

# KEEPING THE NATIVES IN THEIR PLACE: THE IDEOLOGY OF WHITE SUPREMACY AND THE FLOGGING OF AFRICAN OFFENDERS IN COLONIAL NATAL – PART 2

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## ABSTRACT

The political economy of colonial Natal was based on a coercive and hierarchical racial order. Over decades, the white colonists struggled to assert their power over the indigenous inhabitants of the colony, and to force them off their land and into wage labour in service of the white colonial economy. This process resulted in ongoing resistance on the part of the indigenous population, which ultimately manifested as a series of rebellions and revolts throughout the colonial period, and which were met with force by the white colonists. White colonial ideology was shaped by the violent and adversarial nature of the social, political and economic relations between white and black in the colony. It was also influenced by the broader global context, within which colonisation was justified by racist variants of the theory of Social Darwinism. Driven by a strange mix of deep insecurity and fear on the one hand and racist paternalism on the other, the white settlers of colonial Natal developed a variant of white supremacist ideology with a special flavour. Nowhere was this more apparent than in their near obsession with flogging as the most appropriate manner of dealing

with, in particular, African offenders. By closely examining a series of public debates that took place in the colony of Natal between 1876 and 1906, this contribution seeks to excavate the various nuanced strands of thinking that made up the ideology of white supremacy in the colony at the time.<sup>1</sup>

**Keywords:** Race; racism; racist; white supremacy; corporal punishment; flogging; whipping; colonial ideology; racist ideology; scientific racism; Social Darwinism; colonial Natal; colony of Natal

## 1 Introduction

Part 1 of this contribution advanced the hypothesis that white thinking in colonial Natal was shaped by a form of white supremacist ideology that reflected a cognitively dissonant mixture of attitudes, beliefs and prejudices. On the one hand, the indigenous people were regarded as brutal and rebellious “savages” to be feared by the vastly outnumbered white settlers. On the other hand, the white colonists regarded members of the indigenous population as being primitive “children”, who required a firm helping hand up the ladder of what they saw as civilisation. The combination of racist fear and loathing, together with a patronising paternalist concern, formed a toxic ideological mix. This was compounded by intense frustration on the part of many colonists, who – throughout much of the colonial period – were unable to gain easy access to, or effective control over, black labour. The so-called natives had to be taught to fear the white man, so as to reduce the risk of rebellion, and – to use the type of terminology that would have been prevalent in white colonial circles at the time – to “know their place” as dutiful and perpetual “servants” in service of their white

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1 Readers are advised that this contribution deals with historical material that may be deeply offensive to many as it includes racist terms commonly used during the colonial period. For the sake of historical accuracy, many direct quotations cited here retain the racist terms originally used. However, neither the author of this contribution nor the editors of this journal condone – much less approve of – the use of these racist terms. Instead, the presence of such terms in some of the direct quotations is aimed solely at giving an accurate picture of the racist ideology that existed in Natal during the colonial period.

colonial “masters”. The colonists of Natal developed an almost fanatical belief in the whip and in the dreaded cat-o-nine-tails as the most effective instruments with which to punish the natives for almost any type of infraction against white colonial sovereignty and authority.<sup>2</sup>

Part 1 of this contribution examined three public debates that took place in colonial Natal regarding the issue of whipping as a form of punishment.<sup>3</sup> Two of those debates concerned the whipping of (mainly black) so-called servants under the Natal Masters and Servants Ordinance 2 of 1850 and highlighted the extent to which the white supremacist ideology of colonial Natal was shaped by the coercive and racist hierarchical structure of the political economy of the colony, as well as by the frustration of the white colonists at being unable to easily access and control black labour in the face of resistance to the colonial project by the indigenous population. The third debate concerned the public flogging of (mainly black) prisoners and highlighted, *inter alia*, the extent to which fear and loathing shaped white supremacist ideology in colonial Natal, as evidenced by the dogged determination of the white colonists not to relinquish this brutal sanguinary form of punishment.

Part 2 of this contribution continues this discussion by examining the ideological implications of three further public debates that dealt with the issue of whipping. The first of these took place in 1883 and revolved around the appropriate punishment for certain “outrages” alleged to have been committed by black men on white women. The second debate occurred in 1905 and addressed living conditions in the Durban Gaol, including the brutal manner in which frequent whippings of black prisoners in the Gaol were carried out. The third debate took place a year later, in 1906, and

- 2 The cat-o-nine-tails was a type of multi-tailed flail, which was used to carry out severe corporal punishment. Section 4 *infra* explains how the extensive use of the cat-o-nine-tails gave rise to the term “Cult of the Cat” in relation to the punishment of so-called “natives” in the colony. Details of the extent to which brutal corporal punishment was employed in the colony – mostly against members of the black indigenous population – are provided in sections 3, 4 and 5 of Part 1, and in sections 2, 3 and 4 of Part 2 of this contribution.
- 3 See sections 3, 4 and 5 of Part 1 of this contribution dealing, respectively, with “Whipping under the Natal Masters and Servants Ordinance of 1850”; “The Private Flogging of Prisoners Bill 6 of 1883”; and “Whipping under the Masters and Servants Ordinance of 1883”. Peté 2020: 374.

centred on prison reform, including attempts to curtail flogging with the cat-o-nine-tails. The conclusion takes a final overall look at the way in which corporal punishment was intertwined with the white supremacist ideology of colonial Natal.

## 2 Whipping and the 1883 debate on the “crime of indecency”

In 1883, a debate took place in the Legislative Council of the colony of Natal that served to reveal the conviction of many white settlers that harsh corporal punishment was particularly suitable for African offenders.<sup>4</sup> This debate concerned a series of alleged assaults on white women by black men within the colony. As pointed out in Part 1, this represented – for the white settlers at an ideological level – a direct attack on the heart of the colonial enterprise, since white women served as a potent symbol of white civilisation.<sup>5</sup> An assault on or rape of a white woman by a black man was seen by the white colonists as an extremely serious denigration of white colonial authority and civilisation. This is explained as follows by Gareth Cornwell:<sup>6</sup>

As Frantz Fanon has suggested, in the colonial context the literal and the symbolic are virtually indistinguishable, the individual body and the ethnic body are one. In the patriarchal construction of the sexual act, whether forced or not, the male is dominant and the female is subordinate: the political scandal of the Black Peril is the subjection of a woman of the dominant race to the power of a man of the subordinate race; the penetration of a white woman by a black man is an act of insurrection.

What made this “act of insurrection” even more threatening in terms of the prevailing white supremacist ideology, was that it revealed the perpetrator not as a criminal deviant to whom logic, reason and science could be applied, but as a childlike and primitive

4 The debate, details of which are fully discussed below, took place on 24 and 29 Aug 1883. See *Debates of the Legislative Council of the Colony of Natal* 24 and 29 Aug 1883.

5 See section 2 of Part 1 of this contribution, Peté 2020: 391. As Perry 1997: 502 notes: “That white women, dubbed by one observer ‘fair ones of a purer caste’, served as potent symbols of civilization throughout the imperial world is a truism of recent and not-so-recent investigations of gender and colonialism.”

6 Cornwell 1996: 441–442.

savage with potentially dangerous sexual urges. As Bill Ashcroft has pointed out:<sup>7</sup>

The ambiguity of the Africans' childlike primitivism was firmly located, for the Victorians, in a supposed lack of sexual restraint, which was as much a sign of a dangerous and unbridled savagery as it was that of an undisciplined, "pre-civilized" immaturity.

In response to such perpetrators and the so-called outrages that they were alleged to have committed, the white colonists had to confront their deepest fears regarding the so-called dark continent. It is the contention of this contribution that mere imprisonment was not regarded as a suitably firm response to such a grave threat. What was needed, instead, was a powerful pre-modern sanguinary form of punishment that still resonated with the power of ancient absolute monarchs, strong patriarchal leaders and masterful masters. According to the white supremacist ideology of the time, this power resided in the whip and in the cat-o-nine-tails.

