CHAPTER FOUR

South Africa: better ‘the Hottentot at the hustings’ than ‘the Hottentot in the wilds with his gun on his shoulder’

We set out, briefly, in chapter one the complex background up to the time that the Cape Colony came under permanent British rule. One of the legacies that the British governors inherited from their Dutch predecessors was the situation of endemic conflict on the ‘eastern frontier’ of the Cape, leading to a century of frontier wars. We noted there that the Xhosa were formidable enemies for the colonists: the governors had to bring in large numbers of regular British troops to defeat them, and most of the wars fought lasted for a number of years. The British ultimately won each war, through a combination of superior military technology and an ability to destroy the Xhosa food supplies. The end of most of the wars was followed by colonial annexation of slices of Xhosa territory – until, in January 1866, all the land west of the Great Kei River (then called ‘British Kaffraria’, subsequently known as the Ciskei) was incorporated into the colony. The Dutch, in their initial occupation of the Cape peninsula, had assumed their right to take it from the Khoisan by treating it as a form of terra nullius. The British took over the Cape from the Dutch by a combination of military conquest and formal cession by treaty; the colonial annexations of Xhosa land were similarly based on both military conquest and cession by treaties following the various frontier wars. In South Africa, as elsewhere in the settler colonies, the nineteenth century was characterised by the transfer of Indigenous land to Europeans. Although the process was complex and varied, Indigenous land was eventually transformed into property and made available for permanent European settlement, whether by military conquest, treaty or legal doctrine.

In the Cape, White farmers eagerly took over large areas of the Xhosa’s land, and the inhabitants of the Ciskei area became servants on the White-owned farms and in the towns of the eastern Cape. East of the Great Kei, in the area which came to be known as the Transkei, the Gcaleka Xhosa and the Thembu were left in nominal independence.

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This did not, however, last long: in the 1880s, their territories were annexed to the Cape Colony; and when Pondoland was annexed, in the 1890s, all of the lands of the Xhosa-speaking peoples had been swallowed up by the Cape Colony. However, though the White settlers had gained control of most of the Xhosa’s land, the Xhosa people did not disintegrate or disappear: they produced a flourishing African peasantry in parts of the eastern Cape; and, as we shall see in chapter seven, the Xhosa posed some challenge to the White rulers of the colony when they began to qualify for the vote and organise politically to make use of that vote.

By the 1830s, the British authorities who had taken over the Cape from the Dutch found themselves trying to govern a society that was a complex mixture of ethnic populations. These included, first, those who would become known as the ‘Cape Coloured’ population, comprising Khoisan who had survived disease and violence, living on mission stations, working as farm servants or in the colonial armed forces; there were slaves and freed slaves, working mainly as urban artisans or labourers in Cape Town; and there were the descendants of the sexual union of male Dutch colonists with female Khoisan and slaves. Second, there were the White settlers, comprising two distinct groups: Afrikaner farmers in the western and eastern Cape, and British settlers, especially those imported in 1820 to defend the Eastern Frontier. Third, there were the Xhosa, their numbers increasing as the colonial boundaries were extended by the progressive annexation of Xhosa land. Finally there were those other African groups, such as the Mfengu and fragmented groups of refugees from violence at the frontier and in the interior, whom the colonial authorities allowed to settle in the colony as farmers on what had been Xhosa land, to act as a buffer against the Xhosa.

In the first half of the nineteenth century, the British were concerned essentially – as the Dutch had been before them – with rule over the coastal areas in order to control the sea route around the Cape. In the interior of South Africa, beyond the Orange River, and further up the coast, were many small Bantu-speaking African polities – whose peoples were to consolidate, during the nineteenth century, into larger political nations such as the Zulu, the Sotho, the Tswana, the Ndebele, the Swazi and the Pedi – and also some small states run by such peoples as the Griqua (the descendants of Afrikaners and Africans, who had gained military and political power by adopting the Whites’ guns and horses). The prolonged serious internecine conflict among the peoples of the interior [a period in the 1820s and 1830s referred to as the mfecane or lifaqane/difaqane] ultimately resulted in the destruction of many smaller and weaker groupings and the consolidation of the smaller African polities into larger and stronger tribal units.2
These upheavals also made it possible for White settlers to penetrate significantly into the interior. From about 1836, substantial numbers of Afrikaners from the eastern Cape (subsequently to be called Voortrekkers), who were dissatisfied with the social and economic policies of the British colonial government, began to trek into the interior, seeking land and militarily challenging the dominant African rulers. The ultimate result of this ‘Great Trek’ was the establishment of Boer (Afrikaner) republics in the interior, and in Natal on the south-east coast. The Boer republic of Natalia was established in 1838, following the military defeat of the Zulu king, Dingane; but in 1842, it was militarily annexed by Britain, in the following year becoming the second British colony in South Africa: Natal.3

With its history of Dutch and British interventions, it can be seen that, by the mid-nineteenth-century, what is now known as South Africa comprised a patchwork of states, ruled by distinct national and ethnic groups.4 There were two British colonies, the Cape Colony and Natal, along the southern and south-eastern coast, controlling access to the sea; two inland Boer (Afrikaner) republics, the Orange Free State and the Transvaal;5 and numerous African polities, ruled by Indigenous peoples such as the Xhosa, the Zulu, the Sotho, the Tswana, the Pedi, the Swazi and the Griqua. By the time, in 1899, of the outbreak of the South African War, all of the independent African polities had come under European (essentially British) rule, and the war for control of South Africa, its people and its resources was one fought between, on the one side, the two Boer republics and, on the other, Britain and its two colonies. In the 1850s, however, Britain had no great interest in the interior of South Africa, and was content to recognise the independence of the two Boer republics in the Sand River and Bloemfontein Conventions of 1852 and 1854 (see Map 4.1).

