

**CHALLENGING LEGACIES: GENDER, VIOLENCE AND SLAVERY IN GRAAF-REINET  
(1830-1834)**

By

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**Abstract:**

Of the eleven districts that made up the Cape Colony, Graaff-Reinet had the sixth highest concentration of slaves (2 247) constituting 5.87% of the total official slave population (reckoned at 38 257 slaves) in 1833. Yet the 'voices' and history of these slaves is sorely lacking in the Eastern Cape of 2003.

The early 1830s were a time of increased agitation between slave owners and the Colonial Government, especially in relation to the rights of, or over, slaves. The dynamic between owner and slave was also being challenged in the face of ameliorative measures, which eventually led to the conditional emancipation of slaves in 1834. By examining cases brought to the Protector of Slaves by slaves in the Graaff-Reinet district between 1830 – 1834, the paper will investigate notions of gender, violence and patriarchy while providing an insight into the lengths to which slaves would go to voice their concerns. In addition, the "masculinisation" of violence and gendering of acts of resistance are argued to be unsuitable to increasing understandings of Cape slave society, as are accepted constructs of patriarchy and paternalism.

In conclusion the paper will briefly explore the increased interest in South Africa's slave heritage and provide discussion points on how this can be incorporated into the future development of the Eastern Cape.

## Introduction

The discovery of a 19<sup>th</sup> century burial site at Green Point in Cape Town in July 2003, has once again placed slaves and slavery in the local media<sup>1</sup>. The unearthed remains of several hundred people are suspected to be those of slaves. The skeletons serve as a reminder of the violent and bloody foundations upon which Cape Town and the Cape Colony were built and allow us to once again turn our gaze to slaves in order to ensure that their stories are told.

Contemporary media attention on slaves and slavery tends to focus heavily on the Western Cape. Slavery has featured in both articles and commentaries<sup>2</sup> and a feature that highlighted a specific case of violence in 1833 against a 10-year-old slave called Saartje<sup>3</sup>. The concentration of slaves in Cape Town and the surrounding areas of wine and wheat production, have meant that ‘interior’ or ‘frontier’ slaves have often been marginalized by the media, academia, and heritage sectors. The Western Cape has started acknowledging and responding to its slave past, community involvement has been encouraged, and suggestions made to museums on how to incorporate South Africa’s slave heritage<sup>4</sup>. The Eastern Cape lags far behind and, as this conference is about legacies and challenges, it seems appropriate to ask: ‘What about slavery in the Eastern Cape?’

What, if anything, is the Eastern Cape going to do about our slave heritage? Were there too few slaves to warrant our interest? Are the experiences of these slaves too insignificant to merit further attention? Is there place in the Eastern Cape Heritage and Public History sector to give these slaves a voice? To begin answering these questions it would be appropriate to turn to an Eastern Cape town, Graaf-Reinet, during a time of transition (1830 – 1834), and examine cases brought by slaves about their situation.

## Graaf-Reinet: An Eastern Cape Case Study

One of the eleven districts that made up the Cape Colony, Graaff-Reinet was a frontier town located in the foothills of the Sneeuwberge (today’s Karoo or Cape Midlands) that fell under the colony’s Eastern

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<sup>1</sup> Anthony Holiday “The ‘Living Dead’ Return to Haunt the ‘New’ South Africa”, *Cape Times*, 30 July 2003 at <http://www.capetimes.co.za/index.php?fSectionId=273&fArticleId=198313>; Melanie Gosling “Excavation of Grave Site Halted”, *Cape Times*, 31 July 2003 at <http://www.capetimes.co.za/index.php?fSectionId=271&fArticleId=199308>; Richard van der Ross “Cape Slaves Did Not Sing of Sorrow”, *Cape Times*, 04 August 2003 or <http://www.capetimes.co.za/index.php?fSectionId=273&fArticleId=200793> ; Chris van Gass “Slave Graveyard Haunts Green Point Developer”, *Business Day*, 17 July 2003

<sup>2</sup> See also Max du Preez “I Am But One Descendent of Slaves”, *The Star*, 17 July 2003 <http://www.thestar.co.za/index.php?fSectionId=225&fArticleId=189916>; Peter Frost “Barbarism – Reincarnated”, *Mail & Guardian*, 23 September 1999; Khadija Magardie “Muslims and the Sinless Fraternity”, *Mail & Guardian*, 31 August 2001; Mike Nicol “Shadows of the Old Slave Tree”; *Mail & Guardian*, 29 November 1996

<sup>3</sup> Jackie Loos “Brutal Beating By the Mistress Proved the Last Straw for Slave”, *Cape Argus*, 16 July 2003 at <http://capeargus.co.za/index.php?fSectionId=342&fArticleId=189667> and Jackie Loos “The Way We Were – Justice at Last for Beaten Slave”, *Cape Argus*, 30 July 2003 at <http://capeargus.co.za/index.php?fSectionId=342&fArticleId=198844>.

<sup>4</sup> C Cornell “Whatever Became of Cape Slavery in Western Cape Museums?”, *Kronos*, 25, 1998/99, pp 259 - 279

Division<sup>5</sup>. It was an important supplier of sheep and cattle, and stock farming constituted the region's primary economic activity, with vineyards, tobacco and wheat farming being further contributors to the economy. While Khoikhoi, and not slave labour, was the dominant form of labour<sup>6</sup>, official records<sup>7</sup> indicate that it had the sixth highest concentration of slaves (between 2 247 to 2 809)<sup>8</sup> in the Cape Colony, constituting six to eight percent of the total official slave population (reckoned at 38 257 slaves) in 1833/4.<sup>9</sup> The population of Graaff-Reinet consisted of, amongst others, non-slave owners, slave owners, slaves, free persons and Khoikhoi.

The early 1830s, both in Graaff-Reinet and throughout the colony, were a time of increased agitation between slave owners and the colonial government, especially in relation to the rights of, or over, slaves. The relationship between owner and slave<sup>10</sup> was being challenged by a host of ameliorative measures, which first took effect in the 1820s and eventually led to the conditional emancipation of slaves in 1834.<sup>11</sup> The amelioration measures of 1823, 1826, 1830 and 1831 (effective in 1832) were always met by negative responses from slave owners throughout the colony, ranging from petitions and deputations to government officials<sup>12</sup> to meetings and even a riot<sup>13</sup>.