Before proceeding to discuss the debate of 1883, it must be noted that this was not the first time that this issue had exploded into the consciousness of the white public in colonial Natal. Just over a decade earlier, there had been a significant black rape scare in the colony.<sup>8</sup> The scare, which manifested between the late 1860s and mid-1870s – peaking in 1872 – appears to have been psychosocial

7 Ashcroft 2001: 43. The contradiction inherent in the notion of a savage sexual predator who is at the same time a child – a character whom most readers today would only expect to see in bad horror movies – exemplifies, perhaps, what Ashcroft at 38 refers to as “the precise ambivalence which imperialism contained by means of the dualism of child and primitive”.

8 Etherington 1988: 36–53. An example of the type of reporting on this issue that appeared in the newspapers of the colony in the early 1870s, is a story in the *Natal Witness* of 26 Mar 1872. A black man was allegedly caught “in a state of nudity” in the bedroom of a white woman, for which he was sentenced to one month in prison with hard labour. The newspaper commented on this sentence as follows: “What a punishment! If indeed it can be called a punishment to feed and house such a villain for a month, who all but committed a frightful outrage. After this, is it to be wondered at if Europeans determine to take the law into their own hands, in cases of this sort?” Two days after this report, the same newspaper warned that, unless something was done, the colonists would be forced “to take the law into their own hands, at any risk”, and in early Apr, it was reported that “the ladies of Durban and the Berea have taken to the practice of carrying revolvers, and know how to use them”. See 28 Mar and 2 Apr 1872 *Natal Witness* respectively.

in nature, since there was no objective increase in the number of rapes of white women by black men during that period.<sup>9</sup> In order to explain a “rape scare” that was not triggered by any specific event or marked by any meaningful increase in prosecutions – or a “rape crisis”, during which “everyone was scared and practically no one was raped” – Etherington equates it to what Cohen famously called a “moral panic”.<sup>10</sup> Etherington concludes that a significant reason for the development of this “moral panic” among the white settlers of colonial Natal was their deep-seated fear of losing control over the indigenous population.<sup>11</sup> He explains that<sup>12</sup>

a substratum of guilty fear may be recognized as part of the more or less constant psycho-pathology of a racist society, a fear which can rise to the surface as a collective panic whenever sufficient cause threatens the colonists’ shaky sense of being in control.

This certainly rings true. As has been noted in previous sections of this contribution, fear and insecurity certainly seem to have been major components of the white colonial psyche.<sup>13</sup> It is the contention of this contribution that the greater the fear and anxiety, the greater the appeal of harsh corporal punishment. This was to emerge strongly in the 1883 debate.

On two separate days in August 1883, the Legislative Council of the Colony of Natal debated the issue of “punishment for

9 Etherington 1988: 37.

10 *Idem* at 36. Cohen advanced the theory of “moral panics” in his 1972 work, *Folk Devils and Moral Panics: The Creation of the Mods and the Rockers*.

11 Although the fear of losing control was constant, Etherington 1988: 53 explains that it became heightened during particularly insecure periods, such as the early 1870s: “[W]hen there were alarms across the border, influxes of unfamiliar migrant workers, firearms secreted in the countryside, and competition from African rivals in the marketplace, the mask of effortless control slipped.”

12 *Ibid.* On the ideological significance of the threat allegedly posed to white women by black men, Etherington at 36 comments perceptively that: “In a patriarchal society where women were part and parcel of property to be defended against threats from below, fear of rape was a special concern of white males.” He also (at 44) points out that the white view of Africans as being naturally licentious was “an idea with a long pedigree in European thought”.

13 See, eg, section 2 of Part 1 of this contribution, Peté 2020: 391.

indecent crimes by natives”.<sup>14</sup> Much of the debate was to focus on the belief of many white colonists that imprisonment was far too lenient a punishment for crimes of this sort. And in the shadows of the many complaints about the ineffectiveness and harmful effects of imprisonment on the so-called natives loomed the spectre of the whip and the cat-o-nine-tails. Of course, in terms of the white supremacist ideology of the time, these instruments of dread were to be applied in a racially exclusive manner by whites on blacks. The opposite had to be avoided at all costs, since this would send a message to the indigenous population at large that was diametrically opposed to that desired by the white colonists. As Mr Crowder, the representative who initiated the debate in the Legislative Council, noted at the start of the debate when referring to a case in which a white convict had been sentenced to whipping for attempting to escape:<sup>15</sup>

I venture to say that there can be no greater means of bringing the governing race into contempt than to allow a coloured man to whip a white man, even though he be a prisoner under confinement. I believe that thirty years ago you could not get a native to do such a thing; he would have had too much dread of the white man and respect for him to do so, and would have said it was not for a native to put his hand on a white man. Now, however, by our government and our civilising influences we have so levelled up and down, that it has come to be considered that a white man is the equal of a native but that if there is any difference, the native is a little better than the white man.

Clearly, this debate was, at an ideological level, to be all about how to restore the “dread of the white man” into the minds and hearts of black men. Only this would serve to assuage the deep fears perpetually gnawing at the white colonial psyche. And paramount among these fears – the archetypal white colonial fear – was the fear of sexual assault by black men on white girls, who were seen to combine the innocence of both white womanhood and childhood. This is laid bare in comments by Mr Crowder, who stated as follows, in expressing his opinion on a sentence of fourteen days imprisonment, given to an African who had allegedly exposed himself to three white girls:<sup>16</sup>

14 *Debates of the Legislative Council of the Colony of Natal* 24 Aug 1883: 332–334; 29 Aug 1883: 371–377.

15 *Idem* at 24 Aug 1883: 332.

16 *Idem* at 24 Aug 1883: 332–333.

The offence was to my mind one of the grossest that any native can commit to the white race. The offence was a most gross one ... . In this case, Sir, this native dared to expose himself and to make abominable suggestions to three little European girls ... and for that offence he has been sent for fourteen days to fatten in prison. What can be the effect of such a sentence as that? It can have but this one effect. The man is sent to prison and he there meets with men, ... and by his talk, his report of what he has done, and his boasting of what he dared to do to the white man's children, he has contaminated the minds of perhaps twenty more, and they will be set adrift throughout the Colony to follow his example.

The black molester of innocent white girls was clearly a prominent “folk devil” – to use Cohen’s term coined much later – of the white colonial imagination.<sup>17</sup> Bizarrely, if the following comment of Mr Crowder is taken as representing the general opinion of a significant number of white colonists at the time, the construction of this particular folk devil – a kind of “super folk devil” – within the colonial imagination would seem to have involved first discounting the supposedly natural instinct of *all* so-called natives to commit murder and violence:<sup>18</sup>

I can understand that to the mind of a native, murder and violence are a natural instinct, but that he should commit these indecent offences against white women and children does not arise from the natural instinct of the natives.

White supremacist ideology and its real effects on colonial society changed the logic behind theories of punishment and dictated that different types of punishment had to be applied to different races. In a society twisted by racist logic, it was perfectly logical to punish white and black offenders in an entirely different way. As Mr Crowder explained to the Council:<sup>19</sup>

Is it not a fact well-known to those who have anything to do with the natives that they have an utter and supreme contempt for being sent to prison? The punishment of imprisonment on a native, and the punishment of imprisonment on a white man, are two quite different things. The native is sent to prison, and is there fed and clothed, and is better cared for, and has less work to do than happens in the ordinary current of his

17 Cohen 1972: *passim*.

18 *Debates of the Legislative Council of the Colony of Natal* 24 Aug 1883: 332–333.

19 *Idem* at 333.



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life. He comes out of prison, walks down the street, and at the first place he asks for employment he obtains it. That man suffers no degradation in the eyes of his fellows, he has suffered no loss of caste amongst the men whose opinion he cares for, he is not a worse man for it in the opinion of his fellows, and he is in no worse position than he was when he went to prison. But compare with this the effect of imprisonment upon a civilised white man. The man is sent to gaol. When his term of imprisonment has expired does his punishment cease? No. It is only the beginning. Let that man seek employment where he is known. Will he obtain it? No. Everyone shuns him, and his only place is in the society of criminals.