Following the pattern set in the Canadian and Australasian colonies, and advocated in the Durham Report, the British Government granted representative government to both the Cape and Natal in the 1850s – to the Cape in 1853 and to Natal in 1856. In both cases, the grant raised the question – for the colonists and the Colonial Office in London – of what the policy should be in relation to the political rights of the substantial numbers of Indigenous inhabitants within each colony.

Among the European-rulled states of nineteenth-century South Africa, this was an issue only in the two British colonies. The two Boer republics – the Transvaal and the Orange Free State – granted the franchise to all adult White males, without qualification – but not to any non-White people; for the whole period of their existence, the two republics allowed no formal political rights to the large numbers of African people living within their borders. The 1839 Constitution of
the Boer Republic of Natalia had enshrined annual elections – but for adult White males only. The 1858 Transvaal Constitution stated specifically that ‘the people desire to permit no equality between coloured people and the white inhabitants of the country, either in church or state’. But in the two British colonies, the position was more complex, and, as we will see, the Cape and Natal gave rather different answers to this question. These developments of the mid-nineteenth century were to set the political terms on which, in 1910, the Union of South Africa was formed, with very significant consequences for the political rights of Indigenous South Africans for most of the twentieth century.

*The Cape Colony to the 1870s*

In the Cape Colony, the grant of representative government in 1853 came after intermittent agitation for powers of self-government by a group of colonists, beginning in the 1830s. In Britain, successive Whig governments, which had passed the Reform Act in 1832 and approved
the Durham Report in 1839, had not been opposed in principle to granting representative government to the settlers. They had not been prepared to do so, however, while the Cape remained a slave-owning society. The British Parliament had abolished slavery throughout the British Empire in 1833; this had taken effect in the Cape in December 1834 – but the slaves had to continue to serve their masters as ‘apprentices’ for another four years, which meant that legal slavery did not fully end in the Cape until December 1838.

The Whigs were returned to power in Britain in 1846, and in 1848 announced their intention of granting the Cape representative government. This set off a debate within the colony’s nominated Legislative Council and among the two settler communities and the Coloured people about the form that the new Constitution should take. The debate did not yet involve the African community of the Cape; though increasing numbers of Xhosa people were entering the colony to work, the colonial borders had not then expanded to take in most of the Xhosa territories. A crucial question in that debate was: with a heterogeneous population, comprising two settler groups – British and Afrikaners – and what could be construed loosely as two Indigenous populations – ‘Coloured’ people and Africans – which groups were to qualify for the vote?

The Whig Government in Britain started negotiating seriously to grant representative government to the Cape in 1848 – but the grant was delayed by the Cape’s anti-convict agitation of 1849 and the Eighth Frontier War of 1850–52. When representative government was finally granted, in 1853, the franchise for the Lower House was based on a property qualification – any adult male could qualify for the vote, provided that he occupied, for at least twelve months, property worth £25 a year or had an annual income of £50 a year (or £25 a year with board-and-lodging provided). This was (and at the time was seen as) a very low qualification, open to a wide range of potential voters – including numbers of Coloured men – and it remained at that low level of £25 for forty years, until it was raised by the Cape parliament in 1892.

The final version of the Constitution conferring representative government on the Cape came from its nominated Legislative Council (containing both official members of the colonial government and unofficial members from the settler community), drafted by Attorney-General William Porter. His original draft in 1851 set the qualification at the level of the £25 a year property occupier. Opposition to this qualification as too low, and therefore admitting too many Coloured voters, came from White conservatives in Cape Town and White settlers of the eastern Cape. In 1852, at the urging of the Cape’s Colonial Secretary John Montagu, the Legislative Council replaced it with a £50 property
occupation qualification, plus an alternative qualification of earning a wage of at least £50 a year. Montagu regarded the £25 franchise as too low because it would allow in a ‘body of ignorant coloured persons whose numbers would swamp the wealthy and educated portions of the community’. But the colonial secretary in London, the Duke of Newcastle, in 1853 restored the original £25 occupation qualification, while retaining also the wage alternative. He justified this as follows:

Her Majesty’s Government have come to this conclusion from a conviction that in conferring upon the colony the boon of a representative constitution it is exceedingly undesirable that the franchise should be so restricted as to leave those of the coloured classes who in point of intelligence are qualified for the exercise of political power, practically unrepresented... It is the earnest desire of Her Majesty’s Government that all her subjects at the Cape without distinction of class or colour should be united by one bond of loyalty and a common interest and we believe that the exercise of political rights enjoyed by all alike will prove one of the best methods of attaining this object.

There was nothing strange about the franchise being based on a property qualification. The vote in Britain at the time was similarly limited to adult males who satisfied a property qualification – heading a household worth at least £10 a year in the urban boroughs, or occupying freehold property worth at least £2 a year in the county seats. The Colonial Office insisted that colonies granted representative government should not base the vote on an overtly racial criterion – but it was not necessarily averse to the colonial authorities finding ways of manipulating the franchise qualification to exclude most non-Europeans. The Cape franchise stood out at the time as one of the most open and liberal in the British Empire.

The politics of minority rule in the Cape

The question of why the Cape should have put in place such a relatively open franchise has been the subject of some controversy. Older liberal historians tended to write about it as a manifestation of ‘Cape liberalism’, more recently, revisionist historians have stressed the ambiguities and internal contradictions of mid-nineteenth-century Cape liberalism, and have seen the franchise as a less significant and more fortuitous product of a number of issues and forces operating on the Cape at the time. Certainly, as few among the African population could possibly qualify – remembering, too, that Africans had yet to be incorporated within the colony in large numbers – and as those Coloureds who were eligible had evidently been converted to the new economic order, the putatively ‘non-racial’ franchise hardly threatened settler interests. And, as will be seen, later attempts to restrict the
franchise, based on settler fears about the increasing numbers of Africans who could qualify as voters put ‘Cape liberalism’ more stringently to the test. It could be argued, too, that this rhetorical commitment to equality operated strategically to protect settler rule, effectively maintaining the Cape’s reputation for inclusiveness while in fact excluding the mass of the population from the franchise.

