

# Ukubhinya<sup>1</sup>: Gender and Sexual Violence in Bulawayo, Colonial Zimbabwe, 1946-1956

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My sister screamed; she did not use words. She only screamed. I looked out and saw the accused in bed with my sister . . . the accused was on top of my sister. My sister was crying . . . My sister was stretching her legs. She pushed the accused with her hands to try and push him off [National Archives of Zimbabwe, Case No. 7337, 1953].

## Abstract

*Using criminal court cases of the rape and sexual assault of African women and girls in Bulawayo, 1946-1956, this article focuses on sexual violence and changing African gender dynamics in relation to colonial rule and urbanisation. It centralises African women's lived experiences and strategies of resistance to sexual assault, focusing on how they used the colonial courts. It questions the short and long term gendered and generational ramifications of colonial appropriation of the power to judge and determine punishment for all criminal offences including rape. Central are the multiple battles for the power to define the city, both in terms of behaviour, and in terms of the use of space.*

On June 3rd, 1953, eight-year old Katherine, who witnessed her sister, Vuyiswa, being raped, gave the above testimony in court. Katherine's description of her sister's rape is typical of the kind of testimonies that form the backbone of this article. Drawn from over 300 criminal court cases of rape and sexual assault for the District of Bulawayo between 1946 and 1956, these records provide a rare opportunity to hear African women speaking about their lived experiences in a city undergoing rapid physical and social transformation. Within these stories of rape are reflections of gender relations

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1. *Ukubhinya* is the Ndebele word for rape. In order to avoid stereotypes and in awareness of the sensitivities of the readership the authors have taken out the most sexually explicit language found in the original texts. For a longer and more graphic version of this article, please contact the authors.

and power struggles, which informed, and were influenced by, urbanisation. While to European colonists, the city of Bulawayo was evidence of the success of their civilising mission,<sup>2</sup> rural African people spoke of the city, with its unexpected dangers and unknown species and experiences, as a jungle. Unlike the European belief that the city was an orderly space, African elders waxed poetic about the jungle-like nature of the city.

This study's attempts to map the physical and social geography of violence were guided by a number of questions. How did different women experience the city? Who was raped and where? How did women use the colonial courts? What kinds of questions did the judges ask? What was the relationship between discourses of morality and material and social reality? How did urban influx control, segregation, and colonial urban planning affect gender dynamics? What role did the mounting political and economic tensions of the period have on sexual violence?

At the centre of these court records was struggle. African women were taking men who raped them to court. In some cases, fathers took rapists to court on behalf of their girl children. These were battles for the power to define the city, both in terms of behaviour, and of the use of space. However, Bulawayo was a colonial city, and Europeans had appropriated the power to judge and determine punishment of all criminal offences including rape. The trials of rape cases provide a window into tensions between both the coloniser and the colonised, between African men and African women, and amongst African men.

### Limits and Challenges of the Sources

This study is based on a close analysis of 81, out of 303, cases of rape that were tried in the city of Bulawayo between 1946 and 1956.<sup>3</sup> In their testimonies, poor and working class African women spoke of their lived experiences of rape and provide valuable insights into the social, economic, and political dynamics<sup>4</sup> of urbanising Bulawayo. Moreover, as Pohlandt-

2. Ranger argues that by the 1930s Europeans felt they had "civilized" Bulawayo. See Ranger 1999 "Towards an Environmental History of Southern African Cities, Bulawayo in the 1930s", University of Zimbabwe Economic History Seminar Paper.
3. From Koni's research in the National Archives of Zimbabwe in 1999, we had access to cases for 1946, 1947, 1950, 1951, 1952, 1953, 1954, and part of 1956. All cases of rape were tried in the criminal court. For a discussion on the court's rationale for division of who tries which crimes and how this changed over time, see Claire Palley 1966 *The Constitutional History and Law of Southern Rhodesia, 1888-1965*, London: Oxford University Press.
4. For a discussion of the use of court records as a window into the political and economic contestations that are audible throughout colonial legal cases, see Kristin Mann and Richard Roberts eds 1991 *Introduction to Law in Colonial Africa*, Portsmouth: Heinemann.

McCormick argues, court cases are more than records of criminality and victimhood.<sup>5</sup> In the cases under study, the mere fact that women were taking their attackers to court suggests the need to think beyond the court system's boxes of "criminal" or "victim".

The strength of such written records as historical sources is acknowledged in Ranger's discussion of his use of criminal court records for Matobo and Gwanda districts from the 1890s to the 1950s. He notes:

I shall unashamedly tell stories and allow African voices to be heard. For this, in the end, is the main advantage of the court records. The cases deal with individual people, however frustrating it may be to know little about their earlier lives and nothing about their later. They throw bright shafts of light into a darkness, which it is difficult to illuminate even through oral interview.<sup>6</sup>

Unfortunately, it was not possible to conduct any oral interviews, partly because women may not have been willing to talk about rapes that they suffered those many years ago and to publicise their experiences to their families and friends. This is unfortunate if only because there are several aspects of the court proceedings, gender relations, and experiences of rape that cannot be reconstructed from court records, which oral sources would supply.

### Contextualizing Bulawayo

In order to understand these violent crimes against women, it is necessary to look at the physical and social spaces where they took place. Influenced by Vogelmann's work on rape crime in South Africa, this study uses a feminist analysis, which places society and the attitudes and behaviour of men and women within an economic, political, and cultural totality.<sup>7</sup>

The 1940s and 1950s were times of intense political, economic, and social change in Bulawayo. As more and more Africans became urbanised, spaces and activities that were once relatively safe for women in rural areas became increasingly dangerous in the city,<sup>8</sup> while certain times and spaces became

5. Helena Pohlandt-McCormick June 1999 "I Saw a Nightmare..." *Doing Violence to Memory: The Soweto Uprising, June 16, 1976*, PhD Thesis, University of Minnesota.

6. Ranger 1994 "Murder, Rape and Witchcraft: Criminal Court Data for Gender Relations in Colonial Matabeleland", University of Zimbabwe Economic History Department Seminar Paper.

7. L. Vogelmann 1990 "Violent crime: Rape", in Brian McKendrick and Wilma Hoffman eds *People and Violence in South Africa*, Oxford University Press: 96.

8. This is not to imply that violence against women did not occur in rural areas. However, the dynamics in which sexual violence took place in the countryside were different from those of the city. This research focuses on sexual violence in greater Bulawayo. In the future, we plan to look at similar court records for rural areas. In the meantime, we do not want to make oversimplified or romanticized generalisations about rural Matabeleland.

gendered as male. For example, women could not safely walk alone at night, and secluded spaces, such as the bush, became sites of sexual assault. For example, when she was raped in 1946, Margaret had gone to gather firewood with another woman, Mokokeri. Margaret told the court,

She went one direction and I in another to look for wood ... The accused grabbed hold of me round the waist and threw me to the ground. I was wearing a dress and other clothes, but no knickers. After he threw me to the ground, he had intercourse with me.<sup>9</sup>

As open spaces in urban areas became dangerous for women, nighttime also became unsafe, as evident in the fact that Fani was almost raped in the centre of Makokoba when she went to buy cigarettes at a grocery shop a few blocks from her home on 4th street. She described to the court that, on her way home, "it was completely dark, [when] he grabbed me."<sup>10</sup>

Like all cities of Southern Rhodesia, Bulawayo was androcentric. State policy between the 1890s and 1940s restricted African women to rural areas, both to pacify the African patriarchies whose migrant labour was required for the farms, mines, and industry of the ruling white minority, and so that African women would reproduce the labour force at little or no cost to the white economy. Furthermore, until the late 1940s, colonists linked African women in urban areas with a permanent urban population, which they feared as "fertile ground" for nationalist resistance.<sup>11</sup> Hence, the colonial obsession with control of African female labour, offspring, mobility, and sexuality, whose many forms is eloquently highlighted in the work of Teresa Barnes, Diana Jeater, Lynette Jackson, and Elizabeth Schmidt.

