
“The Girl Is Not Consulted”

Abduction Marriages and Gendered Traditions of Violence

At a hearing of the 1883 Native Laws and Customs Commission in the Cape Colony, an African headman responded to a question posed by a white commissioner about whether parents conferred with their daughter before arranging a marriage for her. “She is not consulted,” headman Toto replied. “She is called to the kraal [cattle enclosure] where the men are assembled, and they say to her, ‘You must smear yourself with red clay today, we are going to send you to so-and-so,’ meaning her intended husband.” Toto emphasized that a dutiful daughter would abide by her parent’s decision, but he made clear that even a reluctant daughter had few choices: “Even if the girl says she does not wish to go with the man mentioned, she will be compelled to do so.” The commissioners probed further, asking about the headman’s personal experiences with his own family. Toto replied that of his seven daughters, two were married—presumably in arranged marriages—to “old men,” whom he found less troublesome than young men. He maintained that he was not concerned about his daughters’ opinions about their marriage partners: “I merely say to the girl on the day she is leaving [to be married], ‘smear with red clay, you are going today.’” All his daughters, he stated, “go without a word and live with their husbands.”¹

Headman Toto was describing his idea of traditional marriage practices and the commissioners were eager to listen. The commissioners wanted to learn about the traditions underpinning African families so that the Native Affairs Department could make appropriate policies to govern Africans in the Cape Colony. Commissioners asked witnesses, white and African—all of them men—about marriage practices and the status of wives and daughters in African societies. Most testified that arranged marriages were the norm for African families, and partly based on such testimony, the acceptance of arranged marriages

became policy among Cape officials. But many witnesses, both white and African, also stated that coercion involving physical force played a role in creating some marriages. As a subset of arranged marriages, these coerced marriages were more problematic for several witnesses and many white commissioners, even though they acknowledged that they too might be traditional.

At the time, one form of coerced marriage was the practice of abduction marriage or *ukuthwala*.² In an *ukuthwala* marriage, a man who wished to marry a particular young woman abducted her, took her to his parents' homestead, and then reported to her parents that he had married her and that his family promised to pay bridewealth to formalize the marriage. Abduction marriages were probably not as common as either parentally arranged marriages or voluntary elopements, but they were an option available to young men in the late 1800s.

The African men who testified to the 1883 commission saw local marriage practices as essential features of their identities as patriarchs and defended not just arranged marriages but also *ukuthwala* as practices handed down from the past. Chief Ngangelizwe of the Thembu testified to the commission that “sometimes a young man steals a girl and runs off with her, . . . but whenever they come back we [the fathers] take the girls away and the man has to pay [bridewealth] for her.”³ Chiefs and headmen who spoke to the commission insisted that all marriage customs as currently practiced were the bedrock of African communities and should be retained. In 1883, however, abduction marriages were where white officials drew a line: in general, while white officials were willing to condone arranged marriages, they spoke against abduction marriages. Gradually, over the twentieth century however, white officials developed a greater tolerance for abduction marriages as long as they were accompanied by what white officials understood as the necessary and traditional rituals.

The shift toward official tolerance for abduction marriages over the twentieth century was part of the rebuilding of the “customary” that was essential to the white state's framing of Africans as essentially “rural,” “tribal,” and “traditional.” Natasha Erlank, in her analysis of the 1883 Native Laws and Customs Commission, argues that Africans' ideas of gender and sexuality became metaphors in a discussion of more comprehensive differences between Africans and whites. “Treatment of women became a way (although obviously not the only way) to differentiate between European and African culture,” Erlank writes. This differentiation was significant because, “through reference to social behaviour and arrangements, the Commissioners (consciously and unconsciously) could underscore racial difference without resorting to race as

an explanation of difference. . . . Moral and sexual differences were, therefore, metaphors for racial difference."⁴ As anthropologist James Ferguson has noted, rural areas in the colonial southern African context became synonymous with both "tribal" and "traditional," part of a colonial dualism that sought to legitimate white settler rule.⁵ Under colonial rule, whites intended for Africans to reside in the rural areas, where they continued to perform traditional customs, while whites lived out their supposedly modern lives in the towns and cities, employing migrant labor as needed. By extension, African women and families who lived in the rural areas were supposed to embody the tribal and the traditional, while men became labor migrants for their working lives.

Young African men had reasons for participating in abduction marriages and likely benefited from the shift toward greater official tolerance of the practice. Elizabeth Thornberry notes that the custom of *ukuthwala* practiced in the late nineteenth century allowed young men "to gain leverage within marriage negotiations that they did not otherwise have," a point that emphasizes the generational tensions within rural African society at the time.⁶ As the twentieth century progressed, the fact that many young men lacked the prospect of acquiring land on which to settle a wife, and perhaps also lacked the wealth needed to make the bridewealth payments, put them in an even more disadvantaged position in negotiations for ordinary, arranged marriages. At least in theory, abduction marriage allowed them to get around some of those disadvantages and marry.

Yet in looking at some of the criminal and civil cases that arose out of abductions, it is clear that fathers continued to control who could legally abduct their daughters. Fathers asserted the tradition of controlling their daughters and claimed the right to object to abduction marriages that they had not approved. The state's insistence on deferring to parental wishes by nullifying abduction marriages undertaken without parental consent undermines the conclusion that young men had gained an advantage. The state's deference to parental consent did not prevent the use of force in abduction marriages. In fact, claims about the traditional basis of coercion used in abduction marriages made it possible for state officials to uphold even quite aggressive use of force as a legitimate part of the tradition. Over the first half of the twentieth century, magistrates and the court system generally became willing to uphold abduction marriages as the state sought to fortify familial control in the rural areas.

And indeed, the reinvented practice of abduction marriage has proved resilient.⁷ In 2009 the human rights organization Treatment Action Campaign (TAC) reported that abduction marriages continue to occur in parts of the Eastern Cape province. A case had exploded in the news headlines that year

when a sixteen-year-old girl, accompanied by her young child, recounted her relatives' collusion in her abduction marriage in 2006 to a forty-two-year-old man. TAC's newsletter provided an explanation of the larger context of the practice of marriage by abduction: “The custom of *ukuthwalwa* is being abused in some remote areas of Lusikisiki. . . . Once a custom of arranged marriages, *ukuthwalwa* has become a violent practise. In many cases, parents are arranging for young girls to marry without the girls' consent.” The newsletter stated that “more violent scenarios involve *ukuthwalwa* being used to legitimise the abduction of 14 to 17 year old girls for forced marriage. The victims are being abducted by strangers as well as by relatives. These young girls are being forced into unlawful marriages with widowed men who are 55 to 70 years old. The men are often HIV positive.”⁸

The South African newspaper, the *Sunday Times*, commenting on the same incident that prompted the TAC report, suggested that *ukuthwala* was a “once-forgotten practise that is now being revived by poor, rural South African families desperate for money.”⁹ These reports are significant because they document that abduction marriages still took place in the twenty-first century. But the reasons they provide for the custom's longevity are also notable: They describe the practice as part of traditional African culture that in 2009 had become outdated in the context of modern South Africa where, according to the reports, it was being practiced only by the financially desperate and the culturally antiquated.¹⁰

There were other significant problems with the reporting of the 2009 episode. Both reports erred by implying that all arranged marriages among Africans were the same as abduction marriages. Moreover, while TAC's reporting asserts that *ukuthwala* had only recently incorporated violence, as we shall see below, *ukuthwala* historically has often involved physical coercion and outright violence to force young women to accompany their abductors. And while the *Sunday Times* opined that poverty was only recently a motivating factor in these marriages, a reading of the historical evidence on abduction marriages shows that, since the beginning of the colonial period, abduction marriages have frequently had an economic dimension.

The continuation of the practice in the twenty-first century's altered cultural context raises issues about its status as a traditional form of marriage and how African women and parents have sometimes upheld traditions even at a high cost to themselves and their children. It also forces us as scholars to look more closely at the ties between violence, sexuality, and ideas of proper gender roles. We need to examine the connections between changes in traditions and the broader changes wrought by a succession of state policies and enforcement mechanisms provided by the state's courts.

This chapter argues that abduction marriages were one way of inscribing violent practices into African families as elements of a reimagined tradition. In the colonial and apartheid context, "tradition" was the antithesis of "modern," just as Africans were the antithesis of white settlers. Men frequently migrated to cities to find wage labor, leaving their families in the countryside as government policies made it difficult for entire families to move with them. As segregationist and apartheid legislation framed the rural reserves as places where Africans lived traditional lives, maintaining rural families and upholding cultural traditions often became the burden of women.¹¹ But men continued to exercise control over their families even if at a distance. The rural family was one of the few places where African elders, including both men and some women, could exercise authority by invoking tradition's significance.

MARRIAGE, TRADITION, AND SOCIAL NAVIGATION

At the beginning of the colonial period in the Transkeian region in the 1880s, many white officials and missionaries criticized all arranged marriages, and they were even more adamantly opposed to abduction marriages. The practice of arranged marriages, combined with the payment of bridewealth, caused many whites to label such marriages as forms of slavery, a view sometimes echoed by Christian Africans. Quite a few whites deemed most arranged marriages and all abduction marriages as synonymous with enslavement.¹² By the early twentieth century, however, state policies, and most crucially the magistrates' courts, endorsed the legality of all arranged marriages and accepted the legitimacy of many abduction marriages, even if they included substantial physical force.

The change in official attitudes resulted from a complex, long-term negotiation between African elders—particularly men—and white administrators that occurred within the confines of official policies. White officials edged away from a policy of extinguishing African cultural practices that they saw as inconsistent with "civilization" and toward policies that reinforced differences, especially since these differences became the justification for continued political oppression and segregation. The differences between Africans' marriage practices and whites' marriage practices were signs of the supposedly essential differences between the races and made continued white rule seem like a moral choice.¹³

Marriage was the foundation of the family, and the family became the repository of traditions. The idea of elders claiming cultural traditions to bolster their authority within families accords with Ferguson's point that in colonized Africa, culture was a performance delivered under "a situation of duress."¹⁴

Living under the constraints imposed by white rule, people considered that both arranged marriages and *ukuthwala* were traditions rooted in the pre-colonial period and were therefore respectable elements of African cultural identity. Throughout the twentieth century, there was frequent debate within African households over what constituted a traditional marriage,¹⁵ but there was consensus that arranged marriages were traditional and respectable. And as we shall see, over that same period, abduction or coerced marriages also came to be accepted and deemed traditional and therefore respectable.

The culture and context surrounding marriage were not static. People contracted marriages for many reasons, both social and economic. Families whose daughters married in traditional ways remained respectable; those families whose daughters migrated to town and had children out of wedlock lost both bridewealth payments and often their social respectability.¹⁶ Marrying principally for love was the province of the aspiring middle-class of mission-educated Africans, while parents from other sectors of African society often disparaged the idea as naive. Simultaneously, marriage and bridewealth payments, or *lobola*, became a form of economic exchange, at least for some families. But the fact that marriages had an economic dimension did not lessen their respectability or their aura of tradition, in part because economic factors were part of a strategy for the family's survival over the long term. Thus, when young women refused to agree to parentally arranged marriages, parents sometimes colluded with suitors in planning their daughters' abductions. In doing so, they were engaging in social navigation to achieve family stability over the long term.

Women often faced obstacles in terms of their choices in marriage. They had to engage in social navigation through and around these obstacles to plot a course into a future. Henrik Vigh explored the concept of social navigation in Guinea and among African migrants in Lisbon who faced great uncertainty in their lives. “Social navigation” was his translation of a local term, *dubria*. Vigh explained *dubria* as people bobbing and weaving to “the push and pull of social forces—not as static constraints or positions of power in a social field but as social effects that engage social beings and bodies within the social environment.”¹⁷ Most of Vigh's informants were young men who found themselves without the economic means to marry and start a family. They adopted various strategies, ranging from social networking and street hustling to armed revolt, to advance to the next life stage of full adulthood.