**Understanding Cape liberalism pre-1853**

An important component of ‘Cape liberalism’ was the missionary–humanitarian influence, identified in the Cape during the first half of the nineteenth century primarily with the London Missionary Society (LMS) and Dr John Philip. Philip and the LMS were able to make skilful use of the growing power of the evangelical and humanitarian lobby in London. They played an important part in lobbying, in the Cape and in London, for the abolition of slavery in the British Empire, which was eventually achieved in 1833; and they also constituted a significant pressure group on behalf of the legal rights of Indigenous peoples, especially the Khoisan. They were instrumental in getting Acting-Governor Richard Bourke to pass Ordinance 50 of 1828 – ‘for improving the condition of the Hottentots and other free persons of colour at the Cape of Good Hope’ – which was ratified by the British Parliament in 1829, with the important rider that it could not be repealed or amended by the Cape government without the express sanction of the King-in-Council. For the Khoisan and the freed slaves, the Ordinance ended all previous pass laws and the statutory criminalisation of ‘vagrancy’; prohibited summary punishment without a formal trial; abolished all forms of compulsory labour; affirmed their right to buy or own land in the colony; and imposed controls on contracts of labour, intended to ensure that they were entered into genuinely freely.

Following the abolition of slavery, and the end of the apprenticeship system in 1838, about 38,000 freed slaves joined the Khoisan and the offspring–descendants of mixed unions to constitute what became known as the ‘Cape Coloured’ people. It is convenient, from that point on, to use the term ‘Coloured’ to refer collectively to them, and ‘African’ to refer to the Bantu-speaking peoples of Southern Africa. We should note that, at the same time as Bourke passed Ordinance 50, he also passed Ordinance 49 which allowed Bantu-speaking Africans, from the Eastern Frontier, to enter the colony to work, provided that they carried passes for the purpose. In other words, at the same time as the Coloureds were being freed from a system requiring the carrying of passes, that system was being imposed on Africans entering the colony, who were to be treated not as full citizens, nor even as subjects, but as
units of labour under the control of the authorities. And, though Ordinance 50 did lay down a charter of legal rights for the Coloured people, it did nothing to enable them to regain the land they had lost to the White settlers; Trapido has estimated that, by mid-century, a majority of the Coloureds in the Cape were landless. In this respect, Ordinance 50 can be seen as embodying much of the ideology of nineteenth-century British liberalism – inclining towards legal equality (with the protection of rights under the rule of law) and economic inequality (with an emphasis on the classical economic doctrines of free markets, free trade and laissez-faire).

These liberal economic virtues – along with the Protestant work ethic and the patterns of consumption developed by European manufacturers – were stressed in the LMS’s model mission station of the Kat River Settlement for ‘Hottentots’ (effectively Khoisan and ex-slaves), built in 1829 on eastern Cape frontier land from which the Xhosa had been expelled. By 1833, there were more than 2,000 Coloured settlers at Kat River. Dr John Philip manipulated much of the evidence presented to, and the final Report produced by, the Select Committee on Aborigines in the 1830s; and he ensured that the Report’s account of the Kat River Settlement presented the ideal picture of the achievements of which Christianised, educated and civilised Indigenous people were capable. The ‘Hottentots’ are described as having worked hard to cut canals and to grow ‘an abundance of pumpkins, Indian corn, peas, beans, &c.’; they had enthusiastically taken to churchgoing, and attending schools and temperance societies; they were now costing the government nothing and were paying taxes like the settlers; and they were even helping to make the frontier of the colony safe, having ‘repulsed the Caffres on every occasion on which they have been attacked’. Lieutenant-Governor Stockenstrom emphasised the extent of their assimilation of European property law and ideas of property with a somewhat telling compliment: ‘Instead of apathy or indifference about property, they become (now that they had property to contend for) as covetous and litigious about land and water as any other set of colonists.’

As was common throughout the settler colonies, missionaries and humanitarians in the Cape advocated a form of legal and political equality for Indigenous people, on these terms – that they had converted to Christianity, abandoned their own traditional culture and social structures, acquired a Western education, and adopted capitalist economic values to become small traders or subsistence farmers on individual plots of land. If they met these criteria, they should be allowed to qualify for the vote along with White settlers.

In 1834, LMS pressure, plus petitions signed by hundreds of
Coloureds at Kat River and on other LMS stations,\textsuperscript{21} succeeded in getting the Colonial Office to disallow a draft vagrancy law (drafted by the new nominated Legislative Council) which would have re-imposed pass laws on the Coloured people and sanctioned their arbitrary arrest.\textsuperscript{22} This marked a high point of the political effectiveness, within the colony, of the missionary lobby and of independent political action by the Coloured population. During the 1840s, the missionary lobby lost its force; by the early 1850s, the Kat River Settlement was being broken up, and there were no powerful groups to lobby on behalf of the Coloured people.\textsuperscript{23} In contrast to this colour-specific measure, the Legislative Council in 1841, passed the Masters and Servants Ordinance – which satisfied the insistence of Colonial Secretary Lord John Russell by making no reference to race. Because this colour-blind Ordinance repealed Ordinance 50, which had referred specifically to ‘Hottentots and other free persons of colour’, the liberal historian Macmillan hailed it as a milestone in achieving legal equality between Black and White.