In 1823, just prior to the 'amelioration' of slavery becoming the official policy of the British Government<sup>14</sup>, the Cape Governor, Lord Charles Somerset, issued a proclamation. This favoured Christian slaves and affected several dimensions of slave life including labour, punishment and interpersonal relations. Christian (baptised) slaves' marriages received legal sanction (although still subject to the owner's permission); children under ten could not be separated from their Christian mothers and a Christian family unit could not be separated by sale. The testimony of Christian slaves was given full and equal status in court,<sup>15</sup> slaves could own property and masters were obliged to supply "sufficient" food

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<sup>5</sup> For the Eastern Cape Area see C Crais *White Supremacy and Black Resistance in Pre-Industrial South Africa*, (Cambridge, 1992)

<sup>6</sup> See W Dooling "Slavery and Amelioration in the Graaff-Reinet District, 1823-1830", *South African Historical Journal*, 27, 1992, pp 78-79

<sup>7</sup> Table submitted by Major Rogers for Return of Number of Slaves Registered at the Cape of Good Hope Colony (by age), 31 August 1833 in General Observations, PRO, CO 53/57, p 150

<sup>8</sup> In "Slavery & Amelioration..", p 79 Dooling gives the total slave population as 2 836 in 1823 and 2 266 in 1828 with slaves constituting 12% of the 19 864 total population, whites 48% and free blacks 40%.

<sup>9</sup> In 1830 Rogers' estimated that the 32 704 square miles had 680 slave holders who possessed 2 630 slaves with 570 of those slave holders having fewer than 8 slaves – PRO CO 53/51, p 306

<sup>10</sup> See J Mason "Fortunate Slaves and Artful Masters: Labor Relations in the Rural Cape Colony During the Era of Emancipation, ca. 1825 to 1838" in E Eldredge and F Morton (eds) *Slavery in South Africa*, (Pietermaritzburg, 1994)

<sup>11</sup> Slaves were forced to undergo a four-year "apprenticeship" period before being completely emancipated, so strictly speaking emancipation only properly occurred in 1838.

<sup>12</sup> The Protectors of Slaves Reports invariably make mention of increasing tension between owners and slaves, and owners and themselves as government officials. See PRO, CO 53/52, General Observations, pp 343-361, 409-412; PRO CO 53/54, General Observations, pp 507-509, PRO CO 53/55, General Observation, pp 132-134; PRO CO 53/57 General Observations, pp 129-143 (deals specifically with responses to emancipation) and p 341-364 (for owner and slave reactions); PRO CO 53/58, General Observations, pp 144-151

<sup>13</sup> See Dooling "Slavery and Amelioration...", pp 83-84 and J Mason "The Slaves and Their Protectors: Reforming Resistance in a Slave Society, the Cape Colony, 1826-1834", *Journal of Southern African Studies*, 17, 1, 1991, pp 108-109

<sup>14</sup> See Dooling "Slavery and Amelioration...", pp 76-77 and J Mason "The Slaves and Their Protectors...", pp 106 - 109

<sup>15</sup> For a discussion on the function of law in Stellenbosch see W Dooling "The Hegemonic Function of Law" in *Law and Community in a Slave Society: Stellenbosch District, South Africa, c. 1760-1820*, (Cape Town, 1992)

and clothing to their slaves. Restrictions were placed on the amount of time slaves could labour<sup>16</sup> although ploughing, harvesting and other extraordinary occasions allowed exemption from these restrictions and from the observance of Sunday as a day of rest for slaves.<sup>17</sup> Punishment was also restricted and meant to be in the form of ‘mild domestic correction’ (a maximum of 25 lashes were permitted), and a 24-hour respite between punishments was established.

Ordinance 19 of 1826 retained most of these rulings but extended their application. The testimony of all slaves (not just Christian slaves) was equally admissible in court, no children under ten were to be removed from their mothers, and all slaves could purchase their freedom. Interestingly, gendered distinctions came into play as regards the punishments permitted. The maximum lashes for male slaves remained 25, but female slaves could not be flogged in public and were to be subjected to “moderate” private whippings across the shoulders. These whippings were to be equated with those that a free child would receive.

Slave complaints were to be heard by the newly appointed office of the Guardian of Slaves, located in Cape Town, or Assistant Guardians, located in each region. The Guardians would examine cases brought to them by slaves, make decisions on whether they were worth pursuing and either attempt to resolve the conflict themselves through mediation between the slaves and their owners, or place the case before the resident magistrate’s court. It is from the records kept by these Guardians of Slaves that we can gain some insight into the nature of the violence perpetuated against some slaves. During the period under discussion the Orders of the King in Council of February 1830 and November 1831, further altered these laws.

An 1831 Ordinance, effective in 1832, revised and refined the regulations of the 1830 Order. Known as the Consolidated Order it renamed the Guardians “Protectors”, required slave owners to keep punishment record books,<sup>18</sup> reduced from 25 to 15 the maximum number of lashes against male slaves and, significantly, made it illegal to beat women slaves.

Between 1830 and 1834 approximately 250<sup>19</sup> cases of complaint were brought by slaves to the Protector of Slaves in Graaff-Reinet. These cases are, obviously, the exceptional ones – those that the slaves actually reported despite geographical obstacles (a particular problem for rural slaves) and potential threats (both physical and psychological) from owners. Only slaves who had the courage to deal with these impediments brought their cases before the Protectors, the amount of punishment and ill treatment

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<sup>16</sup> In gardens or fields, this was set at 12 hours in summer and 10 in winter. Note the exclusion of this application to domestic labour.

<sup>17</sup> Again this did not include domestic labour.

<sup>18</sup> A highly contentious issue amongst owners who saw this as an infringement of their property rights, and one that the Protector of Slaves frequently comments upon. See PRO, CO 53/54 - CO 53/58, Table A and General Observations relating to Table A.