In the colonial period, women's unremunerated work as agricultural producers and "official" labour force reproducers was, as Schmidt calls it, the "backbone" of the colonial capitalist economy/system. Seen as the "gateway" to the African population, and potential competitors of European women, African women were targeted for control. They were regarded as

9. NAZ, 6107, 1946.

10. NAZ, 6932, 1930. Samson was found guilty of assault with intent to commit rape and received 18 months of imprisonment with hard labour and eight cuts.

11. Preben Kaarsholm looks at how policies before independence fluctuated between attempts at keeping African urban residents "temporary", and underlining their rural identities, and "modernizing" efforts at integrating them into town in a way as to control and avoid the development of political demands for rights and citizenship equal to those of white residents. See, Kaarsholm 1995 "Si Ye Pambili — Which way forward?: Urban development, culture and politics in Bulawayo", *Journal of Southern African Studies*, 21 (ii): 1.

legal minors and venereal-disease-spreading prostitutes who needed to be controlled.<sup>12</sup>

In practice, however, there had always been African women in the colonial towns of Southern Rhodesia. From the late 19th century to the 1930s, African women and men alike built their own houses in what was referred to as the Location, the Bulawayo African Township, or Makokoba. Colonial authorities turned a blind eye to these African women as they thought it a good idea for there to be a small number of single African women in the city to serve the sexual needs of African men and, thus, deter them from desiring white women. White women, for their part, were anxious to keep their husbands away from single African women, so they refused to hire them as domestic workers and urged the colonial state to force them to carry passes.<sup>13</sup>

Colonial influx control measures established that there would be few women in town, and that the women who were there would be considered as prostitutes. Accordingly, urban accommodation was male centred. Beginning in the late 1920s, in the name of "sanitation" and "segregation," all independently built African accommodation had been demolished by the colonial state, and replaced with bachelor hostels and semi-attached single rooms. Therefore, for the women who made it to town, finding accommodation was dependent on forming some kind of union with a man. These unions ranged from formal marriage, to "mapoto" relationships,<sup>14</sup> to prostitution.<sup>15</sup>

12. For a discussion on the association of mobile African girls and women with immorality and disease as the justification for venereal disease examinations forced upon African women in Southern Rhodesia's urban areas until 1958, see Lynette Jackson 2002 "When in the white man's town": Zimbabwean women remember *chibaura*", in Allman, Geiger, and Musisi eds *Women in African Colonial Histories*, Indiana: Indiana University Press: 191-215.
13. Barnes, Teresa 1999 "We Women Worked So Hard": *Gender, Urbanization and Social Reproduction in Colonial Harare, Zimbabwe, 1930-1956*, Portsmouth: Heinemann: 155; For more information see John Pape 1990 "Black and white: The 'perils of sex' in colonial Zimbabwe," *Journal of Southern African Studies*, 16 (iv): 703; Elizabeth Schmidt 1992 *Peasants, Traders, and Wives: Shona Women in the History of Zimbabwe, 1870-1939*, London: James Currey: 155.
14. "Mapoto" refers to temporary male-female relationships of varying length whereby the woman would perform wifely tasks (cooking, cleaning, providing sexual services), without the formal inter-family unification represented by *lobola* (bride wealth). Colonial officials used the term "concubinage" to describe "mapoto" relationships, which they believed were the predominant kind of union between African women and African men in the townships of the 1940s. The term "concubine" does not adequately describe these relationships. See Barnes, "We Women Worked So Hard": 26-27.
15. The definition of the term "prostitute" is a contested one. In most of colonial Africa, colonial authorities referred to any form of union between an unmarried African man and woman as prostitution. This notion is problematised and contextualised by Luise White (1990) in her book, *The Comforts of Home: Prostitution in Colonial Nairobi*, University of Chicago Press.

The colonial state was responsible for the urban infrastructure that created prostitution, as well as assumptions that all women who were in the city were prostitutes. Underlying assumptions about urban women as prostitutes are reflected in both the questions that rape victims in the 1940s and 1950s were asked, and by the fact that almost all rapists justified their actions by trying to offer women cash.

### **Native Urban Areas Accommodation and Registration Act of 1946: Social Engineering and African Urban Housing**

To understand the social and physical geography of these violent crimes it is therefore necessary to start by contextualising the broader issue of colonial control policies of the 1946 Native Urban African Accommodation and Registration Act (NUAARA), and the realities of a quickly changing urban economy. From the Second World War onwards, industrialisation, an influx of white immigrants, rural degradation, and an increasingly politicised African workforce compelled the settler state to implement policies to "stabilise" urban labour.

The urban boom of the 1950s took place in the context of a European and patriarchal ideology championing the notion of the nuclear male-headed household. This ideology was reflected in married accommodation schemes and new legislation under the 1946 NUAARA, an Act that sought to regulate the provision and usage of African urban housing.<sup>16</sup> As the Act stipulated that the State would build and administer housing and that rent would be paid by employers, in theory, only employed African men who had work passes could be granted accommodation. Women could only legally live in the city if they were "properly married wives" and had the certification to prove it. In this way, writes Barnes, many practices of co-habitation, which the authorities had previously turned a blind eye on, became glaringly illegal,<sup>17</sup> while residents involved in non-formal employment were now considered criminals.<sup>18</sup> The majority of women living in the township were not "properly married wives" and, until the 1950s, very few of them were employed "formally" by the State. Meanwhile, under the new law, Africans were subjected to curfews and periodic house raids to search for women living in these houses illegally.

16. For a history of the contentious debates between the State and the Bulawayo Municipality over accepting and implementing N(UA)ARA (in particular over who should foot the bill for building African housing and paying African rents) see Ranger 23 April 2001, "City, State and the Struggle Over African Housing: The Native (Urban Areas) Accommodation and Registration Act and the Transformation of Bulawayo, 1946 to 1960", Economic History Seminar Paper, University of Zimbabwe.

17. Barnes *"We Women Worked So Hard"*: 138.

18. Scarnecchia, 286.

What was the relationship between discourses of morality and material and social reality? How did urban influx control, segregation, and colonial urban planning affect gender dynamics? What role did the mounting political and economic tensions of the period have on sexual violence?

By the 1950s, Bulawayo's social organisation had been re-arranged in accordance with the growing trends of segregation and industrialisation.<sup>19</sup> However, the NUAARA was not being uniformly implemented, partly because Municipalities did not have enough married accommodation to offer those who did qualify for it, and partly because not all employers co-operated. The Act legislated a tied-housing system in an attempt to regulate and control the labour market and to keep the number of Africans in the urban areas to a minimum. However, the country's rapid industrialisation and the labour shortages that accompanied it made employers' compliance with the Act problematic, especially since paying their workers' accommodation would increase the employers' labour costs significantly.

