Of course, the masters of the slaves before 1838 were the selfsame masters of the 'Hottentots' before 1828.

Taken together, the themes of mobility, criminality and respectability, and the ways in which they were contextually bounded by the legislative moments discussed here, provide greater insight into the ways in which the boundaries of a communal 'Hottentot' identity were being contested and defined in the intermediate years between Ordinance 50 and slave emancipation. 'Hottentot' assimilation into loyalist subjects following Ordinance 50 was to a large degree facilitated by the vagrancy bill agitation of 1834. The use of acculturative techniques to offset more oppressive measures was a strategic option for what was a pluralistic community.⁵⁴⁴ There can be little doubt that expressions of loyalism were instrumental. Nonetheless, the value of Ordinance 50 for those to whom it applied lay in its guarantee of civil liberties by the British Crown. For those living outside the Kat River Settlement, the greater autonomy the Ordinance afforded them was due to imperial oversight. For those residing in the Kat River Settlement, the independence which they enjoyed also emanated from imperial sanction. Loyalism served as a recognition of the higher authority of the imperial state. The romanticised goodwill of the monarch was regarded as a check on settler-colonial agendas. The speeches made by a variety of speakers, from different ethnic backgrounds, at the protest meetings in 1834 indicate that 'Hottentot' civic identity was deeply influenced by

⁵⁴³ SOAS, CWM, South Africa, Incoming Correspondence, 13/1/A, W. Elliott, Paarl, 14 May 1832.

⁵⁴⁴ For example, A.M. Ervin, 'A Review of the Acculturation Approach in Anthropology with Special Reference to Recent Change in Native Alaska', *Journal of Anthropological Research*, 36(1), 1980, pp. 49-70; & Bennett, *Africans in Colonial Mexico*, p. 13.

loyalist sentiments. As such, appeals to the right to freedom of movement and access to land were less nationalist and more loyalist.

British loyalism also became a crucial marker of respectability. This was especially so among mission 'Hottentots' associated with the LMS. Contrary to the dominant view at the time that Philip, Read and their associates were radical missionaries sowing seeds of dissent and insurrection among the 'Hottentots', they were devoted loyalists. This is explored in more depth in the following chapters.

Mission 'Hottentot' rhetoric during the vagrancy agitation juxtaposed the behaviour of those deemed non-respectable, or non-assimilated, 'Hottentots' with the more respectable, assimilated mission 'Hottentots', in an acculturative bid to fend off further dispossession and subordination. That Christianity functioned as a powerful marker of respectability and a symbolic challenge to the social hierarchy of the Cape is well established in the related historiography. What has not been explored, is the extent to which mission Christianity acted as a conduit of loyalism. Though the mission aspect of 'Hottentot' assimilation is predominant in Cape historiography, owing to the sheer volume of missionary sources, subject-citizenship has been subsumed under the banner of Christianity, rather than the other way around. Prominent representatives of the evangelical-humanitarian campaign at the Cape saw themselves as involved in a bid to create Christian citizens of the British realm.⁵⁴⁵

While some 'Hottentots' became Christians, all 'Hottentots' were subjects. Those 'Hottentots' who were exposed to mission Christianity appear to have imbibed their subjecthood and deployed it as a tool of resistance against settler-colonialism to a greater degree than those 'Hottentots' who did not reside at missions. Even so, as the next chapter will illustrate, mission networks were extensive and only a few 'Hottentots' would have never come into contact with mission 'Hottentots', or missionaries for that matter. Notions of subjecthood and loyalism would have travelled along these networks. Though clearly framed as a labour law, with the majority of its clauses dealing with matters related to contracts, Ordinance 50 was much more than merely a labour law.⁵⁴⁶ In economic terms, the

⁵⁴⁵ This sentiment can be found throughout John Philip's *Researches in South Africa*. For example, Vol. 1, pp. 381-384 & Vol. 2, pp. 226-227 & 360-361.

⁵⁴⁶ See Malherbe, 'Testing the 'Burgher Right' to the Land', p. 20.

Ordinance did free up the labour market and afforded 'Hottentots' extensive mobility, even though this was limited by the need to enter labour contracts at regular intervals in order to survive. The semi-independence this created was understood to stem from imperial intervention in conjunction with the efforts of the loyalist, humanitarian lobby at the Cape. In terms of 'Hottentot' civic identity, Ordinance 50 would remain the most prized piece of colonial legislation among scores of 'Hottentots', well into the 1840s and 1850s. The Ordinance came to underpin 'Hottentot' subjecthood and affirmed the value of loyalism.

The structure which confined 'Hottentot' agency was framed by the options of loyalist assimilation on the one hand and the more assertive countering of oppressive colonial policies on the other. The former was most apparent in the vagrancy bill agitation of 1834, while the latter was to emerge more clearly during the Kat River Rebellion seventeen years later. However, there was also continuity between these two moments, indicating that loyalism or rebellion were not mutually exclusive options for 'Hottentots'. Those dissatisfied with the minimal benefits which had accrued to them in spite of their assimilation as loyalist subjects following Ordinance 50 arguably would have been more likely to take up arms and forcefully resist the threat of further restrictions than those 'Hottentots' who remained mostly disconnected from the mission communities. However, as will be discussed in Chapter Five, pending constitutional changes and concerns over the weakening of imperial oversight during the early 1850s meant that the rewards of loyalism were thought to be in jeopardy. A perceived threat to the value of loyalism was therefore equally influential in triggering the Rebellion.

In concluding this chapter, it is worthwhile reiterating the argument that even as 'Hottentot' ethnic identities were systematically eroded throughout the course of the eighteenth and early nineteenth centuries, so they were re-made in a more cohesive, civic form at certain key, legislative moments, such as those discussed above. A significant percentage of the overall 'Hottentot' population found their identities being remoulded through cultural assimilation into a respectable and largely missionary inspired ideal of subjecthood. While it certainly existed in the imagination of missionaries such as Philip and Read, it is apparent that it also existed in the imagination of 'Hottentots' as well.



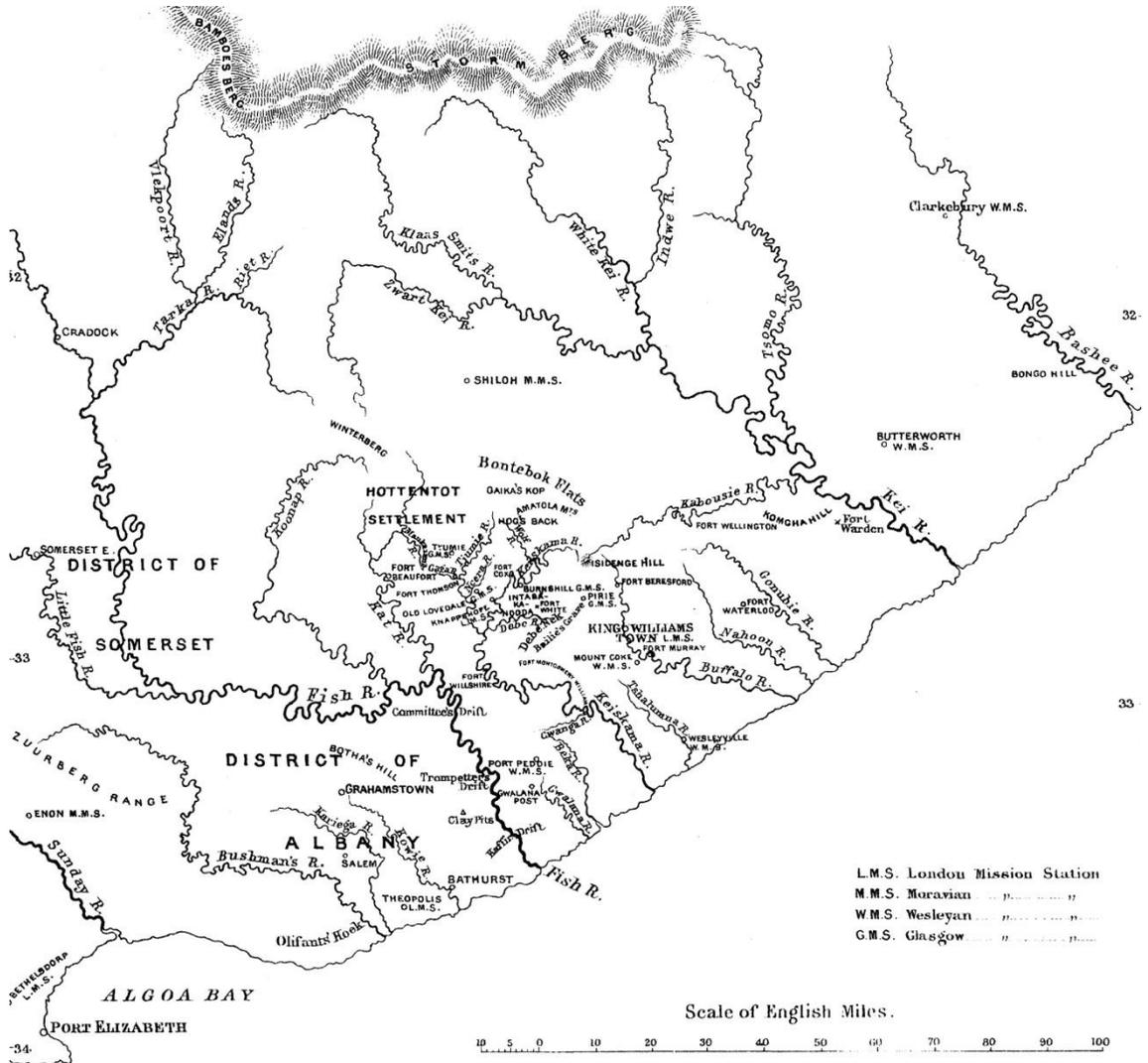
Rev. James Read senior

(Le Cordeur, B. & Saunders, C. *The Kitchingman Papers*, 1976)



Rev. John Philip

(Le Cordeur, B. & Saunders, C. *The Kitchingman Papers*, 1976)



Eastern Cape Frontier, 1834

(Theal, G.M. *History of South Africa from the Foundation of the European Settlement to Our Own Times, 1834-1854*, 1893)

Chapter Four

Loyalty and Intimacy: 'Hottentot' Identity in Transition, 1830-1850

On 15 October 1835, a 'Hottentot' servant named Rebecca appeared before Sir John Wylde, Chief Justice of the Supreme Court of the Cape Colony. Rebecca had been accused of stealing numerous items from the house of her employer, John Headen, a private soldier who lived on Short-market Street in Cape Town. The court heard that Rebecca had stolen a variety of personal possessions, including night gowns, earrings, silk handkerchiefs, towels, socks and stockings. Many of the items belonged to Headen's wife, Mary. The following week, Chief Justice Wylde wrote to the Governor of the Cape, Sir Benjamin D'Urban, advising him of Rebecca's trial and seeking his approval for the sentence. This was because Wylde had seen fit to condemn Rebecca to seven years transportation to New South Wales.⁵⁴⁷

In his communiqué to the Governor, the Chief Justice explained that the severity of the punishment was necessary. Wylde asserted that "as the prisoner, at the time of committing her offence, was an [sic] household servant of the proprietor, upon whose goods the theft was committed, where confidence and trust were therefore necessarily reposed in the prisoner, or to whom the property of the house must be open", the sentence was appropriate in order to strongly deter such crimes which could be so easily committed. D'Urban agreed with Wylde's judgement and approved Rebecca's transportation from the Colony.⁵⁴⁸

In a similar case that appeared before the Circuit Court in Swellendam on 9 March 1836, a 'Hottentot' servant named Clara Jonker was also charged with

⁵⁴⁷ Transportation referred to a period of physical banishment from the Colony. Those who were sentenced to transportation at the Cape were often temporarily imprisoned on Robben Island until a convict ship arrived to carry them to New South Wales or Van Dieman's Land. For a thorough discussion of Khoesan sentenced to convict transportation, see V.C. Malherbe, 'Khoikhoi and the Question of Convict Transportation from the Cape Colony, 1820-1842', *South African Historical Journal*, 17 (1), 1985, pp. 19-39. Transportation continued to be meted out as a punishment until the 1850s. CA, CO 599, Reports, Justice Wylde to Governor Smith, Persons sentenced for transportation to Van Dieman's Land, 1850-51.

⁵⁴⁸ CA, CO 439/92, Chief Justice Wylde to Governor D'Urban, Supreme Court Chambers, Cape Town, 22 Oct. 1835.

stealing her master's property. Chief Justice Wylde was again presiding and he saw fit to sentence Clara to five years transportation to New South Wales. In conveying his opinions on the case to Governor D'Urban, Wylde noted that Clara, who was said to be twenty years old, had been raised in her master's household from a young age. Wylde found her to be "cunning" and argued that the harsh punishment was necessary in order to dissuade other house servants from stealing property they had ease of access to. As with Rebecca's case, D'Urban sanctioned Clara's transportation.⁵⁴⁹ In both cases, Wylde wanted to make an example of the accused in a bid to discourage domestic servants from betraying the trust that had been placed in them by their masters.

This sentiment was clearly reflected in another case which was tried by Wylde in Cape Town in October 1836. The defendant, Samuel, was a servant of a local merchant named Isaac Manuel. Samuel was found guilty of having committed three separate thefts of animal skins during the previous month. After reviewing the case, Wylde saw fit to sentence Samuel to transportation to New South Wales for a period of seven years. In his report to D'Urban, Wylde sought approval for the sentence as follows:

*In review of the proceedings Your Excellency will be prepared to approve at least of the reasons, upon which the sentence was founded, in this relation to the confidential situation of and trust reposed in the prisoner by the owner of the property stolen, the necessary exposure of such property to servants in the local trade, with the risk and facility of undetected loss, or considerable depredation, and the propriety of checking, if possible, thefts of such serious public mischief [...]*⁵⁵⁰

Both the Chief Justice and the Governor were clearly perturbed by how each of these servants had betrayed their masters' trust by stealing from the household they worked in. In Clara's case, she had been raised in the same household. It is noteworthy that Wylde thought of such acts as "serious public mischief" even though

⁵⁴⁹ CA, CO 449/21, Chief Justice Wylde to Governor D'Urban, George, 14 Mar. 1836.

⁵⁵⁰ CA, CO 449/76, Chief Justice Wylde to Governor D'Urban, Cape Town, 21 Oct. 1836.

they were of a domestic nature. His comments highlight the extent to which the 'proper' judicial handling of domestic grievances between masters and servants were regarded by the most influential colonial authorities at the time as being crucial for the maintenance of public order. Official investigations into crimes and disputes that occurred in households and on farmsteads across the Colony constituted a blurring between private spaces and public interests, as the intimacy shared between masters and servants was aired in public. As these cases illustrate, a relationship of trust between masters and their servants in the domestic sphere was desired by high-ranking colonial figures. As the master-servant relationship was one of the most fundamental for securing the economic functioning and stability of the Colony, it is not surprising that this sentiment prevailed among the colonial elite. Indeed, this outlook was largely responsible for the numerous pieces of legislation which sought to regulate master-servant relations that were introduced by the British from 1806 onward.

Influenced by evangelical-humanitarian thought and the anti-slavery campaign, the Cape's British colonial authorities wished to replace labour coercion with consent when it came to the 'Hottentots', believing that blatant coercion contributed to a less productive labour force.⁵⁵¹ This notion was also evident in the series of slave reforms introduced by the British during the 1820s and early 1830s. As Mary Rayner has noted, much of the impetus behind the slave reforms was to improve the "physical well-being of the slaves" so as to promote their reproduction following the abolition of the slave trade. However, there was another purpose, aimed at "reproducing a particular set of social relations, involving continued subordination of the worker" even while steadily moving towards slave emancipation.⁵⁵² Similarly, Trapido has shown that with regards to the 'Hottentots', laws such as the Caledon Code were intended to replace coercion with paternalism and "ensure their more willing service".⁵⁵³ Masters were legally expected to provide

⁵⁵¹ For a detailed discussion on this theme, see Lonsdale & Berman, 'Coping with the Contradictions', pp. 488-491.

⁵⁵² M. Rayner, 'Slaves, Slave Owners and the British State: The Cape Colony, 1806-1834', University of London, Institute of Commonwealth Studies, *Societies of Southern Africa in the 19th and 20th Centuries*, 12, 1981, p. 17. See also, W. Dooling, 'Slavery and Amelioration in the Graaff-Reinet District, 1823-1830', *South African Historical Journal*, 27, 1992, pp. 76-77.

⁵⁵³ Trapido, 'From Paternalism to Liberalism', p. 84.

suitable shelter as well as food and clothing for their servants in a bid to improve labour conditions and encourage servant acquiescence. In this sense, paternalism was favoured as a less abrasive form of coercion and was considered a more benign form of rule. Yet, as Genovese has pointed out in his monumental study of slavery in the antebellum South, the paternalism of the slave master was also founded on the need “to discipline and morally justify a system of exploitation.”⁵⁵⁴ In short, the ideals of evangelical-humanitarianism were not compatible with the economic necessity of a pliable, reliable labour force during this period.

As discussed in Chapter One, by introducing the possibility of legal recourse for those ‘Hottentots’ who still regarded their employment as too coercive, the imperial state became a powerful, symbolic source of authority *vis-a-vis* the authority of masters, even as it was complicit in the subjugation of the Cape’s *indigenes*. By billing itself as a protector of the Cape’s indigenous inhabitants and with organisations such as the LMS fully endorsing the idea, the imperial state sought to become a source of paternalistic authority.

Chapter Three of this thesis has illustrated that for many ‘Hottentots’, this was a competing source of paternalism to the paternalism of white masters and they were able to make the distinction between the two. The passage of Ordinance 50 in 1828 signalled a dramatic shift from the paternalism of masters to the paternalistic liberalism of the imperial state. However, the legal equality that the Ordinance extended to the ‘Hottentots’ was not intended to bring about complete social equality. Just as with the slave reforms of the same period, it served to reproduce a set of social relations that continued to position the ‘Hottentots’ as a labouring underclass, albeit free from all previous forms of labour coercion. Nonetheless, the liberal ideals which underpinned Ordinance 50 further jeopardised the authority masters were able to wield over their ‘Hottentot’ servants.

The Cape’s ‘Hottentots’ found themselves in an ambiguous socio-political position in the years following Ordinance 50. This was largely due to a fundamental contradiction in the legislation. As noted, the Ordinance attempted to regulate a more transparent process of ‘Hottentot’ labour recruitment, contracting and treatment and embraced the evangelical-humanitarian imperative of promoting a

⁵⁵⁴ Genovese, *Roll, Jordan, Roll*, p. 5.

free labour market.⁵⁵⁵ Even so, the liberal motives of its key backers were circumvented from the outset, primarily due to the lack of provision of sufficient land to facilitate the emergence of an independent, 'Hottentot' peasantry (apart from the land which was allocated at mission stations and in the Kat River Settlement).⁵⁵⁶ As outlined in the previous chapter, this paradox did not stand in the way of a substantial number of 'Hottentots' from making use of the mobility Ordinance 50 granted them. Their greater mobility meant that they were also able to negotiate more favourable wages and contracts. Within the space of a few years, many who had sought an independent existence on the margins of settler society were forced to return to employment. Many others were able to sustain a semi-independent status, entering contracts for short periods of time while continuing to squat on Crown land or travel in and out of the Colony. This bore a striking similarity to how scores of mission 'Hottentots' oscillated between spells of contract employment and residence at missions.⁵⁵⁷

In a number of ways, their post-Ordinance 50 experience would foreshadow the post-emancipation experience of the Cape's slaves after 1838. While neither the 1828 nor 1838 emancipations radically altered the capitalist class formation of the Cape, the liberated slaves, like the 'Hottentots' before them, were afforded mobility. Following emancipation, approximately 6000 to 7000 ex-slaves in the western districts of the Cape resettled at mission stations, while roughly 1000 squatted on public land and others moved to Cape Town.⁵⁵⁸ This led to severe labour shortages for farmers across the Colony. These shortages continued well into the 1850s and beyond.⁵⁵⁹ This carried on in spite of the Cape government's attempts to assist

⁵⁵⁵ See Philip, *Researches in South Africa*, Vol. 2, p. 329.

⁵⁵⁶ N. Worden, 'Adjusting to Emancipation: Freed Slaves and Farmers in the Mid-Nineteenth Century South-Western Cape', in W.G. James & M. Simons (eds.), *The Angry Divide: Social and Economic History of the Western Cape* (Cape Town & Johannesburg: David Philip, 1989), p. 37.

⁵⁵⁷ For example, CA, CO 4447, Sir R.S. Donkin's Collection of Missionary Complaints, including J. Philip's 'Documents Accompanying the Tabular View of Missions in South Africa belonging to the London Missionary Society', date unknown, early 1830s.

⁵⁵⁸ J. Marincowitz, 'Rural Production and Labour in the Western Cape, 1838-1888, with Special Reference to the Wheat Growing Districts', Ph.D. thesis, University of London, 1985, p. 33.

⁵⁵⁹ W. Dooling, 'The Decline of the Cape Gentry, 1838-c. 1900', *Journal of African History*, 40 (2), 1999, p. 221.

farmers by introducing new legislation during the early 1840s that sought to curtail the mobility of 'Hottentot' and ex-slave servants.⁵⁶⁰

It was in reference to members of these two social groups that the label "persons of colour" came to be used more frequently in the associated laws of the post-emancipation period. Though the social and ethnic boundaries of these groups were often fluid, in legal terms, "persons of colour" excluded Gonaquas, Griquas, Bosjesmen, and "other natives of the interior of Africa".⁵⁶¹ During the late 1830s and early 1840s, the Cape's authorities asserted that Ordinance 49 of 1828 continued to make legal provision for the incorporation of "other natives" into the Colony's labour market. Ordinance 49 had been promulgated only three days prior to Ordinance 50 in 1828 and it gave legal sanction to the contracting of African labourers from beyond the official boundaries of the Colony. While Ordinance 50 would repeal the Caledon Code's requirement for 'Hottentots' to carry passes, Ordinance 49 stipulated that workers from outside the Colony had to have passes, which any landowner or official could demand to see.⁵⁶²

Both Ordinances were intended to bring about a more effective regulation of the Cape's labour market, with Ordinance 49 aimed at expanding the supply of labour in the eastern districts. For the period under consideration in this chapter, Ordinance 49 remained in effect, even though it was not always strictly adhered to, as frontier farmers were prone to overlooking the contractual obligations towards their extra-colonial servants that the law established.⁵⁶³ The continuing

⁵⁶⁰ CA, CO 4499, Civil Commissioner's Office, Somerset, 22 Dec. 1854.

⁵⁶¹ CA, LCA 10/16, Masters and Servants Bill, 1839, p. 2. For an insightful discussion on colonialism's concern with categorising subjects, see, A.L. Stoler, 'On Political and Psychological Essentialisms', *Ethos*, 25 (1), 1997, pp. 101-106. The complexities and blurring of identities on the eastern frontier of the Cape Colony, in particular among the Khoekhoe and Xhosa, are discussed in R. Ross, 'Ethnic Identity, Demographic Crises and Xhosa-Khoikhoi Interaction', *History in Africa*, 7, 1980, especially pp. 264-268.

⁵⁶² Newton-King, 'The Labour Market of the Cape Colony', in Marks & Atmore (eds.), *Economy and Society*, pp. 198-199.

⁵⁶³ In a bid to boost the Colony's labour supply, in 1843, Governor Napier proposed the use of convict labour for the repair of public roads and to open mountain passes in order to facilitate easier travel and trade between the interior districts and Cape Town. The use of convict labour was also intended to free up much-needed farm labourers from public works. HCPP, No. 742, 1847, Convicts (Cape of Good Hope). Copies or extracts of despatches, and of their enclosures, received during the years 1843 and 1844, from the Governor of the Cape of Good Hope, relative to a plan for improving discipline among the convicts, and employing them on the roads of the colony, pp. 3 & 20.

enforcement of Ordinance 50 was, in contrast, more complicated and confusing to many across the Colony. The attempt to revoke certain clauses of the Ordinance and introduce vagrancy legislation was thwarted in 1834. Even so, the disruption caused to the supply of labour within the Colony in the aftermath of Ordinance 50 and slave emancipation meant that the colonial government was pressured into devising a strategy to renew and bolster the authority masters could exert over their servants. Still, well into the 1840s and 1850s, farmers and local authorities were uncertain about whether Ordinance 50 remained in effect.⁵⁶⁴

Just as with the court cases presented above, the colonial state expressed its concern over the lack of trust between masters and their servants. Servants were regarded as untrustworthy and lacking sufficient loyalty to their masters owing to their mobility. Many were able to leave their masters at will, even when under contract, without fear of reprisal. The rapid turnover of labour which occurred throughout the Colony meant that masters could not establish a sustained rapport of dominance over their servants. Cape liberalism had, in effect, scuttled settler paternalism. As such, the introduction of masters and servants legislation was reactionary and motivated by a desire to re-establish paternalistic authority in a bid to stabilise the supply of labour. This required servant loyalty. However, as this thesis has argued, loyalism to the Crown had become a defining marker of 'Hottentot' civic identity, especially among those 'Hottentots' attached to the LMS.

Indeed, prominent LMS figures at the Cape continued to believe in the unity of humanity and the idea that indigenous colonial subjects could become equal subject-citizens of 'civilised' society. Such thought held sway during the 1830s, which marked the zenith of the evangelical-humanitarian lobby's influence on imperial policy-making, epitomised by the convening of the Select Committee on Aborigines in 1836 and the establishment of the Aborigines' Protection Society the following year. Remarkably, this influence diminished rapidly, such that the belief in the 'oneness' of humankind, which had been so prevalent during the mid-1830s, had been replaced by a new period of trusteeism within the space of a decade.⁵⁶⁵

⁵⁶⁴ CA, CCP 1/2/1/2, Petitions, Burgher Force Law, 1855.

⁵⁶⁵ A. Ross, 'David Livingstone: The Man Behind the Mask', in De Gruchy (ed.), *The London Missionary Society in Southern Africa*, pp. 40-41. See also, Bank, 'Losing Faith in the Civilising Mission', in Daunton & Halpern (eds.), *Empire and Others*, p. 364.

Trusteeism, influenced by the growing popularity of race thinking, held that Britain's colonised subjects were inferior, with limited abilities and few prospects for becoming equal to Anglo-Saxons. This shift in imperial attitude constituted the broader, global context in which humanitarianism at the Cape gave way to masters and servants legislation during the 1840s.

This chapter argues that loyalty was a fundamental theme in the ensuing contests over the rights of masters *vis-a-vis* the rights of servants. Given the intimacy of the master's household, loyalty on the part of servants was a prerequisite for the maintenance of domestic tranquillity. At the same time, British loyalism continued to be a prominent factor in the missionary work of the likes of John Philip and James Read. Notable expressions of loyalty to the Crown were made by residents of various missions even after the decline of humanitarianism had begun.

The following discussion begins with an analysis of competing claims to loyalty on the part of masters and missionaries. It then goes on to consider the ambiguities of subjecthood in settler households. In doing so, the chapter considers how some 'Hottentots' were clearly more assimilated into their roles as servants than others. Subjecthood intersected with servanthood and the degree of exposure to each profoundly shaped individual 'Hottentot' responses to competing demands on their loyalty. Though the paternalistic liberalism of the imperial state was steadily rolled back during the 1840s, British loyalism remained an important, legitimising source of 'Hottentot' civic identity for those with close ties to LMS missions. For those who were rural labourers working in the pastoral economy, there were fewer opportunities available to them for aspiring to British subjecthood. Chapter One showed that even remote farmsteads were not so isolated as to escape imperial intervention in the master-servant relationship altogether. Of course, the extent of that intervention depended in large measure upon the agency of 'Hottentot' servants who sought after it.

However, it is important to acknowledge that appeals to British subjecthood were not universal and the centrality of British loyalism to 'Hottentot' identity was varied.⁵⁶⁶ In spite of Ordinance 50, relations of unequal power continued, especially

⁵⁶⁶ Comparative literature which has proven valuable for this discussion include, D.C. Littlefield, 'Almost an Englishman: Eighteenth Century Anglo-African Identities', in R. Olwell & A. Tully (eds.), *Cultures and Identities in Colonial British America* (Baltimore: Johns Hopkins University Press, 2006), pp. 70-72; M.J. Rozbicki, 'Between Private and Public Spheres: Liberty as Cultural Property in Eighteenth Century British America', in Olwell & Tully (eds.), *Cultures and Identities in Colonial*

for those 'Hottentots' who were farm or domestic servants. Servanthood was therefore as instrumental as a tool of survival as subjecthood, depending upon personal dispositions and circumstances. Servant loyalty to the master was similarly motivated by self-preservation. The prospect and practicality of imbibing an imperial subject identity was always constrained by knowledge of the world beyond the farmstead and the individual's immediate context. Though all 'Hottentots' were legally subjects, in some cases, servanthood was a more definitive factor of identity.