The effect of repealing the Ordinance [50] was actually to place the coloured population of the Colony on a footing of complete legal equality with Europeans, and to give them at last the full protection of the ordinary law of the land. The Cape Colony ceased to know any legal distinction between ‘white’ and ‘coloured’.

In fact, the Masters and Servants Ordinance was used only against the Coloured working class; the formal legal equality was an empty liberal victory, of no practical benefit to the Coloured people. Keegan points to Macmillan’s belief in the importance of the language of the law as encapsulating ‘the whole mythology of the Cape liberal tradition’.\textsuperscript{24} And the Kat River Settlement – which for Philip and the humanitarian missionaries had embodied the model of Christianised, educated and \textit{civilised} Indigenous people showing themselves worthy of political equality – did not endure into the new era of representative government. The Coloureds of Kat River had been placed on former Xhosa land in order to defend the colonial frontier against the Xhosa; they fought effectively on the side of the settlers in the Sixth and Seventh Frontier Wars of 1835–36 and 1846–47, and endured considerable property losses at the hands of the Xhosa in the latter war. Yet they found themselves increasingly badly treated by the colonial authorities. As Elizabeth Elbourne has observed, ‘the Kat River settlement would be relatively protected and Khoisan land rights upheld as long as it was at a vital point on the frontier; once the frontier moved on, there would be no \textit{a priori} government objection to alienation of Khoi land and white land speculation’.\textsuperscript{25}
White settlers, coveting the fertile Kat River lands to use as pastures for the sheep of their growing eastern Cape wool industry, pressured the colonial government to break up the old mission stations and to sell off the land to themselves. By the end of the Seventh Frontier War, in 1847, the old missionary and humanitarian lobbies had lost their power at the Cape to protect the Coloureds against settler greed. When the Eighth Frontier War broke out, in 1850, the Kat River people refused to fight again on the colonial side; and, in 1851, a significant minority of them [along with some Khoi, from other mission stations, from the military Cape Corps and from farm labourers’ ranks] went over to the Xhosa side to fight against the settlers, affirming solidarity of the Coloured people with the Xhosa. As a result, when the war was over in 1853, the government broke up Kat River as a ‘Hottentot’ settlement, confiscated the land and sold it to White settlers.26

Coloured people and the 1853 Constitution

The failure of Kat River showed that the missionary plan – to use Christianisation and education to create model capitalist citizens from Indigenous people – had been simplistic in terms of the realities of colonial Coloured landlessness outside of the mission stations27 and White settler greed for land. On the other hand, the LMS did have a significant impact in spreading literacy to their Khoisan converts at the Kat River Settlement: there were seventeen schools and four infant schools, staffed by local people under the supervision of the missionary James Read. The Khoisan converts themselves often stated that literacy brought political benefits for them.28 In the final negotiations which produced the 1853 Constitution for the Cape, the Coloured people played almost no autonomous role, and submitted very few petitions on the subject. This was partly because of the effect of the most recent frontier war and the Kat River rebellion in undermining their political position, but also because most Coloured communities were apprehensive about what would happen to them and their rights under colonial self-government, once the protection of the imperial government was partly withdrawn.29

However, as Marais notes, ‘the Coloured People played an important, if largely passive, role’ in the resolution of the new franchise qualifications. It was important because the White politicians were calculating what the political effect would be of a non-discriminatory franchise. As already observed, in 1853 the African population of the colony was not sufficient to be seen as a serious political factor, so the calculations were all about the Coloured vote. And most White politicians concluded that the Coloured vote – generally sympathetic, in any case, to commercial development and to maintaining what Coloureds
saw as the protective influence of the imperial connection – would have little effect, would not be able to dominate any single constituency and would affect the result in, at the most, two or three constituencies – and therefore was ‘safe’ to proceed with. For some White politicians, the issues of ‘race’ and the ‘reconciliation’ of the races were more about reconciling the White Afrikaners to the Constitution under British rule and giving most of them a vote. At the same time, the property qualification would restrict the vote to the ‘respectable’, and exclude the ‘unrespectable’ among both Black and White.30

The Cape franchise as a safety valve

The chief credit for keeping the property qualification relatively low, by the standards of the British Empire in the 1850s, must go to Attorney-General William Porter. A liberal Presbyterian from Northern Ireland, Porter was no supporter of universal manhood suffrage: that would, he said, bring to the colony ‘communism, socialism and red republicanism which had caused so much mischief in France’ in the 1848 revolution. A qualified franchise, on the other hand, open to everyone who had or could acquire the necessary property, would act as an incentive to men to qualify for it, and encourage the emergence of moderates. This was true particularly of the non-discriminatory character of the franchise, which he defended as a ‘safety valve’ comparable to the granting of Catholic emancipation in his native Ireland in 1829.31

Porter summed up this ‘safety valve’ philosophy, in dealing with Indigenous peoples, in a dramatic sentence: ‘I would rather meet the Hottentot at the hustings, voting for his representative, than meet the Hottentot in the wilds with his gun on his shoulder.’32 That was said in a speech to the Legislative Council in March 1852, when the Kat River rebellion would have ensured that his audience had a vivid picture before their eyes of the danger of ‘the Hottentot in the wilds with his gun on his shoulder’.