Moreover, the NUAARA came in as African workers were striking for better wages and living conditions. It, thus, became increasingly attractive for employers to employ women workers who could be paid less than male workers.<sup>20</sup> Not surprisingly, employers began to call for housing to be built for African women.<sup>21</sup> In addition, the increase in European immigration to the colony created a demand for domestic workers and many African women were hired as "nannies".<sup>22</sup> "Unattached" urban African women in informal employment fell through the cracks of the State's plan, as there was zero housing available for women who were not "wives."

Clearly, this policy put non-married women in a precarious position. For example, one woman told the courts that she was almost raped in the veldt where she slept because she had no accommodation.<sup>23</sup> However, most women who took their cases to court did have a roof over their heads, only sometimes it belonged to a "mapoto man".<sup>24</sup> "Mapoto" relationships referred to arrangements in which women lived with men and performed wifely tasks, such as cleaning, cooking and providing sexual services, without formal marriage represented by the payment of *lobola* (bride wealth) to the

19. Ranger, "Towards an Environmental History."

20. See Barnes "We Women Worked So Hard": 157 for narratives of women fighting for equal pay.

21. Scarnecchia, 297.

22. *Ibid.*

23. NAZ, S2286, 145, 1955.

24. "Mapoto" is usually used to describe the woman in a "mapoto" relationship. As the term prostitute is used to refer to women alone, men in "mapoto" relationships have never been referred to as "mapoto" husbands by researchers, but in Zimbabwe women refer to these men as "mapoto" husbands.

woman's parents. These relationships could last from a few weeks to a few years but were seen as temporary and were not eligible for married accommodation, as the women were considered to be concubines by the state.

Barnes argues that marriage afforded access to housing, defence against police harassment, enrolment of children in school, legal self-employment, and access to the maternity hospital.<sup>25</sup> At the same time, marriage enabled women to assert themselves as "proper", "respectable", and "moral". In this context, married women asserted their morality against the immorality of independent or single women, while righteousness became the opposite of independence.<sup>26</sup> Yet, the majority of women never achieved "properly married" status.<sup>27</sup> Evidence from the court records, however, confirms Barnes' observation that marriage upgraded one's social class and increased women's protection from physical harassment by both European and African men. The court records show that mainly women from poor and working class backgrounds were most vulnerable to rape.

In Bulawayo of the 1950s, married quarters that were being constructed in what were known as the newer African locations were beyond the means of the poorer or working class residents of the township who were officially confined to live in Makokoba, the oldest section of Bulawayo, originally built for working "bachelors." Although NUAARA stipulated that employers should pay their employees' rent, in practice, many employers gave workers a stipend or a portion of the salary for rent payments. This stipend was pegged on the value of bachelor rents and was, thus, almost always too low for African workers to afford the rents of married accommodation in the newly built African "Locations" where home-ownership schemes were introduced.<sup>28</sup> In any case, the state was slow to build married accommodation, so that even those who could afford the rents often could not find a vacancy.

Because of the insufficiency of housing in the town, many African workers had been living on the white farms peripheral to the city, otherwise known as the private locations. Therefore, to define the boundaries of Bulawayo

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25. Barnes, "We Women Worked So Hard": 27.

26. *Ibid.*: 111.

27. *Ibid.*: 94.

28. It is important to note that provision of housing was not as clear-cut as the NUAARA would have us believe. For example, those employed by the Municipality had their rents paid directly by the city. In fact, Ranger pointed out to us that married accommodation for municipal workers was subsidized by bachelor rents to ensure that married housing was no more expensive than single accommodation. Under these circumstances therefore, married accommodation and class did not always conflate.



according to a colonial city map would be to misunderstand the reality of the urban geography of Bulawayo at the time. Many African people lived and worked in the city centre in the day, but commuted to "bedroom towns"<sup>29</sup> on the private locations, which surrounded Bulawayo, which were beyond the jurisdiction of city legislation, N(UA)ARA included.<sup>30</sup>

The rape cases analysed in this study were tried in the court in the city of Bulawayo. While most people involved in these cases commuted to Bulawayo for work everyday, some lived in the townships, while others lived on private locations in what has been described as "urban,"<sup>31</sup> or the peri-urban areas that surrounded the city. Despite municipal efforts to minimise the number of Africans living in the city, court records show that there was daily interaction between those who resided in the city proper and those who lived on private locations. In any case, people who lived in private locations considered themselves urban. In this study, therefore, Bulawayo will be taken to include both the municipal area and its surrounding private locations.

With respect specifically to the incidences of rape, available evidence shows that it was women and girl children from poorer and working class backgrounds that were being raped. Many lived on the private locations surrounding Bulawayo because they could not afford to pay the high rents charged in the city centre.<sup>32</sup> None of the cases reviewed here involved women living in the more secure and prestigious married housing,<sup>33</sup> for, as Barnes observed for Salisbury, in the married quarters, women were protected from many of the city vices and violence that plagued the lives of poorer women.<sup>34</sup>

Poorer women, on the other hand, lived in crowded conditions without any privacy. Often they had to walk far to collect vegetables, look for a job, or to go to school. Mothers sometimes had to leave their children with strangers, increasing the risk of exploitation and abuse. Most women in this group were likely to be new to town and, thus, vulnerable to being exploited by unscrupulous men, mostly equally poor men working as manual labourers or 'house boys', or as general hands in the railways.<sup>35</sup>

29. Takavafira M. N. Zhou 1995 "A History of Private Locations Around Bulawayo City, 1930-57", MA thesis, Department of History, University of Zimbabwe: 2.

30. A private location was a farm on the periphery of urban centres where urban workers could seek accommodation and, at the same time, be able to grow crops as tenants.

31. For more information see Zhou, "A History of Private Locations".

32. Zhou, "A History of Private Locations": 4.

33. West, Michael O. 1997 "Liquor and libido: 'Joint drinking' and the politics of sexual control in colonial Zimbabwe, 1920s-1950s", *Journal of Social History*, 30 (iii): 645-667.

34. Teresa Barnes 1992 "The fight for control of African women's mobility in colonial Zimbabwe, 1900-1939," *Signs*, 17 (iii): 586-608.

35. NAZ, 7287, 1953.

The co-relationship between the poor African working class and sexual violence that is reflected in the court records does not necessarily imply that poor men were naturally inclined to rape. What it does suggest, however, is that, in the context of colonial oppression in which poor African workers faced innumerable frustrations stemming from abuse by employers and supervisors and the ever-present poverty, there was the increased danger of aggressive behaviour on the part of the workers towards those they considered weaker than themselves, more so given the absence of usual traditional social checks on male sexual aggression of rural African society.

In rural areas, extended family support networks created an environment of intergenerational responsibilities. Every old woman was everyone's grandmother and every young person was seen as everyone's child. While 'traditional' values and the extended family system did not altogether disappear in the city, it is true to say that they were under considerable pressure in the urban environment. Moreover, coming from disparate backgrounds and treated as mostly single bachelor migrants, many city people were estranged from each other.