In light of this, the chapter continues with an analysis of how moral community shaped master and servant relations. As discussed in the Introduction, the concept of moral community refers to how individuals conformed to acceptable standards of conduct. It also alludes to notions of honour and respect and how these informed individual behaviour. Honour may often be associated with relations of power and inequality, with those at the top of a social hierarchy best placed to aspire to it. However, ideas of honour are also evident among underclasses and as Iliffe has shown, even slaves.⁵⁶⁷ This relates to what Iliffe calls the horizontal dimension of honour, in which members of an underclass seek and demand respect from each other. Arguably the most evident expression of horizontal honour manifests in gendered norms and roles. For the Cape colonial elite and master class, honour also functioned as a measure of servanthood, indicating that those who occupy positions of power in unequal social settings may ascribe honour, or respectability, to those over whom they exercise authority. Respectable servants were loyal, trustworthy, dependable, acquiescent and hard-working. These more abstract markers of respectability bore conspicuous similarities with those that were encouraged among 'Hottentots' by the Cape's evangelical-humanitarian clique. The crucial difference, however, was that missionaries and humanitarians considered these to be indicators of honourable subjecthood, whereas the Cape's masters regarded them as signifiers of respectable servanthood.

With the colonial state wanting to ensure a more stable and reliable labour force in the aftermath of the 1828 and 1838 emancipations, it was necessary to

British America, pp. 294-297; & M. Menchaca, *Recovering History, Constructing Race: The Indian, Black and White Roots of Mexican Americans* (Austin: University of Texas Press, 2001), pp. 1-3.

⁵⁶⁷ Iliffe, *Honour in African History*, pp. 119-120.

curtail 'Hottentot' and ex-slave mobility.⁵⁶⁸ This overarching agenda was at the crux of the Masters and Servants Ordinance which was introduced in 1841.⁵⁶⁹ Mobility undermined paternalism and the concomitant authority of the master class. In an ironic twist, given the colonial state's previous endorsement of liberalism, it also diluted the power of the local authorities to impose their vision of an unequal, yet legally free, society on the Cape.

The fourth and final section of this chapter argues that in spite of these efforts, mobility had become a defining element of 'Hottentot' civic identity in the decade following Ordinance 50. Though the labels "persons of colour" or "Coloured" appeared more often in colonial parlance following the emancipation of the slaves, the designator, 'Hottentot', remained important to many who aspired to the identity it had come to signify. A crucial point of difference between loyalty to the Crown and loyalty to masters is that the former was believed to promote mobility and independence, while the latter constrained this.

I. Competing Loyalties: Masters, Missionaries and the Monarch

The 1830s and 1840s were marked by a series of contests between imperial and settler-colonial agendas at the Cape and across the British Empire. For the evangelical-humanitarian lobby, the 1830s were to be the apogee of their collective influence on imperial policies towards settler-colonies and indigenous peoples. In spite of growing calls for the further extension of local, political representation and policy-making rights to settler societies, including at the Cape, London remained the "critical hub of imperial rule".⁵⁷⁰ This was understood by those within evangelical-humanitarian circles, especially in the LMS at the Cape. Prominent figures within this liberal faction sought to push for greater imperial intervention in the Colony. As discussed in Chapter Two, they found themselves in a heated exchange with many

⁵⁶⁸ The abolition of slavery was designed to be a gradual shift from slavery to apprenticeship to freedom in order to prevent any large-scale public disorder that immediate emancipation might cause. HCCP, No. 560, 1836, Report from the Select Committee on Negro Apprenticeship in the Colonies, p. 2.

⁵⁶⁹ CA, LCA 12/4, Master and Servant Bill, Amendments, 24 Feb. 1841. The new law was confirmed by Her Majesty in Council in August 1842. CA, CO 5920.

⁵⁷⁰ Laidlaw, *Colonial Connections*, p. 1.

of the Cape's settlers, who held very different ideas about the political future of the Colony. While the necessity for British colonialism was not in dispute, the nature of British colonialism was. The majority opinion among the settlers, in particular those who lived in the eastern frontier districts, was that the Cape ought to be granted more control over its own affairs.

As noted in Chapter Two, the mouthpiece of this agenda became the *Graham's Town Journal*. Founded in 1831 and headed up by Robert Godlonton from 1834 onward, the paper (along with its political ally, *De Zuid Afrikaan*) competed with missionary publications in order to present an alternative account of the Cape to local, metropolitan and imperial audiences. The paper made its way to both Cape Town and London, where some of its reports on the eastern frontier were carried by *The Times*.⁵⁷¹ Godlonton also shared stories with the *Sydney Morning Herald* with both newspapers appealing to settler readerships concerned with matters of self-government and 'native policy' across the Empire.⁵⁷²

For much of the 1830s, however, the evangelical-humanitarians held sway. John Philip was able to appeal to humanitarian supporters in Britain who in turn petitioned other humanitarians in powerful positions in London, such as Lord Glenelg, Secretary of State for the Colonies, and his assistant James Stephen. The most remarkable example of the reach and influence of the Cape's humanitarian network was when Governor D'Urban was instructed by Lord Glenelg to return the territory between the Keiskamma and Kei Rivers, recently annexed as Queen Adelaide Province during the Sixth Frontier War, to the amaXhosa chiefs.⁵⁷³ For the Cape's white settler population, this was the clearest indicator yet that "imperial intervention could profoundly affect colonial governance".⁵⁷⁴ Missionaries across the Empire also understood this well. Just as settlers were attempting to resist imperial intervention in local, colonial contests, so humanitarians and missionaries

⁵⁷¹ Price, *Making Empire*, p. 164.

⁵⁷² Lester, 'British Settler Discourse and the Circuits of Empire', pp. 30-35.

⁵⁷³ Ross, 'Donald Moodie and the Origins of South African Historiography', in *Beyond the Pale*, pp. 193-194.

⁵⁷⁴ Laidlaw, *Colonial Connections*, p. 1.

were courting such intercession. In significant ways, so too did many 'Hottentot' mission residents.

In contrast to the 1830s, the 1840s ushered in a period in which centralised imperial control began to give way to the acknowledgement that greater self-government for the settler-colonies was inevitable. Keeping in step with this development was a steady decline in the influence of the evangelical-humanitarian lobby on imperial policies. Nonetheless, the prevailing metropolitan sense was that the settler-colonies were not yet ready to govern themselves. There were still concerns over the future treatment of indigenous subjects and neighbours. This remained an important continuity and the debate over the imperial state's protection of indigenous subjects and their rights that had begun during the 1820s continued to feature as opposing interest groups used different networks to influence imperial decisions.

As noted earlier, growing scholarly interest in the role that information networks played in shaping the colonial encounter during the nineteenth century has confirmed that missionaries, via their mission societies, were some of the most well connected individuals in the expanding Empire.⁵⁷⁵ For those 'Hottentots' who either resided at, or kept up regular contact with, LMS missions, this would have had a significant impact upon their understanding and imagining of their place within the changing imperial and settler-colonial visions of the Cape Colony.

The Intersection of Mission and Imperial Networks

Mission stations were seldom able to support the subsistence needs of their residents. At many missions throughout the Colony, the demand for land far exceeded the supply. This was compounded following the abolition of slavery in 1838, when many thousands of liberated slaves settled at missions, especially in the south-western Cape, where the majority of the ex-slave population was to be found. As a consequence, mission residents were required to seek employment in towns and villages and on farms in order to support themselves and provide for their

⁵⁷⁵ For example, T. Bradford, 'World Visions: 'Native Missionaries', Mission Networks and Critiques of Colonialism in Nineteenth-Century South Africa and Canada', in Limb *et. al* (eds.), *Grappling with the Beast*, pp. 311-334. In reference to information networks and the Cape Colony, Alan Lester's work is at the forefront of this theme. See in particular, *Imperial Networks*.

families. This constituted the continuation of a trend that dated back to the beginning of the century when the first Moravian and LMS missions were established. For many 'Hottentots', it was not possible to maintain a sustainable livelihood at mission stations alone.

It was often required for mission 'Hottentots' to augment whatever income and produce they could generate from the mission with intervals of labour. Some missionaries found it necessary to compel certain inhabitants to find employment at neighbouring farms, while others worked as constables or for the Post Office.⁵⁷⁶ Those mission residents who found ways of generating sufficient income had to interact with nearby towns and farms through trade. A number of residents at Bethelsdorp were involved in collecting and processing salt from the pan near the mission, while others harvested olives. Depending on the time of year, many of the mission's inhabitants also found work on neighbouring farms sheering sheep or cutting corn.⁵⁷⁷

Even residents of the Kat River Settlement maintained trading ties with towns and villages in the eastern districts. Potatoes grown at the Settlement were sold to Graham's Town and Fort Armstrong and many Kat River people earned a living through woodcutting and the sale of the timber.⁵⁷⁸ That being said, it is also apparent that some mission 'Hottentots' refused to work for farmers, perhaps due to previous experiences. In spite of Ordinance 50, farmers were still able to circumvent the contract system, delaying the payment of wages and making deductions for the provision of food, clothing and shelter, as well as alleged negligence or damage to property.⁵⁷⁹ It was reported in 1849 that all the men living at Bethelsdorp "were able to maintain themselves, without turning farm labourers" and that "they would rather go beyond the bounds of the Colony than work for small wages."⁵⁸⁰

⁵⁷⁶ CA, CO 4447, J. Philip, Report on Bethelsdorp, date unknown, early 1830s.

⁵⁷⁷ SOAS, CWM, South Africa, Incoming Correspondence, 18B/5/C, J. Kitchingman to Directors of the LMS, Bethelsdorp, 1842 Report.

⁵⁷⁸ SOAS, CWM, South Africa, Incoming Correspondence, 18B/5/C, J. Read junior to Directors of the LMS, Kat River Settlement, 1842 Report.

⁵⁷⁹ SACA, 7 Feb. 1829.

⁵⁸⁰ D.H. Varley & H.M. Matthew (eds.), *The Cape Journals of Archdeacon N.J. Merriman, 1848-1855* (Cape Town: Van Riebeeck Society, 1957), p. 31.

The regular movement of 'Hottentot' labourers between missions, villages and farmsteads did not only facilitate the transfer of various manufactures, but also the transmission of information and news. Pacaltsdorp mission was glad to advise the Directors of the LMS in 1834 that "strangers from the surrounding country constantly attended" services, no doubt simultaneously exchanging news.⁵⁸¹ Philip regarded missions as "the channels [...] by which the ideas of order, of duty, of humanity, and of justice, [flowed] through the different ranks of the community."⁵⁸² Missions also acted as some of the most important conduits of loyalism.

The anti-vagrancy bill agitation of 1834 revealed just how well connected many mission 'Hottentots' were with colonial and imperial news and that they were aware of the direct impact that decisions made in Cape Town and London had upon their lives and livelihoods. While younger generations of 'Hottentots' were taught literacy at the mission schools scores of older 'Hottentots' would have remained illiterate. Even so, many missionaries also reported favourably on adult literacy rates at their stations.⁵⁸³ Nonetheless, with missionaries well attuned to colonial and imperial news, knowledge, rumour and speculation travelled between missionaries and mission residents. Missionaries at different stations in both the western and eastern districts of the Colony, as well as those located beyond the Colony's official borders, frequently corresponded with each other, exchanging updates on their immediate context intermingled with thoughts on colonial and imperial matters. The regular passage of mission inhabitants between missions, villages and farmsteads meant the further transfer of news.⁵⁸⁴

Chapter Three of this thesis illustrated that 'Hottentots' were much more mobile following the passage of Ordinance 50 than they had been before. This was the case for all 'Hottentots', not only for those resident at missions. As they moved about and beyond the Colony, coming into contact with a variety of people of different social statuses, such as San, Griqua, Korana and white farmers, so they

⁵⁸¹ *Report of the LMS*, 1834, p. 84.

⁵⁸² Philip, *Researches in South Africa*, Vol. 2, p. 361.

⁵⁸³ For example, CWM, *Reports of the London Missionary Society*, 1833, pp. 79-83; & 1835, pp. 82-86.

⁵⁸⁴ For a comparative discussion of how peasants became aware of national, as opposed to only local issues, see, E. Weber, *Peasants into Frenchmen: The Modernization of Rural France 1870-1914* (London: Chatto & Windus, 1977), pp. 303 & 336.

exchanged information in addition to livestock, firearms and other sought after commodities. For example, while farmers were eager to hide the news of their slaves' newly granted status as apprentices and pending liberation from them, it was acknowledged to Donald Moodie in 1834 when he was touring the northern frontier that this was not feasible. Some farmers already living beyond the official boundary of the Colony opted to move even further into the interior in a bid to isolate their slaves from news about their legal status. Still, some "thought it was impossible that any of the slaves were still ignorant as to their recently acquired rights."⁵⁸⁵

Mission stations served as important resources of information, where 'Hottentots' could learn of recent colonial and imperial laws and developments, as well as humanitarian support or resistance. The events surrounding the anti-vagrancy bill protests in 1834 revealed that newspapers such as the *South African Commercial Advertiser* and *Graham's Town Journal* were in circulation at missions.⁵⁸⁶ 'Hottentots' took an active interest in the news the papers conveyed. This was one of the key ways by which 'Hottentots' learned of the growing hostility of the British settlers towards them and the Kat River 'Hottentots' in particular. At the time of the British settlement schemes of the early 1820s, missionaries and mission 'Hottentots' had regarded the new British settlers as valuable, political allies against the Boers. Disillusionment set in at the time of the 1834 vagrancy controversy, when public sentiment amongst the British settlers, especially those at Graham's Town, supported renewed vagrancy legislation.

'Hottentot' networks also came to extend across individual mission stations. This is best illustrated by the steady eastward expansion of LMS missions over the course of the early nineteenth century. Beginning with Bethelsdorp and then occurring again with Theopolis, Hankey and the Kat River Settlement, as each mission grew in size and population so new sites were founded and mission residents moved to take advantage of the provision of more mission land.⁵⁸⁷ A few individuals stood out in this regard. One such individual was Dirk Hatha (also

⁵⁸⁵ CA, CO 429/67, D. Moodie, Notes on a Tour to the Northern Frontier, Aug. 1834.

⁵⁸⁶ HCPP, No. 538, 1836, *Report from the Select Committee on Aborigines*, p. 317. Also, Granting Lands in Freehold to Hottentots, p. 45; & CA, CO 360/11, W. Anderson to Colonel Bell, Pacaltsdorp, 28 Apr. 1828.

⁵⁸⁷ P. Hinchliff (ed.), *The Journal of John Ayliff, 1821-1830* (Cape Town: Balkema, 1971), pp. 85-86.

spelled Hartha). He arrived at Bethelsdorp with his parents in 1804, soon after Johannes Van der Kemp and James Read established the mission near Algoa Bay. Hatha's mother was one of the first 'converts' to be baptised by Van der Kemp and his father had also since been baptised.

It seems likely that Hatha spent a lot of time in the Read household while he was growing up, as he is recorded as having been "a play fellow and intimate companion of Chief Tzatoe in [his] young days".⁵⁸⁸ Jan Tzatoe (who also appears in historical records as Dyani Tshatshu) was the son of the chief of the amaNtinde lineage of the amaXhosa who lived in Read's Bethelsdorp household for much of his adolescence and early adult life.⁵⁸⁹ Hatha would go on to accompany Reverend John Campbell on his first tour of inspection of the LMS's missions at the Cape in 1813. In 1816, he also joined James Read in commencing the mission at Latakoo and he later assisted Robert Moffat at Kuruman. Hatha then moved on to Philippolis before re-locating to the Kat River Settlement soon after it was founded in 1829.⁵⁹⁰

Another well travelled individual associated with the LMS was Boosman Stuurman. He was initially a resident at Theopolis under the guidance of the missionary, George Barker. He was described as "a most lively zealous Christian of much solid experience and constantly engaged in stirring up members of the church and warning the unconverted."⁵⁹¹ Stuurman also relocated to the Kat River Settlement where he would travel "from location to location" teaching and conveying news to those he visited. An acquaintance of both Hatha and Stuurman, Andries Jager, followed a similar trajectory. Jager first lived at Theopolis, where he was said to have been "called by grace [...] to the knowledge of Christ". Exhibiting "signs of talent for communicating knowledge", Jager was sent to the mission school at Salem by John Philip in order to learn English, after which he served as school

⁵⁸⁸ SOAS, CWM, South Africa, Incoming Correspondence, 16A/2/C, J. Read to Directors of the LMS, Kat River Settlement, 1838 Report.

⁵⁸⁹ R. Levine, 'Cultural Innovation and Translation in the Eastern Cape: Jan Tzatoe, Xhosa Intellectual and the Making of an African Gospel, 1817-1833', *African Historical Review*, 42 (2), 2010, p. 87.

⁵⁹⁰ SOAS, CWM, South Africa, Incoming Correspondence, 16A/2/C, J. Read to Directors of the LMS, Kat River Settlement, 1838 Report. Hatha chaired the vagrancy bill protest meeting that was held at Philipton in August 1834, discussed in the previous chapter.

⁵⁹¹ SOAS, CWM, South Africa, Incoming Correspondence, 16A/2/C, J. Read to Directors of the LMS, Kat River Settlement, 1838 Report.

principal at Pacaltsdorp mission. He then also moved on to the Kat River Settlement.⁵⁹²

All three lives highlight the regular movement of individuals and their families between missions and this flow of people from one site to another facilitated the establishment of familial and kinship ties and contributed to the creation of networks of support, information and ideas. Familial and kinship connections stretched across the coastal rim of the Eastern Cape. As was revealed later on in the Kat River Commission of Inquiry of 1858, familial ties also extended northwards to Graaff-Reinet and even across the Gariep River to the Griqua captaincies. The recruitment of mission 'Hottentots' into the Cape Mounted Rifles also facilitated the movement of individuals between different locales in the Colony. Many missionaries were not in favour of their residents being conscripted as levies, believing that 'Hottentot' soldiers succumbed to worldly temptations while absent from their supervision.⁵⁹³ Notwithstanding the missionaries' reservations, the soldiers brought news of what was happening on the frontier back to their families and acquaintances upon returning to their home missions after several months away in the eastern districts.

The boundaries between the categories of mission, town and farm 'Hottentots' were fluid. Many, perhaps even a majority of 'Hottentots', would have fitted into one of these categories during their lives. Some were both mission and farm 'Hottentots', travelling between these two sites regularly enough to lay claim to belonging to both categories simultaneously. Frequent oscillation between these locales meant that many 'Hottentots' were well connected to transfers of news and information, which may not always have been reliable and were prone to the circulation of rumours. Two of the more common rumours to spread along these links concerned the re-introduction of vagrancy legislation and doubts over 'Hottentot' loyalty.⁵⁹⁴

⁵⁹² SOAS, CWM, South Africa, Incoming Correspondence, 16A/2/C, J. Read to Directors of the LMS, Kat River Settlement, 1838 Report.

⁵⁹³ CA, CO 4447, J. Philip, "Documents Accompanying the Tabular View of Missions in South Africa belonging to the London Missionary Society", including Reports on Bethelsdorp and Theopolis, date unknown, early 1830s & *Report of the LMS*, 1848, p. 99.

⁵⁹⁴ For example, SOAS, CWM, South Africa, Incoming Correspondence, 15/2/B, G. Barker to Directors of the LMS, Kat River Settlement, 1836 Report.

As Ann Stoler has observed elsewhere, rumours were rife in colonial contexts. At the Cape, the white settler population were as susceptible to rumour-mongering as the 'Hottentots', perhaps even more so as many 'Hottentots' acquired news from the well-connected missionaries. Stockenström wrote to Governor D'Urban in April 1837 complaining about the "lack of communication between the Government and the inhabitants in general, both in English and Dutch". He had observed that much of the settler population was "ignorant of what [was] legally right or wrong". As such, there were numerous "groundless fears and suspicions" among the white populace.⁵⁹⁵ Some rumours were powerful enough to spur action on the part of those who believed them, such as when large numbers of 'Hottentots' from Beaufort, Hantam, the Sneeuberg and Graaff-Reinet decided to make their way to the Kat River Settlement in April 1834 under the impression that they would be granted land there and spared being arrested as vagrants.⁵⁹⁶ In the same month of April 1834, the inhabitants of the Kat River Settlement were on guard amid rumours of a pending invasion by the amaXhosa. It was reported that "so great was the fear that a line of horsemen was formed from Gaika's Peak to the Mankazana River".⁵⁹⁷

Among the Eastern Cape's settlers, there was frequent speculation and foreboding over the loyalty of the 'Hottentots' and in particular, the soldiers of the Cape Mounted Rifles or Cape Regiment. The *Graham's Town Journal* was often the conveyor of such conjecture. In March 1836 the paper questioned the loyalty of the Kat River inhabitants and recounted rumours that they were going to join the amaXhosa in an attack on the Colony.⁵⁹⁸ Such concerns stemmed from uncertainty and apprehension over the extent to which the Kat River's residents and 'Hottentot' levies interacted with the amaXhosa. A few months later the newspaper reported that while the "Hottentot is a most useful auxiliary [...] his habits are such that when not in actual hostilities you cannot prevent him, when opportunities occur, from forming intimacies with the native tribes."⁵⁹⁹

⁵⁹⁵ CA, CO 4382, A. Stockenström to Governor D'Urban, *Graham's Town*, 22 Apr. 1837.

⁵⁹⁶ CA, 1/AY 9/7, Civil Commissioner to the Secretary to the Governor, 8 April 1834.

⁵⁹⁷ SACA, 5 Apr. 1834.

⁵⁹⁸ GTJ, 31 Mar. 1836.

⁵⁹⁹ GTJ, 5 May 1836.

Rumours concerning an ex-slave insurrection in the months and weeks before emancipation on 1 December 1838 were also being spread among the settler population. As it turned out, the day passed in a “most peaceable manner” with no disturbance, as had been expected.⁶⁰⁰ The constant threat of conflict along the eastern frontier and ongoing settler attempts to curtail ‘Hottentot’ mobility created a strong sense of insecurity and vulnerability, such that it is not surprising that rumours often proved so compelling. For ‘Hottentots’, missionaries and settlers alike, rumour “filled the gaps in their knowledge with culturally reasonable conjectures” and served to inform “what people thought they knew, blurring the boundaries between events ‘witnessed’ and those envisioned”⁶⁰¹

It is intriguing to observe how rumour also influenced the decisions of high-ranking officials at the Cape. A series of events which occurred in late 1834 and early 1835 illustrate this point well. With regards to the debate over the political future of the Colony at the time, this episode also highlights the ongoing significance and contested nature of the themes of loyalty and disloyalty to the Crown between evangelical-humanitarians and those ‘Hottentots’ who associated with them, on the one hand, and settlers and colonial authorities on the other. The crucial role played by imperial networks in influencing colonial policies and shaping ‘Hottentot’ subject identity also comes into focus.

In December 1834, at the time of the outbreak of the Sixth Frontier War between the Cape Colony and the amaXhosa, a plan was set in motion to remove Rev. James Read from Philipton in the Kat River Settlement. At the forefront of this plan was Sir Benjamin D’Urban who had arrived at the Cape in January 1834 as the newly appointed Governor. Read, like Philip and others connected to the evangelical-humanitarian lobby, had hoped that the new Governor would introduce policies that would be favourable to both the ‘Hottentots’ and the amaXhosa.⁶⁰² The humanitarians would be left bitterly disappointed as D’Urban blamed the amaXhosa

⁶⁰⁰ SOAS, CWM, South Africa, Incoming Correspondence, 16A/2/B, H. Calderwood to Directors of the LMS, Cape Town, December 1838.

⁶⁰¹ A. Stoler, ‘In Cold Blood: Hierarchies of Credibility and the Politics of Colonial Narratives’, *Representations*, 37, 1992, pp. 153-154.

⁶⁰² SOAS, CWM, South Africa, Incoming Correspondence, 14A/1/C, J. Read to Directors of the LMS, Philipton, 3 Jul. 1834.

for the new round of conflict, labelling them “irredeemable savages” and driving them across the Keiskamma River.⁶⁰³

Sometime in early 1835, D’Urban directed a large convoy of soldiers under the charge of Major William Cox that was heading to the frontier to bring Read out of the Settlement and convey him to Graham’s Town. D’Urban was clearly swayed by rumours that Read, along with his son, James junior, and Philip, were largely to blame for the renewed hostilities. Settler opinion asserted that Read and Philip were the “chief cause of the war” having instigated the amaXhosa attack on the Colony.⁶⁰⁴ Upon arriving at the Settlement’s military post, Fort Armstrong, and informing the commanding officer, Captain Alexander Armstrong, of the Governor’s directive to remove Read, it was quickly determined that an open arrest was not advisable. Armstrong cautioned Cox that any public detention of Read could spark opposition and unrest among the Philipton residents and others living at the Kat River. They were also weary of James Read junior, whom it was said “had already shown a pernicious tendency at the political meetings in the Settlement” and they did not doubt that he would resist his father’s expulsion and “cause great troubles” even if Read senior submitted. Not wanting to disobey the Governor, it was decided that another means of getting Read out of the Settlement was necessary. It was then that a ruse was devised.

Captain Armstrong approached Read, who had moved to Fort Armstrong with the Philipton congregation for protection, and informed him that the Governor wanted to urgently see him to share his opinion on the Settlement and his insights on the amaXhosa chiefs.⁶⁰⁵ Armstrong suggested that Read take advantage of the military escort then present at the Fort and hasten to Graham’s Town where the Governor was waiting to see him. According to those present, “the bait was swallowed at once” and the next day Read and his entire family departed for Graham’s Town, first stopping at Fort Beaufort where Major Cox informed the officers present of the “happy delusion under which Mr. Read was acting.” Read only

⁶⁰³ For more on D’Urban’s attitude towards the amaXhosa see, Price, *Making Empire*, pp. 131-133 & Keegan, *Colonial South Africa and the Origins of the Racial Order*, pp. 142-144.

⁶⁰⁴ For example, CA, 1/AY 8/88, Statement of H.A. Lombard relative to the murder of Jan Engelbrecht, Fort Beaufort, 10 Mar. 1837.

⁶⁰⁵ HCPP, No. 538, 1836, *Report from the Select Committee on Aborigines*, p. 607.

realised that he had been lured away under false pretences when he arrived in Graham's Town and was told that the Governor would not be seeing and that he was not permitted to return to the Kat River Settlement without the Governor's permission.⁶⁰⁶

In many ways, Read was the personification of the "hybrid nature of the new selves" that were "being fashioned in the interstitial and highly contingent space created by the colonial encounter in South Africa."⁶⁰⁷ He was a white, English missionary with a Khoekhoe wife and 'Coloured' children. He also had strong familial ties with Jan Tzatoe, whom he regarded as his son, Dirk Hatha and Andries Stoffels. The degree of intimacy Read established with the groups he lived and proselytised among certainly contributed to his popularity as a missionary and political ally.⁶⁰⁸ This was most clearly reflected by the request made by the Kat River 'Hottentots' for Read to be appointed their minister in 1830. Later on Read would confess to his good friend, the long serving missionary at Bethelsdorp, James Kitchingman, that he was "not made to act with [...] white men", being "too much of a Hottentot."⁶⁰⁹

Read seldom shied away from championing the political cause of the 'Hottentots' even as he endeavoured to spread the Gospel and 'Christianise' the Cape's *indigenes*. As such, he was an instrumental figure in shaping 'Hottentot' identity at the missions he oversaw during his fifty year long career at the Cape. Labelled a radical missionary by those who loathed him and feared his influence, Read was an ardent champion of British subjecthood among his various congregations and in particular, among the 'Hottentots'.

For Read, subjecthood entailed protection and Christianity and 'civilisation' flowed from the benign rule of Empire. This sentiment resonated with his son, James junior, who would grow up to be equally enthusiastic about British paternalism.

⁶⁰⁶ CA, LG 590, Letters and Notes, Kat River Settlement, for a full account of the conspiracy against Read. Also, CA, A 50, W.R. Morris Collection, J. Philip to Directors of the LMS, 9 Dec. 1835.

⁶⁰⁷ Levine, *A Living Man from Africa*, p. 3.

⁶⁰⁸ L. Zastoupil, 'Intimacy and Colonial Knowledge', *Journal of Colonialism and Colonial History*, 3 (2), 2002, pp. 5-9.

⁶⁰⁹ Quoted in B. Le Cordeur & C. Saunders, *The Kitchingman Papers* (Johannesburg: Brenthurst Press, 1976), p. 248.

Contrary to what many of his contemporary critics alleged concerning his perceived seditious tendencies, Read encouraged British loyalism among his congregants. He regarded loyalty to the Crown as a defining marker of 'Hottentot' identity. Read's attempts to persuade those with ambiguous ethnic backgrounds to identify as 'Hottentots' come into sharper focus when this crucial aspect of his political philosophy is recognised.

It was well known that he "encouraged all classes of coloured people whether Bastards, Gonahs, or Fingos to assume the appellation of Hottentot" and that he "taught the Hottentots to consider themselves a distinct tribe", with interests distinct from those of other communities in the Colony.⁶¹⁰ Read and his son, James, were equally unpopular with many missionaries as they were with the settler population, especially among those of a more pro-colonial persuasion.⁶¹¹ For example, William Thomson, the government appointed minister in the Kat River Settlement, accused the father and son of "identifying religion with politics".⁶¹² Colonial authorities on the frontier considered the Reads' promotion of political meetings as potentially dangerous, leading the 'Hottentots' to "consider themselves of more political importance than [was] wise or safe for an unsettled population."⁶¹³ Indeed, missions were also sites for political instruction and the radical politics of missionaries such as James Read Senior and his coterie were to cause much consternation to farmers in the Eastern Cape in particular. This accounts for Read Senior's unparalleled popularity with a variety of groups, including the Griqua at Philippolis and the baThlaping at New Lattakoo, in addition to 'Hottentots' at

⁶¹⁰ CA, CO 4382, Capt. Armstrong to Governor D'Urban, Fort Beaufort, 23 Jul. 1835. Fingoes, or Mfengu, were amaXhosa who had been displaced by cattle raids across the Cape frontier. In Cape colonial society, the Fingoes were described as refugees who had fled Natal, where Shaka's Zulu Kingdom was expanding. Many were coerced into the Eastern Cape labour market under this pretence. See P. Fry, 'Siyamfenguza: The Creation of Fingo-ness in South Africa's Eastern Cape, 1800-1835', *Journal of Southern African Studies*, 36 (1), 2010, pp. 25-40.