Towards the end of the debate on 24 August, Mr Crowder then returned to the well-trodden path of castigating those who might be under the influence of bleeding heart “sentimentalists” in England, who did not understand the absolute necessity of keeping the natives in the colony firmly “in their place”. His words reveal, once again, the particular shape and flavour of white supremacist ideology in colonial Natal, underpinned as it was by a profoundly racist version of Social Darwinism.<sup>20</sup>

That it is possible this crime can be committed by the native races amongst us arises from the fact that our prestige has fallen and the natives have an utter contempt for the white man. And how has that been brought about? Has it not been brought about, as has been frequently said, by the Government pandering to morbid sentimentality of people outside this country who literally know nothing about what they are talking ... [I]t is the fact that we have been seeking to govern the Kafirs of this country as though they were civilised men that lies at the root of the native difficulty. If we had accepted the fact that was patent to us that we had to govern men who did not understand our laws, who were unable to appreciate our sense of morality, who knew nothing of our civilisation – if we had accepted the natives as they were when we first knew them, and treated them according to their own sense of right, and gradually lead them to better things, then I say the condition of affairs in this country would be very different to what it is at the moment.

The debate was then adjourned and again resumed on 29 August. Mr Crowder once again warned against the dangers of adopting too benevolent an attitude towards members of the indigenous population, pointing particularly to the “thoughtless familiarity”

20 *Idem* at 334.

of certain white women.<sup>21</sup> He also railed against the fact that imprisonment in the colony was essentially being used as a method of social control.<sup>22</sup> Interestingly, in what was, perhaps, a strategic move not to seem too severe in his attitude towards the indigenous population, Crowder stated that:<sup>23</sup>

I am not advocating whipping. I wish hon. members clearly to understand that once and for all I say I am not advocating whipping as a punishment. I am simply calling the attention of the House and the attention of the Government to the non-deterrent effects of the punishment of imprisonment on coloured people. We are really sending 1,500 of these people through our preparatory schools of crime.

Despite Mr Crowder's protestations that he was not advocating whipping as a punishment for African offenders, it seems clear that it was very much on the minds of everyone present. The Attorney General, who represented the voice of the colonial authorities in England, refused to concede that whipping was a greater deterrent than imprisonment and defended the latter form of punishment.<sup>24</sup> He also made clear to the representatives of the white colonists that any law that they wished to pass had to apply equally to both black and white offenders.<sup>25</sup> At least one of the representatives,

21 In Mr Crowder's own words: "I think I shall not be contradicted when I say that the foolish writing of some people who seek to bring contempt upon their own race, and to hold up the savage as all that is noble, has had a very great effect in bringing the governing race into contempt among the people around us. We cannot, too, hold blameless the thoughtless familiarity of some European women with the natives around." See *idem* at 29 Aug 1883: 371.

22 According to Mr Crowder: "[C]oloured people are committed to gaol who have no right to be placed in that position. We are acting in a cruel manner to these people by putting them in contact with the words of criminals. Out of the committals in 1882 there were 1,391 under the bye-laws, and making a rough estimate we may say that 1,000 of these committals were really not for crimes. I think I may safely add to that 500 out of other convictions in which the culprits have been sent to prison, but should have been awarded some other kind of punishment." See *idem* at 29 Aug 1883: 372.

23 *Ibid.*

24 In the words of the Attorney General: "I am not going to compare whipping and imprisonment as deterrent punishments ... . Imprisonment at least has this good effect, that during his imprisonment the prisoner cannot commit crime." See *idem* at 29 Aug 1883: 375.

25 In the words of the Attorney General: "Any Law the hon. member would wish to pass must be a Law for the repression of crime equally punishable on any man, whether he be black or white." See *ibid.*

a certain Mr Randles, seemed to agree that punishment for the crime of indecency ought to be the same for both black and white offenders, but his views nevertheless come across as profoundly racist and deeply shocking, even for the time and place in which they were uttered:<sup>26</sup>

I would suggest that for the graver assaults on white people in addition to the ordinary punishment now administered, a distinct mark should be branded on the offender, so that he would be known; and I would not confine it to the natives, but make it apply to the white people of the Colony. I would suggest that a portion of the ear be taken off or a distinctive mark be placed on the forehead or any prominent part of the face – a mark which would not disappear in a year or two. (Several Hon. Members: Oh, oh!) ... I understand that at the present time Kafir man-servants are allowed to do things that no white servants would be permitted to do – in other words, they are treated more like tame animals than human beings. I think if the white women of this Colony would take a little more care, and be a little more discreet in the way they allow these tame animals to go about the house, it would prevent a great deal of the indecent assaults that are committed.

The above words speak for themselves. Although the suggestion that offenders be branded seems to have been met with shock and disbelief by the other representatives, it should be remembered that the marks left by whipping also served to brand those who were punished in its own way.<sup>27</sup> As to the comment that African “man-servants” were treated like “tame animals” within the homes of the white colonists, much has already been said about the influence of Social Darwinism on the white supremacist ideology of colonial Natal, and need not be repeated here.<sup>28</sup>

One of the next speakers, Mr Robinson, compared the increase in crimes of indecency to the spread of disease in a “moral

26 *Ibid.*

27 Over twenty-five years later, in 1909, the following was said by a certain Mr Armstrong in the Legislative Assembly of the Colony of Natal, which was the successor to the Legislative Council: “You see hundreds and thousands of Natives in the country districts that are ashamed to go about according to their naked Native custom; they wear shirts simply because they are branded.” See *Debates of the Legislative Assembly of the Colony of Natal* 11 Nov 1909: 378.

28 See section 2 of Part 1 of this contribution.

epidemic”.<sup>29</sup> He then went on to state that he hoped the “apathetic Government” would take steps to protect the people of the colony from this particular class of crime. Wishing to avoid being accused of targeting the indigenous population in particular, Robinson took care to state that it was “not a question of class”, but that he was concerned “whether a particular class of crime, of a crime most repulsive, shall be put down more effectually than it is”.<sup>30</sup> Immediately after disavowing that it was not “a question of class”, however, his focus returned to the dangers posed by “the natives”.<sup>31</sup>

In the two towns [ie Pietermaritzburg and Durban] we have gathered together a large number of natives. In Durban I believe there are 4,500 or 5,000, and in this city [ie Pietermaritzburg] about 4,000. These natives are mostly at the age when men’s sensual passions run the highest ... . I believe there are not the same means of sensual gratification afforded to natives living in these towns as there would be in other places ... . It has been proposed again and again that the native population of the two towns shall be required to live apart from the Europeans, and in their own quarters. As members are aware, that is a system which is in vogue in most towns where a population of mixed character exists. In those towns there are native quarters, and the natives live together in those quarters, and then find means of gratifying their instincts in their own way.

The above suggestion that separate residential areas be created for the different races is interesting in light of the fact that, at this point, the official system of apartheid – with its officially designated separate residential areas – was still around three quarters of a century in the future.

As mentioned earlier, this debate on the issue of so-called native outrages was not the first of its kind. Nor was it the last time that a “moral panic” of this type would grip the colony. One scholar, for example, describes in illuminating detail the significant rape scare that took place in the colony in December 1886, which resulted in attempted vigilante action by a white mob.<sup>32</sup> The public pressure brought to bear on the Natal government as a result of that particular scare led directly to the passing of Law 27 of 1887, which

29 In Robinson’s own words: “It appears to me a crime of this sort partakes of the nature of a moral epidemic, and should be treated as such.” See *Debates of the Legislative Council of the Colony of Natal* 29 Aug 1883: 376.

30 *Ibid.*

31 *Ibid.*

32 See Martens 2002: 379–400.

provided for an array of draconian punishments – including capital punishment and public flogging – for rape and certain other sexual offences.<sup>33</sup> The incident also seems to have contributed significantly to the eventual promulgation of Law 21 of 1888, the purpose of which was “to facilitate the Registration of Native Servants and Servants belonging to Uncivilised Races within the Boroughs of Pietermaritzburg and Durban”.<sup>34</sup>

Overall, the above debate on the perceived crime of indecency shines a spotlight on interesting aspects of the white supremacist ideology that held sway in colonial Natal at the time. It reveals, *inter alia*, the deep fear and insecurity behind this ideology, its profoundly patriarchal nature, and the pernicious influence of a deeply racist view of social development inspired by a crude colonial version of Social Darwinism.