### **Race and the Geography of Sexual Violence**

Most of the rape cases studied here involved African men raping African women in Bulawayo's African residential areas, although there were a few cases of white men being charged with raping African women, mainly domestic servants working in white homes. For example, Ntombitombi was raped on the 19th of August 1950 by one Malcolm Duncan Kenneth Campbell, described in the court record as being a young European male painter. Ntombitombi had started working as a nanny for Malcolm and his wife at the beginning of August. She described how Campbell:

chased me ... caught hold of me and made a woman of me ... I then reported to the mistress on her return, telling her that I was leaving the premises because I was afraid that the accused might do it again.<sup>36</sup>

Ntombitombi's courage in telling her "mistress" and in taking Campbell and winning the case was unusual, as many African women would not have reported abuse by their white employers given the unequal racial and gender power dynamics of the colonial era. Campbell was found guilty of rape and sentenced to two years imprisonment, with hard labour. In another case, William Henry George Hawer was found guilty of raping Emma,<sup>37</sup> who gave her age as sixteen. Emma, then working for a Mrs Van Eck as a house girl, was raped by Hawer when her employer left her alone at home

36. NAZ, 6926, 1950.

37. NAZ, 52286-7356, 1953.

as she had to visit a relative in hospital. The questions that were fired at Emma during Hawer's trial are indicative of the trauma which rape victims were subjected to in the courts. First, the court wanted to know whether Mrs Van Eck's premises were used as a brothel or not. Then, Emma was asked about her marital status, her virginity, and whether or not she was a prostitute.

Generally, however, the cases reviewed here dealt with African men raping African women, some of whom were recent immigrants into the city in search of employment. Unused to the ways of the city, many such women became easy prey to city males out to exploit their relative innocence, as can be seen in the following cases of Manganayi, Agnes, and Pandhliwe. Mangayi had come to the city for the day from Mzilo's 'kraal' in Essexvale to sell baskets. A man who pretended to take her to his employer's home to enable her to sell her baskets raped her.<sup>38</sup> Similarly, Agnes from the Bechuanaland Protectorate,<sup>39</sup> aged 12-14 years, had been in Bulawayo for less than a month when she was raped. She told the court that she was looking for work when the accused approached her and said that he knew of a job in the suburbs and then offered to take her there. When the man led her down a riverbank instead of across the bridge, she had become suspicious. She testified: "I at first refused and wanted to know why he wanted to go down below. He indicated a house on the other side of the river and said that is the house where there is work. So we left the line and went down under the bridge. Then I was raped."<sup>40</sup>

Equally, like Mangayi and Agnes, Pandhliwe had just arrived in Bulawayo in search of employment when a man named Welcome raped her. She told the Court,

I told the accused I was looking for work. He said he should take me to his employer who wanted a nanny. I went with him south past Fomona. We reached a small town. The accused suggested following a line of electric standards, which he said, led to the employer's home. Then he wanted to have intercourse with me. I told him I was only looking for work not for sex intercourse ... I have never lived in a town before.<sup>41</sup>

After raping Pandhliwe, Welcome added insult to injury by accusing her of infecting him with a sexually transmitted disease and demanding 10/- from her to pay for treatment, thus proving to be not just a rapist but also an extortionist.

38. NAZ, 7049, 1951.

39. Now Botswana.

40. NAZ, 1952, 7188.

41. NAZ, 1952, 7204.

Other cases included that of Mtobela, described in the court records as having "just arrived in town and . . . [with] no experience of town life". She had been walking in the Bulawayo Location gossiping with her friend about a black woman who had given birth to a coloured child, when an African policeman threatened to arrest them for such talk. "He showed us handcuffs then said Ok, I won't arrest you, I will just reprimand you", and then proceeded to rape Mtobela.<sup>42</sup> Mtobela and other women new to town thus found out that, in Bulawayo of the 1940s and 50s, they could not even trust those empowered and employed to protect them from sexual assault.

### Children as Victims

Women who lived with their children in the city were, sometimes, forced to leave their children with strangers for long periods while they went to work and, thus, exposed them to all sorts of dangers. Available evidence shows that girl children were sometimes victims of rape. The situation was not helped by the fact that 12 years was considered the age of consent for African women. Indeed, girls as young as three years old were sometimes victims of rape. For example, in 1954, Chamiso [sic], a three-year-old girl, was raped by a man named Dick at Plot 1, Woodville South, Bulawayo. Giving testimony, Chiedza, her father told how he had caught the rapist in the act of molesting his daughter.<sup>43</sup>

The evidence given by Fundi, Chamiso's mother, exposes not only horrible and graphic details about rape, but reveals the harsh realities of urban individualism where women could no longer rely on extended family and community support to care for children. She told the court, Chamiso

is 3 yrs old... I left our quarters to go to a store. I have not been in Bulawayo long ... I left my two kids in our quarters and took my small baby with me. I came back; two of them were running up to me crying. Chamiso had white stains on her thighs and near her private parts. She appeared to have difficulty in walking. She appeared to be in pain. She said, Dick called me to his hut. I went to his hut. He picked me up and put me on his bed...pulled up my dress and [raped me] ...<sup>44</sup>

Dick was found guilty of rape and was sentenced to eight cuts and two and a half years of imprisonment with hard labour.

In another case, Jesta was only 13 when she visited her mother in Bulawayo in order to undergo an eye operation at the hospital. While

42. NAZ, 7001, 1951. The rapist received three years of imprisonment with hard labour and warned of an indeterminate sentence.

43. NAZ, S2286, 80, 1954.

44. *Ibid.*

waiting for her mother, she was lured to a secluded place in the veldt and raped by a man called John who had promised to take her to her mother.<sup>45</sup> In yet another case, twelve-year-old Elita, who had come from Plumtree to visit her sister Silinganiso in the Bulawayo Location, went to Mzilikazi Location to visit a woman called Nonziwa, soon after arrival. While she was sleeping at night, she was raped by one Sililo. To silence her, he offered her some money. She ran away and reported the case to the police. Sililo was tried, found guilty of indecent assault, and sentenced to two years imprisonment with hard labour.<sup>46</sup>

Similarly, Sipo, aged between five and seven years, was going to fetch water from a well near Lower Rangemore, in the Bulawayo peri-urban area when she was followed and raped by one Antoni. In her testimony, she told the Court of how Antoni had thrown her to the ground and threatened her with a knife. Annie, Sipo's aunt testified in court:

Sipo is my niece. Her father lives at Kezi and her mother has been staying in the Location. I don't know her whereabouts. I have been the guardian of Sipo for 5 years ... Next thing I knew, Jessie [her son] was shouting out that a person was killing the child ... I rushed out of the hut. I saw a man running away. My husband and another man, Petros, and myself gave chase until we caught the accused. My husband caught him. Sipo was upset, and when she saw me she started to cry. I examined her and found that she was wet in her private parts, and she was bleeding. There was blood coming from her private parts. When I examined this witness, it was quite clear to me it was semen on her private parts and stretching to her thighs.<sup>47</sup>

Antoni was found guilty of indecent assault and sentenced to four years of imprisonment with hard labour and eight cuts. Even more disturbing was the fact that it was not just strangers who raped girl children, as sometimes they were victimised by their male relatives. The case of Silombi, who was found guilty on three counts of raping his underage niece, is representative of girls being vulnerable within their own family circles. Between the 15th and 17th of June, 1953, Silombi consecutively raped twelve-year-old Josephine at his firewood store in Barbourfields, Bulawayo Location. While other children were going to school, Silombi had lured Josephine to his shop and sexually abused her.<sup>48</sup>

45. NAZ, 7157, 1952. John was found guilty of rape and sentenced to six cuts and three years of imprisonment with hard labour.

46. NAZ, 6870, 1950.

47. NAZ, S2286, 31, 1954.

48. NAZ, S2286, 7371, 1953.

Surprisingly, Silombi received only ten months of imprisonment with hard labour for his crime, most likely because, at twelve, Josephine was considered an adult by the colonial court and because she had returned to Silombi's store of her own will in two separate occasions. But without the colonial legal rules of evidence and sentencing, it is hard to say for certain. However, it is certain that it was not uncommon for men to take advantage of the confusion and vulnerability of twelve or thirteen-year-old girls.