⁶¹¹ Wells, 'The Scandal of Rev. James Read and the Taming of the London Missionary Society', pp. 136-160, for a discussion of Read's divisive persona within the Cape's missionary circles in the years following the death of Van der Kemp.

⁶¹² CA, CO 4382, W. Thomson to Capt. Armstrong, Balfour, 1 Feb. 1836.

⁶¹³ CA, CO 4382, Capt. Armstrong to Governor D'Urban, Fort Beaufort, 23 Jul. 1835 & Capt. Armstrong to Col. Smith, Fort Beaufort, 2 Feb. 1836.

missions within the Colony.⁶¹⁴ Missionaries of the LMS, in keeping with its Congregationalist roots and ethos, did not adhere to a uniform approach to mission, as demonstrated by the well-known rivalry between Read and Robert Moffat.⁶¹⁵

Of serious concern for the local colonial officials was the extent of Read Senior's influence over the people at Kat River. Thomson warned Armstrong that Read's effect on the Kat River inhabitants was significant "irrespective of the constituted civil authorities".⁶¹⁶ There was said to be a "fractious and separating spirit" among Read's congregation at Philipton in particular. Thomson suggested that this spirit was not based "on religious grounds or distinction of colour or birth, but principally on [...] political sentiments." The Philipton residents were portrayed as being prone to "question every act of Government and discuss its merits."⁶¹⁷

Read considered the Cape's Governors to be legitimate representatives of the British monarch and worthy of due deference, and he encouraged similar regard for the office among his congregants. However, when a Governor such as D'Urban was found to be unsympathetic to the evangelical-humanitarian cause, Read along with Philip believed that the metropolitan government could still be counted on to intervene favourably. Both Thomson and Armstrong were aware of a general feeling prevailing among the Kat River residents "that an appeal to Mr. R and through him to Dr. Philip and the London Missionary Society [would] procure redress of fancied grievances."⁶¹⁸

Mission-affiliated 'Hottentots' clearly understood the usefulness of imperial networks and Read's removal from the Kat River Settlement would prove to be a case in point. After spending a few months in Graham's Town where he was only able to preach to a 'Hottentot' battalion waiting to be called to the frontier, Read decided to move to Bethelsdorp with his family in May 1835. It wasn't long after that news arrived of Buxton's success in convincing the British Parliament of the need

⁶¹⁴ SOAS, CWM, South Africa, Incoming Correspondence, 19/1/D, H. Hendrickze to J. Philip, Philippolis, 18 Apr. 1843; 19/1/D, A. Kok to J. Read, Philippolis, Apr. 1843; & 8A/2/D, R. Hamilton to Directors of the LMS, New Lattakoo, 31 Aug. 1820

⁶¹⁵ Le Cordeur & Saunders, *The Kitchingman Papers*, p. 234.

⁶¹⁶ CA, CO 4382, W. Thomson to Capt. Armstrong, Balfour, 1 Feb. 1836.

⁶¹⁷ CA, CO 4382, W. Thomson to Capt. Armstrong, Balfour, 1 Feb. 1836.

⁶¹⁸ CA, CO 4382, W. Thomson to Capt. Armstrong, Balfour, 1 Feb. 1836.

for a Select Committee to convene to investigate the treatment of indigenous peoples in British territories. Read had been suffering from poor health for some time and had not originally intended to travel to London to give evidence. Philip, Tzatoe, Stoffels and Read junior left for England in February 1836, while Read senior remained behind. Given D'Urban's refusal to allow Read to return to the Kat River Settlement, he decided to attend the Select Committee, departing from Cape Town the following month. He asserted that "if the Government does not give us redress we must appeal to the British public and a British parliament."⁶¹⁹

Though Read senior only testified before the Committee once, compared to Philip's five appearances between June and August 1836, he was able to persuade humanitarian supporters in Britain that he did not deserve the treatment he had received from D'Urban.⁶²⁰ Lord Glenelg later confirmed that D'Urban had failed to send any legitimate charges against Read and that he could return to the Kat River Settlement when he arrived back at the Cape.⁶²¹ He arrived back in Cape Town over a year later, after touring the British Isles with Philip and Tzatoe. Following his reunion with the Kat River inhabitants in April 1838, the LMS advised its supporters in its official publication that Read's travels and talks in Britain had "considerably augmented the interest previously felt on behalf of the Hottentots" at the Kat River and in the Cape generally. Read had assured his metropolitan audiences of "their steady allegiance to the British Crown" which carried on "under circumstances calculated to try the most devoted loyalty."⁶²² In addition, Read had "carried from England" to the Kat River 'Hottentots' "many and lasting proofs of the deep interest which [was shown for] their welfare."⁶²³

The Kat River residents suffered severe losses during the Sixth Frontier War. Forty-four houses were burnt down and an estimated 10 000 head of livestock were lost as a result. George Barker, the missionary at Theopolis who visited the Kat

⁶¹⁹ SOAS, CWM, South Africa, Incoming Correspondence, 15/1/A, J. Read to Directors of the LMS, Bethelsdorp, 26 Jan. 1836.

⁶²⁰ J.B. Scott (ed.), *Letter Book of Sir Rufane Donkin* (Port Elizabeth: Historical Society of Port Elizabeth & Walmer, 1970), p. 107.

⁶²¹ Le Cordeur & Saunders, *The Kitchingman Papers*, p. 170.

⁶²² *Report of the LMS*, 1838, pp. 91-92.

⁶²³ *Report of the LMS*, 1838, pp. 92.

River regularly during Read's absence, notified the Directors of the LMS that the "people were much afflicted at the removal of their pastor" and that they were aware that D'Urban was responsible for preventing him from returning. Read's absence was reported to be "a source of great grief to the church and congregation" at Philipton in particular.⁶²⁴

Nonetheless, the people remained loyal to the Crown. Indeed, Read's absence from the Settlement during the war actually provided an opportunity to demonstrate that the Kat River 'Hottentots' did not require missionary supervision, but that even as autonomous agents they sided with the Crown. Many 'Hottentot' men from LMS missions saw active duty in the repulsion of the amaXhosa, with approximately one hundred men from Bethelsdorp alone serving.⁶²⁵ In a bid to ensure that 'Hottentots' who were associated with the LMS performed their loyal duty in defending the Colony, Philip issued a directive just two weeks after the war erupted to all head missionaries stating the following:

*The Hottentots are called upon in a particular manner to support the British Government, and to manifest their gratitude to the King and to His Excellency the Governor for the favour and the protection so recently bestowed upon them, [...] the 50th Ordinance and more recently their deliverance from the Vagrant Act lately attempted to be imposed on them.*⁶²⁶

Philip was strongly opposed to the Colony's policies on the eastern frontier. The use of *commandos* to track and recover stolen cattle across the Colony's official boundary was open to abuse and often "confounded the innocent with the guilty".⁶²⁷

⁶²⁴ SOAS, CWM, South Africa, Incoming Correspondence, G. Barker to Directors of the LMS, Theopolis, 14 Dec. 1836.

⁶²⁵ SOAS, CWM, South Africa, Incoming Correspondence, 14/3/A, J. Kitchingman to J. Philip, Bethelsdorp, 2 Jan. 1835.

⁶²⁶ CA, 1/UIT 10/21, Lieutenant Colonel J. Bell to Civil Commissioner of Uitenhage, 7 Jan. 1835, J. Philip to J. Kitchingman, 1 Jan. 1835 enclosed. See also, CA, A 50, W.R. Morris Collection, J. Philip to Directors of the LMS, 9 Dec. 1835. For a similar exhortation during the Seventh Frontier War, see CA A 519/38, excerpt from *Cape Frontier Times*, 21 Dec. 1846.

⁶²⁷ NLSA, William Porter Collection, MSB 392, The Porter Speeches, 2 Oct. 1845.

However, at times of conflagration, the amaXhosa became an enemy against which 'Hottentot' loyalty could be juxtaposed. It is apparent that loyalty to the Crown was a matter of serious concern for prominent evangelical-humanitarian figures, in particular, Philip, Read and their allies. The performance of loyalty, such as in military service, was a prerequisite of subjecthood. The LMS proudly informed its metropolitan backers that during the Sixth Frontier War, 'Hottentots' from numerous missions "volunteered their services in defence of the Colony, and marched to the frontier."⁶²⁸ Two years later they were pleased to report that though some of the men had been away from their home missions for nearly two years, "the integrity of Christian character" had remained largely unbroken.⁶²⁹ Philip had previously praised those 'Hottentots' from Bethelsdorp serving in the Cape Regiment, commending their service and describing them as "excellent soldiers".⁶³⁰

By the time the Select Committee delegation arrived back at the Cape, D'Urban had been replaced by George Thomas Napier as the new Governor and the British Empire had a new sovereign, Queen Victoria. The plot to remove Read Senior from the Kat River Settlement played into the hands of the Cape delegation, as they were able to portray D'Urban as unreasonable and unfit to represent the Crown at the Cape. In May 1838, just one month after Read returned to the Kat River following a three year hiatus, Governor Napier paid the Settlement a visit. In response, the inhabitants of the Settlement compiled a memorial welcoming the new Governor, no doubt with Read's coaxing. The letter read as follows:

Sir, we the undersigned inhabitants of the Kat River Settlement beg leave to congratulate Your Excellency, as the representative of our beloved Sovereign, the Queen of England, on your safe arrival among us, and to express our regard for your person and administration; many have been the calumnious reports and misrepresentations circulated about us, tending to injure our character as a community, and we not only assure Your Excellency that such reports and misrepresentations are wholly

⁶²⁸ *Report of the LMS*, 1835, p. 82.

⁶²⁹ *Report of the LMS*, 1837, p. 91.

⁶³⁰ Philip, *Researches in South Africa*, Vol. 1, p. 374.

*unfounded, but can assure Your Excellency that we yield to none of Her Majesty's subjects in our loyal attachment to Her person and Government, and that we always shall be ready to serve Her to the last of our ability.*⁶³¹

Loyalty to the Crown was performed and expressed by different individuals, families and mission communities for a variety of reasons. There was certainly no universal loyalism among the Cape's 'Hottentots'. Nonetheless, it is possible to see how the interconnected nature of the Cape's mission network afforded many 'Hottentots' the prospect of imagining themselves as imperial subjects. Though Ordinance 50 did not lead to the emergence of a 'Hottentot' peasantry, the law was clearly valued as a guarantor of mobility. Loyalism reflected an understanding of the benefits of benign imperial rule within a settler-colonial context on the part of mission 'Hottentots' in particular. As such, Christian respectability became bound up with loyalty.

While the humanitarians held sway during the mid-1830s, imperial policy remained protectionist in its approach to *indigenes* in settler-colonies. This approach was outlined and encouraged in the report of the Select Committee on Aborigines, which was published in 1837. The Committee acknowledged that different indigenous nations "stood in different relationships towards" Britain. Some remained independent; others had been brought under the protection of the Crown through treaties, but maintained their own laws. Others, however, were subjects, having no laws apart from those that were imposed on them.⁶³² In calling for the extension of protectionism as an imperial policy, the Committee's report argued that "the protection of the Aborigines should be considered as a duty peculiarly belonging and appropriate to the Executive Government, as administered either in [Britain] or by the Governors of the respective colonies."⁶³³

⁶³¹ CA, CO 3997/133, Memorial, Inhabitants of the Kat River Settlement to Governor Napier, 4 May 1838. Governor Napier revisited the Settlement in December 1840, at which time the inhabitants wrote another letter of welcome, ensuring him of the "pleasure" they felt at seeing him among them "as the representative of our beloved Queen, whose subjects we are proud to call ourselves." CA, LG 567/226, Letter of welcome, residents of the Kat River Settlement to Governor Napier, 3 Dec. 1840.

⁶³² HCPP, No. 425, 1837, *Report from the Select Committee on Aborigines*, p. 76.

⁶³³ HCPP, No. 425, 1837, *Report from the Select Committee on Aborigines*, p. 77.

In addition to debating and elaborating on grandiose, imperial designs, the convening and findings of Select Committee also inadvertently revealed the importance of intimacy in colonial relationships. The Cape delegation had all known each other for several years, having established intimate bonds. James Read Junior and Jan Tzatoe were said to be like brothers, for instance. Stoffels informed the Committee that he had decided to take up residence at Bethelsdorp following a severe beating at the hands of a former master.⁶³⁴ Read Senior's intimate relations with numerous 'Hottentots' at the Kat River and other missions enabled him to convey personal experiences of colonialism to the Committee.⁶³⁵ Philip drew upon his own extensive networks of informants and eye-witnesses to persuade the Committee that improving the situation of the Cape's indigenous population was a fundamental precursor to the eventual and imminent abolition of slavery. In their testimonies before the Committee, the complaints and aspirations of the Cape's mission 'Hottentots', with their familial ties to towns, villages and farmsteads, were conveyed directly to a House of Commons inquiry.

This constituted an intriguing intersection of the intimate with the imperial. The following section goes on to explore the intimacy of the master's household. In doing so, it is acknowledged that assimilation as subjects occurred to varying degrees. Farms and households were not discrete locales, completely removed from the flow of external ideas and information, however, unequal power relations continued in spite of Ordinance 50. As such, loyalty to masters as opposed to the Crown was pursued for similar reasons of self-preservation depending upon a servant's immediate context. The cases outlined at the beginning of this chapter show that the intimacy of the master's household demanded loyalty on the part of the servants. Prominent colonial officials regarded the disloyalty of servants as a potential threat to public order and sought to deal with related cases harshly. During the 1830s and 1840s, the Cape Colony became a deeply contradictory place, as notions of loyal subjecthood promulgated by the humanitarian network and, notably, the imperial state, competed with the necessity for loyal servanthood in

⁶³⁴ HCPP, No. 538, 1836, *Report from the Select Committee on Aborigines*, p. 586.

⁶³⁵ Philip also made numerous submissions to the Commissioners of Eastern Inquiry, Colebrooke and Bigge. CA, OPB 1/1, Report, Commissioners of Inquiry, Administration of the Government, 1826, p. 4.

order to ensure the economic viability of the Colony and the maintenance of a social hierarchy that was becoming more and more racially defined.⁶³⁶

II. The Ambiguities of Subjecthood within the Master's Household

As noted, one of the key suggestions made in the report of the Select Committee on Aborigines was that indigenous groups such as the Cape Khoesan (whom the report designated as 'Hottentots'), as colonial subjects of Britain, should be placed under the protection of the Executive Government. It added that "whatever the legislative system of the Colony", the indigenous inhabitants "be withdrawn from its control."⁶³⁷ This had, in fact, already happened at the Cape with the introduction of the new Charter of Justice in 1827. Then, more than ever before, the British imperial state sought to position itself between master and servant as the ultimate source of authority.

Two notable themes which emerged from the Select Committee's report related to the state's regulation of labour and contract service, and crime and punishment. The evangelical-humanitarian elements of the Committee who held sway against a minority which defended settler interests, saw vagrancy and the contract labour system as the most pressing challenges to their calls for free indigenous labour. The report recommended that vagrancy laws should never be allowed and that contracts of service should be limited, ideally not exceeding twelve months.⁶³⁸ On the theme of crime and punishment, the Committee's report came closest to reflecting and supporting a fundamental prerequisite for the imposition of imperial rule: the power to deem certain acts as illegal or criminal and to enforce suitable punishment. The report noted that while "Provision [had] already been made by law for the punishment of crimes committed by Her Majesty's subjects",

⁶³⁶ See, A. Bank, 'Liberals and their Enemies: Racial Ideology at the Cape of Good Hope, 1820-1850', Ph.D. thesis, University of Cambridge, 1995, Ch. 8; Bank, 'Losing Faith in the Civilising Mission', in Daunton & Halpern (eds.), *Empire and Others*, pp. 367-375; & V.C. Malherbe, 'The Cape Khoisan in the Eastern Districts of the Cape Colony before and after Ordinance 50 of 1828', Ph.D. thesis, University of Cape Town, 1997, pp. 386-387.

⁶³⁷ HCPP, No. 425, 1837, *Report from the Select Committee on Aborigines*, p. 77.

⁶³⁸ HCPP, No. 425, 1837, *Report from the Select Committee on Aborigines*, p. 78.

efforts to ensure the appropriate redress of crimes and wrongdoings was “defective and unsatisfactory”.⁶³⁹

The Committee was most perturbed by crimes of theft, assault and murder committed by extra-colonial individuals and groups against colonial subjects and vice versa. At the heart of the issue lay the complicated matter of jurisdiction in a colonial territory with porous boundaries. As a result, the colonial frontier came into sharp focus. While the proper enforcement of colonial law and punishment was foundational to the effective imposition of imperial ideals, the frontier posed the most visible challenge to this vision. The Committee acknowledged that “beyond the frontier, justice [was] feebly administered, and within it ignorant savages [were] often made amenable to a code of which they are absolutely ignorant [...]”⁶⁴⁰ The regular flow of both European and indigenous subjects across the official boundary of the Colony undermined the colonial state’s control over the frontier zone. That individuals recognised as subjects by the state were moving beyond the borders raised complicated questions about colonial jurisdiction.

Numerous circuit court case records from the late 1820s and 1830s are filled with references to the mobility of those who had been charged with crimes ranging from stock theft to murder. The mobility of individuals across the Colony’s boundaries was treated as suspicious. Even the mobility of individuals within the Colony was frowned upon. Evidence of having crossed the official borders of the Colony would often prove instrumental in returning guilty verdicts and harsh punishments against defendants.⁶⁴¹ Extensive mobility on the part of those required as labourers posed a threat to the economic viability of the Colony. It also at times served to show up the inadequacies of the colonial state to impose its will on people it recognised as subjects falling under its jurisdiction. The judges of the new Supreme Court were grappling with such questions of jurisdiction for several years

⁶³⁹ HCPP, No. 425, 1837, *Report from the Select Committee on Aborigines*, p. 79.

⁶⁴⁰ HCPP, No. 425, 1837, *Report from the Select Committee on Aborigines*, p. 79.

⁶⁴¹ For example, CA, CO 337/114, Judge Burton to Lieutenant Colonel J. Bell, Graaff-Reinet, 29 May 1828; CO 372/23, ‘Report by Judge Burton relating to the depredations of Bushmen and Wandering Hottentots’, Cape Town, 29 Jan. 1829; CO 396/40, Judge Burton to Lieutenant Colonel J. Bell, Cape Town, 9 May 1831; CO 396/112, ‘Reports on cases’, Judge Burton to Governor Cole, Cape Town, 20 May 1831.

after the passage of the Charter of Justice. In spite of the legal reforms that were introduced, the Colony's legal authorities were struggling to ensure full enforcement and compliance, owing to a thinly spread judicial administration.

For example, in May 1831, Supreme Court judge William Burton, the same judge who had been tasked with drafting Ordinance 50, wrote to Governor Cole to report a case relating to a certain Klaas, identified in the records as a 'Bushman'.⁶⁴² Burton informed Cole that Klaas had been charged and convicted for murder, for which he had been sentenced to death. While the case may have appeared straightforward, Burton noted that the murder for which Klaas had been sentenced had actually taken place beyond the eastern boundary of the Colony. Therefore, the court had no jurisdiction and could not enforce the punishment. This was in accordance with the new Charter of Justice which stipulated that crimes committed beyond the official boundaries of the Colony could not be tried. Burton reminded Cole that another such case had occurred in July 1830, when another 'Bushman, named Platje, who had also committed a murder outside the Colony. Burton believed he was bound to follow the guidance of the Supreme Court judges in the case against Platje, which had asserted that the Court had no authority to carry out the sentence.

Wary of the implications such a legal predicament could have for the effectual implementation of colonial justice, Burton warned the Governor of the possible disastrous consequences should knowledge of the case become public. According to him, the ambiguity of colonial law and jurisdiction along the frontier had the potential to become "most injurious [...] both as regards the conduct of our own countrymen towards the native tribes upon the frontiers, and of the latter towards" the settlers in return. In light of this, Burton stressed that it was imperative that "His Majesty's government grant an extension of jurisdiction to the colonial courts". He suggested that Klaas be kept in custody for crimes of theft which he had committed in the Colony and that the reason for why he was not going to be executed be kept from him.

These concerns about the effective administration of law and justice in the Colony reflected the prerogative of colonial authorities to "establish a claim to

⁶⁴² CA, CO 396/111, Report on case of Klaas by Judge Burton, Supreme Court Chambers, to Lieutenant Colonel J. Bell, 17 May 1831.

authority and to uphold the colonial ‘peace’”.⁶⁴³ The master’s household came to be a contested space where these ideals of the colonial state, informed by imperial pressure, were pitted against the will of the masters who were in constant need of reliable, settled labour. As the colonial state sought to reform the Cape’s legal and judicial system into one that represented British standards and principles, thereby affirming its claim to authority over the Colony, it also undermined the degree of control masters could exert over their servants and slaves. The extension of the powers of the colonial state via judicial reforms and the introduction of new ameliorative labour laws during the 1820s and 1830s had a profound effect on master and slave/servant relations. Yet, as briefly noted earlier, when it came to ‘Hottentot’ servants, their degree of assimilation into the master’s household influenced the extent to which they identified with their subjecthood as opposed to their servanthood.

‘Hottentots’, Households and the Colonial Hierarchy

In a system based on the political and economic dominance of the master class, such as that which existed at the Cape, the socio-political position of the Khoesan in the years prior to the final abolition of slavery in 1838 were fundamentally shaped by the contradiction between the liberal imperatives of the imperial state and the preservation of settler loyalty. During this period the Colonial Office was engaged in a delicate balancing act between competing loyalties: those of the white settler population, both Dutch and British, and those of the indigenous colonial subjects. The interposition of the imperial state within the ambit of the colonial household had an intriguing, if irregular, affect upon relations and intimacies between masters and servants.

‘Hottentots’ subverted the colonial hierarchy by undermining the hierarchy of the household. This was more often than not accomplished by refusing to work for a single employer for an extended period of time, often limiting their service of contract to a particular farmer to one term of a few months. The Commissioners Colebrooke and Bigge highlighted this when they noted that ‘Hottentots’ “were fond

⁶⁴³ Killingray, ‘The Maintenance of Law and Order in British Colonial Africa’, p. 413.

of changing their place of residence for slight pretexts". Yet, at the same time, they had also been informed of some instances "in which Hottentot servants had remained in the same service without contracts, and were much trusted by their employers".⁶⁴⁴ These regular changes weakened the hold masters had on their servants, positioning the masters more as employers.

As a result, both settler paternalism and the household hierarchy were weakened. Settler complaints about the shortages of labour during the 1830s and 1840s must be understood with this in mind. Of course, such complaints were fundamentally based upon the economic precariousness into which farmers were thrown given the want of a vagrancy law to force 'Hottentots' into employment. However, these complaints were also shaped by the unreliability of 'Hottentot' labour, not only in the frontier districts, but throughout the Colony. Emboldened by the provisions of Ordinance 50, 'Hottentot' labourers were prone to leaving a master's service before the expiration of their contract if they felt they had been improperly treated.

In spite of the contract system and the colonial administration's efforts to enforce it, farmers could seldom ensure that their 'Hottentot' labourers adhered to the duration of their contracts. In addition to denying farmers their labour, such acts of defiance challenged the colonial hierarchy in significant, symbolic ways. The public contests between settler-colonial rule and imperial intervention which featured so prominently from the late 1830s onward were framed in terms of political representation and settler rights. In another notable way, these contests were also shaped by settler attempts to reclaim power over the household and farmstead.

This becomes apparent when it is acknowledged that individual lives are profoundly shaped by their interpersonal relationships. In the context of the 'closing' frontier, the household was a central domain of colonial subjugation and assimilation. The settler household or farmstead was the space where colonial subjection occurred and where relations between masters and servants were performed. Settler households were structured according to internal hierarchies, or internal frontiers, which served to enforce and sustain power relations between

⁶⁴⁴ SOAS, CWM, Literature, Report of the Commissioners of Inquiry upon the Hottentot Population of the Cape of Good Hope, and of the Missionary Institutions, 1830, p. 22.

masters and servants. In this sense, the domestic space of the household was the most tangible manifestation of the frontier. It was in the household and on the farmstead that Khoesan became labourers; where they were initially assimilated into 'Hottentots' following their loss of land and livestock upon which they depended for survival. Of course, this was before the early nineteenth century when prospects for aspiring to a new definition of being 'Hottentot' became available through British colonial laws and the evangelical-humanitarian campaign.

It was in the farmstead setting that violent conflict on the frontier also played out. Whether San attacks or *droster* banditry, the settler farmstead was the target of their resistance to colonial encroachment into the Cape interior. In terms of colonial law, the Cape Government's efforts to regulate labour relations would also come to focus upon the formerly invisible spaces of settler households and farmsteads. Through labour laws such as the Caledon Code and Ordinance 50, the imperial state entered the settler household and exerted power over the relations between masters and servants, thus asserting its claim as the superior authority.

Within the household, 'Hottentots' were assimilated to varying degrees as both servants of their masters and subjects of the imperial state. In subtle, but important, ways, the individual acts of defiance by 'Hottentot' servants who sought legal redress for what they deemed unfair treatment within the master's domain, in the years after the implementation of the Caledon Code, point towards the emergence of a consciousness of honour as colonised British subjects. This consciousness was especially pronounced during the campaign against the re-introduction of vagrancy legislation in 1834. Formerly private interactions between masters and servants came into public view as 'Hottentots' sought imperial intervention and the legal protection to which they believed they were entitled.

The imposition of British imperial sovereignty and its ideals over the Cape and its subjects was most evident and real for both masters and servants in the household and on the farmstead. In the mid-19th century colonial setting, the intimacies of Cape settler households reflected the power inequalities and struggles within. Household and farmstead relations were also simultaneously subjected to imperial scrutiny as disputes between masters and servants, slaves and servants, and between 'Hottentot' servants themselves came into colonial view via the courts.

Imperial laws aimed at ameliorating the living and working conditions of slaves had had profound effects upon slave consciousness during the 1820s.⁶⁴⁵ At times slaves believed that their masters had been keeping information from them about reforms. Rumours of emancipation having come into effect also circulated at various intervals. The power of such rumours rested upon the desire on the part of slaves to see ameliorative reforms culminate in abolition. This consciousness had been reflected in the motives and actions of those who participated in the Cape's two most prominent slave revolts, in 1808 and 1825.⁶⁴⁶

Similarly, in Chapter Three, it was shown that the mission-led campaign against the re-introduction of vagrancy legislation revealed much about 'Hottentot' political consciousness. Ameliorative legislation such as Ordinance 50 raised the expectations of mission 'Hottentots' who thought that social equality was within reach. The attempt to usher in new vagrancy legislation was, of course, regarded by them as an assault on their quasi-independent livelihoods. However, the protests against the legislation also revealed the extent to which 'Hottentots' considered the whole affair as undermining their status in Cape society as equal colonial subjects, even if this did not translate into equal social status.

III. The Farmstead as Moral Community

The notion of 'moral community' relates to the maintenance of boundaries among those considered members of the community. What is considered 'moral' is context-specific and subject to change over time. Morality is also determined by power relations. Members of a moral community are not necessarily equal and the power dynamics of the community will regulate what is regarded as morally acceptable behaviour. Persons in a moral community are bound by relations of accountability

⁶⁴⁵ See for example, Dooling, 'Slavery and Amelioration in the Graaff-Reinet District', pp. 75-83; J.E. Mason, 'Hendrik Albertus and His Ex-Slave Mey: A Drama in Three Acts', *Journal of African History*, 31 (3), 1990, pp. 428-432; & J.E. Mason, 'The Slaves and their Protectors: Reforming Resistance in a Slave Society, the Cape Colony, 1826-1834', *Journal of Southern African Studies*, 17 (1), 1991, pp. 104-105.

⁶⁴⁶ P. Van der Spuy, 'Making Himself Master: Galant's Rebellion Revisited', *South African Historical Journal*, 24, 1996, pp. 5-6; & N. Worden, 'Armed with Swords and Ostrich Feathers: Militarism and Cultural Revolution in the Cape Slave Uprising of 1808', in R. Bessel, N. Guyatt & J. Rendall (eds.), *War, Empire and Slavery, 1770-1830* (Basingstoke: Palgrave Macmillan, 2010), p. 122.

and obligations.⁶⁴⁷ Community relations supervise morality and grant value and repute to those who maintain morality. Perhaps most importantly, membership in a moral community implies that the member is susceptible to sanction. Indeed, the recognition of this is an essential requirement for membership in a moral community. Moral community therefore has a limiting effect on the autonomy and agency of its members. It places restrictions on the ways of life open to members.