<sup>19</sup> The actual number of cases recorded was 263 but of these 13 were cases carried over from one annual report to the next, these have therefore been excluded.

that went unreported remains in the realm of speculation. Amelioration however, did initiate a period when slaves were more likely to complain.

Slaves complained about being made to work when they were sick, being separated from their families, receiving insufficient food and clothing, being owed money or stock, not being allowed to visit their partners or parents, being overworked and being punished or ill-treated.<sup>20</sup> In a society dependent on violence for the maintenance of social order, women slave owners alone were called to defend themselves against acts of violence ranging from placing women slaves in stocks, slapping them with open hands, beating them with fists and whipping or flogging them. Of the total number of cases brought to the Protector's attention 46% were brought by women slaves and 54% by male slaves. Of the 116 cases brought by women slaves<sup>21</sup>, 50 cases were against women slave owners. Of these 50 cases, 72% were complaints relating to violence.

The relative role and importance of violence in the slave holding society of the Cape of Good Hope (both on its own and in comparison to other slave holding societies)<sup>22</sup> from the seventeenth to the nineteenth centuries, has engendered much historiographical debate. This has ranged from concerns with the myth of "mild slavery" to discussions about relative permutations of psychological and/or physical factors as means of ensuring social control<sup>23</sup> in a society dependent on maintaining the domination of one group and the submission of another.<sup>24</sup> The desire to ensure ongoing domination by one group over another using violence runs throughout South Africa's past. Apart from challenging gendered notions about women being less inclined to violence, the following cases highlight the determination and spirit of resistance found amongst slave women, characteristics which also run through South Africa's past, and present.

### **Lea Defeats Distance**

That the women slaves felt their complaints to be valid and worth pursuing despite obstacles like distance, is evident in the case of Lea, a 26 year old<sup>25</sup> slave from the outlying Camdeboo area.<sup>26</sup>

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<sup>20</sup> For detailed accounts of all cases see Public Record Office (henceforth PRO) documents CO53/50 – 57: Reports of the Protectors of Slaves of the Cape of Good Hope Colony 1830 - 1834

<sup>21</sup> Although not always specified in the records, it can be inferred from the cases themselves that most of the slave women are domestic slaves.

<sup>22</sup> See G Cuthbertson "Cape Slave Historiography and the Question of Intellectual Dependence", *South African Historical Journal*, 27, 1992 and F Morton "Slavery and South African Historiography" in E Eldredge & F Morton (eds) *Slavery in South Africa: Captive Labour on the Dutch Frontier*, (Colorado, 1994)

<sup>23</sup> For Paternalism and Law in the eighteenth and nineteenth centuries see Dooling "The Hegemonic Function of Law"... p 80-82

<sup>24</sup> See R Ross *Cape of Torments: Slavery and resistance in South Africa*, (London, 1983) especially Chapter 3; J Armstrong & N Worden "The slaves, 1652 – 1834" in R Elphick & H Giliomee (eds) *The Shaping of South African Society, 1652-1840* (Cape Town, 1989), especially pp 149-162; N Worden *Slavery in Dutch South Africa* (Cambridge, 1985), especially Chapter 8

<sup>25</sup> Further investigation into the age of complainants would assist in determining the impact of age on bringing complaints, and which age group of slaves was more likely to complain.

<sup>26</sup> PRO, CO 53/54, Case 33, p 254.

Lea complained in person to the Assistant Protector, on the 24 March 1832, that Saartjie van der Merwe struck and beat her on the back and other parts of the body with a piece of wood and a thong. Despite having no marks of violence on her body the case was sent to the Resident Magistrate on the 24 May 1832. Lea's two witnesses underplayed the seriousness of the charges Lea had made by saying she had been hit with a twig no thicker than a quill, and not very violently. Saartjie van der Merwe herself denied having beaten Lea at all and stated that she had merely threatened to beat her because she had stayed away much longer than was necessary while collecting wood and herbs, and refused to respond when questioned on her absence. Nonetheless the defendant was fined £10 sterling for being in breach of His Majesty's Order in Council of the 2<sup>nd</sup> February 1830.

The extent of Lea's determination in bringing this complaint against Saartjie becomes evident in the explanatory remarks made by the Assistant Protector. It appears that when Lea had originally lodged her complaint she was directed to return home and informed that her case would be prosecuted on the 19 April. Lea however, returned later and stated that she had been pregnant and on her return home had miscarried on the road and delivered a foetus of about 6 months old. She attributed this miscarriage to her "mistress" having, when she struck her with the piece of wood and the thong, thrown her to the ground and given her a kick. The kick apparently left a mark, which Lea claimed she showed her husband that same day. She did not, however, mention the incident when she made her complaint or intimate that she was pregnant. When questioned about this Lea merely stated that she had forgotten to do so.

Lea's statement revealed that when she had the miscarriage she had walked about 32 hours in eight successive days, carrying her two-year-old son and having little or no food. Seeking verification of her story the District Surgeon was sent to retrieve the foetus but found it in such a state of putrefication that only the bones could be distinguished (none were broken). Lea's husband Constant, when questioned maintained that Lea had remained standing during the punishment and had never shown him any kick mark. Furthermore she had remained at work a full week before coming to lay the complaint and during that time had continued working as usual. The Assistant Protector concluded that there was more reason to attribute the abortion to fatigue and hunger than any other circumstances.

The potential for speculation in this instance is manifold – Lea's initial victory over her owner may well have prompted her to try for another success; she could deliberately have induced the termination and then sought to blame it on her owner to increase any associated social humiliation for her owner;<sup>27</sup> or she may have been angered by the fact that one physical injustice against her body had been paid for by another. Whatever the motivation, Lea (like most other slaves who did not live in the town), had undertaken the long walk to the Assistant Protector to have her grievance dealt with and pursued the case,

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<sup>27</sup> See W Dooling " 'The Good Opinion of Others': Law, Slavery and Community in the Cape Colony, c. 1760-1830" in N Worden & C Crais (eds) *Breaking the Chains*, (Johannesburg, 1994)

despite lengthy delays, to its successful conclusion. Having been through the process once, she did not hesitate to return when she felt another injustice had occurred.