It had been clear, for some years prior to the death of Dr Philip, in 1851, that the missionary and humanitarian lobby at the Cape had lost political influence since the heyday of the LMS. And, by the time the Cape was granted representative government, in 1853, settler opinion had also hardened generally on colour issues. Despite these developments, the £25 qualification endured at that level until 1892. The catastrophe of the great Xhosa cattle-killing in 1856–5733 led on to full colonial annexation of the Ciskei in January 1866, with the incorporation into the colony of about 64,000 Xhosa who lived there. It also meant that many thousands of Xhosa from the Transkei entered the colony in search of work and food. Sir George Grey, governor of the Cape in 1854–61,34 encouraged and assisted major missionary initia-
tives in the eastern Cape, especially in the form of schools for Africans (such as the famous missionary-run Lovedale school and seminary for training teachers). Of the Xhosa-speakers, the Mfengu, who had lost their land and formal tribal structures and had been forced to enter the colonial economy as refugees, took eagerly to the missionary education, and started to produce what would become generations of ‘respectable’ missionary-educated young men who would, in due course, qualify for the Cape vote.35

Some White colonists expressed disquiet at the prospect of increasing numbers of Africans, as well as Coloureds, qualifying for the vote – though the growing Coloured landlessness and impoverishment, from the 1850s, reduced the possibility of them qualifying for the franchise, and meant that the Coloured vote became more confined to those on the missions.36 But the qualification for voting for the Lower House remained at £25, even when the Cape moved from representative government to full responsible government in 1872. As we maintain in chapter seven, it was not until 1887 that the Cape parliament made it more difficult for tribal Africans to register, and not until 1892 that it raised the qualification substantially, with a view to excluding or limiting African voters in the eastern Cape. The last of the Cape frontier wars ended in 1881; with it ended any serious possibility of Indigenes in the Cape defeating White colonialism by military means, and the defeated Xhosa were incorporated into the colony. But, within their ranks, in the 1880s, the new generation of qualified African voters began to organise – not militarily, now, but with a view to developing their political power as a potential weapon in the colonial environment.

Natal to the 1870s

The area which was to become the colony of Natal was occupied mainly by Nguni peoples, out of whom arose, in the 1820s and 1830s, the powerful Zulu nation under the rule, first, of Shaka and, subsequently, of his half-brother Dingane. The Zulu Kingdom was mainly in the area to the north-east of the Tugela River; on the other side of the river were what we could call broadly Zulu-speaking Nguni peoples, some of them refugees from the militarised Zulu Kingdom. White settlement in the Natal area began in the 1820s when Shaka allowed a small number of British traders and hunters to establish themselves at what initially was called ‘Port Natal’ – Natal’s main port city, subsequently renamed Durban.

The first White-ruled state in the area was the shortlived Boer republic of Natalia (set up after the Voortrekkers had defeated Dingane’s
forces in December 1838), with a Constitution drawn up in March 1839. The British Colonial Office, reluctant to take on expensive new responsibilities, had not responded to the British traders' requests for the annexation of Natal. But once the emigrant Afrikaners controlled the potentially important port and access to the sea, matters changed. The British authorities also feared that a Voortrekker republic would come into military conflict with the adjacent African peoples, with serious repercussions on the interior of South Africa, and might well enslave members of African tribes whom they defeated. Britain therefore reluctantly agreed to intervene: a British military force was sent to Natal, which eventually took the area from the Boers in 1842. In 1843, the area was formally annexed to the Cape, and in 1845 a British lieutenant-governor arrived to administer the colony as a detached district of the Cape. By this time, most of the Afrikaner inhabitants had left Natal, and had trekked back across the Drakensberg to join the Boer republics in the Orange Free State and Transvaal.

_The politics of minority rule in Natal_

When the British took over Natal from the Boers, Colonial Secretary Lord Stanley insisted on three conditions:

1. That there shall not be in the eye of the law any distinction of colour, origin, race, or creed, but that the protection of the law, in letter and in substance, shall be extended impartially to all alike.
2. That no aggression shall be sanctioned upon the natives residing beyond the limits of the colony, under any plea whatever, by any private person or any body of men, unless acting under the immediate authority and orders of the Government.
3. That slavery in any shape or under any modification is absolutely unlawful, as in every other portion of Her Majesty's dominions.

The first of these points committed the colony to non-discrimination on grounds of race or colour in the operation of its laws. This continued to be the case, in theory, throughout the period that Natal was a British colony; in those years, 1843–1910, the political concerns of the White settlers who formed Natal's ruling class were largely dictated by the need to pay formal lip-service to this commitment, while avoiding in practice the requisite political consequences of the colony's ethnic composition.

_Demographic factors_

Natal's demographic makeup showed three crucial differences from that of the Cape. First, the politics of population here concerned essen-
tially the ratio of African to European people in the colony; unlike the Cape, there was no significant division of the European population between British and Afrikaners. When most of the Afrikaner inhabitants left after British annexation, the British authorities replaced them with nearly 5,000 British and Irish settlers, imported in the years 1849–52. Thereafter – apart from some Afrikaner farmers in the north of the colony, and unlike the other three White-ruled states in South Africa – the White population of Natal was always predominantly British. Second, the ‘non-White’ component of the Natal population was, overwhelmingly, that of Bantu-speaking African people – essentially, Zulu-speakers, particularly refugee groups who had fled into the colony from the Zulu polity. When White settlement began in Natal, it contained no Khoisan population of any significance, nor any slaves – so, unlike the Cape, the colony had no significant Coloured population; but, from the 1860s onwards, there was an immigrant Indian population, which grew steadily until the early twentieth century. Finally, the extent of the demographic imbalance between European and non-European in Natal was much greater and starker than in the Cape. This was reflected, almost from the start of representative government in 1856, in settler determination not to allow the Indigenous population the political power which would follow from the free grant of a non-racial franchise on genuinely non-racial terms.