### 3 A firsthand account of life inside prison in colonial Natal at the start of the twentieth century

In the years leading up to and following the turn of the twentieth century, the racist white supremacist ideology of colonial Natal became ever more vicious and virulent. The colony was granted responsible government in 1893, which transferred more power to the white settler community, thereby reducing the moderating

33 For rape: mandatory capital punishment; for assault with intent to commit rape: transportation (for a minimum of fifteen years and a maximum of life), or imprisonment (for a minimum of ten years) with hard labour, public flogging and solitary confinement; for indecent assault: imprisonment (for a maximum of two years) with hard labour and thirty-six lashes. See *idem* at 385.

34 This early legislative provision is clearly important in the context of South Africa's long history of legally enforced racial segregation. Martens (*ibid*) explains the broad impact of this law as follows: “The measure authorised Natal's two principal towns to ‘establish a system of registration of Natives, or persons belonging to uncivilised races, resident, and employed by the day or month, or any longer period, or seeking employment, within their respective Boroughs’. Any ‘uncivilised’ person contravening any of the municipal by-laws made under the provisions of this law was liable to be arrested and imprisoned for up to 24 hours while awaiting trial. Once convicted, he or she was liable to a fine or imprisonment. Provision was also made for the registration of contracts between masters and servants.”

effect of English public opinion on the more radically racist views of many colonists. Furthermore, and due to the manner in which voting constituencies were delineated, political power within the colony was skewed in favour of those representing farming districts as opposed to urban constituencies.<sup>35</sup> White farmers and their representatives had always been more uncompromising in their attitudes towards the so-called natives than their urban counterparts, and the increasing political power of this former group led to a marked deterioration in race relations within the colony.<sup>36</sup> Taking into account the social and political context of that time, it is hardly surprising that the open expression of the most virulent strains of white supremacist ideology was to become possible in colonial Natal after the turn of the century. A good example of this may be found in the writings of a certain George Webb Hardy, a white English journalist residing in the colony at the time. Between 1901 and 1906, Hardy published a weekly newspaper in Durban, called *The Prince*. In 1905, he was sentenced to imprisonment for a period of two months, after being convicted of public indecency. His conviction was based on the fact that he had published an allegedly lewd article that gave details of alleged sexual conduct at a prominent Durban girls' school involving white school girls and black men.<sup>37</sup> After his imprisonment, he published a series of articles in *The Prince*, in which he described daily life in the Durban Gaol. He subsequently published a semi-fictional book, entitled *The Black Peril*, in which he recounted his experiences in prison, making use of pseudonyms

35 Lambert & Morrell 1996: 67.

36 As stated by Swanepoel & Peté 2019: 169: "After 1893, there was a deterioration of race relations. White fear combined with racist attitudes towards blacks. These attitudes spread to the law, where many magistrates and judges were racially biased. During this period, Natal was influenced by the development of segregationist ideology in the southern states of the United States of America ... . The transfer of power to men with little sympathy for the aspirations of the black population contributed to the widening of the racial gulf. Between 1893 and 1910, 48 laws affecting Africans were passed. The Masters and Servants law was tightened in 1896. In addition, the police force was expanded in 1894. In general, the sentences imposed on blacks by magistrates were harsher than they had been before responsible government. Courts frequently imposed the death penalty and bowed to settler demands for increased flogging." See, also, Brookes & Webb 1965: 181–188.

37 The sexual conduct referred to involved "sexual intercourse between girls from thirteen to seventeen years of age and black men in the bushes near the school that the former attended and where the latter were employed". See Hale 1995: 30–31.

to thinly disguise the real names, places and events featured in the book.<sup>38</sup> Hardy's recollections of his time as an inmate in the Durban Gaol, as contained in both the newspaper articles and the book referred to above, provide a rare and detailed firsthand account of prison life in the colony of Natal at the beginning of the twentieth century. Although care must be taken not to regard Hardy's views as automatically reflecting the thinking of the majority of Natal's white colonists, the fact that he was able to express openly racist views in his newspaper does seem to indicate that such views did have a degree of currency at the time.<sup>39</sup>

The most obviously striking feature of Hardy's recollections is the open and virulent racism on display; it is even more openly aggressive and crude than the white supremacist attitudes discussed until now. Hardy seems to regard members of other race groups as being, both literally and figuratively speaking, infectious to white Europeans. His comment on the use of razors within the Durban Gaol is telling:<sup>40</sup>

The razors are handed to the prisoners once a week and, of course, returned to the warders immediately after they have been used. They are then mixed up promiscuously and put away till the following week, when they are distributed again. So that a prisoner is continually using different razors which have been used and will be used by other prisoners. Further, and most horrible of all, the same razors are used by whites, coolies, and kaffirs – a disgraceful and really appalling state of things ... Blacks and whites ought to be kept entirely separate, as different kinds of animals, in all the various phases of life, and I submit that it is just as disgusting to

38 See, in general, Cornwell 1996: 441–453; Hale 1995: 26–42.

39 Of course, Hardy could hardly be described as an impartial observer, which means that caution is required when analysing his views. As Hale 1995: 31–32 points out: “Hardy’s transparent intentions in devoting many thousands of printed words to his own case included self-justification and revenge. His sincerity encompassed a belief in his own innocence, and his criticism was intended in part as a means of striking back at men in power who had caused him both public and private humiliation. He also wished to convince readers that the penal system had failed to cow him; remorse was apparently far from his mind. Much of ‘Prison Life in Natal’ must therefore be taken with a pinch of salt.” Hale (*idem* at 41) sums up the historical significance of Hardy’s observations as follows: “The chief historical significance of Hardy’s observations about Durban Central Gaol lies in the detailed insights they provide of conditions there, viewed through the eyes of an aggrieved and angry, but intellectually gifted, inmate.”

40 Hardy, GW “Prison life in Natal. Chapter VII: Black and white” 18 Aug 1905 *The Prince* at 1103.

ask a white man to eat out of utensils and to shave with razors that have been used by blacks as it would be to ask a black man to eat out of the pannikin provided for his mongrel dog.

This is clearly a crude form of white supremacist ideology on display. It is interesting to note that this call for the complete separation of the races was made around half a century before the official institution of apartheid policies by the National Party after its victory of 1948. Hardy makes no bones about the fact that he regards the relations between blacks and whites within the colony as reflecting an existential struggle:<sup>41</sup>

I have fought for the eternal supremacy of whites over blacks, and in this regard, whatever some people may think about other parts of my policy, I have every man, woman and child in the Colony at my back. But I think it is necessary to point out to the people of Natal that it is only by insisting upon this superiority in every ramification of our life that we can hope to triumph effectually in the end.

Whether or not Hardy did indeed have “every [white] man, woman and child in the Colony” at his back, is debatable. It is, nevertheless, telling that he was able to make such a statement and publish it in a public newspaper. Hardy then went on – as so many white colonists had done in the past – to blame the authorities in England for what he regarded as a dangerous policy of equal treatment of blacks and whites, complaining that “this prison is doing most deadly work in the way of equalizing whites and blacks, and so fulfilling the mission of Exeter Hall and damning the real interests of South Africa more than any combination of circumstances throughout the whole of South Africa”.<sup>42</sup>

This racist whinge is followed by another common complaint among the white colonists of the time, namely the question of who should qualify as “European”.<sup>43</sup> As in all societies structured in terms of a strict racist hierarchy, this was extremely important, since the manner in which one was classified determined the benefits and opportunities open to an individual. It was no different in the prisons of colonial Natal, which were – and always had been – internally segregated on the basis of race. To be classified as “European” when within the Durban Gaol meant that one was confined with other

41 *Ibid.*

42 *Ibid.*

43 See, eg, Peté & Devenish 2005: 14–16.



“Europeans” in more spacious cells and also received better food.<sup>44</sup> This was clearly not nearly enough for Hardy, who complained bitterly about his fellow European cell mates. In the most cutting and ironic tone imaginable, he let his white colonial audience know that many of these men should not have been classified as such.<sup>45</sup>