### **Rachel's Repeat Complaints**

Rachel, slave of a local Graaff-Reinet butcher, did not hesitate to return several times to lay complaints against both her female and male owners, on behalf of both herself and her child Francina.<sup>28</sup> In her first complaint, Rachel accused her woman owner Anna Sophia Pienaar of locking a chain around her leg overnight. In addition, she accused Anna Sophia of tying her daughter to a tree and punishing her with a strap over her shoulders. The Assistant Protector refused to entertain the first case after it transpired that Rachel had a history of deserting and her owner had learned that she was planning to make another attempt. The chain had been placed around her leg as an early warning system in case Rachel decided to make good her threat of leaving. The second case was also unsuccessful as two witnesses, and Francina herself, contradicted the claims Rachel had made. Francina admitted that her mother had instigated the complaint (despite Rachel's denial) and Rachel found herself admonished and cautioned not to make false complaints again.

A month passed, and Rachel again made her presence felt - this time laying a complaint against her male owner for putting her in the stocks overnight.<sup>29</sup> Rachel had again threatened to run away and the Magistrate found this sufficient reason for her to have been confined. Her owner was still fined one shilling however as he had contravened the law by allowing her to remain in the stocks overnight, instead of observing the sunrise to sunset limit. Rachel's fourth complaint, again against her male owner for confining her to the stocks, was dismissed, but Rachel was judged guilty of having made "an unfounded complaint with malevolent motive" and was imprisoned for four days on a diet of rice water.<sup>30</sup>

It would appear some slaves were determined to use the Assistant Protector's office as often as they deemed it necessary when they felt that they had been unfairly punished. In recording the "substance of complaints" phrases such as "punished without due cause" or "punished with insufficient reason" indicate that slaves had taken conscious decisions about what constituted infringements against themselves and their person, even if not strictly within the boundaries contained in the Ordinances themselves.<sup>31</sup> As Dooling has observed, "slaves themselves decided what constituted acceptable treatment...and acted in terms of ... a 'moral economy' [requiring]...their actions to be assessed in terms of their perceived rights within the [owner]-slave relationship".<sup>32</sup> These perceptions also extended to notions of personal honour

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<sup>28</sup> PRO, CO 53/54, Case 1 & 2, pp 193-196

<sup>29</sup> PRO, CO 53/54, Case 7, p 205

<sup>30</sup> Ibid., Case 14, p 217

<sup>31</sup> Similarly Mason in "The Slaves and their Protectors...", p122, observes "The slaves of the Cape Colony frequently relied not on the law's definition of legal and illegal punishment when deciding whether or not to complain, but on their own notions of just and unjust punishment."

<sup>32</sup> Dooling "Slavery and Amelioration..", p 81

and integrity, and although usually unsuccessful as they lacked a legal basis, their inclusion in the records assist in creating a picture of what concerned slaves.<sup>33</sup>

Rachel, although the most persistent, was not the only slave to complain repeatedly,<sup>34</sup> or on behalf of her children.<sup>35</sup> Women slaves complained on behalf of themselves, other slaves and their partners, but most frequently on behalf of their children.<sup>36</sup> In Graaff-Reinet, several women slaves complained when their women owners punished their children,<sup>37</sup> potentially because they felt protective over their offspring, or because they felt that as parents the disciplining of their children was their duty alone.<sup>38</sup>

### **Insolence and Evidence – Eva and Betje**

In lodging their complaints there were, of course, no guarantees of success for the complainants and many, although their cases were noted down, found their efforts in vain. The Assistant Protector would note that the violence committed by the owner had not exceeded that regarded as “domestic correction” and therefore was not in contravention of any of the Ordinances or Orders in Council, or would refuse to entertain the case due to lack of evidence. Lack of evidence invariably indicated that the complainant had no witness to call forward at all, called witnesses who did not corroborate their story or were found to have no evidence / mark of physical punishment on their person by the District Surgeon.<sup>39</sup>

Furthermore, if the Assistant Protector or Magistrates perceived the slaves to be impertinent, insolent or less obsequious than they, or the owners or witnesses (including other slaves) who gave testimony, deemed “appropriate” this could invariably affect the outcome of the case.<sup>40</sup> This is particularly evident in the case of Eva who brought a complaint against her women owner for confining her in the stocks until after sunset. Both the witnesses Eva called to corroborate the time of her confinement and the defendant claimed that Eva had been extremely insolent and obstinate. The Magistrate observed that the defendant would have been completely justified in placing Eva in the stocks, but as keeping her confined after sunset was contrary to the 1830 proclamation, he would impose upon her a fine of one farthing<sup>41</sup> - hardly a hefty punishment. In other cases however, the insolence of the slaves did not necessarily count against

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<sup>33</sup> See for example the case of Rachel of Sneeuwberg who complained because her female owner accused her of being the cause of death of her own child. (PRO, CO53/51, Case 5, p 133)

<sup>34</sup> The slaves Lydia, another Rachel, Lena and Marie for example made repeated complaints in PRO, CO 53/57, p 229-365. Because each complaint was regarded as an individual case they have been tallied as such and any attempts at determining the percentage of slaves out of the total population that laid complaints would have to take this into account.

<sup>35</sup> See complaints by Ein (PRO, CO 53/55, Case 14, p 18), Cathryn (PRO, CO 53/56, Case 20, p213)

<sup>36</sup> The same is true of male slaves and it would be interesting to determine how many cases were brought on behalf of their children compared to those laid by women slaves.

<sup>37</sup> See complaints by Amilie (PRO, CO 53/51, Case 19, p 143), Romana & Debora (PRO, CO 53/57, Case 15 & 58, pp 244 & 305 respectively)

<sup>38</sup> Violence directed against children, while beyond the scope of this work, requires further research and needs to be examined in terms of familial structures and access/rights within those structures of both women and men slaves.