In 1854, just before Natal became a separate colony with representative government, the colonial secretary sent Assistant Commissioner Owen to assess the colony. He estimated that it had a population of 5,000–6,000 Whites and 120,000 ‘Kaffirs or Zulus’ – a ratio of Black to White people of at least 20 to 1. Judging that the Africans had made little progress towards civilisation, he recommended that the colony keep ‘in strict and wholesome restraint the savage Kaffir population, whose overwhelming numbers at present render the carrying out of any stringent measures, however beneficial, unsafe without the presence of a large Military Force’. Owen was well aware that the Colonial Office, in 1854, was looking for ways to economise on its colonial expenditure, especially militarily, and was trying to restrict its direct involvement in Southern Africa; it was highly unlikely to send out a large military force, if it could avoid doing so. In the circumstances, Owen recommended to the colonial secretary that he adopt the proposal of Theophilus Shepstone, Natal’s secretary for Native Affairs, to withdraw ‘a portion (say 50,000) of the superabundant Black population from the District, and at the same time to induce by all possible means, more White inhabitants to settle here’. Owen’s concern was, by these means, to provide ‘a more equal balance of powers of the Black and White population’. The government should control more strictly those
Africans who remained in the district after this removal, encouraging them to abandon ‘their barbarous customs’ and ‘idle, vagabond, pastoral life’, and acquire proper ‘habits of industry’. And, in this move from ‘vagabond’ pastoralism to more settled agricultural life, the authorities should encourage those with Indigenous or residential credentials to take out individual freehold title to the land they farmed; this would not only break up their communal tribal structure, but would help to ensure peace – ‘if they have property to lose they will not so wantonly engage in War!’.

Natal’s White population grew slowly: by 1858, soon after Natal received representative government, it was about 8,000. In 1870, sixteen years after Owen made these recommendations for solving Natal’s population imbalance, the White population of Natal had reached only 18,000 and was still outnumbered almost 15 to 1 by the African population, numbering about 250,000. In addition to the large Zulu-speaking African population within the colony, the Zulu Kingdom – just across the Tugela River from the colony and ruled by Dingane’s half-brother Mpande and then by his son Cetshwayo – continued in existence after their defeat in 1838. Until the British army finally defeated the Zulu army in 1879, and broke up the Zulu Kingdom politically, many White Natalians also lived in fear of a Zulu military attack. Fear of that huge African majority – both militarily and politically – dominated the minds of the White-settler population, and largely dictated their attitudes towards franchise rights, following the granting of representative government.

Settler fears about the political consequences of this population imbalance were further accentuated by the arrival of substantial numbers of Indians in the colony from 1860 onwards. The first 6,000 Indians were imported by White farmers as indentured labourers to work in the sugar cane plantations. Their contracts required them to work for their employers for five years; after another five years, they were entitled either to free passage back to India or to stay on in the colony, with a small grant of land. In 1870, when the first Indians became entitled to this choice, most elected to stay on – working as artisans, craftsmen, cooks and house-servants, as small farmers growing fruit and vegetables for the market, or as shopkeepers and traders. This Indian community of Natal continued to grow until the Union of South Africa in 1910 – by which time it outnumbered the White community (see p. 167). Once Natal’s Indian population became an established and growing communal presence it posed the same challenge to settler hegemony as did the Indigenous Africans. Were Indians to be given the vote? If so, on what terms? How could the Whites manipulate the system to deny them the vote?
By a Royal Charter of 1856, Britain created Natal as a separate colony, with representative government. This gave the colony: a lieutenant-governor (from 1882 onwards, a governor), who reported directly to London; an Executive Council composed of five officials; and an elected Legislative Council. The franchise for the elections was, as in the Cape, a property qualification without an explicit colour bar: all adult males who possessed fixed property worth £50, or who paid £10 a year in rent, could qualify for it. The settler-dominated Legislative Council could not change its non-discriminatory basis – but they soon found ways of manipulating it to exclude most Indigenous people from being able to exercise the right to the franchise effectively. The key to this manipulation lay in the way in which the colony exercised its authority over its large African population.

‘Managing’ a large Indigenous population by indirect rule

African policy in Natal was administered by Theophilus Shepstone, who had been the leading member of a commission, set up by Lieutenant-Governor West in 1846, to decide colonial policy on allocating land to Africans. Their recommendations formed the basis of the ‘Shepstone System’ – the framework for Natal’s permanent policy on African land, which also became an important model for South African ideas about racial segregation in the early twentieth century. It was a form of indirect rule over most Africans in the colony, which involved setting up, on the less desirable areas of colonial land not yet claimed by White farmers, forms of reserves for Africans, called ‘locations’, as well as some mission reserves. On the locations, Africans could cultivate the land under the rule of local African headmen and chiefs, operating under what was called ‘Native Law’ – a system quite distinct from the Roman–Dutch civil law of the colony which applied to the White colonists. The chiefs and headmen were under the authority of White resident magistrates and administrators of Native Law; they, in turn, were responsible to Shepstone himself; and he reported to the lieutenant-governor, who was created ‘Supreme Chief’ over all Africans in the colony by colonial Ordinance 3 of 1849.

In theory, this system was supposed to protect Africans from the colonial destruction of their culture by keeping them under their own Native Law, instead of making them subject to the colonial legal system. Initially, the poorer White farmers opposed it because it restricted the supply available to them of both land and African labour. The Shepstone System was never fully implemented in Natal: only seven locations, comprising just over 2 million acres – which could not house more than half of the colony’s African population –
were set up. In practice over time, the Shepstone System became concerned more with methods of control over the African majority than with giving them genuine self-government. Shepstone imposed curfews and pass laws to restrict Africans working in towns and villages outside of their particular locations, and in 1849 imposed a tax of 7 shillings per hut on the head of each household in the locations; this soon yielded an annual revenue of more than £10,000 for the general colonial revenue – enough to pay for the administration, not just of the locations, but of much of colonial Natal. In 1875, the hut tax was doubled, and it remained the main source of direct taxation in the colony until 1910.43