In his work on the Cape gentry, Dooling has fruitfully employed the concept of moral community to explain why some masters were convicted when cases of complaint were brought to court by their slaves, while others escaped legal punishment. The concept also proves useful when considering why excessively cruel punishment of slaves occurred infrequently during the period of Cape slavery. Dooling argues that the Cape gentry existed as a moral community and that this monitored standards of appropriate behaviour, which in turn influenced social status, honour and reputation. While the treatment of slaves, and servants for that matter, was under the nominal supervision of the colonial state, the existence of the moral community meant that “non-legal considerations could prevail over strictly legal ones” and regulate the behaviour of masters towards their slaves.⁶⁴⁸ Dooling has shown that excessively cruel masters risked gaining notoriety in the moral community and were more likely to face legal censure should they end up in court. The court of public opinion was of equal significance, if not more so. As Dooling asserts, “[c]ommunity permeated the workings of the law throughout the history of slavery at the Cape.”⁶⁴⁹ Furthermore, individuals cannot be reduced to legal categories without considering their community context.

Community, while often thought of as a place, is better understood as an experience of human interaction, involving a network of social relations and bonds.⁶⁵⁰ For this reason, communities vary significantly in size. The concept of

⁶⁴⁷ For a valuable discussion of moral community, see D. Shoemaker, ‘Moral Address, Moral Responsibility and the Boundaries of the Moral Community’, *Ethics*, 118, 2007, pp. 70-108 & L. Radzik, ‘On Minding Your Own Business: Differentiating Accountability Relations within the Moral Community’, *Social Theory and Practice*, 37 (4), 2007, pp. 574-598.

⁶⁴⁸ Dooling, ‘The Good Opinion of Others’, in Worden & Crais (eds.), *Breaking the Chains*, p. 26.

⁶⁴⁹ Dooling, ‘The Good Opinion of Others’, in Worden & Crais (eds.), *Breaking the Chains*, p. 27.

⁶⁵⁰ See T. Bender, *Community and Social Change in America* (Baltimore: Johns Hopkins University Press, 1982), for an insightful comparative analysis.

moral community may be usefully applied to understanding the power and relational dynamics at work in the micro-context of the colonial farmstead. While there were overarching criteria for what were considered acceptable modes of interaction between masters and their slaves and servants at the Cape, as illustrated by Dooling's work, there was also the possibility for variations in the social 'trend' on the level of the individual farmstead. The moral community of the farmstead supervised acceptable forms of deference and acquiescence in response to the master's will. The boundaries set by the moral community also regulated what forms of sanction and punishment for infringements were deemed acceptable; in the eyes of both the slaves and servants on the one hand, and the master on the other. As noted, moral community grants value to those who observe and maintain the boundaries of established appropriate conduct. As such, some slaves and servants could acquire repute within the moral community of the farmstead and achieve 'favourite' status. Indeed, the actions of some members of the moral community may be motivated most of the time by a willingness to comply with the set moral norm. Though the form moral community takes depends upon the power relations of the context, the boundaries of the moral community are not only monitored vertically by those in positions of power. Horizontal supervision of morality among members of equal standing may also occur. As such, moral community acts as a constraint on the agency of its members and serves to justify the importance of reprimand in the event of the boundaries of the moral community being breached. Without suitable sanction, the moral community risks disintegrating.

With the introduction of ameliorative legislation pertaining to master and slave/servant relations during the 1820s and 1830s, the boundaries of what constituted morality on farmsteads were disrupted. Excessive forms of sanction became an infringement on the community's morality in themselves and invited opposition on moral grounds. The regular turnover of labourers on farmsteads meant that their moral boundaries were permeated with new ideas and were no longer controlled only by the power relations of the farmstead. This will be explored in more detail below.

In his analysis of paternalism and slavery in the "master's household", Mason has shown how "the geography of the household reflected the hierarchy within

it".⁶⁵¹ Similarly, the geography of the wider farmstead reinforced the household hierarchy. For farmers who could afford it, smaller buildings erected around the master's house served as storehouses and workshops, as well as quarters for the slaves and 'Hottentot' labourers. In addition to the physical ordering of the farmstead, the power dynamics which underscored master and servant interactions were also revealed verbally and through non-verbal behaviour. In making complaints about their 'Hottentot' labourers to courts or in memoranda, farmers often drew attention to the characters and attitudes of their servants. Insolence was regularly regarded as worthy of a beating. The tone, choice of words and body language of servants in close proximity to masters, were scrutinised for hints of disrespect and contempt. In the close quarters of the settler household, such markers of discontent were crucial signs for masters and mistresses to be on the look-out for.⁶⁵²

The physical ordering of the frontier farmstead depended to a large extent upon the financial standing of the stock farmer and the extent of land upon which he had settled. For poorer farmers, the farmstead was often simple and transitory. Stock farmers in regions such as the Roggeveld undertook seasonal migrations, accompanied by the household and its servants. Owing to the severe cold that would grip the Roggeveld in the winter the farmers would drive their livestock down into the Karoo, returning around October. Frequent droughts during the summer months also meant that they were forced to travel long distances, even as far as the Riet River to the north, to find suitable pasturage.

The ways in which labourers, both Khoesan and slave alike, were incorporated into the household were certainly varied and far from homogenous. And while general patterns may of course be identified, it is the variations that stand out as particularly interesting. The kinds of access to Christianity afforded to farm labourers was one such area of variation that signifies the symbolic status

⁶⁵¹ Mason, *Social Death and Resurrection*, p. 75.

⁶⁵² Such signifiers of insolence remained of concern to employers and law makers beyond the period under consideration in this thesis. In 1872, a revised Masters and Servants Act was introduced by the Cape Assembly, amending the provisions of the 1856 Act. This new measure awarded extensive rights to masters and was filled with references to notions of duty and servile honour. Cape of Good Hope. Report of the Select Committee appointed to consider and report on Masters and Servants Act, 1872, for example, pp. 6-8.

Christianity achieved among certain households and the extent to which the masters were prepared to allow for the dissemination of the Gospel. For example, Campbell recorded that during his stay at Van der Kervel's Place in the Sneeuberg in May 1813, a segregated church service was held. Rev. Kicherer preached to the white inhabitants, along with their white visitors, in the farm house, while Rev. Read "preached outside to slaves, Hottentots and Bushmen".⁶⁵³ Burchell, however, encountered a very different scene at the farm of Cootje van Heerden, near the Buffalo River.

In Burchell's opinion, it was the best establishment in the whole of the Sneeuberg, although in spite of this, given his general distaste for the conditions of households in the outlying districts, he likened the place to "nothing better than an ordinary English farm house". Bearing the appearance of a little village, with workshops for carpenters, smiths and wagon-makers, it can be safely assumed that Van Heerden had a large number of slaves and Khoesan labouring on his farm – certainly so, when it was said that he possessed thirty thousand sheep, making him the "greatest sheep grazier in the Colony". Unlike the scene depicted by Campbell, the church service led by Rev. Kicherer was held in the main house where "all the household together with the slaves and Hottentots of the farm were assembled". This was a far more inclusive dissemination of the Gospel, perhaps surprisingly, in the household of one of the most respectable frontier farming families in the Colony. Furthermore, Kicherer preached on one of the parables from the New Testament (unfortunately mention is not made of which one), paying particular attention to the "slaves and Hottentots, for whose instruction more especially it was selected".⁶⁵⁴

As scores of 'Hottentots' took advantage of the mobility which Ordinance 50 afforded them, so their interactions with other 'Hottentots' and missionaries at missions and in towns and villages heightened settler trepidations of the kinds of subversive ideas which were being brought onto the farmstead. While both missions and farmsteads were both moral communities, they functioned as moral communities in very different ways. John Philip alluded to this when he wrote to the Directors of the LMS in December 1848 noting that he had observed that "In the

⁶⁵³ J. Campbell, *Travels in South Africa, Undertaken at the Request of the Missionary Society* (Cape Town: Struik), p. 130.

⁶⁵⁴ Burchell, *Travels in the Interior of Southern Africa*, Vol. 1, (Cape Town: Struik, 1967), pp. 122-123.

villages and on the farms of the white man, [the 'Hottentot'] is reminded at every turn that he belongs to a despised and still inferior race".⁶⁵⁵

This stood in sharp contrast to the notions of respectability which were central to the instruction 'Hottentots' received at missions. Aspirations of subjecthood were not complimentary to experiences of servanthood. The law was not enough to radically transform settler society. Farmers put up stern resistance to 'Hottentot' efforts to take advantage of the legal and civil rights to which they were entitled. Assessing the social standing of the 'Hottentots', Philip asserted that "It is true the law does not exclude them; but [they] know and feel that custom, prejudices, and circumstances effectually exclude [them] for the present, not only from power, honours, and distinctions, but from the enjoyment even of village society on equal terms".⁶⁵⁶ In Philip's opinion, which in light of the numbers of 'Hottentots' who maintained ties with LMS missions throughout the Colony is credible, "At the Missionary Institutions [they] escape this wearisome and benumbing sense of hopeless inferiority".⁶⁵⁷

That being said, relations between masters and servants were not universally antagonistic all the time. Dealings between farmers were also far from harmonious. On his travels through the Roggeveld earlier in the century, the explorer Lichtenstein recounted that disputes among farmers were common. Much of the tension was due to their ideas concerning private property, which sowed disagreements between them, in addition to the conflict it provoked with frontier Khoesan. Lichtenstein noted that in spite of the large size of many of the farms in the Roggeveld, most were still "insufficient for maintaining so large a number of cattle".⁶⁵⁸ The poor quality of the pasturage and the scarcity of water in the district resulted in competition between stock farmers for access to the common fields neighbouring their farms. This led to "frequent quarrels among themselves as to

⁶⁵⁵ SOAS, CWM, South Africa, Literature, J. Philip, Letter to the Directors of the LMS, on the present state of their institutions in the Colony of the Cape of Good Hope, 1 Dec. 1848, p. 16

⁶⁵⁶ SOAS, CWM, South Africa, Literature, J. Philip, Letter to the Directors of the LMS, 1 Dec. 1848, pp. 16-17.

⁶⁵⁷ SOAS, CWM, South Africa, Literature, J. Philip, Letter to the Directors of the LMS, 1 Dec. 1848, p. 17.

⁶⁵⁸ H. Lichtenstein, *Travels in Southern Africa in the Years 1803, 1804, 1805 and 1806* (London: Printed for Henry Colburn, 1812-1815), p. 108.

their respective boundaries” and many of the farmers had initiated law suits against their neighbours. Due to the distance to the magistracies to seek legal redress, the field cornets of the districts were often obliged to intervene. However, according to Lichtenstein, they were “held in very little respect”, being “frequently accused of partiality” as most were “likely either related to, or at variance with, most of those over whom their jurisdiction” extended.

At times farmers and their servants or slaves acted together in common cause. By doing so, such instances reveal fleeting, but noteworthy, examples of how individual households and farmsteads functioned as moral communities. The circuit court in Graaff-Reinet heard a complaint in March 1828 which indicated how such sentiments exhibited themselves on farmsteads. A farmer named Frans van Straten had laid a complaint against a slave boy named Philip and his master, Barend Janzen.⁶⁵⁹ Van Straten informed the court that he had become embroiled in an altercation with Philip concerning some of his goats which had gone astray. While it is not clear from the court records whether Philip was responsible or not, Van Straten admitted to having picked up and thrown Philip to the ground. In response, and in a show of the rights masters exerted over their slaves and their bodies, Janzen, Philip’s master, then confronted Van Straten, “holding his fist under [the] Plaintiff’s nose”, and reproached him for striking the boy as he was his slave and his property. Van Straten’s testimony was confirmed by the testimony of the “Bastaard Hottentot” Mey, who was also in Janzen’s service.

With ‘Hottentots’ able to change their places of employment regularly and thus, the masters for whom they worked, the power of the master within the domain of the moral community of the farmstead was diluted. This was illustrated in a case against Gert Rynier van Rooyen in September 1833.⁶⁶⁰ Van Rooyen was the manager of a farm in the Field Cornetcy of Bushmans River. He was found guilty of contravening an order of the King which had been promulgated in the Colony in August 1832 and which instituted new guidelines for the legal punishment of slaves. He was fined £10 and sent to prison until he could pay the fee. His crime had been

⁶⁵⁹ CA, 1/GR 2/22, Records of proceedings in criminal cases, Graaff-Reinet, 26 Mar. 1828.

⁶⁶⁰ CA, CO 430/5, Circuit Court, Uitenhage, 16 Sep. 1833.

the wrongful and unlawful punishment of the slave Adonis, who belonged to the farmer Christiaan Kok, van Rooyen's father in law.

Adonis claimed that Van Rooyen had beaten him too severely, using his clenched fists at first and then afterwards with a whip. Adonis had decided to complain to the Protector of Slaves at Uitenhage and he had his wounds examined by the District Surgeon. The punishment was due to Adonis having allowed some horses into a field where Indian corn was being grown. The trigger for the assault, however, related to what Van Rooyen regarded as insubordination. Adonis claimed to have sent someone else to tend to the horses while he was busy at the threshing floor. Van Rooyen confronted Adonis concerning his disinterest in turning out the horses, asking him "Am I speaking to your back Sir or am I speaking to you?" His choice of words highlight his sensitivity with regards to the respect he thought he was owed. Not being the manager of the farm nor the owner of Adonis would complicate the extent to which Van Rooyen could have exerted his will over Adonis, not only in relation to tasks Adonis was expected to carry out, but also in terms of the deference and respect Van Rooyen expected. Essentially, Adonis had undermined the performance of roles within the power relationship between himself and Van Rooyen.

What is intriguing, however, is the role played by the 'Hottentot' servants who were present at the time of the assault and who testified during the trial. Although Adonis had a strong case owing to the medical report of the District Surgeon confirming the severity of the punishment he had received, the testimony of Stuurman Goesen proved instrumental in securing the guilty verdict. Goesen confirmed to the court that Adonis had turned his back on Van Rooyen when replying to him as to why he had not tended to the horses. However, Goesen did not think that Adonis had replied in an "insolent manner" and denied the claim that Adonis had retaliated, stating that he "did not see Adonis strike [the] Prisoner", but instead "kept his hands up before his face and warded off the blows". Goesen's testimony is revealing as he had in fact been involved in carrying out Adonis' punishment. Along with two other 'Hottentots', Goesen had followed Van Rooyen's order to get the whip which Adonis was beaten with.

It was also not unusual for other farm servants to be involved in the punishment of a fellow labourer. Masters reinforced their authority over the other

servants through the open spectacle of punishment and at the same time tested their loyalty. However, by involving other servants in the execution of a punishment, whether it was by finding whips or ropes, or by holding down a servant to prevent their escape, masters inadvertently provided the court with eye-witnesses in the event of there being a complaint.⁶⁶¹ It is noteworthy that at the time of his testimony to the court, Goesen was no longer employed in the service of Van Rooyen. As such, he was not disinclined to support Adonis and did not run the risk of retaliation by Van Rooyen upon returning to the farm. Although another farmer, Pieter Christiaan Combrink, who had also been present when the beating had occurred, testified in defence of Van Rooyen and spoke of Adonis' insolent character, a guilty verdict was returned and the testimonies of a slave and a 'Hottentot' trumped those of the farmers in this particular case.

The specific knowledge 'Hottentot' labourers had of the farmers in the general vicinity of where they worked or attempted to subsist in the *veld* in between contracts is revealed in the testimonies presented in numerous court cases relating to stock theft. In one such case, Mietjie and her husband Kieviet had been caught up with a gang of "vagrant Hottentots".⁶⁶² They had initially deserted their master, Jacobus Naude of Graaff-Reinet town, and headed north of the Gariiep River where they lived among a 'Bushman' kraal for some time. There they met another 'Hottentot' named Witbooy. Together the three of them decided to return to the Colony at which time they encountered other Khoesan engaged in stock theft in the Rhenosterberg. It is notable that Mietjie knew the names of the farmers from whom they had stolen livestock, as well as the name of the local field cornet, who formed a patrol to pursue them.

This was one of many cases in which individuals who were caught and tried for theft and house-breaking had been previously employed by farmers in the vicinity.⁶⁶³ In one case, the defendant asked the court to remit his sentence of 12

⁶⁶¹ Servants were regularly called as witnesses in cases of complaint between masters and servants. CA, 1/GR 17/64, Correspondence by Field Cornets, Justices of the Peace and private individuals, 1838-71. They were also often entrusted with transporting accused servants to the nearest magistrate with letters of complaint from the master.

⁶⁶² CA 1/GR 2/22, Records of proceedings in criminal cases, Graaff-Reinet, 5 Feb. 1828.

⁶⁶³ There are scores of such cases contained in CA, CO 482-578.

months hard labour as he had been led astray by others. Up until then he had been “an honest and faithful servant”. The presiding Judge found the request dubious. The fact that by the defendant’s own admission, he had been a dutiful servant for several years, actually counted against him, as he had betrayed his master’s trust.⁶⁶⁴ In another case that appeared before the circuit court in George in March 1848, the accused, Adam Louis, who was an ex-slave, informed the court that “He only stole from white people who had persecuted him in former days.”⁶⁶⁵ Cases such as these illustrate that household intimacies acted as motivators of criminal resistance and could also prove crucial in the outcome of a court case and the sentence meted out.

Some servants reported the suspicious behaviour of other servants to their masters, not wanting to be implicated in the discovery of devious dealings later on.⁶⁶⁶ There were also instances of servants being wary of ‘Hottentots’ wandering about their master’s farm, especially when they did not know them.⁶⁶⁷ At times, masters were confident enough in the loyalty of their servants that they trusted them with looking after the farmstead during their absence.⁶⁶⁸ These peculiarities suggest that while there were general, master-servant standards of interaction, there were also specific standards from one farmstead to another. Some servants were trusted more than others; those who had been in service longer tended to be regarded as more dependable. This resulted in the emergence of internal hierarchies among a farmstead’s servants. Remaining in the service of an amenable master was less precarious than trying to survive independently in Cape colonial society. Therefore, it must be acknowledged that as with those who appealed to their loyalty to the Crown to fend off settler-colonial demands on their labour, so some servants remained loyal to their masters for self-preservation. Although settler paternalism

⁶⁶⁴ CA, CO 494/60, Report on case of Eksteen Kees, Jacob Kees & Gerrit Crause, Judge Kekewich, 24 Jul. 1840.

⁶⁶⁵ CA, CO, 578, Report on case of Adam Louis, George, 18 Mar. 1848.

⁶⁶⁶ For example, CA, CO 482/73, Report on case of Joseph Kok, Willem Cupido & Jan Stuurman, Judge Kekewich, 27 Dec. 1839; CA, CO 503/99, Report on case of Human, Judge Menzies, Somerset, 7 Oct. 1841; CA, Attorney General (hereafter, AG) 2798, Case of D. Krieger, J. Krieger & J. April, Hertzog, 24 Oct. 1850; & CA, AG 2797, Case of Adam Alexander, George, 10 Aug. 1828.

⁶⁶⁷ CA, AG 2798, Testimony of John Roman, Uitenhage, 31 Dec. 1851.

⁶⁶⁸ Cloete, *Three Lectures on the Emigration of the Dutch Farmers*, p. 19.

had been undermined by the ameliorative labour laws introduced during the 1820s and 1830s, relations of unequal power continued, especially in economic terms. For some, servanthood was as instrumental as subjecthood. The allure of indentifying as an imperial subject and ‘resisting’ on that basis was very much dependent upon an individual’s immediate context.

Even so, instances of open defiance still occurred in the 1840s and 1850s, with ‘Hottentot’ labourers challenging their masters to punish them so that they could go complain to the local magistrate.⁶⁶⁹ For example, in January 1842, the farmer, J.L. Loots junior, wrote to the Clerk of the Peace for Graaff-Reinet conveying his frustrations with his servants and their insubordination.⁶⁷⁰ Having realised that he was missing several sheep, Loots confronted his herdsman, named Africa, to give an account. To this, Africa is said to have replied that he was not responsible for the sheep and that Loots could go look for another shepherd. It would appear that Africa had been hired as a goat herd and that he was not prepared to accept responsibility for sheep having gone missing.

In light of their argument, Africa and his brother, Klaas, who was a cattle herd for Loots, decided to leave his service. Loots complained to the Clerk of the Peace that Klaas was especially difficult and that even though he did not think Klaas had a valid reason to want to leave, Klaas had challenged him to “strike him as he would then complain in Graaff-Reinet”. In a clear indication of the contest over the oppositional rights of colonial subjects occurring at the Cape at the time, Loots concluded his letter by expressing the hope that he would “receive that assistance [...] which a very loyal subject of Her Majesty has a right to expect”. Both Klaas and Loots appealed to the local, Graaff-Reinet authorities in the understanding that they represented the imperial state. This indicates that colonial and imperial authority merged at certain points. Then again, as shown earlier, ‘Hottentots’ sometimes distrusted the colonial administration, including the Governor. It was at such moments that the perceived, transcendent power of the imperial state came into sharper focus.

⁶⁶⁹ At times, masters encouraged their servants to go complain to the magistrate. See CA, 1/UIT 2/1, Resident Magistrate’s Office, Uitenhage, Regina vs. Laurens, Reneke, Moolman & Mostert, Dec. 1838.

⁶⁷⁰ CA 1/GR 17/64, J.L. Loots to Clerk of the Peace, Graaff-Reinet, 8 Jan. 1842.

Even after the provisions of the 1841 Ordinance were amended in 1856 with the introduction of a more stringent code of law for regulating relations between masters and servants that was heavily skewed in the masters' favour, complaints of impudence continued. Farmers still often complained that their servants "were insolent in their general demeanour". Sheep farmers in the district of Somerset complained in 1859 that "if a master happens, under the impulse of the moment, to inflict some punishment upon an offending servant, rather than go a distance of from ten to sixty miles to the nearest magistrate's court, he gets immediately prosecuted to the utmost rigour of the law."⁶⁷¹ While this was probably an exaggeration, the farmers were so frustrated with the limited powers they could exert over their servants that they asked for the provisions of the 1856 Act to be amended.

IV. Mobility in Question: The Master and Servant Inquiry, 1848

A number of authors have shown how the Cape's economy came under intense strain in the years after the abolition of slavery. Though it continued to depend on agriculture throughout the 1840s, the pastoral economy became an increasingly important sector in the export market. Even though Cape Town, Port Elizabeth and other towns and villages were growing in size and population, it is estimated that approximately 80 percent of the Colony's population still lived on the land during this period.⁶⁷² The Eastern Cape's wool economy also eclipsed the Western Cape's wine economy for the first time.⁶⁷³ By 1845, wool had become the Colony's most lucrative export. This continued through to the mid-1850s.⁶⁷⁴ Just as Ordinance 50 afforded 'Hottentot' labourers mobility during the 1830s, so emancipation in 1838 extended mobility to the Cape's ex-slaves. During the 1840s, this gave the 'Hottentots' and ex-slaves a certain degree of bargaining power when it came to

⁶⁷¹ CA, CCP 1/2/1/6, Petition from Somerset, Masters and Servants Act, 1859.

⁶⁷² E. Bradlow, "The "Great Fear" at the Cape of Good Hope, 1851-52', *The International Journal of African Historical Studies*, 22 (3), 1989, p. 401.

⁶⁷³ R. Elphick & H. Giliomee, "The Origins and Entrenchment of European Dominance at the Cape, 1652- c.1840", in Elphick & Giliomee, *The Shaping of South African Society*, p. 553.

⁶⁷⁴ A. Mabin, "The Underdevelopment of the Western Cape, 1850-1900", in James & Simons (eds.), *The Angry Divide*, p. 83.

employment. As noted, approximately a quarter of the Colony's ex-slaves moved to mission stations, towns and villages, or vacant land. As had been the case with many of the Cape's 'Hottentots', the ex-slaves tended to adopt a quasi-independent existence, combining seasonal labour with subsistence cultivation.⁶⁷⁵ Complete independence was not possible for most, given the limited availability of land for 'Hottentot' and ex-slave peasants to settle, apart from the Kat River Settlement, which had become densely populated anyway.⁶⁷⁶ The mobility of those meant to provide servant labour threatened the economic viability of the Colony, especially in the wool producing eastern districts. A general scarcity of labour was also reported in the Western Cape.⁶⁷⁷ For farmers in the eastern division wanting to take advantage of the wool boom, the general scarcity of labour was a frustrating problem.⁶⁷⁸

Owing to recurring discontent among the Cape's farmers over labour shortages, in late 1848 the Legislative Council felt compelled to establish an inquiry into the working of the Master and Servant Ordinance of 1841 (which had been confirmed by an Order in Council in July 1846). In particular, the inquiry was set up to investigate "that part of the Law of Master and Servant which relates to the remedy for breaches of contract on the part of the servant, and the jurisdiction of the Magistrates in such cases."⁶⁷⁹ The Legislative Council was responding to numerous petitions sent to them from across the Colony by farmers claiming that there was no adequate remedy for servants' breaches of contracts.⁶⁸⁰ There was also confusion surrounding the powers of the Field Cornets and whether they had any jurisdiction in such matters. The findings of the inquiry revealed that servant

⁶⁷⁵ Marincowitz, 'From Colour Question to Agrarian Problem at the Cape', in Macmillan & Marks (eds.), *Africa and Empire*, p. 154.

⁶⁷⁶ CA, CO 4503, Memorandum, allotments, Kat River, C.S. Rodger, Government Surveyor, Balfour, 20 Dec. 1844.

⁶⁷⁷ Dooling, 'Decline of the Cape Gentry', p. 220.

⁶⁷⁸ CA, LCA 24/5, Minute, Miscellaneous, Government House, Cape of Good Hope, 10 Sep. 1850.

⁶⁷⁹ Cape of Good Hope. Master and Servant. Documents on the Working of the Order in Council of the 21st July 1846; being, chiefly, replies to certain questions issued by the Hon'ble the Legislative Council, to Resident Magistrates, Justices of the Peace, Ministers of the Gospel, and others throughout the Colony, with a summary of the whole (hereafter, Master and Servant Documents), 1849, p. vii.

⁶⁸⁰ For example, CA, LCA 21/21, Masters and Servants Ordinance, with petitions, 1848.

mobility continued to undermine the economic prospects of many farmers across the Colony. Masters were also clearly struggling to tie down servants for extended periods of time.

In October 1848, a circular was sent to the Resident Magistrates of the various districts of the Colony inquiring into matters pertaining to service contracts, punishments, the dispositions of servants and the opinions of local authorities on how best to address labour shortages, among others issues as well. The report produced by the inquiry sheds light on how 'Hottentots' and ex-slaves subverted the Cape's labour regime. The contract system which had been inherited from the *VOC* period and later confirmed by the Caledon Code of 1809 was reworked with the passage of Ordinance 50 in 1828. As discussed in Chapter Three, many 'Hottentot' labourers made strategic choices when entering into contracts, tending towards contracts of shorter duration and stipulating precise terms of remuneration. This trend continued through the 1830s and into the 1840s and in spite of the Master and Servant Ordinance of 1841, servants were still able to circumvent demands on their labour by the Colony's farmers.⁶⁸¹

This is inferred from the numerous complaints about the scarcity of labour and the advantages this accrued to servants, who could easily find work, should they want it, whenever they were dissatisfied with the masters they were working for.⁶⁸² While contracts of service were intended to provide parameters for the duties of masters and servants, these provisions were difficult to enforce. The right of masters to domestic correction and punishment had been radically curtailed in the aftermath of Ordinance 50 and the emancipation of the slaves. The world of the masters had been turned upside down. With regards to 'Hottentots' who belonged to missions, it was widely known that if a master were to prosecute a servant from a particular mission "he would be sure to lose all his labourers from the institution to which such servant belonged."⁶⁸³ Harsh punishment was no longer a master's prerogative and while individual violations of this no doubt still occurred, the right to punish servants who had contravened the terms of their contracts now lay with the colonial

⁶⁸¹ CA, LCA 34, Replies to Masters and Servants Ordinance Questionnaire, Field Cornets, 1848.

⁶⁸² Master and Servant Documents, 1849, p. 9.

⁶⁸³ Granting Lands in Freehold to Hottentots, p. 36.

state. In light of this, farmers appealed to the Legislative Council to allow cases related to the serious breach of contracts to be heard by local magistrates in order to avoid delays of several months waiting for the Circuit or Supreme Courts to intervene.⁶⁸⁴

At the same time, it appears that farmers were also reluctant to have to take their grievances before a magistrate. This required travel to the nearest magistracy and the attendant inconvenience of being away from one's farm for several days or even longer. It also meant that the intimacy of the farmstead would be revealed before the court, potentially causing embarrassment to the master and his family. The colonial state continued to occupy an inconvenient space for the masters between themselves and their servants.

Importantly, when complaints by masters against their servants for breaches of contract ended up in the courts, it tended to result in either the imprisonment of the servant or the cancellation of the contract. The latter outcome was sought after by servants and regularly complained of by masters. J.J. Meintjes, Resident Magistrate for Beaufort, indicated this in his reply to the Legislative Council, commenting that the "dissolution of the contract [was] usually desired by the servants."⁶⁸⁵ Given the scarcity of labour which existed throughout the Colony, the premature termination of a contract proved to be an inconvenience for the master, who would be required to seek another servant. It was noted that there was "such a demand for labour that servants of the worst character would [have been] immediately employed." The Resident Magistrate of Albert, John Centlivres Chase, added that the "competition in this Division, as well as all over the Colony, is between Masters for laborers (sic), not Servants for work."⁶⁸⁶

Together with the lack of a vagrant law, the ability for 'Hottentot' and ex-slave servants to seek release from contracts meant they could pursue a semi-autonomous existence in the Colony. This created serious disagreement among the farmers, as well as between some of the respondents to the inquiry. Chase asserted that "having witnessed the evils of the enactment of the 50th Ordinance, without its

⁶⁸⁴ Master and Servant Documents, 1849, p. 8.