Take the block of buildings in which I was incarcerated in gaol. It consisted of two stories. The top one was reserved for whites doing short terms of imprisonment. The bottom one was given over to kaffirs ... In the cells above were quartered what I have called white men. I ought to have said “Europeans”, according to the Natal Government meaning of the word. That is the cells on the top story were occupied by white men *and black men who were more or less educated and came into the prison decently dressed in civilized costume*. Please note this point. In the top story, that is in the cells next to mine, were quartered white men and black men promiscuously, three in a cell. White and black in the same cell, remember; white men, criminals it is true, but possibly with pure white souls, groveling by day and lying by night by the side of the blackest things that ever God made; three in a cell, recollect, a cell about ten feet by five ... Black men, black as the ace of spades, from all parts of South Africa, so long as they are fairly educated and come to the prison dressed according to the methods of civilization, are quartered with the white men and classed as Europeans. They are huddled together (I have already said it, but I must repeat it so that it may burn itself into your brains)

- 44 The 1906 report of the Prison Reform Commission, eg, confirmed that more spacious accommodation was allocated to European prisoners within the central gaols of the colony: “According to the present system of confining prisoners, Europeans by themselves or in single cells so far as space permits, other races three or more in a cell.” See *Report of the Prison Reform Commission*, Pietermaritzburg, Natal (30 May 1906) GN 344 Natal GG 3542A of 5 Jun 1906 (hereafter “*Report*”) para 22. As for prison diet, the author of this contribution has noted in a previous work that: “From a very early stage in the development of the penal system of the colony, the colonial authorities accepted the fact that the dietary scales of prisoners needed to distinguish between different racial groupings. It was taken for granted that white prisoners should be provided with a superior diet.” See Peté & Crocker 2010: 89–90.
- 45 Hardy, GW “Prison life in Natal. Chapter VII: Black and white” 18 Aug 1905 *The Prince* at 1103–1104. The emphasis in this quotation is in the original. In his semi-fictional book published in 1914, *The Black Peril*, Hardy’s description of the supposed evils of racial intermixing in the cells reserved for so-called Europeans becomes so excessive in its crude visceral racism as to seem almost laughable: “Three in a cell – think of it – with the same bucket of water from which to drink, the same bucket to use as a latrine, the same blankets continually interchanged, the same filth, and insect-life creeping and crawling from white to black and from black to white!” See Hardy 1914: 275.

three in the cell, with the same bucket of water from which to drink, the same bucket to use as a latrine, and in the midst of these cells that are hells is fostered that germ of equality between black and white that is the most dangerous germ that ever lived and moved and had its being in a civilized land.

Of particular interest in the above passage, is Hardy's reference to "equality between black and white" as a "dangerous germ", which will infect so-called civilised society unless it is eliminated. Hardy's descriptions – grounded in the physicality of sleeping, eating, drinking and defecating – seem to conjure "blackness" in the form of a dirty, virulent and dangerous disease. This was white supremacist ideology expressed at a raw physical level. Hardy returns to the theme of dirt and disease being associated with African offenders over and over again. For example, in referring to the case of a white debtor arrested for contempt of court and processed as an awaiting-trial prisoner at the Pietermaritzburg prison, Hardy lets loose with the following deeply racist and offensive diatribe:<sup>46</sup>

How is it possible that in an English speaking Colony men who are willing to pay, but can't, are arrested and kenneled in a prison replete with all the horrors one has read about in years gone by concerning French gaols, with a spice of Russia thrown in? How is it possible, I repeat, to believe that in the present century a man, through no fault of his own, can be herded with dirty blacks reeking as they frequently are with loathsome diseases that are not even to be found on the dirtiest beings on a kaffir location. When a white man has to strip in the presence of niggers, then I say it is time for Exeter Hall to weep aloud, time that prayers for prisoners on remand in Natal should be offered up in all the churches.

As an example of hateful visceral racism, it is hard to top the above characterisation of African awaiting-trial prisoners in Pietermaritzburg as being a group of "dirty blacks reeking ... with loathsome diseases". Although Hardy may have been expressing his

46 Hardy, GW "Prison life in Natal. Chapter XIII: Corroboration" 6 Oct 1905 *The Prince* at 1328. *The Black Peril* is littered with descriptions of African prisoners as foul smelling, filthy and infected with disease. For example, Hardy 1914: 257 and 264 states that his prison cell on the first floor of the Durban Gaol "reeked with the malevolent odours rising from the bodies of the Kafirs and blacks quartered just below me" and describes prisoners in the exercise yard as "white men and semi-savages, many of the latter reeking with dirt, disease and filth, ... herded together like the Christians of old waiting for the lions".

own extreme views, the fact that he saw fit to publish his opinion in a newspaper – albeit a newspaper that he himself published and edited – provides at least some indication of the power of white supremacist thinking at the time. Furthermore, Hardy did not hesitate to publish a further diatribe in which he once again promoted the basic idea – which becomes apparent without having to read too closely between the lines – that being black or non-European was synonymous with being dirty and diseased. In commenting on the topic of eating utensils used in the prisons of the colony, he stated as follows:<sup>47</sup>

Another reform which I think of vital importance concerns the disgusting practice of kafirs and coolies using the same drinking and eating utensils as Europeans. There is no distinctive mark whatever upon the utensils, and pannikins or dishes used one night by kafirs and coolies (many of whom suffer from most disgusting infectious diseases) will, after being rinsed in COLD water, be used for serving food to Europeans the next morning. And when you remember the filthy practices of many of these blacks you will see immediately the gigantic importance of the changes which I suggest ... . I understand the authorities manage these things better at Maritzburg, where each European's dish is numbered with a small brass tag. This ensures some certainty at any rate of a prisoner having continually the same dish. I attribute a large amount of the sickness in the gaol to these filthy dishes.

The extent to which Hardy's views represented mainstream opinion within the white community of colonial Natal just after the turn of the century, is open to debate. It seems likely, however, that views such as these represented at least one strand within white colonial thinking at the time.<sup>48</sup> It may be noted, perhaps, that the "filth"

47 Hardy, GW "Prison life in Natal. Chapter XVIII: Prison Reform" 17 Nov 1905 *The Prince* at 1510.

48 Other scholars point to this strand of white thinking within broadly related colonial contexts. For example, commenting on the opinions of Robert Moffat – who was the father-in-law of David Livingstone and a member of the London Missionary Society among the Tswana in the middle of the nineteenth century – Comaroff 1993: 316 states that: "[T]here was a persistent association of the African body with noxious organisms that threatened to invade the inviolable world of white order. The image of the infested 'greasy' native – indistinguishable from the pestilential surroundings – had gained currency in the texts of travelers and anatomists in the late eighteenth century. The expression probably derived from the use, especially in the hottest and driest regions of Africa, of animal fat as a moisturizing and beautifying cosmetic. But the epithet carried other derogatory associations. It suggested

and “disease” that Hardy seems to associate with being black went beyond dirt that could be washed off or disease that could be cured. As Cornwell perceptively remarks:<sup>49</sup>

Like the powerful taboos which sustain the system of caste in India, racial consciousness has an enormous investment in the notion of kinship as a discrete essence or shared bodily substance. The ingestion of bodily substance, whether in the form of smell, “germs” or, especially, semen, from a member of a lower caste is experienced as a pollution which compromises the very identity of the polluted.

The sensual physicality of Hardy’s offensive racist rants confirms the validity of the above point. His writings also provide interesting insights into the issue of whipping as a means of punishment applied to African offenders in particular. From Hardy’s account it seems that this form of punishment was much more commonly applied to black prisoners than to white prisoners.<sup>50</sup>

No whites are ever flogged, except for rape, but blacks are unmercifully thrashed over and over again for the most trivial offences, and the whole thing is certainly degrading, even if only to the white men who look on and smile at that which they would never dream of allowing to the vilest mongrel that was ever called a dog.

So it would seem that, to Hardy, it is the white men staring and smiling at a black man being flogged, who are truly “degraded” by this cruel practice – a case, perhaps, of white supremacist ideology turning perpetrators into victims.<sup>51</sup> Hardy then recounts, in lurid

a body surface that was porous, dirty, and damp – that ‘gave off’ contagion and odor to those with whom it came into contact.”

49 Cornwell 1996: 452.

50 Hardy, GW “Prison life in Natal. Chapter VIII: Sunday and flogging” 25 Aug 1905 *The Prince* at 1139. Hardy made exactly the same point in his semi-fictional book, *The Black Peril*, stating that: “Whites are only flogged for very serious crimes, but the natives are unmercifully whipped for really small offences. Fifteen and twenty lashes are given by magistrates all over the Colony with as much unconcern as a man in England is fined 5s and costs ... . You would be astounded if you knew of the gross recklessness in the prison regarding the treatment of blacks. Sometimes the wrong man is lashed.” See Hardy 1914: 283, 286.