In another case, in 1954, one Shamanga was charged with raping Gracie, an eleven-year-old girl, at Pendennis Farm in Bulawayo District. Gracie told the court that she did not know her age, but that she had not started menstruating.<sup>49</sup> She explained that she sneaked out from home to go to a dance at the neighbouring village with the accused, when he suggested that they should sleep in the Veldt, where he raped her.<sup>50</sup>

These cases indicate how vulnerable children were especially when questioned in an adult court. It thus raises the question of what protection did minors get from the State at the time. The answer is that, while the colonial legal system ruled that a European male must be 21 years of age or older to get married without parental consent,<sup>51</sup> the same system declared that 12 was the age of sexual consent for African females. Any girl who was 12 years old, therefore, was, legally, a "woman".<sup>52</sup> This raises important questions about racial constructions of age in a colonial system. Although 12 was the colonial legal age of consent for African girls, a close analysis of these criminal cases reveals that there were many factors involved in determining who was a girl and who was a woman. The definition of girlhood was not easy to pin down as it was a fluid concept that was contested by both European and African cultures and could change over time.

For example, one girl, Emma, guessed her age to be about 17, and stated that she was still in school and lived with her mother. She had gone to collect some grass in the bush when the accused, Takawira, raped her. Takawira was sentenced to six 'cuts' and three years of hard labour.<sup>53</sup> Because she was in school, Emma was depicted as a girl, whereas another

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49. African people saw menstruation as a marker of life stages, and more significant than the precise number of years a woman had been alive.

50. NAZ, S2286, 37, 1954.

51. Southern Rhodesia, *Law Reports 1951: Decisions of the High Court of Southern Rhodesia for the Year 1951*: 58.

52. For a similar discussion on the differential treatments and constructions of norms according to race under colonial rule, see Mamdani's analysis of the concepts of citizen and subject in Mahmood Mamdani's (1996) *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*, Princeton University Press.

53. NAZ, S2286, 7357, 1953.

rape victim, Sarah, was considered a "woman" at 16. Similarly, Gracie, another rape victim, was considered a child at 14 years when one Kala raped her on Asmania Farm.<sup>54</sup> Yet, in other cases, girls of only 12 or 13 were regarded as women. What is also interesting is that, according to the colonial legal system, rape was regarded as a criminal offence against the state, and not, as in civil crimes, against an individual. Therefore, all rape cases had to be tried in a colonial criminal court. This deprived Africans the power to settle disputes in their own way, and in the case of rape, to set the criteria of womanhood and consent as well as to establish who was being harmed in a crime. Whereas, dispute resolution within the African communities in the rural areas focused on collective punishment and responsibility, the colonial courts were trying the rapists without considering the harm done to the victim and her family.

Because of this, some African parents arranged for out-of-court settlements with the men who raped their children, as in the case of one Nkani who demanded damages from Ncube who had raped Nkani's daughter, Batombi. By taking matters into his own hands and demanding "damages", Nkani was rejecting the colonial notions that one, the crime was committed against an individual and the colonial state instead of against him and his family, and two, by incarcerating an individual justice would prevail. The families of the victims knew that they would get no compensation from settling in court.<sup>55</sup> This leaves us wondering about the prevalence of out-of-court settlements that went undocumented in the archives. It also opens the question of a changing urban environment where many women with no family connections had no choice, or a new choice, of using the colonial courts.

Also significant is the fact that colonial courts did not always apply the law equally between white and African rapists. Evidence shows that, where the rapist was a white male who had sexually assaulted a black female, he was always given the option of paying a fine instead of going to prison.<sup>56</sup> This was never an option for African men found guilty of rape. There could be a number of explanations for this racial discrimination. It is possible, for instance, that the courts did not offer African offenders the option of paying a fine because it was assumed that Africans would not have the money for the purpose. Yet, even in a situation where employers were willing to lend their workers money with which to pay fines, the courts routinely sentenced

54. NAZ, S2286, 25, 1954. Kala was found guilty and received six cuts and two years of imprisonment with hard labour.

55. Clearly, there are hints of transformation as to how to deal with such issues, which pepper these accounts. More research, particularly through oral histories, is needed in order to understand how issues of justice and redress were dealt with in the past.

56. NAZ, 44, 1951.

them to hard labour. Other possible explanations would be the fact that the courts did not want to have rapists on the loose, particularly given the possibility that they might attack white women in future, and therefore, sought to lock them away,<sup>57</sup> or the fact that the colonial economy needed cheap African labour and this was one way of servicing this labour demand. White offenders were seldom sent to prison because it was felt that the stigma of imprisonment was much worse for Europeans than for Africans.<sup>58</sup>

### The Monetization of Sex and the Justification of Rape

For the Africans, the city was first set up by European men as an African male space with European men running the city, and African men there as labourers with accommodation and wages geared to bachelors. African women were supposed to stay in the reserves, reproducing the labour force for free and supplementing their husbands' wages through agricultural production. There is a long and contested history over controlling African women's mobility, and Diana Jeater in particular has written about the discourses of immorality that were used to justify keeping women on reserves.<sup>59</sup> Generally, colonists feared that allowing African women in the city would lead to a politicized proletariat and African patriarchs feared that permitting women in the city would leave no one to work the land and secure usufructuary land rights for absent husbands. There was also a general fear that women in the city would become "loose" and "uncontrollable," which would challenge the patriarchy. Both the African and European patriarchy was dependent on the unremunerated productive and reproductive work of women. While wages and accommodation motivated European employers to keep African women on the reserves, European men turned a blind eye to a small number of African women in the city on the assumption that they were prostitutes who would act as a buffer against African men's "libido."<sup>60</sup> However, European women, for their part, had similar fears of their husbands liaising with African women.

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57. For more information, see Pape, 699-720. Despite the fear of black peril in the colonial setting, we found zero cases of African men accused of raping white children. We did come across one case where a seventeen-year-old African man was found guilty of indecent assault of a three-year-old white girl. See NAZ, 7296, 1953.

58. Southern Rhodesia, *Law Reports 1951: Decisions of the High Court of Southern Rhodesia for the Year 1951*.

59. For a detailed discussion of Diana Jeater's (1993) study on moral discourses, see *Marriage, Perversion and Power: The Construction of Moral Discourse in Southern Rhodesia, 1894-1939*, Oxford: Clarendon Press.

60. Pape, 669-720.



Together with missionaries, they opposed large-scale entrance of African women into the city, arguing that the city "corrupted" African women.<sup>61</sup>

Despite the colonial government's assumptions about African women in town, and despite its influx control policies, African women lived and worked in the cities from the beginning. These women were wives, mothers and sisters, daughters who worked as nannies, vegetable vendors, beer brewers, cooks, washerwomen, and prostitutes. In fact, until the municipality started pulling down African-built accommodation (otherwise known as "sanitation segregation" policies) in the 1920s, some African women owned their own homes and ran their own businesses. Since employers controlled urban housing for African male labourers, and because African women could not own houses in their own right, women had to form relationships that were not sanctioned by the family with African men in order for them to find a place to stay in the city. "Mapoto" "marriages" were an example of such living arrangements.

The provision of married accommodation did not eliminate the stigma associated with unattached, or independent, urban women as prostitutes. Thus, in most cases of rape, the court asked the victim about her virginity and marital status.<sup>62</sup> Implied in the courts' reaction to victims' ranges of answers about co-habitation was the assumption of immorality and of potential prostitution.