⁶⁸⁵ Master and Servant Documents, 1849, p. 8.

⁶⁸⁶ Master and Servant Documents, 1849, p. 6.

proper restraint of a vagrant law”, the ‘Hottentots’ had become “the victims of a spurious philanthropy.”⁶⁸⁷

Contrary to the wishes of farmers, who favoured longer term contracts, servants continued to favour shorter term contracts. In Worcester for example, the Resident Magistrate, P.J. Truter, confirmed that “the agricultural servants in my district, generally, engage themselves in monthly service, and readily obtain re-employment on quitting the services of former masters.”⁶⁸⁸ It was also noted by J.J. Le Sueur, Resident Magistrate for Swellendam, that “servants are generally averse to entering into contracts for long periods.”⁶⁸⁹ According to his knowledge, contracts of six and twelve months duration were the longest entered into.

The frequent oscillation between labouring and autonomous modes of survival were taken up thousands in the servant class, as shown in the findings of the investigation into the extent and scale of squatting on Government lands in 1851. This is discussed in detail in the next chapter. By regularly changing masters, servants were also able to circumvent the authority of masters over them. Extended periods of employment would have meant a greater degree of dependence upon masters for provision and curtailed mobility and independence.

The majority of the magistrates conveyed their frustrations when it came to dispensing appropriate punishments for servants who had failed to meet the obligations of their contracts. The Resident Magistrate for Cradock, W. Gilfillan, argued that “In a country where servants are so difficult to be obtained, a lengthened imprisonment of a servant [was] frequently a severer punishment to the master than the servant.”⁶⁹⁰ This again would have factored into masters’ decisions whether to seek the legal intervention of the state in their grievances with servants. The criminalisation of infringements of labour contracts not only removed an important means of domination from a master’s purview, but it could result in the master losing the services of the servant for a period of imprisonment, or even altogether.

⁶⁸⁷ Master and Servant Documents, 1849, p. 6.

⁶⁸⁸ Master and Servant Documents, 1849, p. 41.

⁶⁸⁹ Master and Servant Documents, 1849, p. 36.

⁶⁹⁰ Master and Servant Documents, 1849, p. 19.

It is also apparent from some of the replies received by the Council that in some parts of the Colony, verbal contracts were favoured above written contracts, by both servants and masters. For instance, the Resident Magistrate for Malmesbury, M. Bergh, described how “Very few written contracts [were] entered into between masters and servants” in his district and that “both parties [seemed] to be averse to such a mode of securing the services of another.”⁶⁹¹ The report of the Magistrate for Cradock, W. Gilfillan, suggests why this was so, at least for servants. According to Gilfillan, there was much confusion in the Cradock district over verbal contracts. Such contracts often proved less binding than written contracts and were more easily contested by unhappy servants. The confusion mentioned by Gilfillan would have served as an advantage to servants unwilling to hire out their services for long periods, as masters were unsure of how to enforce the provisions of verbal contracts. In spite of the passage of the Master and Servant Ordinance several years earlier, with its intention of imposing stricter measures on servants in order to force them to fulfil their contractual obligations, uncertainty over the legitimacy of the law and the extent to which the provisions of Ordinance 50 still applied continued nearly twenty years after its passage.⁶⁹² This confusion meant that even by the late 1840s ‘Hottentots’ could still resist complete proletarianisation within the unclear parameters of Cape colonial law.

Apart from concerns over the supply of labour, the colonial authorities were also concerned about the types of complaints being made by masters against their servants. Notably, the Council did not ask about what sorts of complaints were made by servants against their masters. The records of all 26 magistracies that responded to the inquiry revealed that complaints by masters against servants between 1846 and 1848 had far outnumbered servant grievances. For example, in the District of Albany, 123 cases of complaint brought by masters had been heard, whereas only 30 cases brought by servants had been tried. Caledon reported 78 cases of complaint brought by masters compared to ten by servants, while in Uitenhage, there had only

⁶⁹¹ Master and Servant Documents, 1849, p. 22.

⁶⁹² LCA 16/5, Masters and Servants Ordinance, Chief Justice Wylde to Governor Maitland, 8 Jan. 1845 & GH 28/17, Chief Justice Wylde to Judge Kekewich, 10 Mar. 1841. Uncertainty over whether the provisions Ordinance 50 still applied was already evident in the late 1830s. For example, CA, LCA 10/15, Memorial, inhabitants of Uitenhage, 5 Apr. 1839.

been seven cases brought by servants in contrast to the 42 complaints raised by masters. The nature of the complaints regularly made by masters against servants highlights the extent to which the authority of masters had been undermined by servant assertiveness and mobility. The most common complaints related to desertion and neglect of duty. Insolence and insubordinate conduct also featured regularly, as well as claims of unwillingness to complete contracts and leaving service before the expiration of the contract.

That many 'Hottentots' still valued Ordinance 50 and the mobility it afforded them was made apparent by a memorial compiled by 110 'Hottentots' in Graham's Town in November 1848 which was sent to Governor Harry Smith.⁶⁹³ That the memorialists referred to themselves as 'Hottentots' is noteworthy, given that the emancipation of the slaves had occurred a full decade earlier and the colonial state had taken to referring to the Cape's 'Hottentot' and ex-slave underclass as 'Coloureds' or 'persons of colour'. The impression of those involved in drafting the petition was that the inquiry into the working of the Master and Servant Ordinance was motivated by an attempt to introduce a new vagrant law. In defending their right to mobility, the petitioners referred to both their subject status and Ordinance 50. They also challenged the notion that their mobility resulted in increased rates of crime and vagrancy. They asserted the following:

[...] memorialists have heard, with feelings of deep sorrow, of another attempt to introduce a Vagrant Law into the colony [...] That while memorialists are sensible of the benefit of wholesome laws, for the prevention and punishment of crime, they are also satisfied that there is nothing in the existing circumstances of the colony to render a new vagrant law necessary, in addition to the laws already in force, for the protection of the lives and property of any class of Her Majesty's subjects; that crime in the colony, since the enactment of the 50th Ordinance, they

⁶⁹³ Cape of Good Hope. Master and Servant. Addenda to the documents on the working of the Order in Council of the 21st July 1846, including memorials &c and reports by the Resident Magistrates on the Missionary Institutions, 1849, pp. 13-14.

*have reason to believe, has been rather on the decrease than otherwise
[...]*

In an effort to show the respectability of their plea, the memorialists noted that in most incidents of crime committed in their neighbourhood, strong drink was often the cause and that the increase in the number of canteens in recent years was to blame. The general opinion of those who signed the petition was that the farmers were clamouring for cheap labour, rather “than from the fact that they can get no servants.” Some of the signatories claimed that labour was abundant in Graham’s Town. At times it was said to be so abundant that some of them had been unable, “for days together, to obtain work, in spite of all possible efforts for that purpose.” In concluding their appeal to the Governor, the petitioners declared:

That memorialists have always been faithful and peaceable subjects – have hitherto endeavoured to maintain themselves and families, by honest industry; that many of them are engaged as servants, storemen, (etc.) and have hitherto enjoyed the professed confidence of their employers; that they have always in times of danger rendered their willing service to their Government, and that they have faithfully fought against the common enemy [...]

Mobility functioned on multiple levels as a marker of identity at the Cape. It was prized by mission ‘Hottentots’ as an indicator of their legal freedom and it became an important constituent element of ‘Hottentot’ civic identity following Ordinance 50. Mobility was the clearest expression of independence within a settler-colonial context. For scores of ‘Hottentots’, it became intricately bound up with being British subjects. However, at the same time, ‘Hottentot’ mobility threatened to undermine the authority of the colonial state. The humanitarian ideal of freedom of movement was incompatible with the colonial imperative of enforcing control over the servant class in a socially stratified society.

The colonial experiment with labour consent in the place of labour coercion also proved detrimental to the authority of masters, as servant mobility diluted

settler paternalism. The colonial state found common ground with the master class, as both sought to curtail the mobility of the Cape's 'Hottentots' and ex-slaves during the 1840s. Even so, mobility remained a significant marker of 'Hottentot' civic identity by the end of the decade and attempts to curb 'Hottentot' mobility were interpreted as an erosion of one of the fundamental pillars of subjecthood. This will be examined in more detail in the next chapter.

Chapter Five

Between Loyalty and Rebellion: Reflections on 'Hottentot' Subjecthood amid Social and Political Unrest, 1849-1858

On 3 January 1851, just a few days after a number⁶⁹⁴ of Kat River 'Hottentots' joined in an amaXhosa attack on the Cape Colony, Andries Hatha (also spelled Hatta), a prominent inhabitant of the Kat River Settlement who had resided there since 1830, wrote to some of the rebels then encamped at Tidmanton.⁶⁹⁵ He addressed them as follows:

*Respected fellow subjects of Her Majesty the Queen Victoria, who I hear have been led into rebellion: - I wish only to write a few lines to you, hoping it will be found there is no inclination on your part to join in the rebellion; but that, on the other hand, every effort will be set at work by you to escape, will be the expectation of every faithful subject [...] I advise you not to go a step further in the evil, and thereby increase your punishment. Stop, and think on your country, church, and families, and the disgrace which will be brought on your nation by rebellion [...]*⁶⁹⁶

⁶⁹⁴ According to figures supplied by James Read Senior, about one-third of the Settlement joined the rebellion, while two-thirds remained loyal to the Colony. Given Read's close association with the Settlement and its inhabitants, these figures should be treated cautiously. While not wanting to cast doubt on the veracity of Read's analysis, nor his character, it is reasonable to suspect that the number of those listed as rebels was deliberately underestimated. See, J. Green, *The Kat River Settlement in 1851, containing the substance of evidence given before the Commission for investigating the Rebellion, together with an Appendix, relative to the state of the Hottentots in the years 1834-5, 1838, 1846-7* (Grahamstown: Godlonton, White & Co., 1853), (hereafter, Green, *The Kat River Settlement in 1851*), Appendix to the Narrative of the Sayings and Doings in the Kat River Settlement, (hereafter, Appendix), pp. 4-5.

⁶⁹⁵ Andries Hatha was raised at Bethelsdorp before relocating to the Kat River Settlement in 1830. He had visited several other missions during his adult life, including Theopolis, Genadendal, and Zuurbraak in the Colony, and Philippolis, Griqua Town and Kuruman beyond the official boundaries. His reasons for visiting these settlements were often trade related. See, Granting Lands in Freehold to Hottentots, 1856, p. 48. Hatha had also been one of the scribes at the vagrancy protest meeting held at Philipton on 5 August 1834.

⁶⁹⁶ Quoted in J. Read, *The Kat River Settlement in 1851: Described in a Series of Letters Published in the "South African Commercial Advertiser" by the Rev. James Read Junior* (Cape Town: A.S. Robertson, 1852), (hereafter, Read, *The Kat River Settlement in 1851*), p. 109.

As a loyal subject, Hatha was disturbed by the news of the rebellion. His plea to those associated with the rebels at Tidmanton appealed to their own subjecthood in order to dissuade them from participating any further. He noted that the expectation of those who remained faithful subjects was that they would escape the rebel clique immediately. He also clearly subscribed to the view that 'Hottentot' nationhood was bound up with subjecthood and loyalty to the British Crown, stressing that the 'Hottentot' nation would be disgraced by their disloyalty. Hatha's appeal could be dismissed as mere, loyalist rhetoric. However, rhetoric matters, as it always sheds light on the social and political relationships that inform it. His comments were being made at a time when 'Hottentot' subjecthood was perceived to be under threat.

Indeed, just over two months before he wrote this letter, Hatha had chaired a public meeting held at Philipton in the Kat River Settlement which had been convened to discuss the matter of the Cape acquiring its own elected parliament. Several resolutions were debated and endorsed at the meeting. The first and second resolutions speak volumes about the political consciousness of those present and the continuing significance of subjecthood to their civic identity.⁶⁹⁷ The first declaration resolved that:

[...] under the wise and benign rule of the British government and Imperial Parliament, the condition of the natives has been one of progressive improvement, in the concession of their rights and privileges as men and British subjects, the government and Imperial Parliament having invariably exercised a watchful solicitude in guarding their rights and liberties against the attempts of the Colonial Legislature to oppress them by local or class laws [...]

The sentiments reflected in this resolution clearly illustrate the affinity with British loyalism those in attendance held. While this thesis has not focused on a gendered perspective of this loyalism, it is apparent that the masculinity of those

⁶⁹⁷ Green, *The Kat River Settlement in 1851*, Appendix, pp. 23-24.

who endorsed the statement was still being framed by their subjecthood. As briefly discussed in Chapter Three, this was already evident at the time of the vagrancy bill protests in 1834. Since that time, 'Hottentots' had also begun to regard local colonial authorities with a degree of suspicion. The intervention of the imperial state had proven instrumental in preventing the proposed vagrancy bill of 1834 from coming into effect. Subsequently, Governor D'Urban's order that Read not be allowed to return to the Kat River Settlement was overruled by London at the same time that 'Hottentot' grievances with the Cape colonial order were presented to a British Parliamentary committee. All of this had served to establish the value of imperial oversight among 'Hottentots' across the Cape. It is understandable that expressions of loyalty became more pronounced at a time when the future usefulness and worth of loyalism was increasingly thought to be in jeopardy.

Even though the Cape's Legislative Council had come to be viewed with feelings of distrust, the meeting's attendees, who all lived on the eastern frontier, still considered Cape Town and the western districts of the Cape to be more enlightened. Of serious concern to the petitioners present were rumours over a potential political separation between the eastern and western districts of the Colony. The second resolution adopted at the Philipton meeting affirmed this, stating:

[...] from the known antagonism which exists between the whites and blacks, or people of African descent, and their diversified state and conditions, an African Parliament will be detrimental to the interests of Her Majesty's Aboriginal subjects, more especially if there should take place Legislative Separation between the Western and Eastern Divisions of the Colony, by which all chance of getting able, liberal, and unprejudiced Representatives will be cut off.

Their trepidations concerning possible political independence for the eastern division of the Colony were heightened by the general public opposition in the east to the proposed, low franchise qualification, which required the ownership of fixed

property to the value of £25.⁶⁹⁸ The Philipton petitioners noted that the public response in the eastern districts had “confirmed the fears of the native population that a South African and especially Frontier Parliament separate from the West [would have been] highly injurious to their rights and liberties.”⁶⁹⁹ A separate parliament in the east of the Colony never came to fruition. Ultimately, though, the fears expressed in these resolutions stemmed from the impression that imperial rule was about to be curtailed with greater powers extended to a colonial legislature.

The late 1840s and early 1850s was a period punctuated by several significant episodes which shaped the Cape’s future political landscape and had important repercussions for ‘Hottentot’ civic identity within that landscape. This was a time of transition for the Cape, and the Colony’s constituents, both white and ‘Coloured’, were fully aware that a moment of significant change had arrived. In such a context, it is not surprising that identity politics came to the fore of public debate. At the heart of the unrest, were contests over independence and loyalty. It may seem contradictory to suggest that ‘Hottentot’ independence had become tied up with British loyalism. However, as this thesis has argued thus far, in the settler-colonial context of the Cape, independence for ‘Hottentots’ entailed mobility and equality before the law. These rights flowed from the Crown and formed the pillars of ‘Hottentot’ subject-citizenship.

Protest, political agitation, renewed conflict on the eastern frontier and rebellion in the Kat River Settlement combined to stir up insecurities among various sectors of Cape society. ‘Hottentots’ were not passive observers during this time, but played an active and influential role in shaping the social, economic and political contours of Cape society. The records produced by these episodes provide revealing glimpses into ‘Hottentot’ subject consciousness following a fifty-year period of British imperial intervention at the Cape, which has been outlined in the previous chapters. This chapter brings the events of the late 1840s and early 1850s together in order to illustrate that British loyalism continued to be a foundational element of

⁶⁹⁸ The Kat River Rebellion together with the rumours of a potential servant revolt in the western districts in 1851 persuaded the colonial authorities that it was wise to enfranchise propertied ‘Hottentots’ in order to quell the possibility of more discontent. See S. Trapido, “The friends of the natives’: Merchants, Peasants and the Political and Ideological Structure of Liberalism in the Cape, 1854-1910’, in Marks & Atmore (eds.), *Economy and Society*, p. 262.

⁶⁹⁹ Green, *The Kat River Settlement in 1851*, Appendix, p. 24.

'Hottentot' civic identity at mid-century, even among those who seemingly rejected it and rebelled against the Colony.

The first part of this chapter explores the responses of 'Coloured' subjects to the British Government's proposal to land convicts at the Cape in 1849. In doing so, it attempts to uncover traces of former 'Hottentot' assertiveness and claims to a political voice in the Cape's colonial affairs. The second section follows on with an analysis of the unrest that surrounded a proposal by the Legislative Council to ban squatting on public land. Just as with the proceedings of the inquiry into the working of the Masters and Servants Ordinance in 1848, this was believed to be an attempt to re-introduce a new vagrant law. The Squatter's Agitation that occurred in the months after the planned squatting ban became public knowledge sheds light on the vulnerabilities and competing ideals of settler society and the 'Coloured' underclass, among whom 'Hottentot' civic identity still mattered.

The third part of the chapter discusses the Kat River Rebellion with a particular focus on the role of loyalism among those who rebelled and those who remained loyal. It is argued that doubts and questions over loyalism as a defining marker of 'Hottentot' civic identity acted as harbingers for rebellion for some of those who participated. At the same time, loyalism was deployed as a call to return to proper 'Hottentot' nationhood by notable figures associated with the Settlement. Uncertainties over the continuing value of loyalism among many who joined the rebellion indicate just how significant this aspect of 'Hottentot' identity had become by the early 1850s.

The anti-convict debate, along with the Squatter's Agitation and impending reform of the Cape's political system all served to heighten 'Hottentot' sensitivities over the future value and prospects of identifying as British loyalists. Though some evangelical-humanitarian allies may have begun to use the labels 'Hottentot' and 'Coloured' interchangeably to a greater extent by mid-century, it was still understood that 'Hottentotness' remained shaped by appeals to loyalism. The fourth and final part of the chapter carries this argument forward by considering how loyalism continued to remain important to a remnant 'Hottentot' civic identity, even as 'Hottentotness' was being rapidly subsumed into the category 'Coloured'.

I. The Convict and Constitution Debates

Though some in Britain believed that the Empire's settler-colonies were not yet ready to govern themselves, and harboured concerns about the future treatment of indigenous subjects and neighbours, settler calls for greater political autonomy gained momentum during the 1840s. These calls began to fall on sympathetic ears. Not least because of the financial incentive that came with handing over more decision-making powers to settler-colonial legislatures. In particular, the colonial treasury wanted to shift responsibility for financing the frontier wars to the Cape.

Within this political milieu, many 'Hottentots' continued to value their subjecthood, especially those associated with the LMS. Philip and Read Senior had been involved in establishing the Aborigines' Protection Society the previous decade. Together with their allies at the Cape, Philip and Read were circumspect about the prospect of Britain's paternalist oversight being diminished. In light of the caustic relationship the LMS came to have with Benjamin D'Urban before his removal as Governor, Philip and Read and their coterie sought to create an amiable rapport with subsequent Governors from the beginning of their term in office at the Cape.

As a reflection of this sentiment, residents of the Kat River Settlement under Read's auspices kept up the tradition of writing welcome notes to the newly appointed Governors of the Cape during the 1840s. The inhabitants and missionaries were enthused when the Governors reciprocated. In December 1846, Governor Peregrine Maitland visited Eland's Post in the Settlement during which he thanked the residents for the greeting they had sent him at the time of his appointment in 1844. In addition, Maitland thanked them for "their expression of allegiance to Her Majesty the Queen".⁷⁰⁰ Similarly, in December 1847, Governor Harry Smith sent a reply to the greeting of the Kat River inhabitants, noting "I have received with great pleasure the address from Her Majesty's subjects of the Kat River Settlement". Smith vowed to watch over their welfare, now that he was "the

⁷⁰⁰ Read, *The Kat River Settlement in 1851*, p. 4.

representative of [their] most gracious Queen, for whom they most truly profess[ed] every loyalty.”⁷⁰¹

Both Maitland and Smith thanked the men of the Settlement for their services during the recent outbreak of war on the frontier, namely the Seventh Frontier War between the Colony and the amaXhosa chieftaincies. In the performance of loyalty, honourable and dutiful conduct during military conflict stood as one of the most valued exemplars. It is not surprising that as a result, ‘Hottentot’ subjecthood imbibed a masculine form. ‘Hottentot’ men who served faithfully in the Colony’s frontier wars with the amaXhosa were regularly praised by Governors and other commentators. Military duties also provided ‘Hottentot’ men with the opportunity to perform a masculine role in a settler-colonial context which was built on their ‘infantilisation’.⁷⁰² ‘Hottentot’ masculinity was constructed in a different way by many missionaries, who wished to see the men embrace their role as breadwinners and heads of homes. For this reason, missionaries often complained about the disruption that extended periods of time spent away from families while on military duty caused to the proper functioning of their mission stations.⁷⁰³

Loyalism was gendered in terms of the respective expectations placed on men and women. This was made clear by Governor Smith’s response to a petition he received from the women of the Kat River Settlement in 1849. In keeping with the petition-writing rush that followed the news of the British Government’s intention to begin transporting felons to the Cape, the Settlement’s women weighed in as well, expressing their dismay at the possibility of the Cape becoming a penal colony. In reply, Smith assured them that he continued to be interested in the welfare of the Settlement. He noted his own interactions with the Settlement before he became Governor, especially during the Sixth Frontier War, “when many of its brave men [...] served under [him] with great distinction.” He then remarked that he believed the women of the Settlement were “good and virtuous” and that their children were

⁷⁰¹ Read, *The Kat River Settlement in 1851*, p. 4.

⁷⁰² See Van der Spuy, ‘Making Himself Master: Galant’s Rebellion Revisited’ for a concise discussion of this theme.

⁷⁰³ CA, A 559, Bethelsdorp Missionary Institution, various correspondence.

“imbued with loyal, dutiful and gallant feelings.” As such, he attributed the “good behaviour of the men of the Kat River to the virtuous conduct of the women”.⁷⁰⁴

The Kat River women were adding their voice to widespread alarm across the Colony following the revelation that the Cape was to become a penal colony. The months after the plan became public knowledge were a period of intense debate not only concerning the landing of convicts, but also the political future of the Cape. The debate was passionate, largely because there was growing speculation that the introduction of an elected representative assembly was imminent. Questions over the qualifications for the anticipated franchise were also at the forefront of the public mind.⁷⁰⁵ The desire of settler society to see the establishment of a representative assembly was strengthened in response to the news of London’s intention to transport convicts to the Cape. The public outcry against the proposal, which emanated from a wide spectrum of the Colony’s various classes and ethnicities, eventually led to its abandonment. Petitions opposing the measure were drafted and endorsed at public meetings in towns and villages across the Colony, all expressing their discontent with London’s decision.⁷⁰⁶

The anti-convict agitation marked a political watershed moment for the Cape, as the wishes of the metropole were rejected and defeated by the Colony. The *Eastern Province Herald* newspaper, which catered for a steadfast, anti-imperial settler readership, described the success of the anti-convict agitation in grandiose terms, suggesting that “In the history of every country there are certain epochs or eras, from which new periods in its existence take their date” and that the agitation over the convict question was of such a nature. Through “united energies and unshaken resolution” it was suggested that “the inhabitants of the Cape have learned a lesson of resource and self-dependence which will not be lost upon them.”⁷⁰⁷

⁷⁰⁴ Stockenström, *Light and Shade*, Appendix, p. 63.

⁷⁰⁵ HCPP, No. 1427, 1852, *Further papers relative to the establishment of a representative assembly at the Cape of Good Hope*, p. 79. See also, S. Trapido, ‘The Origins of the Cape Franchise Qualifications of 1853’, *Journal of African History*, 5 (1), 1964, p. 38.

⁷⁰⁶ HCPP, No. 217, 1849, *Copies of correspondence; Governors of the Cape of Good Hope and Ceylon, respecting the transportation of convicts to those colonies; and correspondence with the Governor of Bermuda, on the removal of convicts from that station to the Cape*, pp. 13 & 28.

⁷⁰⁷ *Eastern Province Herald*, 20 Jan. 1850.

The protest politics associated with the anti-convict agitation were also remarkable for the participation of mission residents, who added their voices to the chorus of opposition. The language contained in the related petitions speaks volumes about 'Hottentot' and ex-slave mission residents' perceptions of their place within Cape colonial society and, indeed, within the British realm. While these petitions would have no doubt been vetted by missionaries, mission residents had established a tradition of participating in the drafting of petitions, dating back to the vagrancy law protests in 1834.

Furthermore, the anti-convict petitions raised real concerns about the probable and unwelcome effects which convict transportation would have on the 'Coloured' population in terms that reflect their participation in the drafting. A prominent, recurring theme centred on the right they had to lobby the British Government as colonial subjects. Again, such sentiments were not new, but had a longer trajectory, finding fresh expression in 1849. The arguments made against the landing of convicts were also grounded in a real sense of unease about the political future of the Cape.

For the 'Hottentots', the tension which had existed between the competing interests of settler-colonialism and imperial sovereignty since the beginning of the century was again brought into sharp focus amid growing expectations that the Cape would be granted representative government. Mission 'Hottentots' in particular feared that such a development would remove the influence of the Crown over domestic affairs and give the Cape's master class new powers to dominate them. This had already begun to some extent with the introduction of the Master and Servant Ordinance in 1841. However, as demonstrated, this ordinance was not as effective as would have been hoped by farmers in need of a malleable and stable labour supply. It is clear from subsequent events that 'Hottentots' on both farms and missions were aware of the investigation made by the Legislative Council into the working of the ordinance and were feeling anxious about its potential consequences for them and their subjecthood.

In August 1849, a petition with 211 signatures addressed to Queen Victoria was forwarded to Governor Smith from residents of the Kat River Settlement.⁷⁰⁸ The

⁷⁰⁸ HCPP, No. 1138, 1850, *Despatches relative to the Reception of Convicts at the Cape of Good Hope, No. 16, Petition from the Kat River Settlement*, (hereafter, *Reception of Convicts*), 18 Aug. 1849, p. 76.

petition spelled out the reasons for their opposition to the landing of felons at the Cape and in doing so provides insight into how mission residents were framing their civic identity. It is apparent that the petitioners, along with the unnamed missionary assistance, were aspiring to a subject identity that transcended their domestic landscape and even the Cape Colony. The distant power of a foreign Sovereign had resulted in tangible changes in their lives within the local, settler-colonial context through the introduction of imperial legislation such as Ordinance 50. A cynic may regard the petitions as the language of duped mission converts, but that would amount to unwarranted patronisation of those 'Hottentots' who came to associate the label they bore with British loyalism. The appeals to British subjecthood reveal the complexity of 'Hottentot' resistance to settler-colonialism and their accommodation of a perceived, benign imperial sovereignty.

While the petitions were drafted within the furore of the anti-convict agitation, it is clear that for the drafters, the moment was seen as an opportunity to reaffirm their status as subjects of the Crown. The Kat River petition opened with the following:

Your Majesty's loyal and dutiful subjects of Hottentot and other races... [are] thankful that, by the chances of war and the overruling power of Divine Providence, they have been placed under the benign rule, liberal justice, and just laws of England, while they may safely affirm that their amelioration and their moral and social improvement have gone hand in hand...

Rather than being a petition about convicts, it begins as a petition about loyal subjects. The references to "liberal justice" and "amelioration" highlight the importance they continued to attach to their entitlement to legal recourse and in turn, their subject-citizenship. The petition continued with expressions of their "[...] hope that the same degree of moral improvement, and the advancement of civilisation among them, [would] eventually secure to them the highest blessings which can be inherited by the subjects of the British realm [...]" It was only once their status as British subjects had been established that the petition then addressed the convict question:

It was, however, with deep sorrow and regret that Your Majesty's petitioners saw the proposition of the Secretary of the Colonies to make the Cape a penal settlement... making our fatherland a receptacle for British malefactors, a measure which has shrouded the whole colony in deep mourning... from a certainty that it is a harbinger of the demoralization [sic] of the entire colony [...]

The most striking aspect of the quote above is the reference to “our fatherland” becoming “a receptacle for British malefactors”. It is significant for it alludes to the active role played by the signatories – ‘Hottentot’ signatories in particular – in the drafting of the appeal, for apart from James Read Senior and Junior, this was not a line likely to have been penned by a missionary. The notion of ‘Hottentot’ rights to the land on the basis of ancestral claims was especially strong among inhabitants of the Kat River Settlement.⁷⁰⁹ It was on this basis that they, along with the missionaries, justified their occupation of the region following the expulsion of Maqoma and his followers from the valley in 1829.

Taking advantage of the moment to further express their concerns about the pending changes to the Cape’s legislature, the petition then addressed the question of the new constitution. On this subject, the petitioners laid bare the tensions between imperial sovereignty and settler-colonialism which had shaped ‘Hottentot’ resistance during the previous half-century. The petition requested that the:

*Constitution [would] be watched over with all the watchfulness of a kind parent and a just and merciful Sovereign, and that it [would] not be suffered to be impaired by any person or persons who may be in authority, or any party or parties in the State who may desire exclusive privileges, so that Your Majesty's loyal and dutiful subjects may ever feel that the laws of England to which we have sworn allegiance, are bound up with our dearest ties and family affections [...]*⁷¹⁰

⁷⁰⁹ See the petitions at the time of 1834 vagrancy bill protests.