51 At this point, the following deeply ironic and possibly apocryphal phrase said to be uttered by authoritarian patriarchs about to beat their children, servants or pupils comes to mind: “This is going to hurt me more than it is going to hurt you.” To be fair to Hardy, he does seem to apportion the “degradation” caused by whipping more equitably between black and white

detail, the ritual followed in the frequent whippings that took place within the Durban Gaol at the time:<sup>52</sup>

The victim is bound hand and foot to a tripod, something like being fastened on a cross the wrong way about, with his hands stretched out above instead of horizontally, and he looks a hideous sight as he is corded there, ready for the rising of the curtain. He is stripped quite naked – I don't know why, but there seems an unholy love of naked natives in Durban Gaol. The flogging-warder, who receives a small monthly special wage for doing this dirty work, then takes the cat-o-nine-tails and, with gleaming teeth and proud and happy smile, he commences his dirty work. And he seems to revel in it too, especially if he can draw blood quickly from the shoulders of the culprit, or makes him moan and cry under the deadly strokes. But the kafir is brave and strong under the lash and frequently goes through it all without a murmur. Then, bleeding and raw, his sores are rubbed with brine, and away he goes. Then for the next, and the next, and the next, till all are done, and they are led, bloody and battered, from the slaughterhouse.

in *The Black Peril* (at 280–281, 283–284): “The most gruesome thing in prison life is the flogging. It takes place almost every morning in one of the yards ... . If the flogging that goes on in ... [Durban] Gaol is a necessary part of the Christianizing of the natives, our boasted civilization is a farce. It is a cruel, morbid spectacle that degrades alike the natives who are flogged and the whites who flog ... . The Nonconformist conscience roused the civilized world over Chinese slavery [on the Witwatersrand]. But very few Chinamen in the Golden City suffered the punishment of the degradation and inhuman cruelty that every day goes on, and has gone on for long, long years, in the prison in which I was incarcerated.”

- 52 Hardy, GW “Prison life in Natal. Chapter VIII: Sunday and flogging” 25 Aug 1905 *The Prince* at 1139. Hardy again uses the image of butchery to describe the whipping of so-called natives in *The Black Peril*, but in that work he adds a further image of it being a type of cruel blood sport (at 281): “The warders, who gather to see the wretched natives butchered to make a warder’s holiday, seem to like the lashing inhumanely. Theirs is a rather monotonous life, and it provides a sort of Spanish bull-fight for them, except that in Spain the bull has a sporting chance of coming through the ordeal with little harm, while a Kafir or coolie stretched and strapped upon the triangle is simply the sport of the warder who has attained the position of ‘champion lasher’ and prides himself upon the efficiency of his cuts, and upon the good red blood that is only stopped when handfuls of brine are rubbed into the naked body of the howling victim.” Interestingly, Ocobock 2012: 48 also makes mention of salt – or possibly antiseptic – being rubbed into wounds caused by the caning of black juvenile offenders in colonial Kenya, commenting that: “Corporal punishment was a personal, painful encounter with the state, made manifest by a white man rubbing ‘salt’ into fresh wounds. As private, procedural, and medical as the state tried to make corporal punishment, the violence of the cane remained an intense physical and psychological demonstration of colonial power.”

The symbolic relevance – as well as the ideological implications – of a ritual in which the naked black male body is first bound and exposed to the gaze of white power, and then subjected to flagellation by a white authority figure, is open to interpretation. There are the possible sexual undertones to Hardy's comment that "there seems an unholy love of naked natives in Durban Gaol", as well as his description of the flogging-warder doing all he can to make his victim "moan and cry".<sup>53</sup> Further, without reading too much into Hardy's words, it is also possible to discern the faint presence of another racist trope, namely that of the physically courageous – but at the same time emotionally immature, irrational and impulsive – black savage, who is "brave and strong under the lash". Finally, it is impossible to ignore the sheer physicality of Hardy's hyperbolic description. The bloodied raw flesh of the victim is paraded before the imagination of the reader. The reader is left in no doubt that this is *corporal* punishment and that it is *sanguinary* in nature. For all the talk of black and white, if the white supremacist ideology of colonial Natal had a colour, it was definitely red.

#### 4 The Natal Prison Reform Commission and the Cult of the Cat

At around the same time that Hardy was publishing his recollections of his time as a prisoner in the Durban Gaol, the Natal Prison Reform Commission was busily engaged with an extensive investigation into

53 Scholars have long pointed to the link between eroticism and certain types of corporal punishment. As the author of this contribution has previously noted, albeit in a work related to the corporal punishment of school children in Britain: "The sexual character of certain forms of corporal punishment has been exhaustively documented by Ian Gibson. At one point Gibson refers to the work of Desmond Morris, who argues that 'rump-presentation' is an appeasement gesture amongst certain primates which has virtually vanished in the case of humans, and is 'confined now to a form of schoolboy punishment, with rhythmic whipping replacing the rhythmic pelvic thrusts of the dominant male'. Gibson comments that: 'If Morris is right, both the sadistic and masochistic components of beating are atavistic throwbacks, and it follows that schoolmasters and boys who are involved in such practices are bound to become excited sexually, no matter how unintentionally in the first instance.'" See Peté 1998: 439. See, also, Gibson 1978: *passim*; Benthall 1991: *passim*; Morris 1968: 146–147.

all aspects of the penal system of the colony.<sup>54</sup> The main issue facing the authorities at the time was the severe overcrowding within the prisons, which had been a serious and ongoing problem throughout the history of the colony.<sup>55</sup> As was to be expected in a colony that was socially, politically and economically structured in accordance with the principles of white supremacist ideology, the issue of race loomed large in both the manner in which the problem was defined, and in the suggestions for its potential solution. Although confined within the same Natal prisons, European prisoners had always been separated from inmates of other races there, and had been provided with more space, as befitting their status as members of the supposedly more civilised master race. Cells in which so-called native and Indian prisoners were confined were always much more overcrowded than those in which European prisoners were held.<sup>56</sup> Much of the overcrowding in the cells containing non-European prisoners was due to the fact that many of the native inmates were not criminals in the true sense of the word, but had violated some or other rule or regulation, the purpose of which was to exercise social control over the indigenous population, and in particular over their labour power.<sup>57</sup> The use of prisons as instruments of social control undoubtedly contributed much to the overcrowding of the prisons at the time.<sup>58</sup>

54 The Commission was officially appointed on 16 Sep 1905 and completed its final report on 28 May 1906. It was tasked “to enquire into, and report upon the whole question of Prison Reform and Penology in Natal”. See *Report* (n 44 *supra*) para 1.

55 For a brief overview of prison overcrowding in Africa during both the pre- and post-colonial periods, see Peté 2006: 429–453. See, also, Peté 2008: 40–66.

56 For example, the Prison Reform Commission noted in its report (see *Report* (n 44 *supra*) para 22) that, in the central gaols of the colony, situated in Durban and Pietermaritzburg, “in cells of similar dimensions to those in which one European was confined were found three, and sometimes five, Natives or Indians”.

57 The fact that the law was used extensively in colonial Natal as a means of social control over the indigenous population is confirmed by the statement of the Natal Prison Reform Commission in its report (see *Report* (n 44 *supra*) para 67) that: “The Natives are not only subject to their own special laws, of which there are many contraventions, but also to a number of artificial restraints and disabilities, chiefly when in towns, which go to swell the number of offences committed by them.”