While Vigh did not interview Guinean women, other scholars have applied his insights to analyses of women in other countries who faced a similar lack of options and used forms of social navigation to survive and achieve their own ends. Mats Utas, analyzing women's lives in Liberia during the extended

civil conflict of the 1990s, suggests that scholars too often create a gendered opposition of agency versus victimhood that flattens the understanding of women's options. He notes that women, even those who find themselves in objectively dangerous circumstances, employ tactical agency to make use of what resources may be available to them to survive.¹⁸ And Marjoke Oosterom has investigated how women and youth navigated life in the repressive Zimbabwean regime of Robert Mugabe between 2013 to 2016. She suggests that youth, in particular, normalized the violence and uncertainty that existed around them until they became the “background against which everyday life continues to be produced.”¹⁹ Sometimes they tried to use the violence to their own advantage. The rural South African context in the early twentieth century is not a direct analog to Guinea or Liberia in the 1990s or Zimbabwe in the 2010s, but South African women found themselves in similarly uncertain positions as the social and economic landscape shifted around them. There were some new opportunities for women, but there were also new constraints and real dangers. Women had to make their life choices against this background.

This chapter will use the records of court cases and other documents concerning abduction marriages to trace some of the connections between physical coercion in *ukuthwala* and the South African state's segregationist and apartheid policies. The court cases discussed in this chapter only tell a partial story about abduction marriage. These were cases brought either by the young women themselves as they tried to nullify their marriages or by their parents or guardians when the abductions took place without their approval.²⁰ But as partial as they may be, the cases provide evidence of how abduction occurred, their legal status, and what recourse young women and girls had if they objected. The cases also illuminate the official stance toward these marriages and how white magistrates determined which marriages were legitimate and which were not. The line between what was legally unacceptable and what was acceptable moved as the courts began to tolerate greater male control, including the use of force, over young women and translated into an acceptance of abduction marriages that followed traditional practices (as judged by the magistrates). Both African traditions and colonially administered customary law shifted over time, and certain kinds of violence against women became legal and was subsumed under the category of traditional. The courts actively shaped the legality of abduction marriage while they simultaneously reconfigured conversations among Africans on the use of violence to contract these marriages. Magistrates took active roles in deciding cases and framing which traditions and customs would be legally accepted and how they had to be performed to cross the legal threshold.

EARLY COLONIAL DEVELOPMENT OF
ABDUCTION MARRIAGES

Scholars have documented how South Africa's geography became segregated along racial lines. From the earliest divisions of towns into white and black residential areas during the colonial period to the country's division into "white" South Africa and ten individual "Bantustans" for Africans under apartheid, whites and blacks often occupied different geographic spaces. Other scholars have pushed beyond the discussion of racialized geography to discuss how geography also became gendered. As South Africa industrialized through the 1960s, increasing numbers of African men and some women lived much of their adult working lives in the urban areas. Simultaneously, the rural reserves were where most women, children, and retirees could legally reside.²¹ The processes that constructed this gendered and racialized geography rested on the violence of land expropriation and systematic political and economic oppression.

As male labor migration became more common, families who remained in the rural areas symbolized an ongoing connection to culture and the ancestors buried at the homestead. Thus, the rural family became the stewards of both the land and cultural traditions. However, the practices of these cultural traditions often changed even though many people, including both Africans and whites, defended the supposedly unchanging nature of tradition.²²

The designation of rural life under segregation and apartheid as essentially traditional was an idea that retained tremendous resonance. The Comaroffs, writing about women in colonial cultures, noted that "in the signifying economy of empire, black women often came to embody rural tradition. Sometimes portrayed as the premodern counterpart of working-class European females, most of them remained, willingly or not, in increasingly impoverished domestic enclaves, far away from 'modern' centers of production and public life. . . . Here, in 'reserves'—later termed, literally, *homelands*—. . . they became the prime bearers of a cultural identity that fixed the place of their people among other peoples of color on the subcontinent."²³ Women thus bore the burden of upholding traditions. That task could be a source of respectability and power (at least within the family) as well as a significant constraint on their actions.

That women and particularly wives would become the icons of rural tradition was never a foregone conclusion, however. Instead, the role of the traditional rural woman emerged from cultural changes that resulted from many other changes to social and economic processes occurring within South Africa. These processes included legal limitations on access to arable land, the development of a predominately male migrant labor system, the creation of the

colonial and then apartheid state, and the complex interactions of African and white colonial cultures. Many Africans and whites saw rural marriages as both the anchor of the African population in the rural areas and as the foundation of cultural identity.

Both whites and Africans, for different reasons, had an interest in maintaining some version of African culture in the rural areas.²⁴ For whites, reducing the number of permanent African urban residents and thereby stifling the political demands made by the African population meant preventing the migration of women and families to the urban areas. The resulting system of male migratory labor also meant that white employers could justify the low wages paid to laborers because women and children living in the countryside could produce food for the family and thus subsidize wages. The white-controlled government enacted laws that limited rural to urban migration for most women and family members. While these laws did not entirely prevent migration, they did make it risky. If women migrated to towns, they exposed themselves to the violence of state enforcement measures and the brutality of urban life.²⁵

For African men and elders, keeping daughters and wives in the rural areas meant retaining control over whatever farmland was available to them. It also allowed them to live out, in an attenuated form, identities as homestead heads and social adults in a generational chain stretching from their ancestors to their descendants. The homestead's economics, including the payment of bride-wealth, were indistinguishable from the broader social and spiritual meanings of the homestead. If the homestead survived economically, it represented an accomplishment of other goals as well. While daughters married into other families' households, daughters-in-law maintained the rural homes of sons, while grandchildren helped with farming and household chores. The interests of white administrators and African men and elders (including many older women) converged on the issue of control over daughters and their marriages as a necessity for the continuation of the rural African family.

Daughters often had other ideas. Sometimes, daughters' newfound independence resulted from exposure to Christianity and a desire to convert, especially in the early period before 1920. The records of missionary stations in Natal and Zululand in the 1880s and 1890s provide numerous stories of girls defying their parents to attend or continue attending mission schools.²⁶ If the girl's parents were not Christian, her conversion eroded the influence her parents could exercise over her and often made a marriage to a non-Christian man more difficult. And women who came into contact with missionaries were sometimes profoundly changed even if they did not convert. A Wesleyan minister from the Cape, W. Holford, testified to the 1903–5 Native Affairs Commission

that when young women worked in white households, "the more they learn such domestic habits and acquire the money to feed and clothe themselves, the prospect of marriage is unwelcome." In his view, independence was not just a habit of mind. Young women became independent as a result of economic autonomy: "It is going further still when they have in their own hands the ways and means of living which render them independent both of father and prospective husband."²⁷ Mission education, wages earned, and a broader set of experiences provided options for young women. The parents' prospects of choosing whom their daughters would marry faded as their daughters' sense of independence sharpened. Marriage opportunities, and with them the promise of cattle paid as bridewealth, were sometimes postponed or foregone altogether. The loss of bridewealth payments for a daughter might then prevent her brother from marrying, thus posing an even more significant threat to the family's survival into the future. Some African elders felt that they had a duty to restrict their daughters' options for the good of the family across time and generations.²⁸

The roots of these ideas about women's proper roles emerged from attitudes about marriage. Historically, people debated whether women should have a say in selecting whom they would marry. Young women frequently insisted that they should be able to choose, and for a time, at least until the early 1920s, the colonial state agreed.²⁹ The Native Code of colonial Natal, for example, required that all women attest at their marriages that they were marrying of their own free will.³⁰ Commissioners of the 1883 Cape Native Laws Commission repeatedly asked witnesses whether the Cape should impose similar requirements, although ultimately the Cape never imposed such requirements. In the 1880s and 1890s, many magistrates and some ministers believed that young women needed to be both liberated from their fathers' control and recruited for Christian conversion.³¹

In contrast, older African men who testified to the 1883 commission asserted the propriety of paternal control over the family. The "former king" (as the commission report styled him) of the Zulu, Cetshwayo, when asked about marriage customs, described a "father knows best" scenario. A father might consider his daughter's wishes when arranging a marriage. Still, he ultimately should follow his own judgment of who would make the best husband: "If the girl was allowed to go to any man she wished, she might choose a bad man, and that is why the father controls her, and sends her to the man he wishes to have her."³² Cetshwayo acknowledged that the number of cattle a man offered as bridewealth could influence the father's choice. But he stressed that the daughter's welfare was paramount for most fathers and that the father's choice was best, even if the daughter disagreed.³³

From the eastern Cape, the Mfengu headman Pambani echoed Cetshwayo's sentiments. In his testimony, he stressed that "we do not look alone to the cattle" given as bridewealth when selecting a daughter's marriage partner "but to the character and standing of the man to whom we give her. We do not allow a girl to choose a husband for herself, we choose for her." Pambani stated that "in former days we used to compel our daughters to marry the man we selected for them." He lamented that the influence of whites and particularly of missionaries was eroding girls' willingness to go along with their fathers' wishes: "Now the girls are giving us trouble in this respect, and this trouble arises through a thing called love."³⁴

During the precolonial period, the family was a more dynamic and fluid social construction than the headman Toto, who testified to the 1883 commission (quoted at the beginning of the chapter), or Cetshwayo or Pambani allowed. But the picture of a father preserving a moral society based on the family, assisted when necessary by the judicious use of force, became a standard narrative about precolonial life. When a commissioner asked Chief Ngangelizwe of the Thembu about "what your custom of ukulobola [bridewealth] is," the chief responded, "Now you have hit upon the proper question, and we will answer it."³⁵ His answer emphasized the father's ultimate right to make choices about appropriate marriages for his children.

This picture of harmonious precolonial marriage practices was at odds with the often-expressed opinion among missionaries and magistrates in the period through the first decade of the 1900s that women and daughters were the drudges of African society who needed liberation from the demands made upon them by the men of the family.³⁶ Women could only achieve this liberation, they suggested, if arranged marriages and abduction marriages were outlawed. For example, the Reverend E. J. Barrett, a Wesleyan missionary at Kamastone, wrote in an 1883 article for his missionary journal that many African parents "will be on the look-out for rich husbands for their daughters." And he feared that "many a poor girl will be forced by cruel beatings and persecution to go and be the wife of a man whom she detests; perhaps some toothless, decrepit wretch, worn out with a life of sensuality; who already has wives in abundance, and plenty of cattle with which to pay for more."³⁷

R. J. Dick, a "special magistrate" for Kingwilliamstown, gave a slightly more measured assessment of arranged and coerced marriages at the hearings of the 1903–5 Native Laws and Customs Commission. Dick stated that, since the 1850s when he first came to live in the eastern Cape, marriage had become a contentious issue partly because young women became aware of other options. One of the commissioners asked him, "Do I understand you to say that at the

present time girls are forced to consummate marriages that they do not wish?" To which Dick responded, "Yes, occasionally, and not infrequently." The commissioner followed up and asked whether a young woman had any legal way to prevent herself from being married against her wishes, to which Dick replied that "there is no appeal as a rule. What happens is this. If a girl is forced into a marriage and she does not commit suicide—which happens occasionally—she runs away, perhaps to her people, but that is hardly likely to be the case where her father has sternly compelled her to enter into that marriage; but she goes to some distant relation. The husband then demands the restoration of his wife from the father, and on the latter's inability to restore her, the case comes into [the magistrate's] court, and in the majority of cases ends in a summary divorce." Dick further clarified his position that, as a magistrate, "I annul the marriage." When pressed to sketch out what might happen after such an annulment, he stated, "If the girl is here [in Kingwilliamstown] when the marriage is annulled the father takes her back again, but it frequently happens that the girl has never been found." He elaborated on how men dealt with a runaway wife: "Native law runs this way. If a man marries another man's daughter, and she refuses to live with him, or if she has escaped and run away from him, he is first of all compelled by Native custom to try and ascertain her whereabouts." If the husband found her and she still refused to live with him, "he goes back and says to the father of the girl, 'Your girl is living in such and such a district with so and so; go and bring her to me.' If the girl declines to obey her father, the husband goes to the court, and if it is found that the girl has left him because they could not live happily together, the marriage is annulled, and the husband gets a certain portion of his dowry back."³⁸