⁷¹⁰ HCPP, No. 1138, 1850, *Reception of Convicts*, No. 16, Petition from the Kat River Settlement, 18 Aug. 1849, p. 77.

Two months later, in October 1849, a similarly worded petition, also addressed to Queen Victoria and with 145 signatures, was drafted by “persons of colour” who belonged to the Dutch Reformed Church in the District of Stockenström.⁷¹¹ While it may be expected that the tone of this petition would differ from the previous petition owing to the Dutch Reformed influence, a number of the same themes emerged. Claims to loyalty and subjecthood, with their attendant entitlements implied, were followed by a reference to the role played by ‘Hottentot’ soldiers in defending the Colony in the wars with the amaXhosa. The memorialists noted that they:

[had] ever been, as they still [were], loyal and devoted to Your Majesty’s representative in this land; ready and zealous to defend this portion of Your Majesty’s dominions, in doing which, some of their sons and fathers have already shed their blood and sacrificed their lives.

As noted earlier, the participation of ‘Hottentot’ men in the frontier wars against the amaXhosa was one of the most significant aspects of broader ‘Hottentot’ assimilation to British subjecthood. Disillusionment with the expected benefits of military duty would have been acute for men who had served, as well as for the families of those who had lost relatives in the various conflicts. Though loyal service in the Cape Corps and Cape Mounted Rifles was regularly acknowledged by the colonial army’s officers from time to time, ‘Hottentot’ levies often complained about non-payment and the colonial state’s failure to deliver on promises of compensation. In spite of these disappointments, the petitioners drew attention to their military service as a powerful indicator of their loyalty to the Crown.

The claims to respectability were again especially strong. It is apparent in this petition, as in the former one, that mission ‘Coloureds’ were not averse to regarding themselves as more loyal and respectable than many of the Cape’s European settlers. The prospect of British convicts being landed at the Cape reinforced this view. Those ‘Hottentots’ associated with the LMS missions would have been aware

⁷¹¹ HCPP, No. 1138, 1850, *Reception of Convicts*, No. 22, Petition from Stockenström, 3 Oct. 1849, p. 109.

of the critical and condescending representations made by John Philip and James Read Senior of the Boers. As argued in Chapter Three, notions of 'Hottentot' respectability were shaped by both internal and external factors. Respectability was not only measured against other, less assimilated Khoesan, but also against the Dutch farming class. Reflecting these sentiments in their opposition to the landing of undesirables, the petitioners from Stockenström asserted that:

[...] they would [...] humbly pray Your Majesty's consideration of the fearful effects it would produce upon that particular class of the community to which most of your petitioners belong, and upon the various aboriginal tribes within and beyond the boundaries of the colony.

As with the former appeal, this petition also exhibited a sense of reluctance on the part of the drafters with regards to the imminent changes to the Cape's political landscape. In a veiled reference to Ordinance 50, it read:

That your petitioners greatly revere the memory of Your Majesty's predecessor, under whom in the providence of God, they were elevated in the scale of society to the enjoyment of equal civil rights and privileges with the highly favoured subjects of Great Britain's rule.

Both petitions were more than simply protests against the landing of convicts at the Cape. Rather, the anti-convict agitation, with its concomitant public debate, provided mission 'Hottentots' with an opportunity to implore the Crown to bear their interests as subjects in mind. Protest and change were in the air. Rumour and speculation were rife. Although the 1830s and 1840s had witnessed attempts to roll back the civil rights of the 'Hottentots' enshrined in Ordinance 50, they had been able to voice their concerns and lobby imperial intervention in their resistance against settler-colonialism. Importantly, the introduction of vagrancy legislation had been prevented. In the absence of vagrancy legislation, 'Hottentots' were able to evade complete entrapment in the labour system.

While 'Hottentots' within the Colony were not independent, their inclination towards seasonal labour contracts, interspersed with time spent at missions or squatting on Crown land, meant that for many, a semi-independent livelihood was

possible.⁷¹² This state of ‘in-betweenness’ was a significant feature of life for the Cape’s indigenous and ex-slave colonial subjects in the 1830s and 1840s. It was not limited to those ‘Hottentots’ who were mission residents, as illustrated by both the inquiry into the working of the Master and Servant Ordinance which took place in 1848 and the investigation into the extent of squatting in 1851, to be discussed below. However, as illustrated in Chapter Four, mission ‘Hottentots’ were more connected to missionary networks and by virtue of that, had better access to the imperial government.

What is especially significant is that in the immediate prelude to the Kat River Rebellion, the imperial interest still remained of paramount importance for large numbers of mission ‘Hottentots’. Their expressions of loyalty to the Crown during the anti-convict agitation would be tested and contested in the following years as war once again erupted on the eastern frontier. It was within this context that a new focus was cast on the dynamics and tensions of the master-servant relationship.

II. The Menace of Farmstead Intimacy to Settler Society

By the early 1850s, the ‘Hottentot’ and ex-slave population of the Cape Colony had become a composite mass of predominantly landless labourers, many either engaged in regular or casual labour on the colonial farms stretching from the arable south-western Cape through to the grazing country of the eastern districts. Following emancipation in 1838, several thousand ex-slaves had taken up residence at mission stations, where they joined their ‘Hottentot’ counterparts, many of whom would have been second, or even third, generation mission inhabitants by this time. For the farmers of the Cape, the shortages that had been a characteristic feature of the labour market for the first half of the nineteenth century persisted. In a political environment in which calls for an elected representative assembly were becoming more vociferous, the Legislative Council of the Colony introduced a bill in October 1851, referred to as the Squatter’s Bill. It intended to prevent ‘Hottentots’ and ex-

⁷¹² CA, LCA 25/5, Draft of an Ordinance to prevent settling or squatting on Government lands; & CA, LCA 26/5, Memorial, inhabitants of Colesberg to Legislative Council, 1 Dec. 1851.

slaves from becoming peasants, as well as casual labourers from squatting on Crown lands.⁷¹³

The opposition against this measure from among the 'Hottentot' and ex-slave communities throughout the Cape Colony revealed the extent to which their common grievances with the colonial state had wrought a unity among them that was capable of sparking what Edna Bradlow has called a 'Great Fear' or a 'great panic' among the settler population that a general insurrection of the 'Coloured' classes was imminent.⁷¹⁴ John Marinowitz has argued that the 'great fear' of 1851 was more than mere rumour and speculation on the part of a nervous settler society, and that there was a very real threat of a broader rebellion among the 'Hottentots' and ex-slaves throughout the Colony.⁷¹⁵ The trepidation on the part of settler society was largely stimulated by events unfolding on the Colony's eastern frontier at the time, which had erupted into war with the amaXhosa earlier in the year.⁷¹⁶ This was the Eighth Frontier War, or Mlanjeni's War, between the Colony and the amaXhosa chieftaincies and it would last for three years. However, the most shocking aspect of this renewed conflict for many in settler society was the participation of numerous 'Hottentot' inhabitants of the Kat River Settlement in the war on the side of the amaXhosa. As Ross contends, the fear and panic generated by the speculation surrounding the squatter's agitation reflected "how deep the events of the Eastern Cape had entered the psyche of the whole Colony."⁷¹⁷

⁷¹³ Some of the missionaries believed that Governor Smith introduced the measure in order to try regain some popularity among the Cape's white inhabitants, which he had lost as a result of convict agitation. SOAS, CWM, South Africa, Incoming Correspondence, 25/5/A, G. Christie, Hankey, 18 Sep. 1850.

⁷¹⁴ Bradlow, 'The "Great Fear" at the Cape of Good Hope' pp. 401-421.

⁷¹⁵ Marinowitz, 'From Colour Question to Agrarian Problem at the Cape', in Macmillan & Marks (eds.), *Africa & Empire*, pp. 153-167. While Marinowitz asserts that the potential for a widespread insurrection was real, Ross sides with Bradlow and reasons that there was no actual plot. See Ross, *The Borders of Race in Colonial South Africa*, pp. 274-275. Also, R. Ross, 'Rather Mental than Physical: Emancipations and the Cape Economy', in N. Worden & C. Crais (eds.), *Breaking the Chains: Slavery and its Legacy in the Nineteenth Century Cape Colony* (Johannesburg: Witwatersrand University Press, 1994), pp. 163-164.

⁷¹⁶ There were rumours that letters were being exchanged between mission residents in the western districts and the frontier. CA, LCA 26/8, Alarm in the District of Riversdale, concerning the proposed Squatter's Ordinance, 28 Jan. 1852; CA, OPB 1/13, 1/8, Memorial, inhabitants of Albany to Governor Smith, Graham's Town, 7 Jun. 1851; & CA, OPB 1/13, 1/27, Report of Mr. Owen, Hottentot institutions of Caledon and Swellendam districts, Cape Town, 11 Aug. 1851.

⁷¹⁷ Ross, *The Borders of Race in Colonial South Africa*, p. 274.

The Kat River rebels, as they were known, were also joined by residents of other Cape missions, in particular, Theopolis and Shiloh.⁷¹⁸ The inhabitants of Theopolis were reported to be seeking a “new country” in which they could “establish the independence of their race.”⁷¹⁹ At the same time, many ‘Hottentot’ and ex-slave mission inhabitants were fighting for the government forces in the Cape Mounted Rifles and Cape Corps. This created even greater unease among the settlers, as it was thought possible that the government troops would be influenced by their kin fighting for the amaXhosa and be persuaded to take advantage of their government-commissioned arms and rebel against the Colony. The climate of fear was pervasive enough to persuade the Legislative Council to abandon the Squatters Bill. In the end, the feared pan-‘Hottentot’, ex-slave, amaXhosa rebellion did not transpire, but the Eighth Frontier War did drag on, eventually signalling the death knell of the humanitarian experiment at the Kat River Settlement.⁷²⁰ It also brought to an end the ambitions of the leading representatives of the LMS, who had played an active role in encouraging ‘Hottentot’ civil rights, as some amongst their ranks were accused of fomenting the rebellion among the Kat River inhabitants.

Whether the Squatters’ Agitation of 1851 had the real potential to trigger a ‘Coloured’ rebellion is not the concern here. Rather, the atmosphere of fear which swept the western districts of the Colony sheds light on the nature of master and servant interactions as well as hardening race relations at the Cape during this time. The report of the commission set up by the Legislative Council to investigate the claims of a pending revolt contains rich detail and provides insight into the daily lives of masters and servants during the early 1850s. It is also revealing for the way in which it captures glimpses of ‘Coloured’ livelihoods and lived realities and in doing so, provides for an investigation into cultural markers of social identity. In addition, witnesses from both the master and servant classes alluded to the disruption of the power relations so integral to the Cape’s capitalist economy.

⁷¹⁸ There had been a lot of speculation about the loyalty of the Shiloh inhabitants prior to the Rebellion. CA, CO 4499, A. Bonatz to Civil Commissioner, Shiloh, Queenstown, 23 Oct. 1854.

⁷¹⁹ CA, OPB 1/13, No. 7, Governor Smith to Earl Grey, King William’s Town, 14 Jun. 1851, p. 44.

⁷²⁰ E. Elbourne, ‘Race, Warfare and Religion in Mid-Nineteenth Century Southern Africa: The Khoikhoi Rebellion against the Cape Colony and Its Uses, 1850-58’, *Journal of African Cultural Studies*, 13(1), 2000, pp. 17-42.

Remarkably, this was an enduring legacy of Ordinance 50, in addition to the ineffectiveness of Master and Servant legislation in the 1840s, as discussed above. The possibility of a servant rebellion in 1851 seemed to settler society to be the culmination of a longer trajectory of 'Hottentot' and ex-slave resistance to dominance which had influenced master and servant relations since the beginning of the Second British Occupation in 1806. However, the frequent references to the intentions and loyalty of 'Hottentots' in the testimonies and memorials collected by the commission illustrate that in spite of the growing use of the label 'Coloured', 'Hottentot' identity had not been entirely subsumed into this category as yet.

The "Ordinance to Prevent the Practice of Settling or Squatting upon Government Lands" was published in the Government Gazette on 16 October 1851. It declared that "many idle and ill-disposed persons, refusing to labour for their livelihoods, are in the habit of settling or squatting themselves upon the Government Lands... without any lawful authority."⁷²¹ Squatting was said to be rampant throughout the Colony. Some districts, such as Uitenhage, were described as being "infested by vagrants".⁷²² It was reported that in Tulbagh there were "numerous pockets of squatters" across various field cornetcies. They were said to be living in huts, with small gardens and flocks and "sufficiently productive to enable them to exist without assistance from their neighbours."⁷²³

The alarm in the western districts was heightened by the knowledge that levies of the Cape Corps and Cape Mounted Rifles were returning from military service on the eastern frontier. It was reported that a rumour was afoot among the returning soldiers that "the measures adopted towards the Kat River Settlement would eventually be adopted in the Western Division as well."⁷²⁴ These measures were said to be that the Government was planning to "withdraw the grants of land for Missionary Institutions" and also that "the Vagrant Act formerly mooted was to

⁷²¹ CA, LCA 25/42, Report, Ordinance to Prevent Squatting, p. 29.

⁷²² CA, LCA 25/42, Evidence of John Cetlivres Chase, Civil Commissioner, Uitenhage, Report, Ordinance to Prevent Squatting, p. 30.

⁷²³ CA, LCA 25/42, Charles Piers, Resident Magistrate, Tulbagh, to Government, 10 Nov. 1851, Report, Ordinance to Prevent Squatting, p. 40.

⁷²⁴ CA, LCA 25/42, Evidence of Rev. G.W. Stegmann, Ordinance to Prevent Squatting, p. 6.

be introduced.” Farmers in the western districts believed that squatters were largely to blame for stock theft.

William Thompson, agent of the LMS in Cape Town, informed the committee that many expected the Ordinance to be the “first [in] a series of actions to throw them back into the position they held some years ago” and the act would “to all intents and purposes, act as a vagrant law.”⁷²⁵ Thompson, along with H.E. Rutherford, a Cape Town merchant, wrote to the Governor and the Legislative Council, urging them to rethink their decision to draft the ordinance. They advised that such an ordinance was “impolitic and inexpedient at the present crisis, tending to awaken suspicions of the intentions of Government in the minds of those persons who have hitherto been loyal and well-affected”, adding that such persons were “now more than usually apprehensive that their rights [would] soon cease to be respected...”⁷²⁶

Fears of a general, violent insurrection were heightened when a farmer from Koeberg, Adrian Louw, distributed a letter among his neighbours.⁷²⁷ Louw had been a Field Cornet for many years and he had also served as a Justice of the Peace until 1849. Louw informed his “fellow burghers” of a plot which had come to his attention. He claimed that “the black classes wish to exterminate the white male classes... in the next harvest, when on each farm there will be many blacks.” Louw’s use of the term “blacks” points towards the growing racialisation of identity in settler society in the midst of a war with the amaXhosa. Surprisingly, Louw also cautioned the farmers in Koeberg to “Keep it secret from the black and the lower classes of whites. At the rebellion of Louis of 1809 there were two Englishmen at the head; but they commenced it in a bungling manner.”

The rebellion to which Louw was referring actually occurred in October 1808 and the two white men involved were Irish not English. A group of over three hundred slaves in the Zwartland and Koeberg had planned to march to Cape Town, believing they would be welcomed by the new British rulers, who had recently

⁷²⁵ CA, LCA 25/42, Evidence of Rev. W. Thompson, Report, Ordinance to Prevent Squatting, p. 16.

⁷²⁶ CA, LCA 25/42, Rev. W. Thompson & H.E. Rutherford to Governor Smith & Legislative Council, date unknown, Report, Ordinance to Prevent Squatting, p. 37.

⁷²⁷ CA, LCA 25/42, A. Louw, Koeberg, 24 Oct. 1851, Report, Ordinance to Prevent Squatting, p. 31.

abolished the slave trade.⁷²⁸ Although the slave revolt of 1808 was the first of its kind at the Cape and would remain the largest such rebellion, it was summarily put down by the British levies stationed in Cape Town. The Louis to which Louw referred was a slave from Mauritius and the principal leader of the revolt. While Louw may have gotten the date of the revolt wrong, the events of October 1808, forty-three years earlier, had clearly lingered on in the memories of the farmers in the region.

So great was the fear generated by rumours among the farming families of the Western districts that the expectation of imminent attack by their servants was described as only requiring a “small spark to set things on fire”.⁷²⁹ It was as a result of this that the Legislative Council sent out three commissioners to establish whether the rumours were groundless or whether there was serious cause for concern. The kinds of questions asked by the commissioners to a variety of witnesses, including farmers, magistrates, missionaries and servants, revealed the broader concerns they held for labour relations in the country districts. The ability for would-be labourers to find land upon which to eke out a semi-independent existence not only presented a threat to settler society in the form of potential stock-theft. Squatters by their nature defied the dominant framework of land usage in the colonial setting and in doing so, presented a challenge to a system which sought to transform them into a landless proletariat. Furthermore, the want of labourers meant that the children of farmers were recruited as servants.

This was of concern to the commissioners, who questioned whether this tended towards the deterioration of ‘civilisation’ among the farmers. In some regions, such as the Onder Bokkeveld, the scarcity of labourers was so pronounced that some farmers had no servants at all. The commissioners were informed that throughout Clanwilliam, the younger children of the farmers were required to act as house servants and to attend cattle and herd flocks of sheep. Such children were said to be uneducated and hardly above the “condition of servants”.⁷³⁰ Squatting meant

⁷²⁸ Worden, “Armed with Swords and Ostrich Feathers”, in Bessel, et. al (eds.). *War, Empire and Slavery*, pp. 121-122.

⁷²⁹ CA, LCA 25/42, Rev. G.W. Stegmann to Rev. W. Thompson, 31 Oct. 1851, Report, Ordinance to Prevent Squatting, p. 38.

⁷³⁰ CA, LCA 25/42, Evidence of Matthew Blake, Report, Ordinance to Prevent Squatting, p. 25.

that much-needed labourers could escape working. It also subverted the racial hierarchy of labour at the Cape by causing farming families to depend upon their own children to perform duties regarded as suited only to 'Hottentots' and ex-slaves.

In their final analysis, the commissioners found the claims of an imminent insurrection to be without any substance and attributed the panic to the conduct of rumour-mongers such as Louw. They commented in their report that they had been "frequently shocked by the unscrupulous assertions of some, and the mischievous proceedings of others [...] such conduct having an evident tendency to debase a class whose welfare and social improvement has ever been, and still is, an object of much solicitude with the British Government."⁷³¹ That such a general panic was stirred in the Western districts of the Colony does, however, highlight the insecurities of the landed, farming class. These insecurities were largely due to the mobility of farm labourers, over whom limited control could be exerted.

In keeping with a trend that emerged following Ordinance 50, the distance between masters and servants which had been created by seasonal labour served to undermine the paternalism of the Cape's labour regime, as the intimacy of regular farmstead labour was constrained by an interventionist imperial state. Most importantly, the squatter's agitation underlined the ability of the Cape's labouring poor to take advantage of the ambiguities which existed in the Colony's labour framework. This was a result of the imperial state's dedication to the economic interests of the masters, but at the same time also wanting to accommodate the social interests of the 'Hottentots' and ex-slaves.

'Hottentots' remained active participants in the unfolding political profile of the Colony, for the time being at least. The general concern over squatting also draws attention to the prospect for 'Hottentots' to have a quasi-independent life, moving between towns and villages and the countryside depending upon circumstance and preference. Mission 'Hottentots' had been engaged in a similar mode of oscillation between missions and farms with greater ease since the passage of Ordinance 50. For those squatting on Crown land, planting gardens and herding small flocks, they defied the trend to completely transform them into a landless proletariat. The

⁷³¹ CA, LCA 25/42, Report of the Commissioners, 10 Dec. 1851, Ordinance to Prevent Squatting, p. 53a.

mobility which this afforded 'Hottentots' alarmed the farmers. The ability for 'Hottentots' to move about within the Colony, between farms and vacant land, as well as between the Colony itself and beyond its official boundaries, signalled the single most glaring lapse in the control of settler society over the labouring class it so depended upon.

III. "Fear God, Honour the Queen": Appealing to Loyalty to Quell Rebellion⁷³²

As outlined in Chapter Three, the Kat River Settlement was a tract of fertile land that was allocated for the settlement of 'Hottentots' in 1829 in order to provide a buffer zone between the Eastern Cape settlers and the amaXhosa. Sir Andries Stockenström, the former *Landdrost* of Graaff-Reinet and Lieutenant Governor of the Eastern Province, was its main promoter and oversaw the Settlement's establishment. It was embraced as a grand 'civilising' project by the LMS and many of the Settlement's inhabitants were affiliated with the missionary representatives of this society. By the late 1840s and early 1850s, it was estimated that approximately 5 000 people were permanently residing in the Settlement.⁷³³

Though it was originally intended to be a 'Hottentot' enclave, the site attracted a variety of ethnicities and social classes, including Gonaquas, or Gonahs, and ex-slaves. As noted in previous chapters, Gonaquas and ex-slaves were encouraged to consider themselves as 'Hottentots' by some of the missionaries. Kat River 'Hottentots' also appear to have endorsed this idea. In June 1850, inhabitants of Wilberforce and Buxton advised James Read Junior that they regarded the Gonaquas as "part of the Hottentot nation". In contrast, the same inhabitants wanted to see the amaXhosa who had entered the Settlement following the Seventh Frontier War removed.⁷³⁴ 'Hottentotness', it seems, was not extended to them. This sentiment is

⁷³² The quote in this subheading is an amended version of a scripture verse found in 1 Peter 2:17, from which Arie van Rooyen preached at a Sunday morning worship service held at Fort Armstrong on 5 January 1851. The original verse reads: "Honour all men. Love the brotherhood. Fear God. Honour the King."

⁷³³ Granting Lands in Freehold to Hottentots, 1856, p. 41.

⁷³⁴ SOAS, CWM, South Africa, Incoming Correspondence, 25/4/B, Enclosures to J. Read, Philipton, 20 Jun. 1850.

surprising given that many Gonaquas shared familial and kinship ties with the amaXhosa. It serves to illustrate the variability of 'Hottentot' civic identity. The boundaries of 'Hottentot' civic identity were fluid even as it coalesced around particular ethnic attributes, including some while excluding others. Circumstance and context jointly goad an identity in various directions revealing fissures among those who aspire to the label along the way. One individual's 'insider' may be another's 'outsider'.

This was apparent at the time of the Eighth Frontier War and coinciding Kat River Rebellion. While some members of the Settlement sided with the amaXhosa in a moment of 'black' rebellion against the Colony, many others opted to remain loyal to the Cape Government and Crown. Intriguingly though, even among those who joined the Rebellion, 'Hottentot' loyalism remained a defining feature of their identity. Indeed, it is necessary to qualify that for scores of rebels, including some of their leaders, their fight was not against the colonial authorities and certainly not against the Crown, but rather the Dutch and English settlers.

The Kat River Rebellion was caused by a number of factors. While there were clear millenarian influences, especially surrounding the amaXhosa war prophet, Mlanjeni, several scholars have highlighted material causes.⁷³⁵ Foremost among these has been Tony Kirk, who has shown how economic pressures on those residing in the Settlement created enough discontent to trigger a revolt. Owing to the haphazard manner in which title deeds were assigned to Kat River inhabitants, very few could actually prove ownership of their plots. As a consequence, the Settlement's residents were not able to benefit from the wool boom of the 1840s.⁷³⁶ The Sixth and Seventh Frontier Wars had also resulted in the substantial loss of livestock and crops, setting the inhabitants back several years each time. Demand for land in the valley was also high, especially among the Eastern Cape farmers who

⁷³⁵ Some observers remarked on the uncanny similarities between the actions of Oliver Cromwell's forces in the UK, 200 years earlier, and the Kat River Rebellion. It was thought that the teachings of Independent ministers had sown comparable seeds of discontent. Like Cromwell's soldiers, the Kat River rebels read their Bibles, prayed and took communion, all while preparing to rebel. They were accused of "turning religion into rebellion and faith into faction." N.J. Merriman, *The Kafir, the Hottentot, and the Frontier Farmer: Passages of a Missionary Life from the Journals of the Venerable Archdeacon Merriman* (London: George Bell, 1854), p. 117.

⁷³⁶ T. Kirk, 'The Cape Economy and the Expropriation of the Kat River Settlement, 1846-53', in Marks & Atmore, *Economy and Society*, p. 232.

looked with envy on the fertile ground reserved for 'Hottentots'.⁷³⁷ Many in the Settlement were poor peasants, eking out a precarious existence on a volatile, colonial frontier.

Competition over scarce land proved to be an important motivating factor for the minority who joined the amaXhosa attack on the Colony. In early January 1851, the initial rebel leader, Hermanus Matroos, together with a body of Gonaquas attacked the Mfengu near Fort Beaufort. Matroos and his followers felt justified in doing so as the Mfengu had encroached on their lands.⁷³⁸ Read Junior described Matroos as "a naturalized [sic] British subject", even as he maintained close ties with the amaXhosa. It was understood that Matroos continued to be a councillor in Ngqika's house. Though he identified as a British subject, Matroos had previously stated that "he was free to believe what he chose, and to adhere to the customs of his country, if they did not interfere with the rights of others, or with the laws of the colony."⁷³⁹

As Elbourne as observed, "Matroos was an ironic leader for an explicitly Khoekhoe or "Hottentot" uprising."⁷⁴⁰ With an amaXhosa mother and an escaped slave father, Matroos did not fit the ethnic persona of a 'Hottentot' nationalist. He was killed early on in the Rebellion during a failed attack on Fort Beaufort on 8 January 1851. Matroos was replaced as the leader of the rebels by Willem Uithaalter. His father owned an erf at Philipton and he had served in the Cape Mounted Rifles. Unlike Matroos, Uithaalter did not have access to his own land in the Settlement. Like Matroos, he had little to show for the years of military service he had undertaken for the British Government on the eastern frontier. The battle at Fort Beaufort was followed in March by another major skirmish at Fort Armstrong, which the rebels had managed to capture. The Government's forces were able to take back the Fort and the victory was said to have "given the most unfeigned satisfaction to the Hottentot levies" who participated in the struggle. The levies were

⁷³⁷ R. Ross, 'Ambiguities of Resistance and Collaboration on the Eastern Cape Frontier: The Kat River Settlement 1829-1856', in J. Abbink, M. de Bruijn & K. Van Walraven (eds.), *Rethinking Resistance: Revolt and Violence in African History* (Boston: Brill, 2003), p. 122.

⁷³⁸ T. Kirk, 'Progress and Decline in the Kat River Settlement, 1829-1854', *Journal of African History*, 14 (3), 1973, p. 424.

⁷³⁹ Read, *The Kat River Settlement in 1851*, p. 15.

⁷⁴⁰ Elbourne, *Blood Ground*, p. 347.

reported to be dismayed by the conduct of the rebels, who they said, “owed so much to the paternal care of Government.”⁷⁴¹ In another display of loyalty to the Crown, a group of over 100 Kat River ‘Hottentots’ wrote a memorial to Governor Smith later in March. They called his attention to their regret over the actions of those of their “nation” who had become the “Queen’s enemies”.⁷⁴²

Uithaalter and his followers eventually retreated to the relative safety of the Amatola Mountains, where they set up a rebel base. Heated public contests over the loyalty of all Kat River ‘Hottentots’ carried on nonetheless. Pro-settler agitators, such as Robert Godlonton, argued that the Rebellion amounted to a revolution aimed at establishing a “Hottentot Republic” by overthrowing British rule.⁷⁴³ Read Junior lamented the fact that the rebellious actions of a minority tarnished the whole community. Even those who were loyal had doubts cast over their political persuasions. Read Junior recalled later on how Kat River men who had been “denounced as traitors and rebels were faithful and peaceful subjects of the Queen”.⁷⁴⁴

These aspects of the Kat River Rebellion have been discussed at length by several authors. This discussion continues with a focus on the centrality of British loyalism to the conflict, for loyalists of course, but perhaps surprisingly, for the rebels as well. Loyalism remained a defining marker of ‘Hottentotness’ during the course of the Rebellion, deployed as a call against joining the revolt and as a defence for those who participated. This is best illustrated in the records of James Read Junior, who, along with his father, was present on the frontier when the Rebellion erupted. He made several visits into rebel-controlled territory in order to persuade those who had joined Matroos and Uithaalter to desist.

On 2 January 1851, Read Junior, accompanied by a Philipton deacon, Hendrik Vincent, decided to visit some of the rebels near the upper Blinkwater and Buxton in order to gauge their reasons for joining the revolt. The replies of those questioned by Read and Vincent are telling. They reveal that for some of the rebels at least, their

⁷⁴¹ CA, OPB 1/11, Outbreak on the Eastern Frontier, 4 Mar. 1851.

⁷⁴² CA, OPB 1/11, Outbreak on the Eastern Frontier, 24 Mar. 1851.

⁷⁴³ R. Godlonton & E. Irving, *A Narrative of the Kafir War of 1850-52* (Cape Town: Struik, 1962), p. 251. Mention of this is also made in the *Eastern Province Herald*, 8 Feb. 1851.