<sup>39</sup> See for example the following cases in PRO, CO 53/50 Cases 16,24,30, pp 12,14,15 respectively; in PRO, CO 53/51 Cases 4,7,10, pp 133,135,137; PRO, CO 53/56 Case 15, pp209; PRO, CO 53/57 Case 59, p 305 and PRO, CO 53/58 Case 30, p 207

<sup>40</sup> See PRO, CO53/50, Case 9, p 11 and PRO, CO 53/56, Case 18, p 211.

<sup>41</sup> PRO, CO 53/55, Case 7, p 48

them. Saartjie Liebenberg stated that the slave woman Betje had been very obstinate and insolent and spoken so loudly that spittle had flown into her (Saartjie's) face. Despite this she was found guilty of striking Betje in the face and beating her with her fists and fined £10.<sup>42</sup>

### **Intimacy and Improper Weapons**

As has been previously mentioned the types of physical violence used against women slaves by their women owners varied considerably - from slaps with open hands to whippings with sjamboks. Sabrina, an 18-year-old slave, complained on the 15 April 1830, that her woman owner had struck her with a piece of wood.<sup>43</sup> The case was tried four days later, one witness was examined and the defendant acknowledged having struck Sabrina with a piece of wood (subsequently produced as evidence). The defendant claimed she had hit Sabrina "under the influence of passion" but denied intention to injure her. The Assistant Guardian issued a harsh warning "...that the Defendant was not justified in using, under any circumstances, an improper weapon, much less such an instrument, as might have occasioned Death" – despite these comments she was only sentenced to pay £5, half the maximum penalty.

The physical attack on another person's body then was not the only consideration. The appropriateness of both the manner and instruments of punishment were also of importance. Ironically, these sentiments were motivated by concern, as indicated by the comments made by Donald Moodie (Protector of Slaves of the Eastern Division) that regulations which would limit the instruments that could be used to punish slaves to one type, would eliminate existing regional preferences, some apparently harsher than others, and bring all punishment in line.<sup>44</sup>

One such preference for an "inappropriate" instrument of punishment saw the owners of Lea (Mrs & Mr Brown) found guilty of "punishing a female slave wantonly ... without a reasonable and adequate cause." Although initially involving a complaint made by Lea on behalf of her daughter regarding punishment her daughter had received, the resolution of the case saw her owners fined £10 for punishment they inflicted on Lea. The verdict specifically concerned her confinement in stocks particularly designed as instruments of punishment,<sup>45</sup> as the manner of using them "necessarily occasioned bodily pain to the slave so confined."<sup>46</sup>

Confinement to stocks, while ranging from very uncomfortable to unbearably torturous, was a different kind of physical violence to the immediate, outright violence in the examples below. This type of punishment depended on close physical interaction and immediate physical pain.

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<sup>42</sup> PRO, CO 53/54, Case 27, p 244

<sup>43</sup> PRO, CO 53/50, Case 23, p 14

<sup>44</sup> PRO, CO 53/55 (part 2), General Observations, p 63

<sup>45</sup> As opposed to their perceived use as instruments of shame.

<sup>46</sup> PRO, CO53/57, Case 65, pp 318-328

The 26-year-old cook Eva of Tygerfontein, complained that her mistress had first beaten her and then knocked her head against the wall. Unlike most of the other cases, the defendant did not appear in court in person. Rather her handwriting was identified in a letter that contained an admission of having twice slapped Eva in the face for insolence. Clarinda, the witness called by the complainant, corroborated Eva's story resulting in a £10 fine for the defendant.

The outcome for Dina of Graaff-Reinet was not as favourable.<sup>47</sup> Dina claimed that Francina Johanna Oertel had struck and beaten her on her face and other parts of her body, violently knocked her head against a wall and then taken hold of her hair and pulled her to the ground. The case was prosecuted the same day and, although unsuccessful for Dina, exposed some intimate details about the Oertel's marriage and Dina's boldness. Dina stated that her owners had quarrelled the previous evening and Francina had accused her husband (Andries) of intimate relations with Dina saying, "It appears as if you cohabit with that black girl." Dina took this as a remark directed against her and the following morning challenged Francina and asked her whether she could prove her accusations. Francina denied having made any such comments, but Dina was not easily dissuaded and retorted "Yes, it is true you did say so". Having been so blatantly challenged it appears Francina lost her temper and struck Dina two blows with her fist on her head, knocked her head against the wall and struck her with her open hand in the face. Francina then took hold of Dina's hair and tried to pull her to the ground but was prevented from doing this by Dina grabbing her hands.

During her cross-examination Dina admitted that she had been ordered to hold her tongue but had responded, "I shall not hold my tongue, for today I will have justice done to me." Hierarchies and jealousies within the household are evidenced by Dina's further admission that she had taken the reference to the "black girl" as directed against herself and not the Khoi ("Hottentot") woman Roos, because Francina never found fault with Roos, but always with her. She also denied having intentionally scratched Francina across the breast with her nails.

The District Surgeon who had examined Dina claimed only to have found an old swelling on the left side of her face but no bruises or abrasions, and had found a recent scratch about an inch long above Francina's left breast. The testimony for the defence attributed Dina's sharp words with equally sharp actions. Francina contended that Dina had been extremely insolent and used "most provoking language" and that she had acted in self-defence having been first assaulted by Dina. Roos similarly claimed that she had seen Dina taking hold of Francina and forcibly try and pull her down while saying that she wanted to beat her. Despite Roos contradicting herself under cross-examination Francina was acquitted.