In this extended discussion of compulsion in arranged marriages and young women's resistance, Dick did not address abduction marriages specifically. But his descriptions acknowledged that women did not always acquiesce to their parents' decisions. He also indicated that, as a magistrate, he did not automatically enforce a father's right to compel his daughter to marry. Dick was not attempting to prohibit all forced marriages, however. Only when a young woman ran away did he ratify her decision by annulling the marriage. Forced marriages continued to occur and occasionally had tragic consequences.³⁹

THE EXPANSION OF ABDUCTION MARRIAGES

The official antipathy toward absolute paternal control over a daughter's marriage exemplified by Special Magistrate Dick shifted over several decades. Family life came under increasing pressure from labor migration and deepening rural impoverishment. As African families began to fracture under these stresses,

official policies sought to hold families together and keep them in the rural areas. In setting up and maintaining the administrations that ruled their African subjects, white officials looked back to descriptions of rural African life in the 1880s as sources for the definitive version of African tradition. Drawing on these accounts, magistrates assumed that fathers had the right to enforce their decisions with coercion if they were acting within traditional norms recognized by the courts.⁴⁰

Magistrates also began to tolerate abduction marriages even when accompanied by violence toward the women involved. This tolerance partly stemmed from opinions offered by African men who appeared as witnesses at government commissions. For example, Peter Mti wrote in his answers to the 1903–5 Native Affairs Commission that he believed most young women were quite happy to be abducted by prospective grooms. As an African clerk in a solicitor's office in East London and as the vice chairman of the Native Vigilance Association there, he believed that abduction of young women for marriage should not usually be prosecuted as a crime: "The crime of abduction amongst Natives should be clearly proved before a conviction is made, because abduction is generally resorted to by the Natives with the connivance of the girl's parents or her lawful guardian, and to those who are acquainted with Natives it is well known that it is a pleasure to a 'red' [i.e., non-Christian] Native girl to be carried away by a lover, as in her view it increases her marketable value."⁴¹ In Mti's opinion, abductions were dramatic performances, in which women were either co-conspirators or willing participants, rather than crimes against women, and they were therefore morally and socially acceptable. Moreover, his suggestion that a young woman would approve of being abducted because it increased "her marketable value" provides insight into how entrenched economic considerations were even in the first decade of the twentieth century.

As Mti's testimony suggests, the lines between arranged marriages, abduction marriages, and elopements were already somewhat blurred. Many observers thought it hard to differentiate between coerced abductions and consensual ones (that is, elopements staged as abductions). J. H. Soga, writing in the 1930s, discussed abduction marriage and suggested that the term applied to two types of abductions: "to genuine cases of abduction by force, and also to faked cases of abduction." However, he also stressed "that there are real cases of forcible abduction" that families and the legal system should not condone.⁴² Coerced abduction marriages posed legal and moral problems for all concerned in rural colonial society in the early twentieth century.

Some of these legal and moral problems played out in court cases heard in magistrates' courts. In determining whether a contested abduction marriage

was legal, magistrates typically tried to discern several facts. First was the question of the girl's age: in the Cape Province, any woman twenty-one years or older could not be married off by her parents or guardians without her consent, nor could she be abducted without her consent. If the woman was under twenty-one, then the second question was whether her father or (usually male) guardian had consented to the marriage. If her father or guardian had agreed to the abduction marriage or retroactively condoned it, then the marriage was legal, at least in the Transkeian Territories.⁴³ The third question that the Transkeian magistrate would try to answer was whether the woman herself had conspired in the abduction. Typically, this meant that the magistrate had to determine if she and the abductor had a previous or ongoing sexual or romantic relationship. If the young woman conspired with her abductor, it did not make the marriage legal if her guardian disapproved. Still, it did protect the abductor from being convicted of kidnapping and rape. Instead, he could be fined as part of a civil proceeding for having "damaged" the young woman, with the fine for "damages" being paid to her guardian. In that case, the young woman returned to live with her parents, who might arrange a subsequent marriage between the woman and her abductor.⁴⁴ While these questions themselves were usually clear, the answers were occasionally less straightforward.

One 1915 case from Cofimvaba dealing with an attempted abduction marriage provides evidence about the practice and how it was tolerated and constrained by African family members and the magistrates' courts. A nineteen-year-old woman was walking on the road to Queenstown, intending to visit family. She met a thirty-eight-year-old man who talked her into walking with him for a while. Shortly after, when she tried to veer back toward her original destination of Queenstown, he grabbed her and, according to her testimony at the trial, he "began to beat me with a walking stick. I tried to run away but he caught me and again [he] beat me. My dress got torn. Being in fear of him I walked along with him. He said he was taking me to Mgwali, Engcobo district where he would make me his wife." At one point in the journey, the young woman appealed to some adult women who were passing by on the road; she asked them "to help me but they declined to interfere." Later, the man took her to "a certain kraal [homestead] where there was a wedding in progress. He made me sit down. Some women came up to me and asked me why I was crying and I told them that accused was stealing me. The men came up to me and I asked them to rescue me from him. These men took us to the Headman of Ngxwabangu. Accused was arrested and brought here."⁴⁵ In many of its details, this story was a common example of an attempted abduction marriage, but

the woman in this case was quick to alert people she met that the man was abducting her against her will.

When the case came to trial after a complaint filed by her guardian, there were few differences between the abducted woman's story and the story told by the man who abducted her. The man stated at his trial that after he had forced her to walk with him: "I then told her that I wished to make it clear to her that I was not going to allow her to return [to her own home] as I was going to abduct her (*twaala*) for the purpose of marrying her in Tembuland. I took her shawl, and took her by the hand and forced her along. She wanted to go to Queenstown. She got away and ran away. I chased and caught her. She tried to run away again and cried. I caught her." In his version of events, there was even tacit approval of his actions from the women they met on the road: "We met women. I told them we were going to Tembuland. Complainant was crying and the women told her to go as all women have to be married in this way under Native Custom." While the women travelers perhaps saw nothing wrong with the man's actions, the older men and the headman at the destination homestead obviously did since they intervened and took the young woman to the police. These different reactions suggest a discrepancy between the women seeing the abduction as part of ordinary customs versus the headman understanding the abduction was possibly illegal.

At the trial, the magistrate's decision turned on the fact that the abductor had not sought the consent of the young woman's guardian (her brother) before grabbing her. The woman had no previous relationship with the young man, which indicated that the young woman had not conspired with her abductor. The magistrate ruled that there was no marriage and that the man had committed a crime for which he was sentenced to nine months in jail with hard labor. The magistrate's ruling was not in response to the objections of the young woman, however. Instead, it was rooted in the guardian's disapproval of the abduction and the magistrate's decision to uphold the guardian's claims.⁴⁶

Another abduction case from Nqamakwe in 1916 showed how magistrates interpreted and partly reconstructed marriage customs as they endorsed the absolute authority of parents and guardians. Twelve men from the same family were accused of assault in an attempted abduction of a young woman named Martha. In this case, Martha's guardian, her brother Walter, had initially arranged for her to be married to Buti Swaartbooi, and Walter had even accepted the payment of eleven cattle as bridewealth. She, however, had rejected the prospective husband: "My banns of marriage were being published. I left my father's kraal before they were published. I was running away from the marriage. My

guardian was annoyed and fetched me back." Martha's refusal put an end to the marriage plans, and the guardian had to return the bridewealth cattle. Walter was able to return some of the cattle but, unfortunately, seven had already died and he could not afford to replace them. At the trial, one of the accused men alleged that Walter had suggested that an abduction marriage might solve both of their problems. This allegation was an essential element of their defense—if Walter had assented to the abduction, it was not a criminal act, and the violence that took place could be seen as part of a traditional abduction marriage. Walter, however, denied that he had approved of the kidnapping.⁴⁷

Regardless of who thought up the idea, the attempted abduction occurred one night after Martha and her family had gone to bed. It quickly turned into a melee. Swartbooi and eleven members of his family burst into the hut, beat up several members of Martha's family, and grabbed Martha from her bed. She testified that, as she resisted, she was physically attacked: "No. 2 [accused] caught hold of me and bit off my fingernail. It was dark in the hut. I held to the bedstead. I was being held by many others and they beat me. Miriam [her sister] went outside and screamed. Cecil [one of her brothers] was trying to keep the people from taking me away. They beat him." She described that, in the attempt to take her, "I was choked and the bedstead to which I held got broken as it got across the doorway."⁴⁸ Once outside, her abductors blindfolded her and pulled her along the road to the groom's house. "On the way I was beaten with a sjambok [whip] when we started from my kraal. I was quite naked." They took her to the Swartbooi homestead. Later the same night, her relatives attacked the Swartboois with fighting sticks and retrieved Martha. They subsequently filed a complaint with the police, which led to the trial. The sheer physical brutality of the abduction, attested to by several witnesses, led to all twelve defendants being convicted of assault. Yet the magistrate sentenced all the defendants to only one month in jail.

The twelve defendants appealed the verdict, and in responding to the appeal, the magistrate had to justify the convictions. He stated that no one denied that the attempted abduction took place and that a fight broke out. But the magistrate did not believe the defendants' story that Martha's guardian had conspired in the attempted abduction because the abductors had physically restrained him in his hut as the abduction happened. The magistrate was also critical of the defense's claim that the abduction had been properly carried out according to custom: "To 'twala' or carry off a girl is a custom of the natives though it is not usual where the marriage is to be by Christian rites [both families were Christian]. It is done secretly by the lover assisted by perhaps one or two friends carrying off the girl when found alone, the girl offering little

or no resistance."⁴⁹ From the magistrate's perspective, the problem with this instance of *ukuthwala* was not that the people involved were Christians, nor was the problem the practice of abduction marriage itself. Instead, the problem was that, in his eyes, how the abduction was carried out was not sufficiently "customary": "A 'twala-ing' in the manner it was conducted in the present case, even accepting the defence account, would certainly not be considered regular." The magistrate went on to suggest how a customary abduction should have happened: "If Walter [the girl's guardian] had consented it would have been the easiest thing possible to have arranged to carry off the girl secretly. The version that she was taken quietly by arrangement with Walter in the manner alleged by the defence is on the face of it highly improbable." The magistrate concluded that the accused abductors "were not satisfied to await an opportunity to 'twala' the girl in the customary way and decided to take her at all costs, hence the raid on the kraal."⁵⁰ Thus, the magistrate implied that his court would uphold the legality of an abduction marriage as long as it was carried out properly (in his view) and accomplished with the consent of the young woman's guardian. And this magistrate's opinion was the norm for magistrates at the time: the chief magistrate (whose court was the first court of appeal) affirmed the original judgment and the relatively light sentences.

The two court cases described above show that, in the 1910s magistrates tolerated abduction marriage as a legitimate form of customary marriage but with significant restrictions carved out. One limitation was that the woman's guardian had to have given consent. The second was that the abductors could only use limited violence to coerce the woman, while the woman provided only token resistance. The magistrate was the one who determined what constituted "limited violence" and "token resistance." Over time, as we shall see below, even these limits on violence faded as the question of the guardian's consent became the paramount concern for most magistrates. The increasing weight given to the guardians' consent and the proper performance of traditional marriage rites revealed the central concern that many white officials had—they wanted families to maintain absolute control over young women.