Questions of marital status were often closely followed by questions that addressed prostitution directly. For example, Pandhliwe, who had just arrived in the city and was staying with her uncle in the Bulawayo Location, was out looking for work when Pula offered to take her to his employer who, he claimed, was looking for a nanny. On the way to the "employer", Pula raped her.<sup>63</sup> In her testimony, Pandhliwe stated that she was not married, had had a child with a man that she had since broken up with, and now had another lover whom she planned to get married to. In addition to asking her if she had ever "charged anyone money for intercourse," the court went on to ask her if she had ever received any gifts for sex. She replied, "My boyfriend gave me a dress, but he is in love with me."<sup>64</sup> A gift

61. Schmidt 1990 "Negotiated spaces and contested terrain: Men, women, and the law in colonial Zimbabwe, 1890-1939", in *Journal of Southern African Studies*, 16 (iv): 622-648.

62. For some examples of cases where marital status was key see, NAZ, 6147, 1946; NAZ, 7146, 1952; and NAZ, 7, 1954. For some examples of cases where dress was key, see NAZ, 6850, 1950, and NAZ 7371, 1953. For examples of cases where virginity status was key, see NAZ, 7188, 1952, and 7371, 1953.

63. NAZ, 1952, 7204.

64. NAZ, 7295, 1953. Interestingly the court record mentions that Sarah had been the complainant in a previous rape case, but unfortunately, we could not locate that case.

between lovers was something that society would have regarded as normal, but the Court was implying that this represented the monetization of sexual relations in the city.

Similarly, Naria, a married woman who was visiting her friend Julia, in Mzilikazi, told the court how a man had suddenly grabbed her.

I said why do you touch me like that young man? And he said, this is Rhodesia, I am making love to you ... Before he threw me to the ground, he offered money. I refused saying that I was a kraal woman and knew nothing about that. I have never accepted money to allow a man to have intercourse with me.<sup>65</sup>

The court was, apparently, not convinced that Naria and Julia were innocently walking in the street, so it called Julia up as a witness. From Julia's response we get a sense that she was not being asked about what happened to Naria, but rather the court was trying to determine the morality status of the two women. Julia stated: "I am not a prostitute as far as I know, because I do not even know what a prostitute is. I have never accepted money for allowing men to have intercourse with me."

It was not only the colonists who assumed the women in town to be prostitutes, for, in over 90% of the cases that were dealt with by the courts, African men offered African women money either before or after raping them. For example, according to one rape victim, Manana, her rapist, Munyoli, "caught me and took some money out of his pocket. He whispered, here is some money, I took the money and threw it on the ground." Munyoli challenged her testimony, maintaining that sexual intercourse had occurred "with her consent and he paid her [saying:] you wanted 7/6 and I told you I only had 2/-."<sup>66</sup> Unfortunately for Munyoli, the court did not believe him and found him guilty.<sup>67</sup>

The following testimony by Violet shows that some women understood that, when a man offered money, he was looking to buy sex. In 1954, Violet, a seventeen-year-old, was walking alone to her home in Douglasdale, Bulawayo, when Odreki caught up with her. She described how he offered her 2/-, which she refused because she knew that he expected her to sleep with him in return. She testified: "He repeats his request. I refused. He tries to catch me. He chased me and lied on top. I then get away.[sic]"<sup>68</sup> These cases show that, while men sought to justify their abuse of women by

65. NAZ, 1952, 7231.

66. NAZ, S2286 32, 1954.

67. He was given three years of imprisonment with hard labour and six cuts.

68. NAZ, S2286 86, 1954. Odreki was found guilty of assault with intention to commit rape and received six months of imprisonment with hard labour and six cuts.

paying them money, women resisted, not just by fighting off physical attacks, but also by refusing the cash compensation that was offered.

That the men could have the temerity to stand up in a European court and talk about paying for sex is testimony to the fact that the colonial state was not serious about its laws against prostitution. The courts never reprimanded men who openly talked about buying sexual services. The courts were at one with African men in assuming that all women in the city were potential prostitutes. As elsewhere in the world, the courts in Rhodesia at the time were androcentric in their perception and roles in trying to monitor or solve social problems, including prostitution. Despite the fact that prostitution was illegal, it was only the women who were punished for the infringement of the law and not their male partners.<sup>69</sup> By not chastising or reprimanding these men for attempting to buy sex, therefore, the courts were not being even-handed. Nevertheless, as is clear from the above examples, African women challenged the men's definition of what constituted acceptable city behaviour, especially when men were trying to dictate that women's roles be that of sexual objects.

The preoccupation and consistency of the court's questions about prostitution and sexual experience suggests that issues of virginity, dress, and marital status influenced the court's determination of the morality of the complainant and the guilt or innocence of the accused. However, the sentences do not seem to reflect these underlying assumptions, as most women who appeared before the courts for cases of rape did succeed in putting rapists behind bars. Thus, without a guide of the colonial court's rules of evidence, it is difficult to know exactly what the court was looking for to be able to declare a man guilty or not guilty of rape.<sup>70</sup>

### **Gendered Struggles to Define Acceptable Sexual Behaviour**

Unlike the rural areas, the city was a place of convergence of people from different racial, ethnic, and geographic backgrounds where social relations, including gender relations, were bound to be redefined. Central to gender dynamics in Bulawayo at the time was the question of who had the power to define "normal," acceptable behaviour in the city? Although colonial urban planners and the judiciary had the administrative and legal power to plan the physical and social infrastructure of the city, the norms of "normal" behaviour were a contested terrain in which race, gender, and generational and class struggles were key factors.

69. Jackson and Barnes both describe how there were sporadic raids staged by the Municipality to "round up" and "examine" unmarried African women living in the city. See Barnes, *'We Women Work So Hard'*; and Jackson, *"When in the White Man's Town"*: 201.

70. These issues await further research.

Because testimony before the courts was recorded verbatim, it is evident how the language of the witnesses reflected the desperations and frustrations engendered by life in the city. Studies of rape have stressed that rape is about power and control.<sup>71</sup> These studies usually suggest that it is "powerless" men who are trying to assert what they had been socialised to see as their heterosexual masculinity by forcing themselves on women.<sup>72</sup> Force, therefore, is used to control and define social interactions. In the case of Bulawayo, this seems to have been compounded by the men's belief that an urban environment called for different norms of morality, reflexive of the new modernity associated with urbanisation. This is evident in many cases here in which men justified their violent actions with expressions such as: "This is Rhodesia, I am making love to you,"<sup>73</sup> or "I am going to show you how people live in Bulawayo."<sup>74</sup> One woman told the court: "He told me that I was in town now and that I was not to behave like a kraal girl".<sup>75</sup>

The statement, "this is Rhodesia, I am making love to you," was made by one Mbi, when his would-be victim, Naira, who was much older than him, refused the money that he had offered and asked him: "Why do you touch me like that young man?" By saying "this is Rhodesia," Mbi was saying that in the new urban setting, not only were age differences irrelevant, but that the monetization of sex and sexual violence were acceptable. Equally, by refusing his offer and by taking him to court, Naira was rejecting his definition of Rhodesia and the role that it prescribed for her as a woman.