⁷⁴⁴ CA, OPB 1/12, Report, Select Committee on Kafir tribes, 1851, Letter by J. Read Junior.

interactions with farmers, particularly English farmers, had driven them to rebellion. Some of those present explained that they had worked in the Winterberg and Koonap, where they had been mistreated by the farmers. The respondents were keen to affirm their loyalty to the Crown, asserting that they “were not fighting against the Government, and that they were loyal subjects of the Queen.”⁷⁴⁵ Read informed them that in spite of their grievances with the farmers, their actions were indefensible and the Cape Government had no choice but to deal with them harshly. Thereafter, a few of the rebels agreed to go to Fort Armstrong to surrender.

In a bid to encourage others to follow suit, Read sent a letter to the Mancazana the following day, informing the rebels there that Major General Henry Somerset, who was the commanding officer of the colonial forces on the frontier, was prepared to offer free pardon to anyone aligned with Hermanus Matroos who immediately gave themselves up. Read berated the recipients of his letter, declaring that the actions of Matroos amounted to “awful treachery against Her Majesty and her peaceable subjects” and that it was “unmanly for any Hottentot to take any part in it.”⁷⁴⁶ This was yet another reference to the masculine honour and respectability which had become attached to loyal subjecthood.

In a further attempt to persuade the rebels to reconsider the justification of their cause, a delegation set out to the camp at upper Blinkwater a week later, on 9 January.⁷⁴⁷ Included in this party were Read Senior and Read Junior; Arie van Rooyen, the missionary stationed at Tidmanton; Andries Hatha; the Kat River field cornet and father-in-law of Hatha, Cobus Fourie; another prominent member of the LMS in the Settlement, Hendrik Heyn, whom we will encounter again later on; and the field cornet of Buxton, Andries Botha. After imploring the rebels to desist from their “wicked proceedings”, Read Senior preached from the Beatitudes in the Gospel of Matthew, focusing on chapter five, verse nine: “Blessed are the peacemakers, for they shall be called sons of God.” In a clear reference to the extent to which he considered loyal subjecthood to be a fundamental signifier of Christianity, Read Senior reminded those present of their deplorable and “heathenish state” at the time

⁷⁴⁵ Read, *The Kat River Settlement in 1851*, p. 24.

⁷⁴⁶ Read, *The Kat River Settlement in 1851*, p. 25.

⁷⁴⁷ See also the notes contained in CA, CO 4495a, J. Read Junior Memorial, Kat River Commission, 11 Jan. 1851.

he first arrived at the Cape.⁷⁴⁸ He insisted that they owed a “debt of gratitude” to the “English churches and nation” and that the “Redeemer’s cause [...] would be tarnished by their revolting against the Government”.⁷⁴⁹

Conversations with some of those encamped there confirmed again that a sizeable number of the participants had recently worked on farms. They complained bitterly about the treated they had received from English farmers in particular. Two men, Hans Petrus and Johannes Smith, told Read Junior that they had been cruelly treated by an English farmer in the Koonap. They had been tied to a wagon and left there for several days. The farmer in question also threatened to shoot them. The deputation heard numerous complaints about the farmers in the Winterberg. Some of the rebels explained how the farmers had alarmed them with claims that when the Cape was granted its own elected parliament, “they would make vagrant laws, and ride about the country to break up the nests of vagabonds in the colony”. The farmers also stirred up fear among their servants by stating that “the Queen’s reign would soon cease” in the Colony. Those who were gathered to talk with the delegation reaffirmed their intentions to “fight for their liberties” and rejected any intimation that they were fighting against “Her Majesty’s Government”.⁷⁵⁰

For some of the rebels then, their decision to participate in the revolt stemmed from personal grievances with masters and the abuse they had been subjected to while in service. Read Junior contended that they should have taken their complaints to the Resident Magistrate, J.H.B. Wienand. Several rebels claimed that they had done so, but that nothing had come of it. As discussed in previous chapters, the colonial courts had become a tool of resistance by which servants could appeal for official intervention on their behalf. When the courts and Resident Magistrates were no longer considered viable channels for redress, given their inaction or perceived complicity with the farmers, it is not surprising that aggrieved servants reverted to other forms of resistance, such as desertion or violence.

It is also noteworthy that for those who had been working among the farmers, called Boerlanders, their sense of vulnerability was heightened by the prospect of the imperial state’s control being curbed following the establishment of an elected

⁷⁴⁸ Read, *The Kat River Settlement in 1851*, p. 26.

⁷⁴⁹ Read, *The Kat River Settlement in 1851*, p. 26.

⁷⁵⁰ Read, *The Kat River Settlement in 1851*, pp. 26-27.

assembly. This was confirmed by an inquiry into the causes of the Rebellion. It was deemed imperative to ascertain the cause of the insurrection given that the rebels “enjoyed the protection of equal laws, impartially administered”. This was the official line, which bore little resemblance to ‘Hottentot’ experiences. Before the inquiry even began, some leading figures in the colonial administration in Cape Town thought it was likely that a “strange feeling of ancient rights” was to blame.⁷⁵¹

The report noted that there was “widespread sympathy” for the rebels among those who remained loyal and concluded that “imaginary grievances” were to blame. The inquiry found that the “recent political agitations in the Colony [had been] misinterpreted and misunderstood”. Among those who had joined the Rebellion were some who had acquired the “absurd impression [...] that the Queen’s Government was to cease in the Colony”.⁷⁵² Though many in settler society and even some missionaries accused the Reads of fomenting the Rebellion, the inquiry did not find any evidence to suggest as such and determined that both father and son had done “their utmost” to suppress the discontent.⁷⁵³ It is clear that concerns over the potential depreciated value of British loyalism were an important motivating factor to join the rebellion among farm servants in the distant eastern districts. This highlights the remarkable reach of the idea of loyalism and the degree to which it had become a foundational element of ‘Hottentot’ civic identity.⁷⁵⁴

In yet another effort to persuade the rebels to give themselves up to the colonial forces, on 14 January a second deputation visited Wilberforce, where the main body of rebels were encamped. They had been requested by Somerset to travel to the camp to offer the rebels free pardon once again should they surrender. Read Junior did most of the remonstrating this time. He began by asking those gathered around to hear him speak “whether they were all British subjects.” Given that the camp was made up of rebel Kat River ‘Hottentots’ as well as ex-slaves and amaXhosa,

⁷⁵¹ CA, CO 4392/79, Minutes, Colonial Office, Cape Town, 30 Mar. 1851.

⁷⁵² CA, CO 4495a, Report, Kat River Commission, 1853.

⁷⁵³ SOAS, CWM, South Africa, Incoming Correspondence, 26/3/A, J.C. Minto, Fort Beaufort, 21 Nov. 1851.

⁷⁵⁴ SOAS, CWM, South Africa, Incoming Correspondence, 25/3/D, J. Read Junior to J.J. Freeman, Philipton, 23 May 1850.

Read Junior was either hoping to strike a chord with the 'Hottentot' party or thought that his argument would resonate with all those present.

The response recorded by Read suggests that he was specifically interested in the 'Hottentot' contingent: "Yes, we have always been the faithful subjects of the Queen, and have for many years fought side by side with the white soldiers and burghers against" the amaXhosa.⁷⁵⁵ Apart from this exchange apparently being one between men, Read and his company were eager to implore the rebel 'Hottentots' to reassess their actions. In order to achieve this, appeals to their civic identity as British loyalists were deemed the most appropriate means. Read continued by reminding them of what the "British Government and the religious public of England" had done for them. Just then news arrived that several 'Hottentots' had been killed in a skirmish nearby and a large number left the meeting. In spite of this disruption, the meeting carried on and Andries Hatha addressed the gathering as follows:

Though you are rebels, you must still stick to honourable conduct and general rules which obtain among mankind, even in war. Remember, we are on the side of Government, which is the side of order and law, and we have come in order to beg of you, and to advise you, to return to your duty and allegiance [...] You are having recourse to arms; we say, we must get our rights by the pen and argument.

Like Read Junior before him, Hatha held the view that British imperial sovereignty at the Cape had brought law and order and that this was to the advantage of the 'Hottentots'. His comments also underline how allegiance to the Crown had become bound up with 'Hottentot' respectability. Violence was shunned in favour of diplomatic protest. Even though Hatha was a staunch advocate of the merits of British paternal rule, he must have been aware of the shortcomings of the legal system which had been introduced over the course of the previous half-century. This he indicated by his subsequent remarks:

⁷⁵⁵ Read, *The Kat River Settlement in 1851*, p. 30.

You should also remember that the government has, in several instances, shown a willingness to hear complaints, and to give redress, and we have now a magistrate who acts justly between man and man. The government cannot help it if some of the magistrates are not good.

It is instructive that Hatha thought the fault for the imperfections of the legal system that was meant to guarantee the 'Hottentots' the right to complain and seek redress for what were considered legitimate complaints, lay with the local magistrates. He exonerated the colonial Government from all misconduct by stressing that the dispositions of local magistrates were responsible for whether or not justice was achieved. This was not a new sentiment. 'Hottentot' mistrust of the local authorities, such as the field cornets and *landdrosts* during the VOC period and the Justices of the Peace and Resident Magistrates in the British era, was often well founded. However, as demonstrated in Chapter One, instances of redress for servants did occur. The introduction of Ordinance 50 also raised expectations of equal treatment before the law. Equality before the law was never universal at the Cape, but moments of equality did happen owing to imperial initiative, inspiring a degree of confidence in servants that justice was possible.

Suspicious surrounding the intentions of the local authorities had been amplified during Benjamin D'Urban's term as Governor, especially when Read Senior was prevented from returning to the Kat River Settlement. The inhabitants of the Settlement had also experienced first-hand the disfavour and outright contempt of two recent Resident Magistrates. Thomas Jervis Biddulph was appointed the Resident Magistrate of Stockenström district, which had jurisdiction over the Kat River, in 1848. Governor Smith thought his dealings with the Settlement were too heavy-handed and replaced him with John Mitford Bowker. His appointment did not bode well for the Kat River residents.

Bowker was devoted to the pro-settler cause. He was also vocal about his disdain for the missionaries. In June 1850, Bowker became involved in an operation to clear the Settlement of inhabitants deemed illegal, focused on Blinkwater. Several Fingo and Gqunukhwebe families were living as clients on mainly Gonaqua farms in

the locale.⁷⁵⁶ Bowker oversaw the burning down of their huts and expelled them from the Settlement across the colonial boundary. From Blinkwater the operation moved on to Buxton, where numerous families, some of whom were related to the field cornet, Botha, were forced off the land.⁷⁵⁷ That this incident took place just a few months before the outbreak of the Eighth Frontier War was subsequently used to question the loyalty of Botha during the Kat River Rebellion.

Botha had appealed to Stockenström at the time, though with little success. In describing Botha, Stockenström once asserted that “Her Majesty [had] not in her dominions a more loyal subject”.⁷⁵⁸ Botha relayed to Stockenström how Gonaquas had immigrated to the Settlement 20 years earlier and he assured the formerly influential, humanitarian sympathiser that they considered “themselves as much Her Majesty’s subjects” as he did. He asked Stockenström if it was right for “British subjects [...] to submit to such treatment”.⁷⁵⁹ Botha would be arrested for treason and tried in Cape Town between March and May 1851. His trial was at first dismissed due to a lack of evidence. However, he was re-arrested a year later, in May 1852, when he was found guilty of the charge. Though he was initially sentenced to death, the punishment was commuted to life in prison with hard labour. He died sometime after 1852 while serving his sentence.⁷⁶⁰

Bowker’s campaign raised the ire of the Kat River’s residents and increased their misgivings over the power and influence of local authorities who did not recognise ‘Hottentot’ subjecthood.⁷⁶¹ Bowker was of the opinion that the source of

⁷⁵⁶ Elbourne, *Blood Ground*, p. 352.

⁷⁵⁷ SOAS, CWM, South Africa, Incoming Correspondence, 25/4/B, J. Read Junior to J.J. Freeman, Philipton, 20 Jun. 1850; & Ross, ‘Hermanus Matroos, aka Ngxukumeshe: A Life on the Border’, *Kronos: Journal of Cape History*, 30, 2004, p. 65.

⁷⁵⁸ C.W. Hutton (ed.), *The Autobiography of the late Sir Andries Stockenström, sometime Lieutenant-Governor of the Eastern Province of the Colony of the Cape of Good Hope*, Vol. 1 (Cape Town: J.C. Juta & Co., 1987), p. 427.

⁷⁵⁹ Hutton (ed.), *The Autobiography of the late Sir Andries Stockenström*, Vol. 1, pp. 427-429.

⁷⁶⁰ Botha had written to Governor Smith in June 1850 to express his alarm at the forced removal of his Gonaqua family and friends. He introduced himself as “as an old servant of Government” and a “faithful one”. SOAS, CWM, South Africa, Incoming Correspondence, 25/4/B, A. Botha, Buxton, 23 Jun. 1850. See also, Trial of Andries Botha, Field-Cornet of the Upper Blinkwater in the Kat River Settlement, for High Treason, in the Supreme Court of the Colony of the Cape of Good Hope, on the 12th May 1852, and Subsequent Days, 1852.

⁷⁶¹ CA, OPB 1/12, Report, Select Committee on Kafir tribes, 1851, Evidence of J.J. Freeman.

the troubles along the eastern frontier with the 'Hottentots' and amaXhosa lay with metropolitan philanthropic meddling. At a public meeting in April 1844, Bowker addressed other frontier farmers claiming that the "mis-directed sympathies of the people of England" were to blame for the want of decisive military action against the amaXhosa in particular. Bowker also regarded the Cape Government as complicit in "keeping up the delusion" that the Boers were at fault for provoking the amaXhosa chieftains.⁷⁶² For these reasons, he was a firm believer in the need for representative government at the Cape.

The Kat River inhabitants would have known about Bowker's political persuasion. It is not surprising that his appointment as Resident Magistrate of Stockenström was the cause of serious consternation at a time when speculation about what representative government would mean for the Cape's 'Hottentot' subjects. The transcendent power of the Crown over local authorities was at risk of being undermined. A general distrust of the intentions of local government officials continued well into the 1850s.⁷⁶³ In 1856, for instance, when the Cape's representative assembly passed a new Masters and Servants Act that was slanted towards masters, the residents of Hankey mission wrote to the Governor, George Grey, hoping to find a sympathetic ear. The inhabitants, describing themselves as small agriculturalists who were in the habit of entering service for limited periods, had seen the proposed bill and noted that they looked upon it "with suspicion". Their main objection related to the powers the bill would extend to local magistrates who would be allowed to "inflict disgraceful punishments" for trivial misdemeanours. It was their impression that the law would become "an instrument of oppression in many of the remote parts of the Colony". The petitioners thought it was likely that in the event of the new provisions coming into effect, in those parts of the Colony "where the servants were more enlightened, they would tend to avoid contracts of

⁷⁶² J.M. Bowker, *Speeches, Letters and Selections from Important Papers of the Late John Mitford Bowker some years Resident and Diplomatic Agent with certain Kafir and Fingo Tribes* (Grahamstown: Godlonton & Richards, 1864), pp. 116-118.

⁷⁶³ For example, CA, CO 706/208, Report, Commission of Inquiry, Complaints against Meurant, 18 Nov. 1857.

service". In a rather naive hope, the mission's inhabitants wondered if the bill would "receive the sanction of Her Majesty".⁷⁶⁴

For those who wanted the imperial state would maintain a degree of oversight, the Kat River Rebellion came at the worst possible time. The participation of 'Hottentots' in the frontier conflict on the side of the amaXhosa brought into disrepute the evangelical-humanitarian agenda. Hatha was fully aware of the implications. He demonstrated as such when he asked those still assembled at Wilberforce:

What will our friends Sir Andries and Mr. Fairbairn say, when they hear of this defection in England? What will our venerable father and friend Dr. Philip say, who obtained our liberties for us? You have ruined our ministers by your conduct; and you will grieve the hearts of the Directors of the London Missionary Society [...] and the British public, when they learn what has transpired.

As the colonial forces achieved the ascendancy in the conflict, the Rebellion gradually petered out, though Uithalder and his followers remained in the Amatolas. He assumed authority over a temporary 'independent' 'Hottentot' settlement in the mountains, even establishing a council of advisors and justice system.⁷⁶⁵ Remarkably, Uithalder and his contingent also deployed loyalism in their justifications for why they participated in the Rebellion. In March 1855, the rebels addressed a memorial to Governor Grey and the new Cape Parliament. Though British subjects, the memorialists were aggrieved that the laws of the Colony were not administered impartially. They accused the local authorities of harbouring "prejudices against colour and condition". The rebels mentioned how they still valued Ordinance 50, noting that since its passage they had become acquainted with the workings of colonial law. In addition to their discontent over the execution of the law, they also cited the severe losses they had suffered during the previous frontier wars, for which they received little assistance from the colonial

⁷⁶⁴ CA, CO 4087/97, Memorial, inhabitants of Hankey to Governor Grey, 1856.

⁷⁶⁵ Green, *The Kat River Settlement in 1851*, pp. 25-31.

Government. Nonetheless, they stressed that they did not join the most recent conflict in order to fight the Government, but that their fight was with their “fellow subjects”.⁷⁶⁶

In December 1856, a deputation from Uithaolder entered the Colony seeking to negotiate their surrender. The primary motive of the deputation was to petition the Government to grant them a tract of land where they could “settle down to agricultural pursuits.” The Government had offered a pardon for their political offences, for which they thanked the Governor as “the representative of their most gracious, sovereign Queen.” Uithaolder’s party had not as yet taken up the offer. It seems that they did not want to return to the Colony without the guarantee of a grant of land. Though they “appreciated fully their restoration to all the privileges of British subjects”, the deputation conveyed their “repugnance to monthly service or daily labour” for the settlers. They noted that they “had been respectable men before the rebellion”, but that without land, there was no other way for them to make a living than by entering the service of the colonists.⁷⁶⁷

These sentiments serve to tie up several themes of interest relating to the Kat River Rebellion and loyalism. Firstly, loyalism remained relevant. It is apparent that for some of those who joined the Rebellion, the perceived threat to the value and prolonged relevance of loyalism triggered by the move towards representative government was a significant motivating factor. At the same time, loyalism was used by prominent residents of the Settlement to try to convince the rebels of the errors of their actions. It appears that this strategy resonated with at least some of them. Secondly, a number of the rebels had recently been in the employ of Eastern Cape farmers. The treatment they had received spurred them on to join the Rebellion, but if their comments to missionary-led delegations are to be believed, their participation stemmed less from a nationalist cause than from a genuine concern over the future of loyalism. Several of Uithaolder’s followers also took umbrage with the treatment they had received from farmers, even though they identified as respectable British subjects. And thirdly, as rumours of the dire consequences

⁷⁶⁶ CA, CCP 1/2/1/2, Communication to Governor Grey and Parliament from Rebel Hottentots, 27 Mar. 1855.

⁷⁶⁷ See both CA, LG 592, Warner to R. Southey, Graham’s Town, 16 Dec. 1856; & CA, LG 592, Warner to R. Southey, 27 Dec. 1856.

representative government would have for the Cape's 'Hottentots' began to circulate and gain momentum, so anxieties over access to land were heightened. These concerns over land are explored further in the following section.

IV. Remnant 'Voices': 'Hottentot' Lives and Livelihoods in the 1850s

The Kat River Rebellion and Eighth Frontier War were to have serious consequences for those 'Hottentots' who had hoped that the Kat River Settlement would remain a quasi-independent enclave in which they could subsist undisturbed, but under the auspices of the imperial state. Still, former residents who lost their erfs as a result of the Rebellion contested their claims in subsequent years. 'Hottentot' individuals continued to appeal to the Government to address their grievances and in doing so left traces of their ongoing struggles to support themselves and their families, while also attempting to limit the extent to which the colonial state could control them and define their role in Cape society.

During the months of February, March and May of 1858, a Commission of Inquiry sat at Fort Beaufort and Balfour, to hear claims for compensation from Kat River 'Hottentots' who had lost their erven as a consequence of the Eighth Frontier War and simultaneous Kat River Rebellion.⁷⁶⁸ Although the conflict had petered out some five years before, earlier efforts to return land to erfholders in the immediate aftermath of the war and Rebellion had proven difficult owing to the widespread displacement of the Kat River settlers at the time. In addition, the atmosphere of suspicion which pervaded frontier relations in the months following the defeat of the Rebellion meant that many legitimate claimants were reluctant to appear before the frontier authorities to claim their land. There was much confusion surrounding who had rebelled and who had been loyal. Even within families, some members had joined the rebels, while others had not. In spite of this, and certainly in an effort to restore a sense of order to the turbulent frontier, the Kat River Commission of Inquiry of 1853 moved quickly to determine who had been loyal to the Crown. A list of 236 erfholders was compiled. Those individuals who appeared on the list were

⁷⁶⁸ CA, 1/UIT 14/37, General Report of a Commission Appointed by His Excellency the Governor to Inquire into Claims for Compensation for the Loss of Erven in the Kat River Settlement, 1859.

eligible to be granted 'tickets of permission' to re-occupy their allotments in the various villages of the Kat River Settlement.

However, there were glaring errors made in the compilation of the list, with some prominent rebels having been included. Indeed, Willem Uithaolder – the rebel leader – appeared as entry number 139.⁷⁶⁹ Those allowed to re-occupy their plots were required to personally report to the office of the Resident Magistrate at Eland's Post. This had to be done within six weeks of the issuing of the notice, which took place on 10 November 1853, or their erf would be declared vacant and thus forfeited and assigned to another party. Due to the dispersed nature of the Kat River population at the time, the widespread confusion surrounding Government intentions with regards to the Kat River Settlement, and the general state of apprehension which existed on the frontier among the 'Hottentot', with questions over their collective loyalty looming large in the colonial press, only 112 'tickets of permission' were eventually issued.

Of the 509 original allottees of erven in the Kat River Settlement, it had been determined by the Commission of 1853 that 159 had rebelled and 83 had abandoned their erven, in some cases as far back as 1835, during the turbulence of the Sixth Frontier War. Twenty-six erfholders were considered doubtful, but given that sufficient evidence could not be collected to convict them of Rebellion, and given that all 26 joined the Cape Government levies during the latter stages of the conflict, the Commission of 1853 recommended that title deeds should be issued to any of them who had never received such deeds of ownership in the past. The same was advised for five 'Hottentot' men who had surrendered to Major General Somerset when he offered a free pardon in the early months of the Rebellion. The issuing of title deeds proved to be a matter of dispute during the subsequent Commission of Inquiry in 1858, when it was confirmed that only 91 title deeds had ever been allocated in the Kat River Settlement. Nonetheless, the Commission of 1853 wished to see "an exclusively national settlement of Hottentot people on the immediate border of the Colony" broken up; and while it recommended that title deeds be issued to all those Kat River 'Hottentots' considered loyal, it also advised the Government to distribute 242 erven (the combined number of those forfeited

⁷⁶⁹ CA, 1/UIT 14/37, Report, Government Notice No. 36, Graham's Town, 30 Jul. 1853, p. 39.

for Rebellion and abandonment) to “white men”, or anyone deemed “more trustworthy, loyal and patriotic.”⁷⁷⁰

Still, there remained the 124 Kat River erfholders who had failed to appear before the Resident Magistrate at Eland’s Post by the deadline of 22 December 1853, thus forfeiting their right to re-occupy their land. Given that these individuals had been loyal during the Rebellion, the Government was desirous to offer a last opportunity for redress. The process towards such redress was, however, far from straightforward. The Kat River Valley was regarded as one of the most fertile valleys in the whole Colony. William Hope, the Secretary to the Governor at the time, described the Valley as “possibly the most favoured by nature of any of equal extent within the colony.”⁷⁷¹ As a result, there was much delight expressed in the likes of the *Graham’s Town Journal* that finally, in the aftermath of the Rebellion, the land could be occupied by European stock-farmers. This did occur to an extent, with the prices paid for plots dramatically increasing during the late 1850s. In February 1859, for example, it was reported that “erven in the Kat River are exchanging hands readily”, particularly among the Dutch population. One erf was said to have been sold for £2000, which had only recently been purchased for £300. The average sale price for erven in the settlement had risen to between £500 and £750 by the beginning of 1859. Just a year before, the average sale price had been between £25 and £30.⁷⁷²

However, when it came to the re-settlement of the territory, the Government’s position on the matter was more nuanced than that of the Eastern Cape farmers. Indeed, while the Cape authorities wished to disband an exclusively ‘Hottentot’ settlement, the official position was to allow loyal ‘Hottentots’ to continue living on their plots or to provide compensation for the loss of land in the event that re-occupation was not possible. The “just and benevolent intentions” of the Cape Government towards the ‘Hottentots’, peddled as the philanthropic impetus behind the founding of the settlement back in 1829, were still being evoked to an extent by

⁷⁷⁰ CA, 1/UIT 14/37, Report, Government Notice No. 36, *Graham’s Town*, 30 Jul. 1853, p. 38.

⁷⁷¹ CA, 1/UIT 14/37, Report, Government Notice No. 36, *Graham’s Town*, 30 Jul. 1853, p. 38.

⁷⁷² Note in CA, 1/UIT 14/37, 8 February 1859, Files Relating to the Kat River Commission.

the colonial authorities in the late 1850s.⁷⁷³ In a somewhat peculiar move, during a period already far removed from the evangelical-humanitarian influences of the 1830s and 1840s, it was decided in June 1855 that compensation for the loss of land would be granted to those who had failed to make application for re-occupation before 22 December 1853.

This move was, however, very much set in motion by the efforts of two 'Hottentot' men: Andries Hatha and Henry Heyn. Described as "two coloured, but respectable and intelligent persons", Hatha and Heyn were old residents of the Kat River Settlement. The two had been tasked by those 'Hottentots' who had moved back to the Kat River following the end of hostilities in 1853, but who had missed the December deadline, to travel to Cape Town as a deputation on their behalf and make a request of Government that their ownership of land be formally recognised. In response, although only after a further three years of internal debate, the Cape Government decided to establish the 1858 Commission of Inquiry. Contrary to the hopes of Kat River 'Hottentots' who were seeking to have their old plots officially allocated to them by title deed, the Government had taken a decision to investigate cases relating to compensation only.

The disruption caused by the Eighth Frontier War and the Kat River Rebellion, along with the minimal number of title deeds ever officially issued by the Government's land surveyors, resulted in a complicated affair of proving 'Hottentot' claims to ownership and loyalty. And yet, this very state of affairs resulted in the collection of richly detailed testimonies of those claiming compensation, revealing vignettes relating to their whereabouts in the period between 1853 and 1858, their family relations, livelihoods, and most importantly for the inquiry, their personal history of settlement in the Kat River. What is revealed more than anything else, is the general lack of control the Government had over the Settlement, throughout its thirty-year history.

Firstly, the Government's official numbers with regards to who had been loyal and who had joined the Rebellion were based upon the numbers of individuals allocated erfs in the Settlement (however, with very few title deeds ever having been issued, 'ownership' was difficult to establish). Yet, some 83 erfs had been abandoned

⁷⁷³ CA, 1/UIT 14/37, Report, Government Notice No. 36, Graham's Town, 30 Jul. 1853, p. 38.

before the Rebellion, some for upwards of ten to fifteen years. Such vacated erfs were at times occupied by other 'Hottentots', as well as Gonaquas and Mfengu. At other times, the vacated plots were left to the care of acquaintances or relatives by the original proprietors. As such, extended families came to occupy a number of different erfs within certain locations and even in several locations within the larger Settlement. 'Hottentot' settlers also found it necessary from time to time to find work and enter into contracts in towns such as Graham's Town, Port Elizabeth and Graaff-Reinet.

Secondly, as mentioned, the lists of the loyal and disloyal were inaccurate, being indicative of the puzzled state of affairs within the Settlement when it came to population numbers, which the Cape Government was unable to properly monitor and control. Certainly, the figure of 236 loyal Kat River settlers is questionable. Nonetheless, given that 112 of those listed acquired 'tickets of permission' to re-occupy in 1853, the Commission anticipated claims for compensation from the outstanding 124 loyal erfholders. However, during the three months of its investigations, the Commission heard claims from 134 individuals and of those, 72 (more than half) had forfeited their erfs for participating in the Rebellion.⁷⁷⁴ These claims were systematically dismissed, along with 29 others (for failing to adequately prove their claims). In total, only 23 claims were remunerated, with nine others being recommended for compensation. Having decided on an average value of £14 per acre being a fair reflection of what their erfs were worth, the Commission advised the Colonial Treasury to pay out over £3700 in compensation.⁷⁷⁵ This figure was not exact, as the erfs in the Lower Blinkwater had never been surveyed and measured and as such, their extents were not known.

Accompanying the official publication of the report of the Kat River Commission is an unprinted copy of the testimonies of all 134 claimants.⁷⁷⁶ Each claim, whether successful or not, provides a glimpse into the lives of 'Hottentots' in

⁷⁷⁴ CA, 1/UIT 14/37, Report, Kat River Commission of Inquiry, Analysis of Claims and Reports, pp. 13-33.

⁷⁷⁵ CA, 1/UIT 14/37, Report, Abstract of the Return annexed to the Report of the Kat River Commission of Inquiry, showing at one view the general results of the recommendations contained in it, p. 69.