ABDUCTION MARRIAGE AS THE EXERCISE OF CONTROL OVER YOUNG WOMEN

Adolescent girls and young women frequently resisted the controls that parents and guardians tried to place on them. By the 1920s and 1930s, women began to migrate with greater frequency away from their rural homes to find wage labor at smaller urban centers.⁵¹ By the 1940s women were expanding their options to include Johannesburg, Durban, Port Elizabeth, Cape Town, and

East London. Unmarried women living in urban environments usually were there without their parents and they often evaded the control of broader kin networks.⁵² While individual women sometimes migrated as part of a family strategy to provide supplementary income for their rural kin, they often found it personally difficult to return to the rural areas and lose their autonomy.⁵³

Colonial officials were eager to assist the family in maintaining control over young women. C. L. R. Harries, a native commissioner in the Transvaal, testified to the Select Committee on Native Customs and Marriage Laws in 1913: "If a woman is roaming about at large in the towns, we assist the guardian to recover her . . . because we regard it as an undesirable thing to allow this girl to roam at large about towns. They [*sic*] must be under control."⁵⁴ The need to restrict women's migration to urban areas was a position reinforced by the Stalard Commission, whose report led to the passage of the 1923 Natives (Urban) Areas Act. The act encouraged the development of uniform statutes on urban racial segregation and gave white municipal authorities the right to exclude African women from legally living in urban areas designated as "white."⁵⁵

The 1923 law could not address all the difficulties that families faced in trying to keep control over their young women. Most significantly, when fathers migrated to work in the urban areas and to the mines, their prolonged absence from family life often resulted in the loss of direct control over daughters who remained in the rural areas. Fathers usually delegated their authority to other family members, and in addition, magistrates and colonial courts actively tried to bolster the control of absent fathers over their families.

White officials' fear about the rural family's disintegration coincided with similar fears held by African elders, both men and women. Officials wanted to keep African families in the rural areas; African elders wanted to retain whatever authority and power they had over their junior family members to ensure the longevity and the morality of the family and the homestead. Evidence of these concerns on the part of Africans can be seen in a survey sent by many African organizations (including the Native Advisory Boards Association, Native Interdenominational Ministers' Association, Native Mine Clerks' Association, Transvaal Native Teachers' Association, the Bantu Women's League, and the Joint Council of Europeans and Natives) to Transkeian magistrates to be sent on to local chiefs. They asked the chiefs to consider various proposals under several headings, including: "1. To clean the towns of disreputable women; 2. To prevent Native Women and Girls deserting their homes in the Native areas against their parents' wishes."⁵⁶ Several African men also testified to the Native Economic Commission in the early 1930s, commenting on the problem of "loose women" in the urban areas. The Kroonstad (Orange Free State) chapter

of the Joint Council of Europeans and Natives—a relatively liberal social welfare organization—wanted all Africans living in town to register their marriages with the local municipal authority to “prevent desertion and the consequent evils and to prevent illegitimacy.”⁵⁷ White officials and some older Africans hoped to keep unmarried African women from living in town at all. In 1931 a group of African civic leaders in Umtata in the Transkei passed a resolution stating that any African man coming to town and “bringing with him his wife must bring a letter from the Magistrate or headman of his district certifying that she is his lawful wife according to Christian rites or by native law.”⁵⁸ These declarations clearly expressed anxieties about unmarried women living in town and the younger generation’s alleged immorality as threats to marriage as an institution.⁵⁹

Such anxieties were common in the 1930s and later among older Africans. Many African parents worried about what might happen to their daughters if they moved to town alone. A daughter’s migration indicated that the family needed her financial contribution. If the daughter married an unsuitable man or, worse, became “spoiled” (pregnant without being married), the family’s social respectability could suffer.⁶⁰ Arranged marriages and abduction marriages in which the parents colluded with the groom allowed parents to marry their daughters to the parents’ choice of suitors.⁶¹ A parentally approved abduction marriage addressed the problems of a daughter refusing an openly arranged marriage or an unmarried daughter moving to town.⁶²

Throughout the southern African region, abduction marriages were common in the early twentieth century. Colonial law in Swaziland condoned marriage by abduction even if it involved significant violence to compel the women to submit. Historian Hamilton Simelane notes that laws encouraged Swazi men to see their wives and daughters as their property, and Swazi society began to see independent women as immoral. A Swazi woman who tried to avoid an arranged marriage might meet with physical violence either from her prospective husband or her own family. If she successfully escaped the wedding, she could suffer rejection by her parents and lose her reputation.⁶³

In Zululand, magistrates reported that abduction marriages allowed parents to choose, against their daughters’ wishes, wealthier and often older men who could pay a higher bridewealth. Coerced marriages were illegal under the Natal Native Code, but they occurred regardless.⁶⁴ In the 1930s the Native Economic Commission recommended that marriages contracted without the young women’s consent be legally recognized and decriminalized, a step that the commissioner of Nongoma district deplored. “If this sort of thing [coerced marriage] can take place,” he wrote in his comments to the commission, “whilst the Natives are under the impression that it is illegal, one may well imagine

what will happen if they are told that the Government will not interfere, and that it is left to the parties concerned to come to a mutual agreement."⁶⁵ With the subsequent decriminalization of forced marriages and abduction marriages, Natal and Zululand's law became similar to the customary law enforced in the Transkei: An abduction marriage was legal as long as the young woman's father or guardian approved and as long as the groom's family followed through on the payment of bridewealth and the rituals associated with marriage. The woman's consent was no longer a requirement.

THE EMBEDDING OF VIOLENCE IN ABDUCTION MARRIAGES

Two cases in which an abductor faced rape charges in the Transkei provide evidence of the use of violence and the complicity of courts in abduction marriage from the late 1920s onward. The first case dates from 1929 in Cofimvaba. A young woman who claimed to be fifteen years old complained that she had been abducted when visiting with friends. During the visit, a woman had called her and one of her friends to come inside a hut in which a man also sat. The man announced his intention to abduct the girl, grabbed her, put her on his shoulder, took her to his own homestead, and then had sex with her. Both the abducted girl and her friend testified in court that the accused man threatened her with a sjambok (whip), and that she struggled and screamed. But the friend, Cabatana, added that "all girls scream when they are being 'twaalaed,'"⁶⁶ a comment that the magistrate understood as meaning that the friend saw the abduction as an ordinary example of *ukuthwala*.

The brother of the abducted girl, when he heard what had happened, arrived at the man's homestead and took his sister home; then he brought the matter to the headman. (The young woman's father was a laborer at the mines and her brother was in charge of the homestead in his absence). The headman advised him to bring the matter to the police. At the preparatory examination on the charge of rape, the attorney for the accused cross-examined the brother about whether he had arranged for his sister to be abducted for marriage. He denied it, although the defendant's attorney persisted in this line of questioning to establish that the sister and brother's household was relatively poor as compared to that of the abductor. "Accused did not ask me for my sister as a wife," her brother insisted. "He did not pay me cattle." As the attorney pressed, the brother responded, "I took my sister from accused's kraal because he took her without my knowledge or permission."⁶⁷

Several circumstances in this case should have counted against the defendant. The first was that the young woman did not have a previous relationship with

her abductor—she was not eloping with a lover. The second was her age: at age fifteen, she was too young to be legally married even in an openly arranged marriage. The third was that the brother, acting as her guardian in place of the absent father, swore that he had not consented to the marriage.

However, doubts about these circumstances were introduced by the testimony of the woman in whose hut the abduction had taken place. She claimed that the girl had gone along with the abduction and had not screamed or struggled, directly contradicting the evidence provided by the girl and her friend. She also stated that the defendant had told her that the girl's brother had consented to the abduction, thus contradicting the evidence provided by the brother. And the woman finally asserted that the abductor had told her that the girl was nineteen years old, and thus was not underage. (On the question of the girl's age, the district surgeon testified in the case that he believed her to be under sixteen years old). The doubts introduced by this witness were apparently sufficient for the magistrate to dismiss the rape charges at the conclusion of the preparatory examination; the case never went to trial.⁶⁸

No written explanation for the magistrate's decision appears in the case file. What seems likely, however, is that he presumed that abduction marriages were commonplace and often involved force, including forced sexual intercourse. The magistrate also possibly believed that the abductor thought he had the consent of the girl's guardian or else could persuade the guardian to consent after the fact. If the magistrate adhered to the idea common among whites that women's families "sold" them to the highest bidder, he may also have found it easy to believe that a guardian from a poor household would consent to his sister's abduction marriage to a man from a wealthier household. Whatever his reasoning, the magistrate decided that there was no proof that any crime had been committed, and thus, abduction and forced sexual intercourse were legally rendered as something other than kidnapping and rape.⁶⁹

A second case involving a violent abduction marriage emerged from Kentani in 1939. The facts in this case were significantly different in that the young woman was older (twenty) and her guardian actually did conspire with the abductor. Once again, the case showed how, in some cases, the state defined abduction and sexual coercion as something other than criminal kidnapping and rape. It also shows how willing this family was to subject their daughter to significant and repeated physical violence to accomplish an arranged abduction marriage.

The case itself involved two brothers charged with kidnapping and rape for abducting a twenty-year-old woman with the intention of one of the brothers marrying her. The two men accosted the young woman when she was alone

and announced that they had come to “*twala*” her (marry her by abduction), with the brother named Kuleni being the prospective groom. During the circuit court trial, the woman testified that the two men had grabbed her, beaten her, and then taken her to their home. Once there, Kuleni tried to have sexual intercourse with her; she fought him off and bit his finger. His yelling brought his brother and another friend into the hut. The three men then beat her severely with a whip all over her body to make her submit sexually to Kuleni.⁷⁰ The following morning, the young woman managed to escape and flee to her father’s homestead.

Two weeks later, the two brothers tried to kidnap her again. This time, she evaded them and fled to the nearby town to file a charge against them with the police. When she returned home, her paternal uncle upbraided her and, during their argument, she discovered that he had conspired with the two brothers to marry her off. (Her father was working in Johannesburg and had designated her uncle as guardian). She narrated their argument at the trial: “He [the uncle] caught hold of me. I said ‘Leave me alone—Why do you catch me?’ He then asked, ‘Don’t you know what I am catching you for?’ I said I didn’t and he then said ‘I am taking you to Kuleni’s.’ I then asked him ‘Didn’t you hear that I have laid a [criminal] charge [against Kuleni]?’” At that point in their dispute, the uncle began hitting her with a stick, and she threatened to report him to the police and have him arrested for assault. According to her testimony, he responded: “I do not care about the Government. . . . The Government could ‘voetsak’ [go screw itself]. He then beat me again behind the left ear. I fell down. . . . He then pulled my arms behind my back and tied them up with a handkerchief. He said we must go to Kuleni’s kraal [homestead]—he pushed me and I went.” The pair walked to Kuleni’s home, at which point the woman declared that she refused to marry Kuleni. Her uncle reportedly replied: “If you don’t want Kuleni [as a husband] go and drown yourself in the pools near the [cattle] dipping tank. Nkongolo [her uncle] then caught hold of me and . . . he directed that I should be bound with a rope.”⁷¹ Her uncle suggested that she not be given any food or water for several days and that her arms be kept bound behind her back to ensure she would be unable to run away again. The men then took the young woman into a hut where she was tied up and repeatedly sexually assaulted by Kuleni.

Despite the efforts to restrain her, the young woman managed to escape the following day and found refuge with a local subheadman. He reported what had happened to the police, and the magistrate conducted a preparatory examination on the rape and kidnapping charges. The case proceeded to a trial before a judge and an all-white, all-male jury in the circuit court in Butterworth. The

two abductors were charged with rape and kidnapping; initially, her uncle was also criminally charged, but he died before the case came to trial.⁷²

The legal issue at stake in the case was whether a customary marriage had taken place or whether the accused men might reasonably have *believed* that a marriage had taken place. If a marriage had taken place, then Kuleni's actions could not legally be charged as rape under the laws at that time.⁷³ An older male relative of the accused brothers testified at the trial that the woman's abduction and treatment were consistent with the custom of *ukuthwala*. He also stated that he, as head of the clan, had come to Kuleni's homestead on the occasion of the second abduction to slaughter an ox as part of the marriage ceremony: "There was a bride present. . . . I first saw this Complainant as a bride." The ox's slaughtering was a necessary part of a marriage feast, and the man's testimony supported the defense's contention that Kuleni had married the woman in a traditionally acceptable fashion.