58 This was a problem that bedevilled South African prisons during the colonial, post-colonial and apartheid periods.



The proposed solutions to the problem of overcrowding put forward by the Natal Prison Reform Commission were deeply influenced by the white supremacist ideology of the time. The commission proposed that European prisoners be completely removed from the existing prisons and instead be relocated to a specially constructed “industrial prison”, designed to reform these prisoners by teaching them a variety of skilled trades.<sup>59</sup> The commission also proposed that a large number of native prisoners could be removed from the existing overcrowded system; these included the petty offenders and “rebellious natives”, who had fallen foul of social control legislation or who had resisted colonial control in some way or other, but were not true criminals. According to the commission, the place for these offenders was in labour camps where they could perform menial labour for the benefit of the white colonial state.<sup>60</sup> The commission recommended the establishment of “movable” or “portable” prisons that would serve as both prisons and road construction camps.<sup>61</sup> It is clear from the final report of the commission that it did not regard imprisonment in

59 In summarising its recommendations at the end of its final report, the Natal Prison Reform Commission (see *Report* (n 44 *supra*) para 74 recommendation 9) advocated, *inter alia*, the following: “The establishment of a separate gaol for all Europeans, wholly reformatory in design, to include district sections at suitable distances, but under the same administrative Head, for Adult and Juvenile Males, and, when the time comes, for Females also. Such an establishment to be outside any of the towns, and preferably at Cedara.” See, also in general, Peté 2017: 1–26.

60 As postulated in earlier research co-authored by the present author: “Petty offenders of this kind did not need to be ‘reformed’. Rather, they had to be taught a simple lesson, which was to obey white colonial authority and to perform hard labour in support of the colonial state. Clearly, education, reform and ‘scientific treatment’ were not priorities when it came to the punishment of the large majority of black prisoners.” See Swanepoel & Peté 2019: 169–198.

61 Trumpeting the benefits of such “movable” or “portable” prisons, the commission stated, *inter alia*, in its final report: “Their construction and equipment would be comparatively inexpensive, and they would be the means of improving the sanitary conditions of the gaols, and at the same time securing a higher return from ordinary unskilled prison labour ... . [I]n view of the urgent need for reducing the number of inmates in many of the country gaols, the establishment of this class of prison should have immediate attention. Those sent to them should be Natives and Indians under short sentences, including all those who are not criminals in the proper sense of the word, as well as those who are unable to pay their fines.” See *Report* (n 44 *supra*) para 29.



the normal sense as a particularly suitable form of punishment for natives. The report even repeated the commonly held belief of the white colonists at the time that imprisonment was not a sufficient deterrent for black offenders.<sup>62</sup>

To them [ie the black inmates] a conviction, speaking generally, involves no social degradation or serious loss of respect or position. They can return to their relatives to live their former lives, enter domestic service, or other employment, and even fill posts of trust with freedom, and without much risk of detection.

Once this view was accepted, it meant that an additional or alternative form of punishment had to be found that was capable of acting as a sufficient deterrent for the so-called natives. It is of course no surprise that, in the context of colonial Natal, this additional or alternative form of punishment was represented by the whip, the cane, the birch and the cat-o-nine-tails. The inescapable logic, dictated by the white supremacist ideology of the time, was that corporal punishment was irreplaceable and that it should be specifically applied to black offenders. Whatever misgivings the commission may have had about the particular contours of this form of punishment in colonial Natal, it seemed to understand and accept this logic.<sup>63</sup>

Natives are much more frequently flogged than Europeans; and it is an allowable assumption that the tremendous difference in the social and general effects of imprisonment on the two races is thus sought to be equalised, and also because the sense of disgrace is so much more acute in the one than the other. Parliament has indirectly been the means of sanctioning the general application of the lash, by making it part of the general jurisdiction of all Criminal Courts, without specifying either the person who, or the crime which, may be so punished; except that youths may be birched in private, and females may not be scourged at all.

It must have been very difficult for the commissioners to decide on what to recommend in relation to corporal punishment. On the one hand, they were confronted by the inexorable racist logic outlined above, but, on the other hand, they clearly wanted to ensure that the penal system of the colony was at the forefront of what the

62 See *Report* (n 44 *supra*) para 70.

63 *Ibid.*

commission referred to as the “Science of Public Punishment”.<sup>64</sup> Furthermore, the commission must have been well aware of the fervent opposition on the part of the white colonists to past attempts to limit this form of punishment in any way, and therefore gingerly broached the issue as follows:<sup>65</sup>

Notwithstanding the sentiment of the community in favour of retaining flogging, it is submitted that the time has come for reconsidering the extraordinary powers relating to this form of punishment, now vested in the Inferior Courts of the Colony. So much may be said in its favour that it is a form of chastisement, (though not with the Cat, but with rods and heavy sticks), to which the Natives have always been accustomed amongst themselves; and there was a consensus of opinion amongst Magistrates and Gaolers that it is the form of punishment most feared, as mere incarceration has no special terrors for them. That it has a specially deterrent effect upon others bent on crime can only be assumed; while, as a corrective upon the culprit, its universal efficiency cannot be affirmed in face of the frequency of recidivism.

Following this cautious exposition of certain of the pros and cons of flogging as a punishment for natives, the commission then went on to point out, in the most explicit terms imaginable, that support for this form of punishment within the colony had attained a cult-like status:<sup>66</sup>

The belief that the lash is an indispensable means of punishment for crime amongst Natives, including the preservation of order and discipline in the gaols, is so universal, and has taken such a strong hold upon the public mind, that, though perhaps strained, the “cult of the Cat” may be a pardonable, if not a permissible, phrase.

Clearly, the commissioners knew that – within the ideological context of the time – they were dealing with an extremely controversial matter. Despite this, they could not ignore the sheer brutality of the manner in which corporal punishment was applied to African offenders in the colony, and proceeded to cite a shocking example of this brutality. The example concerned an “old native of distinctly unprepossessing appearance” who had recently appeared before an

64 *Idem* para 58. In using this phrase, the commission was presumably referring to the most up-to-date knowledge available in the field of penology at the time.

65 *Idem* para 70.

66 *Ibid.*

assistant magistrate in the Durban court on a charge of indecent assault. He was found guilty, and it was revealed that he had five previous convictions for indecent assault. It was also revealed that he had spent seventeen of the previous twenty-two years in prison, and that he had received no fewer than ninety-seven lashes for previous offences. He was consequently sentenced to twelve months' imprisonment with hard labour, which was the maximum penalty permitted by the relevant legislation. The magistrate made a point of expressing his regret that he was legally unable to add a number of lashes to the sentence. The commission commented as follows:<sup>67</sup>

The Magistrate's lament that he was unable to add flogging to imprisonment was pitiable in view of the history of the case. It furnishes a potent exemplification of the futility and absurdity of continuing to depend upon senseless methods for subduing criminal and anti-social tendencies; instead of relying upon the pathologist to discover their cause, and applying rational remedies approved alike by science and common sense.

Of course, pointing to the logical "futility and absurdity" of a social practice is one thing, but trying to limit that practice when it has become entrenched over decades by a deeply ingrained supremacist ideology, is another. In the following telling comment, the commission once again highlighted the brutal effects of whipping – particularly with the cat-o-nine-tails – within the prisons of colonial Natal:<sup>68</sup>

It is an entirely false conception that the evil in a man can be exorcised by flogging, or indeed by any form of punishment; and the sickening sights of torn and lacerated backs should become a less common spectacle in

67 *Ibid.*

68 *Ibid.* The commission then cited (in para 71) medical opinion on the damage caused to the health of prisoners by the frequent use of the "Cat" in colonial Natal: "A District surgeon, of long experience, states: 'The indiscriminate use of the "Cat" is inadvisable, and at times dangerous. Punishment by this means, across the shoulders, is apt to produce serious complications in men of apparent good health ... . I am of opinion that punishment across the buttocks is sufficiently severe, less dangerous, and would prove more satisfactory ... . As a result of over 16 years' District Surgeon's experience, I am convinced: 1st, that the "Cat" is used altogether too freely, that it is not safe, and, in a number of cases, absolutely fails to accomplish what is expected of the punishment; 2nd, that the birch or cane, across the buttocks, is safe and effective.'"

our gaols. From visible and personal evidence, it was seen that the use of the “Cat”, when skillfully applied, has had the effect of confining the culprit in the Infirmary, and rendering him unfit for the labour, to which he should have been put in terms of the sentence. When this is the result, corporal punishment ceases to be a just chastisement, and descends to the level of brutal torture.