Similarly, there was the case of an old woman named Muntuwani, who told the court that she did not know her age, but remembered that, "when the Europeans came to this country, I was a girl . . . I am completely blind in my left eye and I can't see very much from my right eye."<sup>76</sup> She told the court that the accused, Mashanduka, had come into her hut and "raped me from behind . . . I recognized the accused as the boy who lives at the staff's house. After this, the man said lie down my wife . . . I did not consent. I am an old woman."<sup>77</sup> By calling Muntuwani "my wife," Mashanduka was insinuating that what he had done was nothing unusual and that he could

71. Zimbabwe Women's Resource Centre and Network 1997 *Woman Plus: Women and Rape*, ZWRCN.

72. *Ibid.*

73. Naira's case, NAZ, 7231, 1952.

74. Esther's case, NAZ, 7287, 1953.

75. Juliette's case, NAZ, 7158, 1952.

76. NAZ, S2286 87, 1954.

77. *Ibid.*

have sex with her when and how he liked.<sup>78</sup> On her part, by calling Mashanduka a "young man," Muntuwani reminds him of the respect that is traditionally due to elderly people such as her. However, in a changing colonial context, generational differences were quickly losing weight, as young men like Mashanduka used the power that they felt they acquired in the city as males, as opposed to what would be expected of them in the rural areas. Clearly, Muntuwani, despite being old, blind, and alone, had no interest in being Mashanduka's "wife" in this so-called new Rhodesia.

In another case, a rapist told Juliette that she should not complain about being raped, as she was now living in town and should, therefore, not behave like a "kraal girl". He also offered her money, which for him, signified the way of life in Bulawayo.<sup>79</sup> Refusing to conform to his idea of her as a city girl, Juliette rejected both his money and the implication that she was a prostitute and reported him to the police. By reporting him to the law, she contested how life ought to be in Bulawayo and defended her right to move about the city freely and to be in full control of her own body. In yet another case, before raping her, Taurayi told Esther, a widow with two children and who admitted to be a prostitute, that he was going to "show her how people live in Bulawayo".<sup>80</sup> She described how Taurayi raped her in the bush on her way to work, saying:

I heard the sound of someone running toward me ... I said to accused, 'you are running for me? Do you know me?' He said 'are you asking if I know you? Are you asleep? I am going to show you how people live in Bulawayo.' As he said this, he put his hand in his right hand trouser pocket and pulled out a pocket knife ... and said 'I have been in Bulawayo for 15 yrs' ... he was holding the knife with the blade pointing at me and said, 'walk fast. I may kill you just now' ... I was very afraid ... we then walked into the veld ... then he told me to lie down ... He first told me to take off my knickers. I did so and then lay down. He was still holding the knife ...<sup>81</sup>

Not only did Taurayi use physical force, but he also used intimidation to assert his "power" over Esther. By saying that he had been in Bulawayo for 15 years, Taurayi was claiming to be an expert on the ways of the city. By asking Esther if she was asleep, he was implying that she was behind the times with regard to gender relations in Bulawayo.

78. For another example of where the rapist calls his victim, "my wife," see NAZ, 6064, 1946.

79. NAZ, 1952, 7158.

80. He was also convicted in Rusape for theft, 8-3-39, 3 months IHL; at the High Court Salisbury, 16-7-42, rape, 2 years IHL, and 10 cuts cane; and at the High Court Umtali, 6-10-48, rape, 4 years IHL and 10 cuts.

81. NAZ, 1953, 7287.

Esther, of course, was not entirely unschooled in the ways of the city and had her own ideas about the protocol of relationships between prostitute and client. By asking, "do you know me?" Esther was saying that, even in the city, sexual relations had to be properly negotiated. She was making it clear, therefore, that her vision of Bulawayo was different from that of Taurayi and that she was not prepared to accept the men's definition of what was "normal" sexual conduct in the city.

### Defiance and Resistance: Concluding Remarks

Women were, by no means, passive victims of men's sexual attacks. They resisted in a variety of ways. For instance, some women tried to reason with their attackers, using their age or their menses, or the dirtiness of the place where they were being asked to lie down, to dissuade their attackers.<sup>82</sup> How successful this strategy was is not clear from the records. Another strategy was to "raise the alarm." Women who were attacked in public spaces were sometimes able to shout for help. For instance, one night in 1946, Esther left her quarters to go to the communal lavatories, which she described as being some distance away. She reported that, she then

noticed a male standing near the first lavatory ... he told me to lie down and I asked why ... to have intercourse with you ... I asked him if he knew me and he said, don't question me. I said: but have we agreed to do this? With that, the accused raised a long knife ... Lie down or else I will cut you ... I said, Well I am not going to. We didn't agree to do this. He said, Well lie down now ... if you refuse to do this, I will kill you. I said, No let me go. ... Then he went round the back of me and said, well seeing that you refuse to lie down on your back, well, lie down on your stomach. I said, I'm not going to do it. If you want to kill me, do so, he said ... other women came in ... I left the lavatory and I raised the alarm.<sup>83</sup>

Women also fought back physically, for, as Terence Ranger found out in his study of rape in the Matobo and Gwanda districts from the 1890s to the 1930s, while "women are all too often the victims of violent crime, the impression given by the case records is not at all one of female helplessness."<sup>84</sup> Some women who were attacked by rapists successfully fought back. For example, when Odreki threw Violet to the ground and attempted to rape her, she successfully fought him off and ran away,<sup>85</sup>

82. NAZ, 52286, 145, 1935, and NAZ, 6150, 1946.

83. NAZ, 6150, 1946.

84. Ranger, "Murder, Rape and Witchcraft."

85. NAZ, 52286 86/54. For this failed attempt to rape Violet, Odreki received six months of imprisonment with hard labour and six cuts. Note the discrepancy in sentences between this case of attempted rape, and that of Esther's case where the accused received five years imprisonment with hard labour and ten cuts.

while, on her part, fourteen-year-old Gracie bit her attacker's thumb and managed to flee to safety.<sup>86</sup> Admittedly, the cases of women who successfully repelled sexual attacks are few in the court records examined for this study. Nevertheless, it is significant that some women put up a fight against their attackers.

Most significant is that women who were raped or attacked took their attackers to court and had the courage to testify despite the stigma associated with rape and traditional taboos concerning talking openly about sex. In traditional Ndebele culture, women were not allowed to speak freely about sexual matters in the presence of men. Thus, it could not have been easy for women to describe the circumstances of their rapes in generally unfriendly courtrooms full of strange white and African men.<sup>87</sup> Moreover, women were often blamed for being raped and the stigma attached to rape often destroyed a marriage or strained the raped woman's relations with other members of the family. Yet, despite all these constraints, women testified in court, spoke about their rapes in intimate detail, and did so with remarkable courage. It is not clear, however, to what extent the women's resistance to sexual assault and determination to prosecute offenders deterred attacks.

In the city, even when women were supported by relatives or friends in taking their cases to court, publicizing the fact that one had been raped inevitably led to social stigma that could ruin the chances of marriage, and was also likely to destroy the respect one received from one's own family. Because women were often blamed for the rapes perpetrated on them, girl children were afraid to tell their mothers what had happened lest they get a beating. Nevertheless, urban women still took their molesters to court. How can this be explained?

The answer is partly that, in the urban environment, without the protection and support of traditional extended family and community networks, women had no alternative but to depend on colonial legal structures. For example, in a rural setting, if a woman or a girl was raped she would tell a senior woman in the community who would speak on her behalf when the two families got together to resolve the offence.<sup>88</sup> While the colonial court was no replacement for a system that prioritised collective

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86. NAZ, S2286/25, 1954. David was found guilty of assault with intent to commit rape and received two years of imprisonment with hard labour and six cuts.