The woman's father returned from Johannesburg to be a witness at the trial. He testified that, before the abduction by Kuleni, he had arranged a marriage for his daughter with a different man, but she had refused him. This experience led him to allow the girl's uncle to arrange another marriage and collude with Kuleni to kidnap his daughter. The father had known in advance about the arrangement: "My late brother Nkongolo informed me by letter while I was in Johannesburg of her proposed marriage to Accused No. 1 Kuleni. I agreed. . . . [The] girl was being asked for in marriage by Kuleni. He said he was satisfied with the suitor because he had paid dowry to him (Nkongolo)." Thus, the father confirmed that the uncle had helped arrange the kidnapping. He also noted that, because his daughter was a minor (at age twenty), they had the legal right to do so. The testimony of the woman's father and Kuleni's elder relative led the jury to find the defendants not guilty of kidnapping and rape.⁷⁴ In short, the jury effectively ratified the use of force and sexual violence to compel a young woman to marry because that use of force was supposedly traditional.

This case is distressing in its details of the multiple sexual assaults and the candid way that witnesses discussed what happened. Beyond the individual case, however, what is most disturbing is the apparent acceptance by the Cape legal system of this kind of violence against women in the name of customary marriage and tradition. The legal system in the 1930s tolerated and even endorsed violence against women if defendants could satisfactorily couch that violence in terms of "tradition" or "custom."⁷⁵

Abduction marriages were common in the 1930s and later. For example, the anthropologist Monica Wilson noted that of twenty-six marriages that she investigated among the rural Mpondo population in the 1930s, five were marriages

that parents had openly arranged; another five resulted from abductions; thirteen couples had eloped, and in three other cases the women involved had been married by their parents to men whom they did not like, and they had subsequently run away to live with their lovers.⁷⁶ Thirty years later, in the early 1960s, the Bantu Affairs commissioner in Libode (also in Mpondoland) reported that “only in a minority of cases does a public [marriage] ceremony known as ‘umdudo’ take place. The majority of customary unions result from ‘ukugcagca’ (elopement) and ‘ukutwala’ [abduction].”⁷⁷ While these comments are not conclusive evidence that abductions had become more frequent, they do show that abduction marriages had become legally and socially acceptable across the rural population, regardless of how young women felt about being abducted. They also show that the state had officially accepted *ukuthwala*—and whatever force might be entailed—as a legitimate, traditional form of marriage.

ABDUCTION MARRIAGE AS TRADITION

The frequency of abduction marriages suggests that there was a connection between official policy and traditional authority. Local officials condoned the practice as long as it followed rules that officials understood as part of the tradition. For their parts, parents and young men found *ukuthwala* to be a convenient way of contracting a marriage that got around any objections the prospective brides had. *Ukuthwala* became not just an acceptable but also a respectable and legal practice that many people saw as a legitimate element of traditional culture.

The violence that was associated with *ukuthwala* might simply have been an expedient way of carrying out abductions. Yet the use of violence against recalcitrant women may also have become one way of defining masculinity, as historian Anne Mager suggests: “Thus, for many, to be masculine was to assert male control over females, to extract feminine obedience literally through the wielding of sticks.”⁷⁸ Men were allowed to use physical force to control women’s bodies and they successfully mobilized the concept of tradition to assert their legal control over women in the state’s courts. In contrast, women who tried to escape arranged and abduction marriages in the 1930s and later could not protect their autonomy in the courts. Women could not cite a tradition of a woman’s right to be consulted, and the state had no vested interest in allowing women to assert their independence. The patriarchal elements of African traditional culture survived in the legal system because they could be retooled to achieve the state’s goals of keeping African families in the countryside and maintaining control.

This reconstruction of the meaning of abduction marriage as an embodiment of tradition thus took place against the backdrop of official support for elders' rights over young women. Magistrates' acceptance of abduction marriages did not give young men free rein to take any young women they wanted in the countryside using whatever force was necessary: the state required the guardian's consent.

A case from 1951 in Libode provides evidence of the legal constraints on young men carrying out abduction marriages. In this case, two men kidnapped a teenage girl while she was at a stream drawing water in her home district of Tsolo. At the men's trial for kidnapping, the girl testified that she had never met them before. They approached her, knocked her down, and tied a rope around her neck. They then began to drag her: "While they did this I screamed and struggled but they overpowered me and I could not struggle [anymore]. Accused No. 2 started to hit me."⁷⁹ She was forced by the first accused to have sex with him, and then the abductors began walking her to their home in Libode. They spent the night on the road, and on the second day, she was again forced to have sex and was then taken to the young men's homestead. Finally, on the third day, she was able to escape, and she reported what had happened to the son of the local headman.

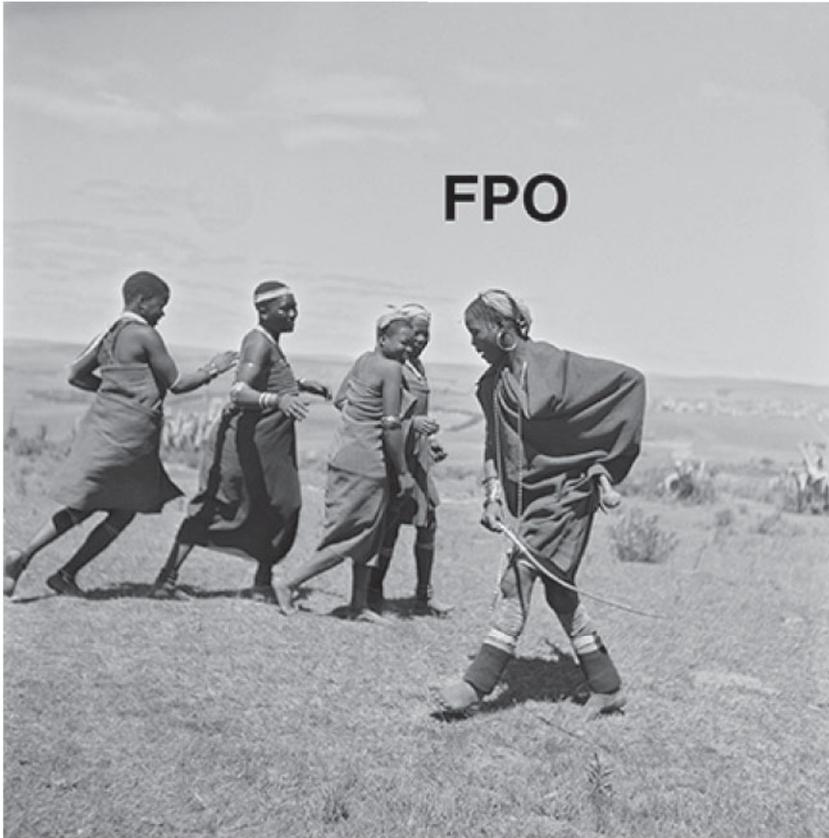
The headman took her to the police, and they began the investigation that ultimately led to the men's arrest and subsequent trial. The legality of the abduction depended on whether the girl's guardian had consented to the kidnapping. The girl's parents had died and left her brother as her guardian; however, he was away at work, leaving the girl's aunt as her acting guardian. The aunt testified that she had not arranged the abduction and did not consent to the marriage. The aunt's testimony as guardian sealed the abductors' fate: no marriage had occurred, and therefore they had committed a criminal kidnapping. The two men were convicted and sentenced to nine months in jail.⁸⁰ This outcome demonstrated that the state's overwhelming concern was to reinforce the authority of women's guardians to determine marriage partners and maintain control over the family. This authority made it more difficult for young women to leave their parents' homes for any reason, and it shored up the power of parents and guardians over both young women and men.

Allowing parentally approved abduction marriages may have been one way that state policies attempted to force African families, and particularly women, to remain in the rural areas. However, it was not the only response that state officials had to the problem of young women "roaming about town." In the late 1950s and early 1960s, the apartheid state extended pass laws to all African women, despite opposition by the African National Congress and other

organizations.⁸¹ The extension of pass laws to women were part of an attempt to implement “grand apartheid” in which Africans in the cities were “temporary sojourners” with no political rights.

The restrictions on women’s migration also spoke to the anxieties held by many African men that they were losing control over their families. But it was not just African men who approved of controlling women through marriage. Some African women also condoned abduction marriages and the physical coercion that accompanied them. Thus, the persistence of *ukuthwala* was not simply about men controlling women with the assistance of the state; nor was it merely about trading young women for cattle as much of the commentary on the 2009 incident in Lusikisiki suggested. Women themselves, particularly older married women and those who had reconciled themselves to their own abduction marriages, were willing to uphold the custom as traditional and saw the resulting marriages as the glue that held rural society together. In describing *ukuthwala* among Mpondo people in the 1930s, Monica Wilson suggested that girls expected to marry when they were older teens and were often willing to reconcile themselves to abduction marriages. Wilson depicted a typical abduction: “She is seized when walking abroad, hustled along with much shouting and some blows, and taken to the groom’s kraal [homestead].” Wilson explained that the girl’s resistance was usually no more than a sham: “It is seemly that she should make a great show of resistance, even though she is pleased to marry the man who has taken her, and sometimes girls lie down and are dragged along the ground.” Such marriages were, according to Wilson, “considered quite respectable” by African families, and the girl’s weeping and active resistance were commonly understood as indications of her modesty and proper upbringing and not as evidence of real despair or outrage.⁸²

This reading of abduction marriage as more or less benign and accepted by African women was echoed in another observer’s writings. Joan Broster, an author who grew up in the Transkei, described the *ukuthwala* custom as she understood it in the 1950s and 1960s: “No girl will be captured without a fight, and she must make the men extend themselves even if only for show, for no one must be allowed to think that she brazenly wants to be taken in marriage. As soon as she is caught she sets up a peculiar ululating wail known as the *thwala* cry.”⁸³ The force the abductors used was often considerable and Broster witnessed a few abductions that upset her. On one occasion, a young woman who had worked in Broster’s family-owned shop was abducted. An older African woman who also saw the woman dragged away tried to allay Broster’s worries by telling her the story of her own abduction experience many years before. Her paternal uncle (her father being dead) had conspired in her abduction. He



“Young Xhosa man and women, Transkei, South Africa.” Photograph by Constance Stuart Larrabee, 1947. EEPA 1998-061092. Used with permission of the Constance Stuart Larrabee Collection, Eliot Elisofon Photographic Archives, National Museum of African Art, Smithsonian Institution.

had let the prospective groom’s family know when they could grab his niece. This young woman had struggled against the several men who took her, even taking a large stone and successfully striking one of her abductors on the forehead hard enough to draw blood. But when she picked up a second stone, “a young *mfana* [adolescent boy] hit her over the head with his [fighting] stick, cutting open her scalp so that the blood ran, and today she carries a two-inch scar.” On the day following the kidnapping, her uncle counseled her to accept her fate, saying, “We wish you to stay here [with the groom’s family] and not to be a silly girl” by trying to run away from the marriage.⁸⁴

When another young woman whom Broster knew was kidnapped for marriage by a middle-aged man, this same experienced, older African woman remonstrated with Broster over her visible distress. She said to Broster, “*Sukubabuhlungu—linjalo isoko*. (Don’t hurt and upset yourself—it is our custom).” And she continued: “He is a good man and will be a kind husband. Old men make the best husbands. . . . They have learned *Induku ayinnamzi*?—the stick destroys the home.”⁸⁵ Broster did not comment on the irony inherent in this statement: the man was using the stick literally to create the home by beating the woman into marriage.

As Broster recounted the conclusion to this story, some weeks later, she saw the young woman who had been abducted and described how “she had blossomed into a lovely young matron, and she was radiantly happy.” Broster asked her if she was pleased with her husband, and “she giggled and said, ‘Well it isn’t too bad, although of course you know that I never wanted to marry him, but he is all right. I have no complaints.’”⁸⁶ Broster’s ultimate conclusion about abduction marriages was therefore similar to that of Wilson: that abduction marriages were normal, often condoned and arranged by the young women’s parents, and, crucially, that they were also commonly accepted by the young women involved. Moreover, older women often approved of abduction marriages. They defended them as traditional, despite the resistance displayed by the women and the physical force used to complete the abductions.