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<sup>47</sup> PRO, CO53/54, Case 3, p 196

If the favouritism that Dina testified to did exist, then Roos and Francina could have determined to corroborate their stories. It is possible that Francina favoured Roos because she felt less sexually threatened by her, particularly in terms of the suspicions that she held about Dina's relations with her husband. Dina, if Roos and Francina are to be believed, felt no qualms about attacking her owner with intent to inflict harm – hardly the actions of a subservient slave. If Dina felt her reputation / honour had been undermined by Francina's comment she also felt able to seek "justice" of a physical nature for this slander. Alternatively Dina, faced with Francina's physical manifestation of jealousy, sought to obtain this justice via official legal means and possibly, associated public knowledge. In either instance internal jealousies found very violent, physical expression in this interaction which point to the complex emotional inter-relationships within the slave / owner dynamic and the violent manifestations they took. There is no way of confirming the nature of the relationship between Dina and Andries, and if sexual, whether Dina's involvement was by choice or force and her reaction one based on love for Andries or anger at her lack of control over her body.<sup>48</sup>

### **Ignorance and Inference of the Law**

The wife of Jan Vorster pleaded ignorance of the law when the slave Christina brought a charge against her. Christina claimed she had been beaten with a stirrup leather, knocked down and beaten again. While the defendant pleaded guilty, she "stated not to have known that there existed a law prohibiting punishment on female slaves, nor that it had ever been made known to her."<sup>49</sup> Ignorance of the law was not regarded as sufficient defence however, and she was fined £10.

Even when there was knowledge of the law, women owners attempted to manipulate situations in order to avoid being found guilty, as is evident in the case of Josephina<sup>50</sup> versus Elisabeth Hick.<sup>51</sup> Josephina although the slave of Andries Albertus Venter of Graaff-Reinet, was employed in the service of the local sexton Jacobus Hick and his wife, the aforementioned Elisabeth. On the 6<sup>th</sup> January 1832 Josephina complained to the Assistant Protector that Elisabeth had struck her two blows that morning with her fists in the face as she had not asked soon enough for some wine to put with the fowls she was roasting. The case was heard before the resident magistrate on the 10<sup>th</sup> January. The two witnesses, Platjie and Islemadie (both Khoi), confirmed that Josephina had received two blows, with an open hand and not a fist, but described Josephina's conduct as "most provoking". She had been frequently spoken to by the defendant but would not return any answer and turned her back towards Elisabeth.

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<sup>48</sup> If heterosexual relations between owners and slaves are difficult to unravel, how more so any potential lesbian relations between women owners and women slaves.

<sup>49</sup> PRO, CO 53/52, Case 7, p 302

<sup>50</sup> PRO, CO53/54, Case 13, p 215

<sup>51</sup> The defendant's surname may possibly have been Fick, but the handwriting was difficult to decipher.

Elisabeth and Josephina had been at loggerheads only a month earlier on the 7<sup>th</sup> December 1831,<sup>52</sup> the interaction was again a violent one. On this instance Josephina accused Elisabeth of striking her with a stick and beating her over her shoulders and striking her in the face with her fists. Again the witness stated that the blows in the face were with an open hand and not a fist. The District Surgeon confirmed that Josephina had recent marks on her shoulders. Elisabeth's defence is interesting, she stated that she did not have the management of her husband's slaves and could only be prosecuted for a common assault and not for breach of the Order in Council of 2<sup>nd</sup> February 1830 as it only related to *master* and slave. She also called another slave as a witness to prove that Josephina had been very disobedient and obstinate during the last month. Despite this she was found guilty and fined £10.

Therefore, Elisabeth could not plead ignorance of the law, neither could she rely on the strict letter of the law (sexist language *et al*), and use being "just a woman" as her defence. Clearly she did manage her husband's slaves, and regardless of whom they were registered to, she treated them with the same disrespect as any other slave owner. It was however, precisely to registered ownership versus "use" that she turned in her defence for the second case. Elisabeth claimed that as Josephina had been sold and did not belong to her or her husband, she could not be charged with contravening the Order in Council. Her two witnesses confirmed that Josephina had been sold to Andries Venter who was to have come to fetch her on the first Monday of the month but had failed to do so. As such Josephina, while still in the service of the Hicks, was not technically owned by them. The magistrate did not deem this argument valid and fined Elisabeth another £10 for being in breach of the Order in Council.

Josephina may well have had an idea of the regulations governing punishment of female slaves as in both instances she insisted that the blows were delivered by fist and not merely slaps. Donald Moodie in the Report of the Protector for the Eastern Division August – December 1832, comments on the situation caused by unclear wording in the previous regulations which allowed Magistrates to interpret slapping with an open hand as equivalent to simple assaults on free people punishable by slight fines. The inclusion of the words "or otherwise assaulting her person," Moodie believed would be slightly more useful in preventing frequent acquittals as alternative indictments for assault would not be required, but he maintained

(t)he magnitude of the punishment in this offence when committed against a slave compared with the slight fine imposed for a similar assault upon a person of free condition operated, and will continue to operate, unfavourably for female slaves, by increasing the difficulty of procuring convictions.<sup>53</sup>

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<sup>52</sup> PRO, CO53/54, Case 6, p 204

<sup>53</sup> PRO, CO 53/55, Part 2, General Observations, p62

It would appear that a law, which effectively gave slaves more protection than free people, was not always favourably received. It is also possible that Josephina had heard of such cases being unsuccessful and therefore insisted on defining her complaint in terms of blows with fists rather than slapping.

Elisabeth determined to use gender stereotypes (the wife with no say in the management of the household), legal sexism (the actual wording of the law) and legal notions of ownership, as loopholes through which to escape the fine. The magistrate, despite the claims of Josephina's insolence, and Moodie's scepticism, did not in this case recognise Elisabeth's ploys as valid. He was adequately convinced of her position in relation to that of Josephina (i.e. as a slave owner interacting with a slave) to fine her as a slave owner who had contravened the law, regardless of her sex. In all the above cases, bar one,<sup>54</sup> it appears that women slave owners were present in court, held responsible for their actions and fined or acquitted accordingly. That this is standard practice for the magistrates and Assistant Protectors, indicates that women, in Graaff-Reinet at least, were acknowledged as slave owners, regardless of whether slaves were legally registered to them or not, and played a prominent role in dealing with complaints laid against them.