87. Likewise, girl children who were raped had to testify in a male dominated environment that was probably not very child-friendly.

88. Very little research has been done into the social dynamics of sexual violence in rural Matabeleland and unfortunately, it is beyond the scope of this paper. See, Ranger, "Murder, Rape and Witchcraft." Harold Child, a colonial ethnographer writes that "Rape, *ukudlora*, was not regarded seriously unless accompanied by aggravating circumstance, as, for example, where one of the King's wives was concerned, in which case both parties were executed. Usually the payment of a fine by the offender was sufficient to meet the claim of the aggravated person." See

responsibility,<sup>89</sup> if a woman kept silent, the rape remained an incident between her and the rapist who could remain unpunished. Women clearly wanted justice, whether their decision to take their attackers to court tarnished their reputations or not. There were, clearly, costs to either speaking out or keeping quiet. However, by exposing rapists, women were also protecting other women by warning them of men who were likely to remain potential rapists for the rest of their lives.

In the introduction to an article reassessing his acclaimed work, *The Invention of Tradition*, Terence Ranger acknowledges the "significant absence ... [and] the importance of the 'invention' of gender roles in the legitimization of colonialism."<sup>90</sup> Analyzing the colonial "punishment" of rapists partly answers this call. After all, it is now widely accepted that prosecuting criminals is merely dealing with the symptom rather than the cause of criminal behaviour. Colonial authorities introduced a predator-centric system, which is based on the extraction of the criminal from society and his/her incarceration, but which, unfortunately, did not deter rape. In contrast, there is evidence that traditional African approaches common in the rural areas focused more on redress and mending relationships among families rather than meting out punishment. Not only were such cases resolved through the involvement of the community at large but also the guilty party's family was required to compensate the woman's family for

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Child 1968 *The amaNdebele*, Ministry of Internal Affairs, Rhodesia Government: 32. In *The History and Extent of Recognition of Tribal Law in Rhodesia*, the same author talks about seduction, which is significant here if rape was seen as an "aggravated form of seduction." He writes

a girl's father or guardian is entitled to compensation for her seduction by any man who has not been recognized as her prospective husband. A suitor may be liable should his seduction of the girl result in her pregnancy. The father, or guardian of the girl, is the aggrieved party, and not the girl. It is he who receives her dowry on her marriage, and it is her lobolo value, which is reduced if she is seduced prior to marriage. African law does not consider that the girl has suffered any loss entitling her to damages.

For this case, he footnotes *De Souza v. Munjoma*, 1951, SNR 260. See Child 1965 *The History and Extent of Recognition of Tribal Law in Rhodesia*, Ministry of Internal Affairs, Rhodesia Government: 100. In our opinion, feminist oral histories would be needed before confidently asserting claims about the gendered dynamics of how rape took place in rural areas.

89. For a description of the Ndebele law and how the justice system featured collective responsibility, see Child, *The amaNdebele*: 32. For a discussion on dispute resolution in African legal anthropology, see John L. Comaroff and Simon Roberts 1981 *Rules and Process, the Cultural Logic of Dispute in an African Context*, University of Chicago Press.
90. T. Ranger 1993 "The invention of tradition revisited: The case of colonial Africa", in T. Ranger and Olufemi Vaughan eds *Legitimacy and the State in Twentieth Century Africa*, Oxford: Macmillan: 65.



"damages" to their daughter, to the family honour, and to the chances of the daughter to be properly married, as well as the family's chances of receiving *lobola* for their daughter.<sup>91</sup> This is not to say that the system of justice in the rural areas was in any way more gender sensitive to women, as the transgressors did not compensate the victims directly but their families and, therefore, the system was equally embedded in patriarchy and marginalised the victim.<sup>92</sup>

In the colonial Western system, who benefited from court judgements against rapists? If rape is regarded simply as the violation of an individual woman by an individual man, then the woman benefited from the satisfaction that the rapist had been incarcerated as well as from the fact that her view of what was decent behaviour had been vindicated. However, if the rapes are seen within the colonial context in which African value systems were pitted against the newly introduced and dominant colonial worldview, it is clear that the latter marginalised the former. His is particularly so given the fact that the African women's status as perpetual minors under the colonial law promoted their subjection to African men, narrowed their economic options, and, thereby, curtailing their physical mobility.<sup>93</sup> Under colonialism, rape cases were legally regarded as conflicts between the State and the rapist, with the State arrogating to itself the right to determine what was right and what was wrong, as well as deciding the appropriate punishment. In addition, as the aggrieved party, the colonial state was to be compensated by the offender. Thus, the implication was clearly that it was neither the woman nor the African patriarchy that had been violated but the state; it was the state, therefore, that benefited from the free labour of the convicted rapist. Thus, while the rural patriarchy received cattle<sup>94</sup> under the African legal system, and the new colonial

91. Woman, being a minor in "traditional" Ndebele law, had no *locus standi in iudicio*. Her guardian represented her in all cases. Although a woman had no standing in court, in the absence of her husband she had the right to initiate actions to protect family property but her husband's senior male relative was obliged to assist her. See Harold Child 1968, *The amaNdebele*, Ministry of Internal Affairs, Rhodesia Government: 33.

92. Women's ways of healing and coping with acts of sexual violence is another avenue awaiting further research.

93. Barnes, "Am I a man?": 59-81. To this John Pape and Ian Phimister would add that some women in urban areas were desirable for keeping African men away from European women. See Pape, "Black and White": 709; Phimister 1994 *Wangiri Kolia; Coal, Capitalism and Labour in Colonial Zimbabwe 1894-1954*, Harare: Baobab: 66. In Zimbabwe, women only became of legal majority age in 1982. See Eddison Zvobgo March-April 1983 "Removing laws that oppress women", in *Africa Report*: 45.

94. In *The History and Extent of Recognition of Tribal Law in Rhodesia*: 4. Harold Child argues that in Ndebele law, rape was not a serious matter unless followed by injury. It was thought to be a more aggravated form of adultery or seduction resulting in the payment of vindictive damages.

authorities received free convict labour, the real victims of rapes, the women, were marginalised and received no compensation for their abuse.

Moreover, under colonialism, men were never asked why they raped nor were they ever asked to apologize to the victims. The courts left women who had been violated to deal with the psychological and social effects of rape alone. In pursuing this "fire-extinguisher" approach to the problem, the colonial justice system never addressed the root causes of the sexual abuse of women. Indeed, as long as the cases of rape involved only African women, they were seen simply as an African problem. Thus, the colonial government was quite content to let rapists off unless they were judged to be habitual criminals, saw no moral problems in declaring thirteen-year-old girls mature enough to consent to sex, and gave surprisingly short sentences, averaging three years, to convicted rapists.

The cases reviewed in this study reveal the ongoing struggle over the power to define the city and raise questions about women's safety and the ability to make decisions concerning their own bodies. It has been shown that urbanisation, capitalism, and the monetisation of sex were integral to situations of sexual violence. Beyond the moment when the crime was committed, rape records raise questions about consent and the social construction of girlhood and womanhood, as well as questions about historians' neglect of children when studying colonialism and its impact on urban African society. They raises questions about the Western way of dealing with crime and the long term effects that the colonial courts have had on rape as a social problem in contemporary Zimbabwe. A critical analysis of these cases demanded that we unpack the category of "woman" and look at who exactly was raped, by whom, when, and why. This approach has allowed us to glean from the evidence an understanding of the systemic nature of rape in colonial Bulawayo.