What possibly bothered Broster as she witnessed these abductions (although she never explicitly stated it), and what is troubling to anyone in the twenty-first century reading about abduction marriages, was how much these cases sound like narratives of sexual assault. And in fact, abduction cases that ended up in court sometimes became rape cases (when sexual intercourse occurred) if the women’s guardians did not consent to the marriages. Both Wilson and Broster played down the violence involved in the practice because several African women told them that they had experienced these marriages and saw them as a matter of custom. As part of everyday life, physical coercion and *ukuthwala* were something they expected and accepted, and other young women should also expect and accept. There is support for this point of view in one of the court cases discussed earlier in this chapter: the young woman who was kidnapped on the road to Queenstown in 1915 cried for help when she and her abductor met some older women on the road. These women advised her “to go as all women have to be married in this way under Native Custom.”⁸⁷ The young woman in that particular case successfully enlisted her family to contest and annul the marriage, but not all women had the same resources available to them.

Abduction Marriages as Domestic Violence

The fact that some women seemed to accept physical coercion as an element of an abduction marriage resonates with evidence collected in several recent studies on violence among sexual intimates. Adam Ashforth notes that many Africans living in Soweto in the late 1990s discussed certain types of physical violence within the family as “discipline”: “‘Discipline’ is something meted out to children by their parents and to ‘comrades’ by their leaders when they misbehave—and to women by their men.”⁸⁸ Ashforth cites a survey on domestic violence conducted by sociologists at the University of the Witwatersrand that found that half of the women they interviewed said they were “beaten regularly or severely” by their intimate partners, but “96.1 percent of all respondents claimed that no one in their household had been ‘attacked by someone known to them,’ suggesting that domestic violence or spouse abuse was not thought of in the same way as violent crime.”⁸⁹ The concept of certain types of violence being justifiable as “discipline” rests on the belief that African men are patriarchs motivated not by anger or selfishness but by a desire to maintain social harmony.

But this idea of justifiable male power over women can quickly transform into less specific assumptions of the right to control: Ashforth notes that “among young men, even those without strong ties to patriarchal forms of custom and tradition, the perception of wives and girlfriends as ‘property’ under their control is strong.”⁹⁰ We saw evidence of men considering women as property in Peter Mti’s testimony to the Native Affairs Commission in 1903 when he commented that women believed that abduction marriages increased their “marketable value.” If men thought that they had bought the right to control their wives and that they legitimately kidnapped them, they might have felt greater autonomy to punish them at will.

Similarly, a study done by three anthropologists on women’s attitudes toward forced sex in the rural Eastern Cape in the 1999–2001 period shows some acceptance by women of violence within the context of long-term intimate relationships.⁹¹ The study found that young women were very unlikely to describe forced or coerced sex as rape or assault when committed by men with whom they had ongoing sexual relationships. This unwillingness to label forced sex as rape resulted from women’s assumptions that it was normal for men to use coercion and physical force to obtain sex, even with women who were their regular intimate partners. Also, women saw their involvement in ongoing relationships with men as heightening their own social status even if the men sometimes forced them to have sex. Women’s reluctance to call such

forced sex "rape" was also partly owing to their unwillingness to see themselves as "rape victims," a label that entailed a loss of self-esteem, identity, and possibly social status.⁹² Thus, not using the term "rape" for forced sex was part of a complex social and psychological calculation made by the young women. They saw forced sex as "normal," and they backed away from the possible consequences to their self-esteem and social status of taking on the label of "rape victim."

Sociologist Deborah Posel has discussed women's reluctance to label various types of forced sex as "rape" as one way the topic of the sexual victimization of Africans, particularly women, was marginalized during the apartheid years. She writes: "The prism of race also had a powerful effect on the apartheid state's limited sightings of sexual violence. . . . Recognition that sexual violence was widespread became exactly the basis on which the issue was ignored."⁹³ What is interesting, though, about the cases from rural South Africa discussed above is that it was not only the state that had "limited sightings" of sexual violence: it also seemed to be many Africans themselves. Posel acknowledges that this blindness existed among Africans and analyzes it by suggesting that the African family's economic and cultural logic made it less likely that women would want to label forced sex as rape because to do so might jeopardize family cohesion.⁹⁴ Posel does not directly tie this insight to a discussion of abduction marriage, but she does show that certain types of violence by men against women became widely accepted in the African population. The routine nature of violence in sexual relationships has also been analyzed by Memory Mphaphuli and Letitia Smuts. They conclude that "sexual violence in intimate relationships occupies an unusual social space, as, although hidden, it is also an example of the everyday."⁹⁵

The current problem of sexual violence in South Africa may have its roots in the official treatment of sexual violence as a traditional element of marriage in the late nineteenth and early twentieth centuries. By the 1930s to 1960s, the white-controlled state's official position toward *ukuthwala*, accepting it as a customary form of marriage, was part of the broader refusal to see sexual violence as criminal when that violence occurred to African women. Traditional marriage practices, including abduction marriages, thus continued under the reimagined form of customary law practiced in the rural native reserves, areas that later became homelands under apartheid policies.

But the state was not the only relevant actor in the historical process that constructed abduction marriages as both traditional and legal in the twentieth century. Prospective husbands performed the abductions and often did so with the collaboration of parents and guardians; they sometimes did so with the

ultimate acceptance of the abducted girls. Many women, both as mothers and as brides, apparently went along with these marriages and encouraged other women to go along with them too. Not all women consented to these marriages, but the daughters' wishes were rarely considered relevant: if they were under twenty-one and their parents or guardians condoned the wedding, then the claims of tradition trumped the daughters' personal preferences.

The use of force in completing these abductions raises significant and complicated questions of its own. Was the violence used by abductors and young women's resistance to that violence usually just a form of performance, as some sources suggest? Or were they significant evidence about the women's states of mind and, more specifically, of their reluctance to marry? Was outright violence commonly a part of all abduction marriages or just of those that became criminal cases? The evidence here is, at best, equivocal and hard to interpret.

On the one hand, there is evidence of certain young women putting up much more than token resistance and of women running away repeatedly from their abductors and reporting the abductions as crimes to headmen and police. On the other hand, some older African women told young women who were being abducted that these marriages were simply part of the culture and something that any woman of marriageable age might expect. Despite these contradictory possibilities, the state from the 1930s onward usually sided with the abducted women's parents or guardians. If the parents condoned the abduction and marriage, then the marriage was legal; if the parents were against the kidnapping, then it became criminal, and any forced sexual acts became legally prosecutable as rapes.

And some women did reconcile themselves to their abduction marriages. These women took apparent pride in becoming both the stewards of tradition and the stalwarts of the family in the rural areas; they also saw themselves as the bearers of a certain kind of toughness for having endured the abductions that created their homesteads. The fact that at least some women physically fought the abductions or resisted by running away or notifying the authorities indicates that not all women were willing to go along with the ritual, no matter how customary it may have been. Resistance carried its own hazards, however, as women who resisted were open to even greater levels of coercion and physical violence, as well as social stigma, all legitimated in the name of tradition.⁹⁶

Some additional questions remain. Does this reading of abduction marriages as essentially violent tell us anything about African women's political consciousness living in the rural areas? Did individual women's decisions about whether to consent to their abductions or to resist by either fighting back or

by reporting them to the authorities, or indirectly by preemptively eloping with a lover or running away to town, reflect either social conditions or broader political choices? Did the violence of the kidnappings and their aura of tradition cause or inflame more generalized violence against women in later decades?

In suggesting some answers to those questions, it is essential to remember that African women were not a uniform community. Their responses to the problems raised by abductions were conditioned by their ages and educations, their families' social and economic status, their religious beliefs and broader life experiences, and undoubtedly by their personalities and individual family dynamics. Moreover, a young woman who objected to her abduction had either to run away or else she had to find an advocate willing to support her in court. The latter strategy usually meant finding an older male family member who endorsed her objections and had the legal standing to bring the case. If a woman with such support took her abductor to court, the abduction could be prosecuted as a crime; without such support, it was a marriage. Under such circumstances, women's acceptance of *ukuthwala* could have been a performance delivered under “a situation of duress.”⁹⁷ Young women often had to engage in social navigation, making choices between difficult options. Some African women assessed the dangers and possibilities of their situations in the rural areas and chose to accept *ukuthwala* as their best path into the future.⁹⁸

Regardless of the many individual differences among women though, violence became a legally and socially accepted way of forcing girls and women into marriages in the name of social continuity and tradition. To some degree, this forging of abduction marriages was part of what Ferguson has called a “new customary” that helped to defend some space for African familial autonomy from erosion by white-dominated social and political values.⁹⁹ Yet limited autonomy for the African family frequently came at the direct expense of a woman's right to consent to a marriage partner. Women's acceptance of physical violence or even social coercion in marriage had more to do with the gendered political and legal structures of the twentieth century than it did with adherence to an unaltered tradition transmitted directly from precolonial society. The acceptance by some women of their forcible abductions was part of a strategy of survival within a system that was stacked against them.

CODA

The 2009 case of abduction marriage in Lusikisiki described earlier in this chapter provoked a great deal of controversy among South Africans, with the debate largely—if somewhat misleadingly—framed as a binary contest between

“modern” laws and “traditional” customs. By 2009 the legal system had changed: women’s legal rights were better defined, although the idea of tradition playing a significant role in determining women’s rights and social status, especially in the rural areas, persisted.¹⁰⁰ The *Sunday Times*, in a follow-up story on the abduction marriage at the heart of the controversy, interviewed a retired African academic who “descried the unorthodox revival of ukuthwalwa, saying it did not fit the modern world. ‘Children are literally being sold, almost to the highest bidder. This is paedophilia. . . . In the old days men abducted women who were of marriage age, not minors. This is not culture,’ said the academic who added that ‘in the past, girls who were abducted were not raped. The girl was kept safe until she accepted the love proposal from the man.’”¹⁰¹ This academic criticized the ongoing practice of abduction marriage as being out of step with the modern world. Yet the idealized description he gave of how people practiced the custom in the past suggests that he attached a good deal of nostalgia to the idea of traditional culture, particularly regarding gender roles.

The legal system in the twenty-first century has changed from the old colonial and apartheid legal systems. Under customary law in the colonial and apartheid eras, white magistrates might well have deemed the 2009 abduction case legal. The case satisfied at least some of the criteria that such magistrates used to determine if a valid marriage had occurred: in collaboration with the girl’s guardians, the older man abducted the girl and subsequently paid a bride-wealth of three cows to the girl’s family. A magistrate from an earlier era might have thought her too young at age fourteen to be married. Still, he might just as easily have overlooked that detail had the girl escaped and reported the marriage to the authorities.

While no one quoted in any of the press reports openly defended this particular abduction marriage when it came to light in 2009, certain African authorities defended the broader practice of abduction marriage as an element of tradition. A BBC reporter quoted Prince Xhanti Sigcawu from the Eastern Cape, who commented that “ukuthwalwa like all our other customs was and remains an important part of who we are as people,” he says. “There is nothing wrong with the practice when it is done in the right way—which is when the girl is at the right age and the parents are involved and agree.”¹⁰² It is worth emphasizing that Sigcawu’s objection to the girl’s abduction stemmed from her being only fourteen years of age at the time of the marriage. He was not concerned about a lack of consent on the girl’s part as long as the parents “are involved.” The same news report framed the essential tension within abduction marriage as a conflict between modernity and tradition. It quoted a spokesman for the Congress of Traditional Leaders of South Africa, Chief Pathekile

Holomisa, who thought that the practice “has been corrupted by greed for material purposes. It has no place in today’s society.”¹⁰³

Discussing the persistence of abduction marriages as an issue of modernity versus tradition obscures some essential characteristics of intimate partner violence and sexual violence that persist in twenty-first-century South Africa. Women have been more often successful in exercising their independence and avoiding abduction marriages. However, violence and sexuality still seem to be linked in common expectations, whether that sexuality encompasses the violence inherent in abduction marriages or physical violence against intimate partners. And women’s families still have a strong voice in determining their fates. The young woman whose abduction was at the heart of the 2009 controversy noted that she had begged her aunt and brother not to allow the man to abduct her, but they felt that her wishes were irrelevant. In an echo of headman Toto’s statement in 1883 to the Cape’s Commission on Native Laws and Customs, she told the BBC reporter that “they told me that I didn’t have a say in the matter.”¹⁰⁴ The girl was not consulted, and it was the laws and policies of the white-controlled state in the first half of the twentieth century that had carefully cultivated the roots of this forceful silencing.