Apart from being registered owners of the slaves who complained, or the "use" owner of the slaves by virtue of marriage to the registered owner, it appears white frontier women may also have been specifically hired to manage them. Eva, slave of the farmer Gerhardus Marthinus Maritz, for example brought a complaint against Maria Elizabeth Oosterhuizen – her manager.<sup>55</sup> Eva claimed Maria had struck her on her head with her fist three times, knocked her head against the wall, thrown her to the ground and beat her with a strap on her back and neck. Corroborating evidence from witnesses and the bruise 4 inches in circumference found by the District Surgeon assisted the jury in finding the defendant guilty despite her pleading ignorance of the law and provocation. Sentenced to pay £5, Maria apparently proved she was in "very indignant" circumstances and depended entirely on her children for support. Unfortunately, the court records do not allow us access to any further evidence upon which to base further speculations about the comparative role of women managers and male "knechts"<sup>56</sup> or other reciprocal arrangements between potentially single women and other farm owners.

### **Amelia's Indignation**

Indignation of another kind is evident in the case of Amelia the 55-year-old slave of a widow from Camdeboo River.<sup>57</sup> Amelia claimed her mistress had struck her with a fist in the face and pushed her down in the mud. Her bruised and blackened eye being a result of one of the blows. According to her

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<sup>54</sup> The aforementioned case where the defendant sent in a letter.

<sup>55</sup> PRO, CO 53/56, Case 25, p 217

<sup>56</sup> "Knechts" were male overseers hired to assist in managing both slaves and the farm. For more information see Shell *Children of Bondage*, pp 9-25

<sup>57</sup> PRO, CO 53/57, Case 25, p 261

statement she was washing clothes when her owner scolded her and told her to take them somewhere else to wash them as the water she was washing them in was not clean. Amelia replied that her body was too full of pain to go further and that her mistress had better go home as she had already destroyed all the strength of her body and “she was no more able to do anything”. Thereafter her owner turned towards her, took hold of her, pushed her into the mud and struck her several blows on the face with her fist.

Betje, a Khoi woman, gave testimony that she had overheard the defendant telling her “master and mistress” (presumably visitors) that her and Amelia had had hold of each other, that Amelia had pulled her down into the mud and they had scuffled with one another. She claimed that Amelia had been with the defendant for 16 years and had been treated well, receiving punishment only once.

The defendant (listed only as the widow of Piet Venter) claimed she had attempted to pull the clothes Amelia was washing out of her hands to prevent her washing them in dirty water. Amelia let go of the wooden trough the clothes were in, seized her by the petticoat and pulled her into the water. They both fell into the water, Amelia with her head downwards accounting for bruises and swelling as she had fallen onto some stones. The defendant denied beating her and was acquitted by the magistrate.

Amelia’s words are telling – regardless of whose story was correct. After a lifetime of physical work it is possible that Amelia had reached breaking point. Indignant at yet another request she just refused to comply – with her body physically damaged from years of toil, the threat of further violence held no significance, hence a challenge to her owner to do what she wanted. Despite the condition of her body, her spirit was still in tact and could not be broken. Alternatively Amelia was tired from the day’s work and felt physically incapable of moving the washing. In no uncertain terms, she told her owner that her work for the day was done, and she was incapable of any further tasks thereby directly challenging her owner’s authority and dominance. Amelia appeared not to share Betje’s view on how well she had been treated by her owner, despite the seemingly limited punishment.

Despite being pulled into the dam by her slave, the defendant makes no particular mention of Amelia’s insolence or insubordination and does not seem overly upset by the incident. As Betje gives no indication of the tone used by the defendant when relaying the story it is difficult to gauge her emotional response. Whatever the “facts” of the case it serves as a reminder that human interactions, regardless of the context, are always fraught with complexities and influenced by the personal structure and make-up of the people involved. The relationship between owners and slaves remain as intricate, complex and contradictory as the people involved.

In their interaction with women slaves, women owners used violence as a punishment for insolence, theft, attempting to escape, interfering with the disciplining of children (both slave and free), contradicting or quarrelling with the owner or her children and being tardy in fulfilling work. Ineffectual completion of

various domestic tasks provoked violent reactions, but as many complainants claimed to have been beaten “without cause”, these tasks may merely have been excuses upon which to vent the continual tensions inherent in the slave / owner relationship. Included in these tensions continually simmering beneath the surface, were sexual jealousy, favouritism and moral judgements on sexuality.<sup>58</sup>

Slaves brought complaints against those they held responsible for the grievances committed against them, or those they cared about. When this infringement was a violent one (sexual or non-sexual) they took the person directly responsible for the violence to task. If the violence was committed by someone they did not perceive as having sufficient status within the dominant group to be held responsible (an owner’s child for example), then they laid the charge against the person they did perceive as having appropriate status (the parent). Similarly in cases of a material nature where an aggressor was less obvious, grievances were laid against the person deemed most appropriate. They aimed their actions against the people they perceived as most significant or most responsible. These people were both women and men. It was their ability and role in inflicting, resolving or redressing the grievances; and not their gender, which was of prime consideration to slaves.

### **What Do We Do With Our Slave Heritage?**

The cases from Graaf-Reinet reveal a lot about our past – they expose the ironies and errors of colonial notions of gender, race and class; they provide examples of determination, assertiveness and resistance by slaves; they show the capacity of the human spirit for continued struggle and survival; they raise a mirror to the spectre of violence; and they are a reminder that slavery was not merely an oppressive labour system, but a brutal and dehumanising system that affected individuals on either side of the sjambok.

What do we do with these lessons, learnt at the expense of Lea, Rachel, Dina, Eva, Sabrina, Amelia and others? In Graaf-Reinet in 2001 the answer was absolutely nothing. Like most Eastern Cape towns, Graaf-Reinet does not acknowledge its slave past. The slave bell and old slave quarters in Graaf-Reinet are part of an expensive hotel. The bell bares no acknowledgement of the slaves who lived there and the slave quarters have been converted into bright, comfortable rooms with abundant pot-plants and flowers. Neither do any of the town’s museums contain any reference to the over two thousand slaves who lived in the area.