Pointing out that whipping an offender with the “Cat” could render him unfit for labour, would perhaps have made certain white settlers think twice about this form of punishment. In effect, this argument pitted one prominent white ideological imperative against another, namely the imperative of keeping the natives in their place by means of physical coercion, and the imperative of capturing, controlling and harnessing black labour power. It is interesting that the commissioners make this argument before they appeal to the injustice of using the cat-o-nine-tails. Even more interesting, and even remarkable, is the fact that they describe the “skillful application” of the latter instrument as descending to “the level of brutal torture”. For an official commission of inquiry to describe a longstanding form of punishment – which they admit was common in the gaols of colonial Natal – in this way, is yet another indication of the power of the white supremacist ideology that had enabled this form of torture to continue for so many decades. The commissioners did temper their critique of the cat-o-nine-tails somewhat by pointing out that the period for which an inmate would be incapacitated depended upon the manner in which the instrument was used. In terms hardly reassuring for readers today, the commissioners stated that “in most gaols, its application did not interfere with the course of the sentence beyond two or three days, and in many cases not at all”.<sup>69</sup> They then got into specifics about variations in the construction and design of the various instruments used to apply corporal punishment in the colony.<sup>70</sup>

Although supposed to admit of no deviation from approved pattern, in one gaol the cords were knotted, and in two others the tips had been hardened with glue or some other composition. Again, the instruments for birching varied considerably; there being the switch, the cane, and the old-fashioned bundle of twigs. Such differences should have been observed by the Inspecting Officers. There should be an approved uniform pattern of both these instruments of punishment kept in all gaols.

69 *Idem* para 70.

70 *Ibid.*

Having focused the attention of their readers on the finer details regarding the construction and design of the instruments used to beat offenders in the colony, the commissioners were then able to put forward their suggestion for major reform in this area:<sup>71</sup>

The opinion is expressed that castigation should, with adults as well as with youths, be inflicted with the rod, in the great majority of cases, and should be applied to the buttocks instead of to the shoulders. Some divergence of opinion exists as to the danger of scourging the posterior, which, according to one view, inclines the sufferer to lapse into auto-erotism. But, with the Natives, to whom this form of punishment would chiefly apply, no such consequence is to be feared.

Clearly, the commission was not suggesting that the natives should no longer be flogged. All that was being suggested was a change in the flogging instruments to be used and in the body parts to be flogged. As for the instruments, the commission did not even go as far as suggesting an outright ban on the cat-o-nine-tails; instead it stated that the rod should be used “in the great majority of cases”. As for the body parts, the commission’s reference to “auto-erotism” indicates that the members of the commission were well aware of possible sexual undertones when it came to this form of punishment. The reason that the commissioners did not fear that the natives would “lapse into auto-erotism” as a result of flogging on the buttocks is not immediately clear, but perhaps this was considered to be a uniquely “English vice”.<sup>72</sup> The admission of the commissioners that this form of punishment “would chiefly apply” to the natives is certainly telling and is in line with the arguments put forward in this contribution about its place within the white supremacist ideology of colonial Natal. The commission then mentioned a final reason for its suggested reform of corporal punishment:<sup>73</sup>

Another reason may be urged for substituting the cane for the “Cat” as the common instrument of punishment. The adult is lashed on the upper part, and the youth is birched or caned on the lower part of the body, spots fixed by custom, and not by rule. As a corrective, chastisement is expected to be more lasting in its effect upon the mind than upon the body. The Native has a strong sense of humour, and sees the ludicrous in many things; and, if no distinction were made between manhood and youth, the man who was treated as a boy would be subjected to much banter by his fellows, and would be less likely to forget it.

71 *Idem* para 71.

72 See Gibson 1978: *passim*.

73 See *Report* (n 44 *supra*) para 71.

This image of the so-called happy native who “sees the ludicrous in many things” seems to reflect – although perhaps somewhat obliquely – the racist trope of the “childlike primitive savage” discussed earlier in this contribution. It seems certain that part of the white colonial mind would have responded positively to the idea that natives ought to be punished like children, since this idea would have been in line with their deeply held beliefs about the supposedly childlike nature of the indigenous population. By appealing to the first half of the “childlike/primitive savage” duality, the commissioners were in a subtle manner de-emphasising the threat posed by the “folk devil” residing in the second half of the duality.

Despite all the misgivings expressed in the final report of the Prison Reform Commission about the dangers of the cat-o-nine-tails as an instrument of punishment, the commissioners could nevertheless not bring themselves to recommend that it be banned outright. The best they could do was to recommend that:<sup>74</sup>

The Magistrate’s general jurisdiction relative to flogging should have consideration, the cane being used instead of the cat in minor cases. ... Corporal Punishment, in all cases, to be inflicted on the buttocks; the instruments used, to be of identical pattern in all gaols, with more stringent precautions against interference therewith.

It is a testament to the considerable influence of the cat-o-nine-tails within the white colonial imagination that the colonists were only able to bring themselves to abandon this instrument at the very end of the colonial period in 1909, when a Bill was introduced and favourably received in the Legislative Assembly of Natal, which stipulated that corporal punishment should be inflicted with a cane instead of with the cat-o-nine-tails.<sup>75</sup>

## 5 Conclusion

The broad contours of the white supremacist ideology that dominated white thinking in colonial Natal were not unique to the colony. The influence of scientific racism and Social Darwinism, which reached their global apogees towards the end of the nineteenth and beginning of the twentieth centuries, is clearly

74 *Idem* para 74 recommendations 24 and 30.

75 *Debates of the Legislative Assembly of the Colony of Natal* 11 Nov 1909: 374–382; 15 Nov 1909: 400–402; 1 Dec 1909: 646–655; 6 Dec 1909: 694–697.

visible in the perceptions of many white settlers in colonial Natal, namely that the indigenous population were savages who existed on a lower plane of civilisation. Visible too, is the influence of the racist trope, widespread during the colonial period, of the “primitive as child”. Like other white colonists of their time, the white settlers in colonial Natal believed that they were on a so-called civilising mission to assist the indigenous population eventually to climb the ladder of civilisation. Furthermore, Natal’s white settlers were not unique in their adoption of other vile racist tropes common during the colonial period, that conceptualised black Africans as being, *inter alia*, libidinous and lazy, dangerous and diseased, excitable and irrational.

What did, perhaps, make the white supremacist ideology of colonial Natal unique, was the precise manner in which different strands of racist thinking interacted with specific social, political and economic conditions within the colony. The fact that the white settlers were vastly outnumbered by the indigenous population, who actively resisted colonisation in a series of rebellions and revolts, greatly added to the fears of the settlers. Furthermore, the economic independence of African agriculturists in the region, together with the long struggle to separate Africans from their land and force them into menial employment on white farms, contributed to white frustration and anger. As discussed in detail in this contribution, these and other factors resulted in the development of a form of white supremacist ideology that may be described as a cognitively dissonant mixture of fear and paranoia on the one hand, together with feelings of racist paternalism and frustration on the other. This, in turn, resulted in an almost fanatical belief on the part of the white settlers that the whip and the cat-o-nine-tails were essential instruments to ensure that the natives were kept firmly in their place. The white colonists believed that the indigenous population should be taught to fear – and therefore, in a twisted sense, respect – white authority and control. The African population needed to accept their inferior position on the ladder of civilisation, as well as their duty to become faithful and hardworking servants in service of their white colonial so-called masters.

What may be noted in conclusion is that, to the white colonists of Natal, a central – perhaps *the* central – concern regarding the punishment of black offenders, was that such punishment should be sufficient to re-assert white sovereignty. Offences, including violations of labour legislation and various provisions to enforce

social control, were regarded as being more than mere criminal acts. They were also seen as attacks on the entire colonial order, since they served to undermine the ideology of white supremacy and white sovereignty that underpinned this order. This was particularly true when the criminal act in question was seen as targeting a value regarded as a potent symbol of so-called white civilisation, namely the virtue of white women. To the white colonists, the only suitable manner of punishing a black offender who had committed such an outrage against a white woman – or any other act of rebellion against colonial order for that matter – was to treat him as a savage who could only be deterred by the infliction of direct and severe physical pain. Of course, the black man was not only regarded as a vicious savage, but also as an impressionable child. Making use of corporal punishment to deal with black offenders served not only to preserve the sovereignty and security of the colonial order, the authority of the white employer or master, and the virtue of the white woman, but also – ironically – to protect and uplift the supposedly childlike natives, who were thought to lack sufficient rationality to properly benefit from other methods of punishment.

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## Legislation

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