81. Redding, *Sorcery and Sovereignty*, 175–200.
82. There were some emissaries from the African National Congress leadership and from the South African Communist Party who traveled to the region. But they mostly arrived after hostilities against state policies had begun and were **mostly** likely trying to get an idea of what was happening on the ground rather than instigating the revolt. See quotations from interviews with Harry Gwala and Thomas Nkobi in Philip Bonner et al., “The Road to Armed Struggle,” in *The Road to Democracy in South Africa*, vol. 1, 1960–1970, ed. South African Democracy Education Trust (Cape Town: Zebra Press, 2004), 58–61.
83. Cape Province Archives, 1/FSF 6/97, File C3/2, Typescript: “Unrest in Flagstaff District. 1960–1961,” unsigned, undated, probably mid-1961.
84. Cape Province Archives, 1/FSF 6/97, File C3/2, Typescript: “Unrest in Flagstaff District. 1960–1961,” unsigned, undated.
85. Cape Province Archives, CMT 3/1478, File 42/5, Pamphlet enclosed in a letter, marked “Confidential,” from the Bantu Affairs Commissioner of Flagstaff to the Assistant Chief Bantu Affairs Commissioner, 27 October 1961.
86. Cape Province Archives, CMT 3/1478, File 42/5, Pamphlet enclosed in letter, 27 October 1961, emphasis in the original.
87. Bernard Magubane et al., “The Turn to Armed Struggle,” in *The Road to Democracy in South Africa*, vol. 1, 1960–1970, ed. South African Democracy Education Trust (Cape Town: Zebra Press, 2004), 58–61.
88. See Ntsebeza, *Democracy Compromised*, 175–89, 202.
89. Cape Province Archives, CMT 3/1451, File 38/A, “Report of the Chief Magistrate and Chief Native Commissioner of the Transkeian Territories for the Year Ending 31 December 1957,” dated 8 September 1958.
90. Cape Province Archives, CMT 3/1481, File 42/15, Letter from the Bantu Affairs Commissioner of Mqanduli to the Chief Bantu Affairs Commissioner, 5 July 1961.
91. Cape Province Archives, CMT 3/1481, File 42/15, Letter from the Bantu Affairs Commissioner of Mqanduli to the Chief Bantu Affairs Commissioner.
92. Cape Province Archives, CMT 3/1477 File 42/3, Letter from the Bantu Affairs Commissioner, Elliotdale, to the Chief Bantu Affairs Commissioner, 21 June 1963.

CHAPTER 2. “THE GIRL IS NOT CONSULTED”

1. Cape of Good Hope, *Commission on Native Laws and Customs*, 1:95.
2. Different sources use different spellings of the isiXhosa word. I have adopted the spelling that is most commonly used by scholarly authors and government sources since the mid-1990s, but I have retained the original spellings of the word in quoted materials.
3. Cape of Good Hope, *Commission on Native Laws and Customs*, 1:440.
4. Natasha Erlank, “Gendering Commonality: African Men and the 1883 Commission on Native Law and Custom,” *Journal of Southern African Studies* 29, no. 4 (2003): 953.
5. James Ferguson, *Expectations of Modernity: Myths and Meanings of Urban Life on the Zambian Copperbelt* (Berkeley: University of California Press, 1999), 87–90.

6. Elizabeth Thornberry, “*Ukuthwala*, Forced Marriage, and the Idea of Custom in South Africa’s Eastern Cape,” in *Marriage by Force? Contestation Over Consent and Coercion in Africa*, ed. Annie Bunting, Benjamin Lawrance, and Richard Roberts (Athens: Ohio University Press, 2016), 147.

7. Nyasha Karimakwenda, “Rethinking Ukuthwala, the South African ‘Bride Abduction’ Custom,” *The Conversation*, 12 September 2021, <https://theconversation.com/rethinking-ukuthwala-the-south-african-bride-abduction-custom-165496>.

8. Anonymous, “Lusikisiki Girl Abducted in Kwa Ncele,” Treatment Action Campaign Newsletter, <https://www.tac.org.za/news/lusikisiki-girl-abducted-in-kwa-nc-ele/>.

9. Staff Reporter, “Forced Marriage in South Africa,” *Sunday Times*, 10 December 2009.

10. Kate Rice has analyzed the literature on the practice of *ukuthwala*. “Ukuthwala in Rural South Africa,” 382–83. See also the discussion of recent practices in Nyasha Karimakwenda, “Deconstructing Characterizations of Rape, Marriage, and Custom in South Africa: Revisiting the Multi-Sectoral Campaign against Ukuthwala,” *African Studies Review* 63, no. 4 (2020): 763–81.

11. Glen S. Elder, *Hostels, Sexuality, and the Apartheid Legacy: Malevolent Geographies* (Athens: Ohio University Press, 2003), 44–63.

12. Magistrate J. C. Warner commented in 1856 that Africans’ “wives are nevertheless mere slaves, and have all the drudgery and laborious work to perform” (quoted in John MacLean, *A Compendium of Kafir Laws and Customs* [Mt. Coke, 1858], 72).

13. Erlank, “Gendering Commonality.”

14. Ferguson was drawing on the insights of Judith Butler in her discussion of gender as a performance in *Expectations of Modernity*, 99, citing Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (New York: Routledge, 1990), 139.

15. Virginia Van der Vliet, “Traditional Husbands, Modern Wives? Constructing Marriages in a South African Township,” in *Tradition and Transition in Southern Africa: Festschrift for Philip and Iona Mayer*, ed. Andrew Speigel and Patrick McAllister (New Brunswick, NJ: Transaction, 1991), 219–21.

16. Lynn M. Thomas, “The Modern Girl and Racial Respectability in 1930s South Africa,” *Journal of African History* 47, no. 3 (2006): 461–90.

17. Vigh, “Motion Squared,” 423.

18. Mats Utas, “West-African Warscapes: Victimcy, Girlfriending, Soldiering: Tactic Agency in a Young Woman’s Social Navigation of the Liberian War Zone,” *Anthropological Quarterly* 78, no. 2 (2005): 403–8.

19. Marjoke A. Oosterom, “Youth and Social Navigation in Zimbabwe’s Informal Economy: ‘Don’t End Up on the Wrong Side,’” *African Affairs* 118, no. 472 (2019): 493.

20. See the testimony of Chief Dalindybo of the Thembu in Union of South Africa, *Report from the Select Committee on Native Custom and Marriage Laws* (Cape Town: Solomon Printers, 1913), 84–85.

21. Elder, *Hostels, Sexuality and the Apartheid Legacy*, 103–9.

22. McAllister, *Xhosa Beer Drinking Rituals*, 123–57.

23. John Comaroff and Jean Comaroff, *Of Revelation and Revolution*, vol. 2, *The Dialectics of Modernity on a South African Frontier* (Chicago: University of Chicago Press, 1997), 258–59.

24. Shula Marks, “Patriotism, Patriarchy and Purity: Natal and the Politics of Zulu Ethnic Consciousness,” in *The Creation of Tribalism in Southern Africa*, ed. Leroy Vail (Berkeley: University of California Press, 1989), 215–40; Hamilton Siphon Simelane, “The State, Chiefs and the Control of Female Migration in Colonial Swaziland, c. 1930s to 1950s,” *Journal of African History* 45, no. 1 (2004): 103–24; Ferguson, *Expectations of Modernity*, 87–95; T. Dunbar Moodie with Vivienne Ndatshé, *Going for Gold: Men, Mines, and Migration* (Berkeley: University of California Press, 1994), 11–43.

25. Belinda Bozzoli, *Women of Phokeng* (Johannesburg: Ravan, 1992), 147–64.

26. Meghan Healy, “To Control Their Destiny: The Politics of Home and the Feminisation of Schooling in Colonial Natal,” *Journal of Southern African Studies* 37 (2011): 247–64; Sean Redding, “Women as Diviners and as Christian Converts in Rural South Africa, c. 1880–1963,” *Journal of African History* 57, no. 3 (2016): 367–89.

27. South African National Archives, Pretoria, Records of the 1903–05 South African Native Affairs Commission (SANAC) C17, vol. 6, written replies by W. Holford, November 1903.

28. See the statements made by a deputation of chiefs and headmen to the magistrate of Pinetown in Natal in KwaZulu-Natal Province Archives, Pietermaritzburg, Records of the Secretary of Native Affairs (Natal) (SNA) 1/1/328, File 2678/1905, Letter from the Natal Undersecretary of Native Affairs, 2 November 1905.

29. Henri Junod, in his ethnography of the Thonga in northeastern South Africa, states that girls did have some say in choosing a marriage partner: “[A] father very seldom obliges his daughter to accept a husband whom she dislikes, except in the case of debt.” *The Life of a South African Tribe*, 2 vols. (New Hyde Park, NY: University Books, 1962), 1:102.

30. Nafisa Essop Sheik, “Colonial Rites: Custom, Marriage Law and the Making of Difference in Natal, 1830s–c. 1910” (PhD diss., University of Michigan, Ann Arbor, 2012), 108–19.

31. See the testimony of the Reverend William Sigenu, “Fingo, Wesleyan Missionary,” to the 1883 Native Laws Commission in Cape of Good Hope, *Commission on Native Laws and Customs*, 1:399–400; and the comments of Walter Stanford in MacQuarrie, *Reminiscences of Walter Stanford*, 1:100–102.

32. Cape of Good Hope, *Commission on Native Laws and Customs*, 1:517.

33. Cape of Good Hope, *Commission on Native Laws and Customs*, 1:517–18.

34. Cape of Good Hope, *Commission on Native Laws and Customs*, 1:304.

35. Cape of Good Hope, *Commission on Native Laws and Customs*, 1:439.

36. MacQuarrie, *Reminiscences of Walter Stanford*, 1:188–91.

37. Rev. E. J. Barrett, “Kaffir Marriages,” *Wesleyan-Methodist Magazine*, June 1883, 426.

38. South African National Archives, Pretoria, SANAC C 17, vol. 3, Evidence of R. J. Dick, Special Magistrate, King William’s Town, 2 November 1903.

39. Even in Natal, which had an official procedure of asking every girl who was marrying if she was marrying freely, Native commissioners noted that marriages

in which girls were forced to marry men against their wishes were common. See KwaZulu-Natal Province Archives, SNA 1/1/90, Letter from Assistant Native Commissioner of the Lower Tugela Division to the Secretary for Native Affairs, Natal, 16 April 1886.

40. Thomas V. McClendon, "Tradition and Domestic Struggle in the Courtroom: Customary Law and the Control of Women in Segregation-Era Natal," *International Journal of African Historical Studies* 28, no. 3 (1995): 532–33.

41. South African National Archives, SANAC C17, vol. 6, written replies by Peter Mti, "Native Clerk, East London," November 1903, 65. Mti identified himself as having grown up near Keiskamahoe, in Kingwilliamstown district in the eastern Cape.

42. Soga, *The Ama-Xosa*, 271.

43. There were differences in the laws pertaining to Africans throughout what is now South Africa until after the Act of Union in 1910. Even after 1910, though, some differences remained. In Natal and Zululand, technically, even a minor daughter's marriage without her consent was not permitted, but most magistrates acknowledged that it regularly occurred regardless.