The museums in Grahamstown are similarly void of any acknowledgement of the role played by slaves in ‘Frontier Country’. The Districts of Uitenhage, Albany & Somerset had approximately 2981 slaves, or eight per cent of the total slave population. Slaves were instrumental in the building and shaping of the

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<sup>58</sup> See PRO, CO 53/54, Case 27, p 244, where Betje’s husband (the slave Carolus) complained to their mistress Saartjie, that Betje had been having “inappropriate (sexual) connexion” with the slave April. Apparently in response to this Saartjie pushed a tub of water from Betje’s head, struck her 3 blows in the face with her fists and threw a piece of wood at her. Saartjie was fined £10.

Eastern Cape and are both significant and numerous enough to warrant our attention and interest. After all Afrikaans, the second most widely spoken language in the province<sup>59</sup>, is the language of the slaves. A place needs to be found in the Eastern Cape Heritage and Public History sector to give these slaves a voice. The volume and prominence of these voices can be adjusted to suit individual towns or areas, but the first step towards finding these voices is an unconditional acknowledgement and recognition of slaves and slavery in the Eastern Cape.

As part of a course on slaves and slavery in the History Department at Rhodes University, second year students were asked to discuss what, if anything, needs to be done about South Africa's slave history. The responses in seminars showed a keen enthusiasm and interest in slave heritage and its development<sup>60</sup>. The ideas and concerns raised in these seminars have been included in this paper.

In order to appropriately acknowledge and respond to its slave heritage the Eastern Cape needs to develop innovative means of raising public awareness about slaves and slavery in the Eastern Cape while making use of existing resources. It is important that notions of community involvement and ownership, as well as accessibility, guide the process. In order to avoid developing slave heritage activities that are beyond the means of most South Africans, slave heritage should be developed primarily for South Africans, with potential tourist interests as a secondary consideration.

The incorporation of slave heritage can be devised with short, medium and long-term goals in mind. Initially, all local museums or municipalities should at least alter their websites to include information about slavery in South Africa. Where sufficient research exists about 'local' slaves this can be added to all relevant sites. Where there are insufficient resources or research, links should be made to other websites that deal with slavery, for example the Iziko website's<sup>61</sup> section on slavery.

Museums and municipalities also need to transfer this information from cyber space to real space. Information about slavery generally, and local slavery more specifically, should be reproduced as posters or displays until such time as each museum and municipality has sufficient resources to devise an area specific heritage project. As with all slave heritage development it is important that the representations of slaves and slavery do not repeat inaccuracies and mythologies – most notably that slavery in South Africa was somehow 'milder' and slaves were 'part of the family'. They also need to be presented with sensitivity and respect. These pitfalls can be avoided by ensuring partnership arrangements with slave historians or professional heritage development service providers.

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<sup>59</sup> The Provincial Government website indicates that the principal languages for the Eastern Cape are IsiXhosa 83,8%, Afrikaans 9,6%, English 3,7% and SeSotho 2,2%. See <http://www.ecprov.gov.za/content.asp?id=17&menuid=31&mainmenuid=29>

<sup>60</sup> I am indebted to all my History 202 seminar groups for their enthusiastic discussions and ideas.

<sup>61</sup> See <http://www.museums.org.za/iziko/slavery/index.html>

Where research is lacking for a specific area, the same group of professionals should be involved in planning and implementing local research projects which should incorporate public / community history (including oral history) combined with archival research. Personalising slavery is one of the best ways of engaging the public and bringing the experiences of slavery to the fore. The stories of each area's Lea, Rachel, Dina, Eva, Sabrina and Amelia can easily be told.

In developing innovative slave heritage projects, slave tours lead by qualified guides could be considered. These tours should include graphic representations of the harshness of slavery and the violence endemic in slave holding societies, while also highlighting the means of resistance employed by slaves. Suggestions from Rhodes history students included shackling people together for part of the tour or having reconstructed slave quarters or punishment sites where members of the tour could be "chained" to a tree or experience sitting in stocks. More ambitious suggestions included a reconstructed frontier farm that recreates the intimate nature of frontier slavery and shows the interaction between slaves, workers and owners at work and in the domestic sphere. The "farm" would also include a memorial or sculpture to slaves and potentially house a local multi-use community site. The slave memorial could function along the lines of projects like the Egazini project<sup>62</sup> in Grahamstown, which combines heritage with development. The slave memorial could use art as a means of portraying graphic representations of aspects of slavery while developing an arts and crafts initiative that would provide further employment opportunities.

In addition to guided tours, a 'slave route' marker or symbol could be developed that would allow people to learn about relevant slave sites in a town, perhaps with a guidebook. Caroh Cornell has highlighted several initiatives in "Whatever Became of Cape Slavery in Western Cape Museums<sup>63</sup>?" and these could easily be adapted to the Eastern Cape. Slave heritage development provides several opportunities for inter-provincial partnerships which, aside from an agreed 'slave route marker', could extend to a national database that would allow the descendants of slaves to trace their genealogy. Productions incorporating drama, dance and storytelling could be workshopped with local communities and toured throughout the country being presented to both schools and the wider community.

## **Conclusion**

The 23 August has been declared the International Day for the Remembrance of the Slave Trade and its Abolition<sup>64</sup>. It is thus fitting that this paper be presented so close to this day of remembrance. South Africa's slave heritage is starting to be acknowledged and embraced in the Western Cape, if it is to

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<sup>62</sup>For more information on the Egazini Project see <http://www.ru.ac.za/academic/departments/history/egazini/>

<sup>63</sup> C Cornell "Whatever Became of Cape Slavery in Western Cape Museums?", *Kronos*, 25, 1998/99, pp 259 - 279

<sup>64</sup> The night of 22 to 23 August 1791, in Santo Domingo (today Haiti and the Dominican Republic) saw the beginning of the uprising that would play a crucial role in the abolition of the transatlantic slave trade. See the UNESCO website at [http://www.unesco.org/culture/dialogue/slave/html\\_eng/day.shtml](http://www.unesco.org/culture/dialogue/slave/html_eng/day.shtml)

receive its rightful recognition throughout the country then other provinces need to follow suit. The legacy of amnesia about slavery in the Eastern Cape needs to be challenged. The legacy of slavery influenced all that followed in South Africa's history - now is the time to face it and learn from it.

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