The Shepstone System offered the settlers a more certain basis on which to manipulate the original franchise provisions to keep out most Africans in practice. The key to this was that only men subject to normal colonial law could qualify for the vote. An African wanting to register for the vote would first have to apply to be formally exempted from ‘Native Law’ on the grounds that he could show that he was ‘civilised’ and should become a colonial citizen. In other words, in order to qualify for the vote, an African would first have to reject publicly his own culture and traditional laws. [This bears some similarity to the policy underlying the Canadian Gradual Civilisation Act of 1857, by which the right of Indians to qualify for the vote was made dependent on their rejecting their ‘Indian status’ and seeking Canadian citizenship.44] Before the Shepstone System was fully implemented, some colonists had expressed concern about the title which Africans should be accorded over the property they held, in the light of the property-based franchise outlined in the Royal Charter. Some members of the government, while not supporting a general extension of the franchise, had nevertheless argued for the right of all property holders, whether settler or African, to vote.45 The Natal Select Committee of 1862, appointed to deliberate on issues surrounding land tenure for Africans, on the other hand, showed little concern about appearing to tamper with the property–franchise nexus, observing that

the only real qualification for exercising political privileges must be sought in the knowledge and intelligence of the individual . . . the freehold franchise [is] simply . . . a convenient mode of drawing the line between ignorance and knowledge . . . a convenient tangible test for determining the existence of the mental and moral qualifications. In England such a standard or test is found practically satisfactory: amongst our Kaffirs it would be utterly worthless. To adopt it would be nothing less than a complete sacrifice of common sense and true political consistency at the shrine of a pedantic attachment to the dead letter of technical rules and regulations, adapted to a totally different state of society.46
The Colonial Office was prepared to defer to ‘local experience’, claiming that the local government would be ‘the best able to judge upon the precise mode in which a gradual admission should be effected.’

The Africans in Natal who were most open to the idea of seeking exemption from customary law were the *kholwa*, the Christian converts. Colonial Natal was home to a number of missionary societies – notably the American Board mission which had been there since the 1830s – that were granted land to establish mission stations and farms for the kholwa. The kholwa acquired an education in missionary schools – the American Board established Adams College for boys in 1853, and Inanda Seminary for girls in 1869 – which not only instructed them in basic Western knowledge and conveyed a Christian ethos, but actually attacked traditional values, beliefs and institutions. For example, while Nguni societies were polygamous, Christian converts were required to practise monogamy. With their education and monogamous lifestyle, the kholwa also adapted easily to ideas of individual landownership, as opposed to communal land tenure, and to Western ideas of commercial agriculture.

*Restricting the Indigenous franchise*

Until 1864, Africans in Natal could not qualify for the vote at all, because they did not have individual titles to land. Act 11, of 1864 (amended by Act 28, of 1865, the Law for Relieving Certain Persons from the Operation of Native Law), provided that an African who could prove that he owned property and could read and write, and took an oath of allegiance to the Crown, could petition the governor to be exempted from Native Law. The governor had full discretion to grant or refuse the petition; if he granted it, the African would become subject to colonial Common Law (which criminalised, *inter alia*, polygamy) instead of African Native Law.

The Native Franchise Act (Act 11, of 1865) made it a necessary condition for Africans applying to qualify for the franchise that they first be exempted from Native Law. But exemption alone was far from a sufficient condition for the vote; to be registered on the electoral roll, an African also had to have been a resident of Natal for at least twelve years; have held letters of exemption from Native Law for at least seven years; and have the approval of three White men, whose word was endorsed by a magistrate’. Even if an African fulfilled these three conditions – which was possible only with the help of sympathetic White settlers and a magistrate – the Act still left it to the discretion of the lieutenant-governor whether or not to allow him to register. The lieutenant-governor had to call for public objections to the registration, and then decide, of his own accord, whether or not to admit him to the right
to register as a voter. Local Africans realised that this loaded the system heavily against them; and no African even submitted a petition to be exempted from Native Law prior to 1876.49

This meant that, from the mid-1860s, Natal had a franchise that was non-discriminatory in form only. In practice, it was very difficult for Africans to qualify and register as voters, and easy for the White authorities to ensure their exclusion. Although the missionary schools were turning out increasing numbers of educated kholwa, and although numbers of them were able to rent or even buy land for serious cultivation, almost none of them was able to use his Christian, educated, ‘Western’ status to gain full political rights in Natal. This remained the case throughout Natal’s period of representative government. As we will show in chapter seven, even after they were granted responsible government, in 1893, this manipulation of the theoretically non-discriminatory franchise continued: no more than a handful of Africans resident in the colony of Natal were ever granted the right to vote. The Inter-Colonial Commission of 1903–5 found that only three Africans in Natal had the vote; by 1907, this had risen to six qualified African voters – in a Natal electorate of nearly 24,000 men, almost all of them White.50 We will see, in chapter seven, how similar sorts of manipulation of the laws were used, from the 1870s onwards, to deny the vote to the Natal Indian population, which was, in theory, becoming eligible to qualify for it.

With the Africans thus being excluded from the franchise, and the Indians also being largely kept out of it, the Legislative Council under representative government was dominated by the elected representatives of the White settlers. In 1858, Lieutenant-Governor Scott described them to the colonial secretary as having

no expressed desire to elevate and improve the social position of the native by making him a landed proprietor, an independent cultivator of the soil, a civilized trader in, and a producer of exportable articles, or a mechanic or a skilled labourer. The native population are to be scattered throughout the colony and located on the farms of the white colonists, in the capacity of servants working for wages.51

The Legislative Council resented the fact that the 1856 Charter reserved £5,000 a year for African purposes – which kept control of African policy in the Crown’s hands. The Council tried hard to get that fund out of the Crown’s hands in order to be able to control African policy. From 1869, many councillors, especially those representing farmers of the Natal midlands and interior who wanted cheap African labour, demanded responsible government so that the Council could control African policy in the colony. On the other hand, the Colonial
Office pointed out that self-government would mean having to provide and pay for their own defence, including against the Zulu Kingdom and internal rebellions in Natal. Until the Zulu Kingdom had finally been broken up, in the late 1880s, few among the Council’s ranks were prepared to accept this – so serious negotiations between the Legislative Council and the Colonial Office for responsible government did not begin until 1888. Agreement was reached only in 1892.