44. An interesting instance of damages being paid by a man after his attempted abduction marriage was annulled (because the woman's father disapproved) is a 1931 case in the Cape Province Archives, Cape Town, Records of the Magistrate of Cofimvaba (1/COF) 1/1/2/4, Preparatory exam 13/1931, R. v. Mponqo Matumbu.

45. Cape Province Archives, 1/COF 1/1/1/36, R. v. Cetywayo Mayekiso, 20 December 1915.

46. Cape Province Archives, 1/COF 1/1/1/36, R. v. Cetywayo Mayekiso, 20 December 1915.

47. Cape Province Archives, 1/NKE 1/1/1/39, Case 136 of 1916, R. v. Buti Swaart-boo and others, 5 June 1916.

48. Cape Province Archives, 1/NKE 1/1/1/39, Case 136 of 1916, R. v. Buti Swaart-boo and others, 5 June 1916.

49. Cape Province Archives, 1/NKE 1/1/1/39, Case 136 of 1916, R. v. Buti Swaart-boo and others, 5 June 1916.

50. Cape Province Archives, 1/NKE 1/1/1/39, Case 136 of 1916, R. v. Buti Swaart-boo and others, 5 June 1916.

51. See the testimony of the magistrates of Willowvale, Kentani, and Butterworth districts to the 1903–5 South African Native Affairs Commission in South African National Archives, SANAC C17, vol. 3, 996–1000.

52. Bozzoli, *Women of Phokeng*, 86–93; Philip Mayer, *Townsmen or Tribesman?*, 2nd ed. (Cape Town: Oxford University Press, 1961), 233–51.

53. Sean Redding, "Witchcraft, Women, and Taxes in the Transkei, South Africa, 1930–63," in *Stepping Forward: Black Women in Africa and the Americas*, ed. Catherine Higgs, Barbara Moss, and Earline Rae Ferguson (Athens: Ohio University Press, 2002), 87–99.

54. Union of South Africa, Report from the Select Committee on Native Custom and Marriage Laws (Cape Town: Solomon Printers, 1913), 53.

55. T. R. H. Davenport, "The Triumph of Colonel Stallard: The Transformation of the Natives (Urban) Areas Act Between 1923 and 1937," *South African Historical Journal* 2 (1970): 77–96.

56. One copy of the letter is in Cape Province Archives, 1/NKE 7/1/58, File N1/9/2, Letter, signed by J. D. Rheinallt Jones and H. Selby Msimang, to Native Chiefs, Transkei, April 1925. None of the chiefs' replies were in the file.

57. South African National Archives, NEC K26 16, Records of statements from the Orange Free State, Evidence presented by the Kroonstad Joint Council of Europeans and Natives dealing with Kroonstad Location, 17 February 1931.

58. Cape Province Archives, 3/UTA 18, File 48E, Letter from the Location Superintendent to the Town Clerk, 21 May 1931.

59. See also the testimony of a local African businessman in Umtata, Thomas Poswayo, to the Native Economic Commission: South African National Archives, NEC K26 15, File "Records of Statements from the Transkei," Evidence of Thomas Poswayo at Umtata, 1930; and Charlotte Maxeke's analysis in 1930 of the problems that women faced when they moved to cities to work, reprinted in Thomas Karis and Gwendolyn Carter, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882–1990*, 5 vols. (Palo Alto: Hoover Institution, 1972–96), 1:344–46.

60. Mager, *Gender and the Making of a South African Bantustan*, 176–78.

61. D. H. Reader, *The Black Man's Portion* (Cape Town: Oxford University Press, 1961), 188.

62. It was of course not just daughters who sometimes balked at arranged marriages: Nelson Mandela famously escaped the rural Transkei and moved to Johannesburg to avoid a marriage arranged by his parents. See Mandela, *Long Walk to Freedom*, 10, 20.

63. Simelane, "The State, Chiefs and the Control of Female Migration," 109–11.

64. Union of South Africa, *Native Custom and Marriage Laws*, iii–iv.

65. South African National Archives, NTS 1772, File 64/276/6, Letter 11 August 1932, Native Commissioner, Nongoma, to the Secretary for Native Affairs.

66. Cape Province Archives, 1/COF 1/1/2/3, Preparatory Examination 11/1929, R. v. Motu Caso.

67. Cape Province Archives, 1/COF 1/1/2/3, Preparatory Examination 11/1929, R. v. Motu Caso.

68. Cape Province Archives, 1/COF 1/1/2/3, Preparatory Examination 11/1929, R. v. Motu Caso.

69. Elizabeth Thornberry discusses the legality of abduction marriages and the connection to rape law in the colonial eastern Cape in *Colonizing Consent*, 171–92.

70. Cape Province Archives, Cape Town, Records of the Magistrate of Kentani (1/KNT) 1/1/18, Case 6/39, R. v. Kuleni Gqugquta and Gade Gqugquta, 25 August 1939, appeal heard by Supreme Court of South Africa, Butterworth Circuit Local.

71. Cape Province Archives, 1/KNT 1/1/18, Case 6/39, R. v. Kuleni Gqugquta and Gade Gqugquta, 25 August 1939.

72. Cape Province Archives, 1/KNT 1/1/18, Case 6/39, R. v. Kuleni Gqugquta and Gade Gqugquta, 25 August 1939.

73. The law at the time was that a man could not rape his wife. Generally, magistrates did not routinely try abduction marriages, regardless of circumstances, as rapes, nor did they see numerous cases of rape in any circumstances. The acting magistrate in Engcobo stated in 1936 that “very few cases of rape come before this Court. It is considered that a large number are settled amongst the natives themselves.” See Cape Province Archives, Cape Town, Records of the Magistrate of Engcobo (1/ECO) 6/1/28, File N1/18/2, letter from the Magistrate to Dr. B. J. F. Laubsher, Senior Physician, Mental Hospital, Queenstown, 12 June 1936.

74. Cape Province Archives, 1/KNT 1/1/18, Case 6/39, R. v. Kuleni Gququta and Gade Gququta, 25 August 1939. The case file does not state whether the marriage was annulled after the trial, or what became of the different people involved. Anne Mager recounts a similarly violent instance of a woman being forcibly married to a man she did not want, with ultimately fatal results for her husband. *Gender and the Making of a South African Bantustan*, 102–5.

75. For some other cases of *ukuthwala* abductions that came to trial, see Cape Province Archives, Cape Town, Records of the Magistrate of Tsolo (1/TSO) 1/1/22, Case 468 of 1949, R. v. Dickson Macutsha; 1/COF 1/1/1/38, Case 798/1941, R. v. Rulumente Mkontwana, 14 October 1941; 1/COF 2/1/1/59, Case 35/40, Lumkile Nkanti v. Nziponde Pilisani and Pendu Pilisani, 12 April 1940; Cape Province Archives, 1/MTF 2/1/1/20, Case 53/1939, Alfraim Zenzele Mbobo v. Ngcoyo Juqu, 18 October 1939; and Cape Province Archives, 1/NKE 1/1/1/40, Case 269 of 1931, R. v. Moyeni Tshemese and Bonakele Mapungu, 23 September 1931.

76. M. Wilson, *Reaction to Conquest*, 189.

77. Cape Province Archives, CMT 3/1033, File 6/D, Letter from the Bantu Affairs Commissioner of Libode, 15 November 1962

78. Anne Mager, “Sexuality, Fertility and Male Power,” *Agenda: Empowering Women for Gender Equity* 28 (1996): 14.

79. Cape Province Archives, 1/LBE 1/1/12, Case 614/51, R. v. Manxelo Mneno and Elias Tshaka, 28 November 1951.

80. Cape Province Archives, 1/LBE 1/1/12, Case 614/51, R. v. Manxelo Mneno and Elias Tshaka, 28 November 1951.

81. Julia Wells, “Why Women Rebel: A Comparative Study of South African Women’s Resistance in Bloemfontein (1913) and Johannesburg (1958),” *Journal of Southern African Studies* 10, no. 1 (1983): 39–55; Mayer, *Townsmen or Tribesman?*, 275–82.

82. M. Wilson, *Reaction to Conquest*, 187–88.

83. Joan Broster, *Red Blanket Valley* (Johannesburg: Hugh Keartland, 1967), 79.

84. Broster, *Red Blanket Valley*, 77–78.

85. Broster, *Red Blanket Valley*, 80.

86. Broster, *Red Blanket Valley*, 81.

87. Cape Province Archives, 1/COF 1/1/1/36, R. v. Cetywayo Mayekiso, 20 December 1915.

88. Adam Ashforth, *Witchcraft, Violence, and Democracy in South Africa* (Chicago: University of Chicago Press, 2005), 42.

89. Ashforth in *Witchcraft, Violence, and Democracy in South Africa*, 43, cites Alan Morris, *Change and Continuity: A Survey of Soweto in the Late 1990s* (Johannesburg: Sociology Department, University of the Witwatersrand, 1999).

90. Ashforth, *Witchcraft, Violence, and Democracy in South Africa*, 43.

91. Kate Wood, Helen Lambert, and Rachel Jewkes, “Showing Roughness in a Beautiful Way: Talk about Love, Coercion, and Rape in South African Youth Sexual Culture,” *Medical Anthropology Quarterly* 21 (2007): 277–300.

92. Wood, Lambert, and Jewkes, “Showing Roughness in a Beautiful Way,” 295.

93. Deborah Posel, “The Scandal of Manhood: ‘Baby Rape’ and the Politicization of Sexual Violence in Post-Apartheid South Africa,” *Culture, Health and Sexuality* 7, no. 3 (2005): 242.

94. Posel does not discuss abduction or forced marriages specifically in the article, however.

95. Memory Mphaphuli and Letitia Smuts, “‘Give It to Him’: Sexual Violence in the Intimate Relationships of Black Married Women in South Africa,” *Signs: Journal of Women in Culture & Society* 46, no. 2 (2021): 445.

96. For a discussion of the many causes of coerced marriages across several African societies, see Annie Bunting, Benjamin Lawrance, and Richard L. Roberts, “Something Old, Something New: Conceptualizing Forced Marriage in Africa,” in *Marriage by Force? Contestation Over Consent and Coercion in Africa*, ed. Annie Bunting, Benjamin Lawrance, and Richard L. Roberts (Athens: Ohio University Press, 2016), 1–40.

97. Ferguson, *Expectations of Modernity*, 99.

98. Vigh, “Motion Squared,” 425.

99. Ferguson, *Expectations of Modernity*, 87–90.

100. The South African Department of Justice and Constitutional Development has an extensive discussion of *ukuthwala* and women’s rights. See Republic of South Africa Department of Justice and Constitutional Development, *Ukuthwala: Let’s Stop Stolen Childhoods*, pamphlet (Pretoria, 2010), <https://www.justice.gov.za/brochure/ukuthwala/ukuthwala.html>. See also Diana Mabasa, “Ukuthwala: Is It All Culturally Relative?,” *DeRebus*, 23 July 2015, <https://www.derebus.org.za/ukuthwala-culturally-relative/>, for the legal analysis of a 2015 appeal case: “In a landmark judgment delivered by a full Bench of the Western Cape Division, the court held that *ukuthwala* is no defence to crimes of rape, human trafficking and assault with the intent to do grievous bodily harm.”

101. Staff Reporter, “Forced Marriage in South Africa.”

102. Pumza Fihlani, “Stolen Youth of SA’s Child Brides,” BBC News, 14 October 2009, 2, <http://news.bbc.co.uk/2/hi/africa/8303212.stm>.

103. Fihlani, “Stolen Youth of SA’s Child Brides,” 3.

104. Fihlani, “Stolen Youth of SA’s Child Brides,” 1.

CHAPTER 3. DEATHS IN THE FAMILY

1. Cape Province Archives, Cape Town, Records of the Magistrate of Butterworth (1/BUT) 1/1/26, Preparatory Examination, R. v. Nomagqwata Sitoti and Nompahla Sitoti, 14 January 1935.