⁷⁷⁶ CA, 1/UIT 14/37, Index of Persons Claiming Compensation before the Kat River Commission, 1858.

the years after the Kat River Rebellion. Of course some are more intriguing than others. Like the claim of Hans Ruiters.⁷⁷⁷ Hans had been residing at Balfour, in the District of Stockenström, as the Kat River Settlement was then known, in the years since the defeat of the Rebellion. In the initial stages of the Rebellion, Hans had been designated a rebel by the colonial authorities. However, when Somerset announced a free pardon for any rebel willing to surrender, Hans took the opportunity. Upon surrendering, Hans informed Somerset that he had not rebelled, but had been taken hostage by the rebels during the attack on Fort Armstrong, following which he was held against his will in the Amatolas for six weeks. In spite of the general air of suspicion surrounding doubtful loyalties, Somerset appears to have believed Hans' account, as he went on to serve in the Government levies for two years and three months, fighting against the rebels and the amaXhosa in the Eighth Frontier War.

Hans' claim was strengthened by his association with Henry Heyn, who along with Andries Hatha, was an influential individual among the Kat River 'Hottentots', and to an extent responsible for encouraging the Government to initiate the Commission of Inquiry. Hans Ruiters had served under Henry (also Hendrik) Heyn in the levies. Klaas Basson, the field cornet of Balfour, also testified on Hans' behalf, corroborating much of what he had declared. Basson confirmed that Hans had fled with most of the people of Balfour to Fort Armstrong in January 1851 to seek protection from the combined hostilities of the amaXhosa and Kat River rebels. Basson had seen Hans on 22 February, when the Fort was attacked, but then did not see him again until after Somerset's offer of pardon. Although Hans' account of the condition of his property prior to the Rebellion did not meet with the regulations set for the Settlement – these regulations had been drawn up by Sir Andries Stockenström at the time the Settlement was founded in 1829 and they laid down strict rules concerning what the allottees were expected to do with their erfs – his claim for an erf of two morgen and 32 roods in size was nonetheless approved and compensation was recommended.

⁷⁷⁷ CA, 1/UIT 14/37, Index of Persons Claiming Compensation before the Kat River Commission, 1858, Claimant No. 10.

In a number of cases, children claimed compensation for erfs owned by their deceased parents. One such case in point was the claim of Lea Bruintjies.⁷⁷⁸ Lea and her husband, Leonard Bruintjies, were living at Cradock at the time of the Commission, but she travelled to Balfour to make her claim on 1 May 1858. Lea testified that her and her husband used to reside on an erf (some eight morgens and 353 roods in size) at Philipton with her father, William Vincent, who was the original allottee. Lea and Leonard would often go to Graham's Town to find work so that they could provide for themselves. Shortly before the Eighth Frontier War broke out in 1850, William Vincent had left his erf in the care of his brother, Isaac Vincent, and went to stay with Lea in Graham's Town owing to poor health. With the war then commencing, William, his daughter and son-in-law were unable to return to the erf, and William died in Graham's Town sometime after 1853. It seems that Isaac Vincent, Lea's uncle, had abandoned the erf during the war and Rebellion and it was subsequently declared vacant by the Commission of 1853, with no one coming forward to the Resident Magistrate at Eland's Post to claim it. The Commission recommended compensation for this case, even though Lea wished to have her father's erf allotted to her. Indeed, Lea was one of many claimants who expressed a desire to have land restored to them rather than compensation.

Claimant number 107, Mauritz Pretorius, recounted a story which is most intriguing given his whereabouts at the time of the Commission in 1858. Mauritz had travelled to Balfour to give testimony from his new home at Philippolis, recorded as being "beyond the boundary of the Colony" in the official notes of the Commission.⁷⁷⁹ It appears that Mauritz had been allotted an erf in Balfour by the Deputy-Surveyor General, W.F. Hertzog, in the early 1830s, when some of the first plots were allocated. However, during the Sixth Frontier War of 1835 his erf was appropriated for the site of a new military base, Fort Armstrong. Mauritz, along with his father, Andries Pretorius, and another erfholder, Koert Platjes, lost his erf as a result. Sir Andries Stockenström offered Mauritz a new plot at Blinkwater, but finding it less than desirable, he only stayed there for eleven months, after which he

⁷⁷⁸ CA, 1/UIT 14/37, Index of Persons Claiming Compensation before the Kat River Commission, 1858, Claimant No. 78.

⁷⁷⁹ CA, 1/UIT 14/37, Index of Persons Claiming Compensation before the Kat River Commission, 1858, Claimant No. 107.

decided to leave the Colony and travel to the Gariep River. Over the course of the next three years Mauritz moved between the Kat River Settlement and the Gariep River. He would trade wood for several months at a time in the Trans-Gariep before returning to the Settlement, where he resided with his brother who had an erf at Readsdale. Finding his hopes of having another erf allotted to him disappointed, Mauritz moved to Philippolis for good in 1838, returning to the Colony for the first time only after the Eighth Frontier War and Kat River Rebellion.

Discovering that Mauritz had never received adequate compensation for his prized erf which had been appropriated for the construction of Fort Armstrong back in 1835, the Commission recommended that compensation should finally be paid. It is worth noting that Mauritz Pretorius was one of 19 claimants who were residing beyond the boundary of the Colony in 1858, and one of eight who were living permanently at Philippolis in Griqua territory. Indeed, Mauritz was one of four claimants with the surname 'Pretorius', all residing at Philippolis, and assumedly, all were members of the same family.⁷⁸⁰

As these cases, and many more like them, illustrate, legitimate access to land became a serious concern for 'Hottentots' in the 1850s. The transition to representative government and the looming threat of renewed vagrancy legislation were certainly responsible for this. And yet, even for those who were fortunate enough to receive Government grants, they were seldom able to support themselves and their families without entering into service either on farms or in the towns and villages. The trend of the 1830s and 1840s continued for the time being.

The appeals for land also reveal an important continuity in 'Hottentot' identity during the early to mid-nineteenth century, even as extensive assimilation as imperial subjects had occurred. While 'Hottentot' civic identity had become attached to British loyalism, 'Hottentot' ethnic identity continued to reflect an ancient, historic tie to the land. A 'Hottentot' ethnic consciousness was apparent at the time of the Kat River Rebellion. So too, 'Hottentot' nationalism during the 1830s and after, was inspired by Khoesan claims to being the original occupiers of the Cape. As 'Hottentot' civic identity with its concomitant British loyalism was gradually eroded by being subsumed into the category 'Coloured', so 'Hottentot' ethnic identity with

⁷⁸⁰ See also, CA, CO 4503, Kat River Commission and papers relative to the same, 1857-59.

its attachment to the land came to the fore once again.⁷⁸¹ This was most apparent in 'Hottentot' calls for land at a time when 'Hottentot' subjecthood was being diluted in the years following the advent of representative government.

⁷⁸¹ At a public meeting held at Philipton in December 1866, there was no mention made of the Queen, though the assistance of the LMS was still acknowledged. SOAS, CWM, South Africa, Journals, W. Thompson, 1866-67.

Conclusion

A Question of Loyalism?

Loyalism as a theme of historical inquiry is still in its infancy in South Africa. Nonetheless, there is a growing canon with a few excellent, recent additions.⁷⁸² The predominance of histories of African nationalism and decolonisation during the late twentieth century is arguably responsible for the slow start loyalism has had to date. Contemporary observers might even suggest that searching for loyalism in Africa's colonial past is politically incorrect. In South Africa, the venture certainly does not complement the current post-colonial, post-apartheid intellectual milieu with its emphasis on future African prospects and the lauding of past revolutionary heroes and moments. Societies tend to prefer 'histories' which vindicate the present. As South Africa grapples with the issue of expunging the social, political and economic legacies of its colonial past, the notion that those who lived in the past, and who were colonised, did not consistently resist the imperial presence is perhaps unsettling.

Of course historians think about what mattered to people in the past looking back. The motive may be to find past examples of present circumstances. Or it may be that current motifs require historical validation. Whatever the object, the primary challenge for the historian is to avoid projecting personal biases and present 'truths' onto past contexts. That being said, it is no simple feat to try to uncover what mattered to those who were co-opted by their context looking forward. Even so, it is still worth the attempt.

Postmodern influences have alerted scholars to the realisation that while hegemony shapes consciousness, it does so in diverse ways and to varying degrees. Those working in the field of colonial studies have, over the last few decades, embraced the postmodern impetus and have sought to understand how colonial

⁷⁸² Two contributions which stand out are, Bickford-Smith, 'African Nationalist or British Loyalist?: The Complicated Case of Tiyo Soga'; & Sapire, 'African Loyalism and Its Discontents'. Another older contribution which appears to have been a tentative foray into the topic, is R. Ross, 'The Battle for Britain in the Cape Colony, 1830-1860: Three Vignettes', paper presented at "British Empire and the Creation of British Identities in the 19th and 20th Centuries" conference, University of Cape Town, 2002, unpublished.

power was experienced by those colonised.⁷⁸³ Instances of resistance and rebellion were of course common and the 'discovery' of such responses draws our attention to the injustices of colonialism and the everyday struggles of those who had to endure it. Even so, not all acts of resistance were grand. Resistance took on multiple forms, depending upon the particular historical circumstances and personalities involved. While incidents of murder, arson and armed resistance tended to produce records, smaller, less conspicuous acts of defiance often do not leave any trace. Only occasionally is the historian fortunate enough to chance upon a complaint about a servant's demeanour, an insolent tone of voice, a glaring look, or insubordinate body language. Though not revolutionary, these seemingly insignificant moments of impudence served as markers of the potential for more serious acts of resistance for European masters and mistresses.

The social complexity of the Cape Colony during the early to mid-nineteenth century generated diverse indigenous responses to colonialism. In order to properly gauge the dynamism of these indigenous reactions it is important to make a distinction between the settler-colonial and the imperial. Indeed, the Cape's colonising culture was not uniform. In economic terms, the white-dominated class structure was not radically altered following the permanent occupation of the Cape by the British. The established white settlers became economic allies in a British bid to make the Colony more self-sustaining. However, the British imperial presence also brought with it other economic imperatives. While freer trade policies were welcomed by the landed elite and pastoral farmers alike, free-labour thinking drove a wedge between them and the British administration. Evangelical-humanitarianism would further complicate matters. Not only did the British usher in the abolition of the slave trade at the Cape, but masters were also expected to treat their Khoesan servants and slaves more humanely.

Just as elsewhere in the world at the time, settler-colonial expansion at the Cape involved the violent dispossession of the region's indigenous inhabitants. Extensive loss of life and land had taken place during the *VOC* era. Frontier violence continued under British rule and actually intensified in the Eastern Cape. The British

⁷⁸³ For a concise, but insightful discussion of this trend and its impact on Cape histories, see V. Bickford-Smith, 'Revisiting Anglicisation in the Nineteenth Century Cape Colony', *Journal of Imperial and Commonwealth History*, 31 (2), 2003, pp. 82-95.

administration was also responsible for legally effecting the complete incorporation of the Khoesan into the Cape economy as a landless underclass with the passage of the Caledon Code in 1809. As such, in social terms, there was little to distinguish the British period of colonial rule from the *VOC* period which had preceded it. But for the Cape Khoesan who had been socially and legally transformed into 'Hottentots', the seemingly minor differences amid a wide range of continuities between the *VOC* past the British imperial present were enough to bring about notable changes in the forms of resistance they pursued.

The contradictory interests that regularly existed between settler-colonialism and British imperialism were not lost on Khoesan who had been coerced as 'Hottentots' into Cape colonial society. To varying degrees and in multiple ways, Khoesan servants found it possible to challenge the harsh realities of their context by using the inconsistencies between these two colonising cultures to their advantage. While some fled the Colony, opting to live beyond its official boundaries, and others eked out a precarious and often dangerous existence on the margins of colonial settlement, opportunities for resisting pressures on their labour within the legal parameters of the colonial state became accessible to a greater extent during the British period than before.

That being said, cases of complaints by Khoesan servants against their masters did appear before judicial authorities during the *VOC* era. Even so, the Caledon Code established the first comprehensive set of regulations pertaining to relations between masters and servants. During the *VOC* period, it was not always clear to the boards of *landdrost* and *heemraaden* what legal rights Khoesan servants were entitled to. In contrast, the Caledon Code provided a clearer framework of legal recourse for servants. More importantly, the Code created the link between 'Hottentot' status and British subjecthood.

This thesis has been set within a period of South African history that boasts a rich historiography. Many of the personalities and events recounted in the previous pages are well known, certainly to Cape historians. Nonetheless, the analysis presented here constitutes the first broad investigation into the influence and workings of loyalism among the Cape Khoesan. As the period under consideration covers the transition from *VOC* rule at the Cape to British imperial control of the

territory, this thesis represents the earliest examination of loyalism among an indigenous group in South African historiography.

Central to the argument that has been presented is the hypothesis that British loyalism became a defining feature of 'Hottentot' identity during the early to mid-nineteenth century. Loyalism refers to ideas, feelings, expressions and acts of loyalty, in this case, to the imperial power embodied in the person of the monarch.⁷⁸⁴ Though abstract, the British Crown became a potent symbol of the imperial state and the centrepiece of the loyal imagination in the Cape colonial context.

While the label 'Hottentot' was initially ascribed to the Cape's herders, or Khoekhoe, by the early nineteenth century the category had also come to include San who had been forcefully incorporated into colonial society. As such, 'Hottentot' identity was not exclusively ethnic in origin. The extensive intermingling that occurred on the eastern frontier between Khoekhoe and amaXhosa added to the ethnic diversity of those labelled 'Hottentots'. The offspring of slaves and Khoesan, as well as whites and Khoesan, also fell under the scope of the tag at times. The introduction of the Caledon Code also meant that the term applied as a legal category from 1809 onward. In light of all this, some scholars have emphasised how 'Hottentots' fashioned an inclusive ethnic consciousness during the course of the early nineteenth century.⁷⁸⁵ It is argued that this consciousness became the basis for expressions of 'Hottentot' nationalism at certain points, such as during the vagrancy bill agitation in 1834 and the Kat River Rebellion in 1851.

In contrast, this thesis has highlighted loyalism as a significant motivating factor in these high-profile moments of resistance. The discussion has focused on how 'Hottentotness' came to imbibe elements of 'Britishness' that were accessible to 'native' subjects. Essentially, assimilation as British subjects became a powerful tool of resistance for those who bore the label 'Hottentot'. In keeping with conclusions drawn in studies on the appeal of Christianity among the Cape Khoesan during the same period, the instrumental value of loyalism is fairly easy to establish. The extent to which Christianity was adopted as a meaning system varied from individual to individual. The process by which Christian symbolism and norms were

⁷⁸⁴ D. Morrah, *The Royal Family in Africa* (London: Hutchinson & Co., 1947), p. 12.

⁷⁸⁵ See Ross, 'The Kat River Rebellion and Khoikhoi Nationalism: The Fate of an Ethnic Identification'; & Elbourne, *Blood Ground*, p. 359.

incorporated into Khoesan world-views was far from uniform. In terms of the instrumental allure of Christianity, it held out the prospect of social equality in a context in which religious identity mattered. Missions also provided access to a wide range of Christian markers of respectability, including western-style clothes, literacy and baptism for example.⁷⁸⁶ However, the more corporeal attractions of identifying as Christian in the Cape colonial setting ought not to detract from the personal, emotive connection an individual may have experienced, or imagined to have experienced, with a faith-based identity. So too, British loyalism was not only a tool of political resistance, but it also became a foundational element of 'Hottentot' civic identity during the first half of the nineteenth century.

In this sense, the instrumental and the emotive intercepted in intriguing ways. Christian 'Hottentots' were not passive recipients of the missionary package. Similarly 'Hottentot' subjects did not adopt a subject-based identity unreflectively. Colonial subjects also made themselves. Loyalist sentiments were not merely absorbed, expressed and acted upon because of the material or tangible benefits that could be accrued. Indeed, there were very few material advantages to be gained by 'Hottentots' who embraced their subjecthood. Rather, subjecthood represented an ideal. Loyalism as a collective identity, as opposed to being just a political act, reflected 'Hottentot' aspirations looking forward. It was inspired by the prospects of social equality and opportunity in a settler-colonial context. The access to transcendent moments of freedom and equality that was provided by British imperial sovereignty reinforced the perceived value of loyalism for a dispossessed, multi-ethnic assortment of people. For this reason, 'Hottentot' civic identity has been emphasised in the preceding discussion. While some personal expressions of loyalism may have amounted to strategic, 'inauthentic' mimicry of 'Britishness', it is apparent from the previous chapters that loyalism also functioned as a collective civic identity that many who identified as 'Hottentots' aspired to.

This thesis has deliberately dealt with Christianity as a theme of Cape colonialism in a limited and peripheral way. Though a crucial aspect of 'Hottentot' assimilation into colonial society during the same period, Christianity has received a lot more attention from researchers working on the Cape than loyalism and so

⁷⁸⁶ See Elbourne, 'A Question of Identity'.

does not constitute a focus of this analysis.⁷⁸⁷ That being said, loyalism and Christianity could be thought of as two sides of the same assimilationist coin. It has been convincingly argued elsewhere that Christianity became “a means for mobilising power” in the Cape colonial setting.⁷⁸⁸ Loyalism also served to disrupt master-servant power relations as ‘Hottentot’ subjects actively sought imperial intervention in domestic disputes. Like Christianity, loyalism also made it possible for ‘Hottentots’ to “access an imperial world beyond the local.”⁷⁸⁹ It is worth noting that just as it was impossible to measure the sincerity of an individual’s conversion to Christianity, so too it was not possible to gauge the substance of loyalist performance.

The connection between loyalism and Christianity was not completely even, however. Subjecthood was a legal fact for all Khoesan, whereas Christianity was only adopted by some. All who were labelled, or identified as, ‘Hottentots’ were British subjects, while not all ‘Hottentots’ considered themselves to be Christians, though a significant number clearly did. Therefore, subjecthood functioned as a social leveller to a far greater extent than Christianity did. Even ‘Hottentots’ not associated with missions could deploy subjecthood as a means of resistance.

As illustrated in Chapter One, in the years following the passage of the Caledon Code, a series of events, including the introduction of circuit courts, the Black Circuit and the Slagter’s Nek Rebellion, all demonstrated the interventionist stance of the imperial state when it came to local matters. The local and the imperial intersected in a very public way at the time. Established modes of power and interaction between masters and servants were challenged by British administrative and judicial personnel representing imperial sovereignty at the Cape. Though distant and abstract, imperial power had proven capable of at least unsettling the power of the European farmers. The intention on the part of British colonial authorities was, of course, never to unseat settler power. Nonetheless, the reach of the imperial state,

⁷⁸⁷ The work of Elizabeth Elbourne stands out in this regard. The links between Christianity and respectability have also been explored in some detail. See for example, R. Ross, ‘Missions, Respectability and Civil Rights: The Cape Colony, 1828-1854’, *Journal of Southern African Studies*, 25 (3), 1999, pp. 333-345.

⁷⁸⁸ Elbourne, *Blood Ground*, p. 378.

⁷⁸⁹ Elbourne, *Blood Ground*, p. 379.

even in a remote frontier district such as Graaff-Reinet, was made apparent to settlers and servants alike.

In addition, the first chapter explored how Khoesan servants used the legal rights they were entitled to as 'Hottentots' to challenge the authority of their masters in accordance with the provisions of the Caledon Code. It is difficult to determine exactly how many servants laid complaints against their masters in the aftermath of the new labour regulations. Even so, it is still apparent that some 'Hottentots' were eager to pursue legal redress for grievances which previously would not have come under the purview of colonial oversight. By instituting legal obligations for masters towards their servants, taken-for-granted means of exploitation, such as withholding wages in lieu of providing shelter or food, became criminal.

The reach of the law depended on the agency and legal savvy of the 'Hottentot' plaintiffs. The cases recounted in the chapter show how some servants were sceptical about the influence the local *landdrost* and *heemraaden* would have on the outcome of their case, opting to appear before the *drostdy* in a neighbouring district instead. While some were successful in getting their masters to commit to the conditions agreed to in their contracts, others overestimated the legal recourse they thought they were due. Either way, as legal actors, they resisted and challenged labour abuse within the confines of the colonial state, as opposed to outside it. Other extra-legal forms of resistance no doubt continued, but for those who took the legal route and met with success, the court's judgement was handed down under the auspices of the imperial state and in the name of the monarch.

As such, Chapter One makes the case that the Caledon Code, though largely coercive, initiated a gradual process of legally-inspired assimilation as British subjects. It follows that colonial law acted as a conduit of loyalism. This is certainly apparent with the subsequent passage of Ordinance 50 in 1828, but the Caledon Code was an important precursor. Like Ordinance 50, the Caledon Code's provisions did not always translate into tangible benefits or rewards for 'Hottentots'. The Code did, however, facilitate the emergence of imagined value as subjects.

Chapter Two dealt with how 'Hottentot' subjecthood was constructed in light of settler advances along the northern frontier, with a particular focus on the incorporation of San children as forced labourers. It is apparent that San children

were sought after as much-needed servants by stock farmers on the frontier. Again, accurate figures are difficult to determine, but a conservative estimate would put the number of San children forcibly integrated into settler-colonial society at a few thousand during the late eighteenth and early nineteenth centuries. The northern frontier zone moved steadily into the interior during the two decades following the Second British Occupation in spite of bitter confrontations between the *trekboers* and San over access to land and resources.

Many thousands of San were exterminated by the commandos in the process. In keeping with a commando custom that had become established during the eighteenth century, San children who survived an attack were carried off to the Colony and distributed among the farmers. As noted in the chapter, there is evidence to suggest that some of these children were sold, resulting in their enslavement. For the British authorities, their concern over the matter did not relate to child labour, which was common practice, but how the children were being procured. The prospect of slave-raiding occurring on the northern frontier in the years following the abolition of the slave trade was embarrassing for the British administration at the Cape.

As a result, a complicated system of child apprenticeship was introduced. Spearheaded by *Landdrost* Stockenström with the support of Governor Somerset, the convoluted regulations were ill-suited to a frontier context where it was impossible to ensure sufficient oversight. Nonetheless, the official line was that those San children who had been forcibly incorporated into the frontier economy should be legally recognised as 'Hottentots'. The chapter showed that during the 1820s, the fate of the San, and San children in particular, became a crucial point of contest in public debates over the political future of the Colony between humanitarian-sympathisers and pro-settler lobbyists. For evangelical-humanitarian campaigners, such as John Philip, the treatment meted out to the San was a blemish on settler-colonial history and identity.

The argument followed that the Cape's settlers could not be trusted in their dealings with indigenous neighbours. This was an imperial point of contention at the time, as settler-colonies across the British realm became more assertive in calling for greater, local autonomy. In contrast, humanitarians called for more intervention and a protectionist approach by the imperial state. Out of this was

borne the conviction that subjecthood was in the best interests of the San. Philip was of the opinion that the San were not a distinct ethnic group, set apart from the 'Hottentots', but rather 'Hottentots' driven to desperation due to frontier violence and dispossession. The chapter illustrated that evangelical-humanitarian discourse reinforced the idea that 'Hottentotness' was tied to subjecthood. The San were framed as extra-colonial *indigenes*, whereas 'Hottentots' were British subjects, entitled to protection and legal rights. For this reason, the humanitarian lobby actually supported the legal incorporation of the San into colonial society as 'Hottentots'.

Chapter Three followed on with a reappraisal of Ordinance 50, the most significant piece of legislation concerning the 'Hottentots' and, more importantly, 'Hottentot' subjecthood. As noted, previous work has tended to focus on the economic impact of the Ordinance. The consensus is that Ordinance 50 did little to alter the Cape's racially based, class hierarchy. That being said, the Ordinance was not intended to radically change the Cape's class structure. However, the combined influence of the humanitarian lobby and free market thinking did result in a piece of legislation that afforded 'Hottentots' a far greater degree of mobility by repealing the provisions of the Caledon Code which had required them to carry passes and have a fixed place of abode. This gave 'Hottentots' more bargaining power when it came to negotiating contracts and wages. 'Hottentot' servants also began to favour shorter term contracts.

Even so, the discussion focused on how Ordinance 50 served to affirm 'Hottentot' subjecthood and promoted the value of loyalism. The Ordinance was an idealistic labour law in a settler-colonial context, however, in terms of 'Hottentot' civic identity, its consequences were significant. It was argued in Chapter One that the Caledon Code, even with its overtly coercive elements, acted as an early conduit of loyalism. Chapter Three argued that by granting legal equality to the 'Hottentots', Ordinance 50 tied independence within the physical boundaries of the Cape Colony to subjecthood. Social independence flowed from subject status rather than from a rejection of imperial influence.

Parts of this thesis have been influenced by new readings of moments deemed indicative of 'Hottentot' nationalism. The vagrancy bill protests of 1834 were one such incident. As outlined in the chapter, several notable speakers at the public

meetings held at various missions expressed clear loyalist sentiments amidst references to the 'Hottentot' nation. This was also evident in the mission petitions. It was argued that rather than amounting to a nationalist moment, the 'Hottentot' nation was conceived of in terms of subjecthood. 'Hottentot' civic nationhood was on display. The records of the 'Hottentot' protests against the proposed vagrancy bill also demonstrate that though loyalism was partly an evangelical-humanitarian import, it was adopted by different mission 'Hottentots' to varying degrees.

Chapter Four carried on the theme of variability when it came to assimilation. It did so by considering how mobility, loyalty and intimacy intersected in households and missions in the aftermath of Ordinance 50 and the consequences this had for 'Hottentot' civic identity. One of most significant effects of Ordinance 50 was the increased mobility it afforded 'Hottentots'. Not being required to carry a pass stipulating proof of residence and employment meant that 'Hottentots' could move about the Colony (and indeed, beyond the Colony and back again) at will. Yet, the extent to which individual 'Hottentots' could take advantage of the mobility they were legally entitled to depended in large measure upon economic circumstances and opportunities. Mission-based 'Hottentots' had already been oscillating between interchanging periods of employment and subsistence for some time. Following Ordinance 50, this trend appears to have caught on with non-mission 'Hottentots' as well.

Increased mobility gave 'Hottentot' servants greater leverage when it came to entering contracts during the 1830s. It is not surprising that the farmers were constantly clamouring for vagrancy legislation during this period. Mobile servants also made it difficult for farmers to enforce their authority. The chapter argued that paternalism was dependent upon servant loyalty and trustworthiness. Servant loyalty was not easily established when there was such a rapid turnover of labourers. Loyalty to the Crown was also a competing factor. Though some colonial officials, such as Chief Justice Wylde, recognised the threat to public order posed by mobile servants whose loyalty to the master could not be guaranteed, the best that could be done was to hand down harsh sentences to those who betrayed their masters' trust. That being said, this chapter also explored servanthood as an aspect of 'Hottentot' identity. As with subjecthood, servanthood was a strategic survival strategy for some. Though the imagined, benign paternalism of the Crown competed

with the paternalism of masters, for some 'Hottentots' their servanthood trumped their subjecthood. The exigencies of their context influenced the extent to which they identified with either. It was also possible for 'Hottentots' to alternate between the two identities at different intervals.

In the fifth and final chapter, the state of 'Hottentot' loyalism by mid-century was evaluated. It was argued that loyalism was still very much a defining element of 'Hottentot' civic identity at the time. The Kat River Rebellion, which formed the focus of the chapter, has been seen as the zenith of 'Hottentot' nationalism. There certainly had been growing disillusionment with the expected benefits of subjecthood, especially among soldiers who had fought in the Cape Regiment in previous wars against the amaXhosa. Nationalist sentiments were also expressed by rebel leaders, such as Uithaalter.

Nonetheless, when considered in light of the preceding anti-convict protests and Squatters' Agitation, it is apparent that loyalism remained a potent marker of 'Hottentot' civic identity. 'Hottentots' aired their views on London's plan to send convicts to the Cape as British subjects, entitled to a voice at a time of public alarm. The Squatters' Agitation also brought to the fore the enduring legacy of 'Hottentot' mobility established by Ordinance 50, in spite of subsequent legislation intended to curb it. Both events also took place amid growing calls for the Cape to be granted its own representative assembly.

The chapter argued that the perceived threat this eventuality was thought to pose to the authority and oversight of the Crown sparked fears among some of those who participated in the Kat River Rebellion. The testimonies of several rebels reveal that they thought their subjecthood was about to come to an end. In a clear indication of how important subjecthood had become to even farm workers in the remote eastern districts of the Colony, English and Dutch settlers were said to have taunted their servants with this threat, aware that it would strike a chord. The argument presented in this chapter does not refute the role of nationalist sentiment as a motivating factor for some who lead and participated in the Rebellion. Rather it widens the scope of possibility and considers that rumours and speculation surrounding the future devaluing of loyalism were also key influences for some rebels. In addition, loyalism was deployed as a means to persuade those who had joined the Rebellion to desist. The so-called radical missionaries, Read Senior and

Read Junior, along with their intimate circle of associates, revealed themselves to be staunch loyalists in the process.

This thesis has forwarded a critical analysis of Khoesan assimilation in the Cape Colony between 1795 and 1858. In doing so, it has argued that 'Hottentot' status during the early to mid-nineteenth century, while moulded by a coercive colonial state, was a product of its bearers. The historical, pejorative connotations of the ethnic label are well known. What is less well known is that 'Hottentot' civic identity was actually aspired to by scores of Khoesan. This resulted from the invention of British loyalism as a foundational element of 'Hottentot' civic identity via colonial law, evangelical-humanitarianism and imperial commissions of inquiry. Importantly, though, loyalism was constructed by 'Hottentots' themselves as they negotiated their place in both settler-colony and empire, and as subjects of the Crown.

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