**Notes**

1 Racial terminology is difficult to use with any precision, and liable to cause offence, in any ex-colonial society. ‘Coloured’ – which was used as an official term of racial classification under apartheid – is one such term, and it is easy to understand why many people thus classified resented the term. However, one cannot really avoid using such a term historically. The apartheid classification reflected a degree of accuracy in the extent to which many members of the Coloured and African communities thought – and still think – of themselves as distinct peoples. Use of this terminology does not imply any acceptance of ideas of clear boundaries between so-called ‘White’, ‘Coloured’ and ‘African’ races, nor of ideas about so-called ‘pure’ and ‘mixed’ races.


5 Initially, more than one republic was established in the Transvaal area; these subsequently united to form a single state, which was known as the ‘South African Republic’ for part of its existence; it is convenient to refer to it as ‘the Transvaal’ throughout.


9 PRO, CO 48/337 Newcastle to Cathcart, no. 40, 14 March 1853.

10 See Marais, *Cape Coloured People*, p. 212.

11 For example, W. M. Macmillan, *The Cape Colour Question* [Cape Town: A. A. Balkema, 1968 [1927]] sees the Coloured population of the Cape as having been placed on ‘a footing of complete legal equality with Europeans’ (p. 257) by the Master and Servant Ordinance of 1842, which repealed Ordinance 50 and he sees it as a simple, unproblematic progression from there to the colour-blind franchise of 1853 – ‘the legal equality of 1842 had paved the way for potential political equality, and for a Constitution which did not so much as mention colour and knew no “Colour Bar”’ (p. 263). See also Marais, *Cape Coloured People*, chapter 5, on the humanitarian ‘Cape tradition’. On Macmillan and the South African liberal history tradition, see H. Macmillan and S. Marks [eds], *Africa and Empire: W. M. Macmillan, Historian and Social Critic* [Aldershot, Hampshire: Institute of Commonwealth Studies, 1989], especially chapters 3, 5 and 6.

12 See, for example, Trapido, ‘Origins’, and ‘“The Friends of the Natives”: Merchants, Peasants and the Political and Ideological Structure of Liberalism in the Cape, 1854–1910’, in S. Marks and A. Atmore [eds], *Economy and Society in Pre-Industrial*


14 Macmillan, Cape Colour Question, chapter 15.


16 Trapido, “‘Friends of the Natives’”, p. 263.

17 On the Kat River Settlement and its history, 1829–1853, see Marais, Cape Coloured People, chapter 7.


20 Ibid., p. 62.

21 For the dual role of missions in contesting and upholding colonial regimes, including consideration of missions as avenues for Khoisan political activism and the teaching of literacy as a political tool, see E. Elbourne, ‘To Colonize the Mind’.

22 Macmillan, Cape Colour Question, chapter 16; Keegan, Colonial South Africa, pp. 119–22. For reports of the two-day meeting held at Philipton in the Kat River Settlement in August 1834 to formulate the resolutions to be put against the draft Vagrancy Act, see Ross, Status and Respectability, p. 151; S. Trapido, ‘The Emergence of Liberalism and the Making of “Hottentot Nationalism”, 1815–1834’, The Societies of Southern Africa in the 19th and 20th Centuries, 17 (1992), pp. 34–60, at 50–3.


26 Marais, Cape Coloured People, chapter 7; Ross, Status and Respectability, chapter 7.


29 Ibid., pp. 299–300; Marais, Cape Coloured People, pp. 208–15. An 1850 petition from Kat River inhabitants stated ‘that they engaged with mixed feelings of hope and fear in the duties attending the framing of representative institutions, for whilst on the one hand they are glad to see such institutions confirmed on Her Majesty’s subjects as their particular birthright, they are not without forebodings about the working of a South African Parliament’. It also expressed ‘their satisfaction in finding that [the franchise] had been fixed at £25 fixed property by the “late Legislative Council”’ (quoted in Ross, Status and Respectability, p. 170).


34 Grey had been governor of New Zealand immediately before coming to the Cape, and he returned to govern New Zealand again at the end of his term at the Cape.


36 Trapido ‘“Friends of the Natives”’, pp. 264–6.


38 PRO, CO 179/35 Despatches, vol. 4: Owen to Duke of Newcastle 6 March 1854.

39 Ibid., enclosing Shepstone’s proposals as ‘Memorandum of Mr Shepstone’, 23 January 1854.

40 Thompson, ‘Co-operation and Conflict: The Zulu Kingdom and Natal’, pp. 380, 390.

41 Shepstone was the son of a Wesleyan missionary who had been an 1820 settler at the eastern Cape frontier. He grew up at the frontier among the Xhosa, learned to speak the Nguni languages, and prided himself on his understanding of Nguni societies. In Natal, he was diplomatic agent to the Native Tribes from 1845 to 1853, and secretary for Native Affairs, 1853–75.

42 See Thompson ‘Co-operation and Conflict: The Zulu Kingdom and Natal’, p. 384.


45 PRO, CO 179/68 Scott to Newcastle, no. 105, 25 September 1863.


47 PRO, CO 179/68 Newcastle to Scott, no. 355, 5 December 1863.


51 PRO, CO 179/49, no. 36, 462 Scott to Colonial Secretary Lord Stanley 8 April 1858, quoted in Lambert *Betrayed Trust*, p. 63.