

# Loyalism in the Cape colony: Exploring the Khoesan subject-citizen space, c.1828-1834

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## *Abstract*

This article presents the argument that British loyalism became a defining feature of Khoesan identity during the period from 1828 to 1834. The analysis suggests that expressions of loyalty to the British Crown reflected Khoesan claims to a civic identity that transcended their position of inferiority in Cape colonial society. Loyalism functioned as a collective identity that reflected a sense of belonging to an imagined, British-inspired, civic nation via the performance of subject-citizenship. During the early nineteenth century, the Cape Colony witnessed spirited public debates over the desirability of the extension of civil rights to its indigenous subjects. In the process, Khoesan subject-citizenship became entangled with loyalist impressions of empire which transcended local authorities and racial hierarchies. There was no universal group response to settler-colonialism by the Khoesan. The path to Khoesan subject-citizenship was determined by the extent to which individuals were exposed to ideas and imaginings of imperial civic nationhood and loyalism. Colonial law, evangelical-humanitarianism and imperial commissions of inquiry all functioned as important conduits of the notions of subject-citizenship and loyalism; together, and to varying degrees, these influences shaped Khoesan claims to a subject-based civic identity. The discussion focuses on Khoesan claims to subject-citizen status following the passage of Ordinance 50 in 1828 and in particular, at the time of the vagrancy agitation of 1834.

**Keywords:** Cape Colony; Khoesan; Loyalism; Subject-citizenship; London Missionary Society; Ordinance 50; Vagrancy; Nineteenth Century

## **Introduction**

This article presents the argument that British loyalism became a defining feature of Khoesan civic identity during the course of the early nineteenth century. Loyalism is defined in this study as the demonstration of loyalist attitudes towards the British Crown, moulded by a romanticised view of the monarch as the source of benign power and imperial values from which

colonial institutions drew their mandate to rule.<sup>1</sup> Before proceeding with the discussion, a brief note on the use of terminology in the discussion is required. The tag “Khoesan” refers to those incorporated into the social conglomeration made up of the Cape’s formerly independent, indigenous pastoralists (Khoekhoe) and hunter-gatherers (San). Although coined in the twentieth century and applied retrospectively, the term does at least allude to the complex, mixed ancestry of the Cape’s labouring indigenous peoples during the early nineteenth century and at the same time, is free of the pejorative connotations of the contemporary colonial labels, ‘Hottentot’ and “Bushmen”.<sup>2</sup>

Expressions of loyalty to the British Crown reflected Khoesan appeals to a civic identity that transcended their social inferiority within Cape colonial society. Though such expressions were certainly made for strategic reasons in the Cape’s settler-colonial context (mainly in the service of self-preservation), it is argued that Khoesan loyalism also functioned as a collective identity; an identity that reflected a sense of belonging to a larger, British-inspired, civic nation which challenged the racist labelling and social positioning they were otherwise subjected to. Civic nationhood is different to ethnic nationhood as the former constitutes an imagined collective in which membership may be acquired without any evident ethnic heritability.<sup>3</sup> While ethnic nationhood is arguably as imagined as civic nationhood, it is usually determined to a greater degree by biological descent. In this analysis, civic identity is a more applicable theoretical concept than ethnic identity, as it alludes to the complex genealogies of those individuals, families and kinship groups who had come to constitute the Khoesan category by the early nineteenth century.

The parameters of loyalism were defined vertically in the Cape colonial context by those in positions of power. With regards to the Cape’s white subjects, loyalists were considered to be those who exhibited a suitable degree of acquiescence to British jurisdictional authority. Furthermore, loyalists were

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1 Studies which have proven valuable for the argument presented here include: T McCaskie, “Cultural encounters: Britain and Africa in the nineteenth century”, PD Morgan & S Hawkins (eds.), *Black experience and the empire* (Oxford & New York, Oxford University Press, 2004), pp. 166-193; T Ranger, “Making Northern Rhodesia imperial: Variations on a royal theme, 1924-1938”, *African Affairs*, 79(316), 1980, pp. 349-373; & AS Rush, “Imperial identity in colonial minds: Harold Moody and the league of coloured peoples, 1931-1950”, *Twentieth Century British History*, 13(4), 2002, pp. 356-383.

2 M Adhikari, *The anatomy of a South African genocide: The extermination of the Cape San peoples* (Cape Town, University of Cape Town Press, 2010), p. 26.

3 Benedict Anderson’s landmark work on nationhood and nationalism has been indispensable in framing the ideas presented here. B Anderson, *Imagined communities: Reflections on the origin and spread of nationalism* (London & New York, Verso, 1991), especially Chapter 4.

those who were deemed to be “reliably British”.<sup>4</sup> That being said, loyalism was also shaped horizontally as it was appropriated by those who constituted the subject classes of the colony. Variations in the meanings of loyalism existed both between and within such groups. As Thompson has argued, “loyalism was a broad church in which very different kinds of imperial faith could (however uncomfortably) coexist”.<sup>5</sup> The performance and expression of loyalism depended in large part on the idea of Britain that different individuals and groups held. In essence, loyalism involved loyalty to an idea of the British Empire. As such, loyalism could accommodate a wide range of identities. Thompson points out that although the loyalist tradition in South Africa has often been considered to be the preserve of the pro-British settler elite, in terms of its instrumental appeal, loyalism could be “fuelled by different interests and put to different purposes”.

Loyalism was inextricably linked to notions of “Britishness”. Saunders has noted that “Britishness” is a relatively new term in studies of the British Empire, having only attracted sustained scholarly attention in recent years.<sup>6</sup> “Britishness” refers to a sense of being British. It can also relate to an identification with Britain. Even so, “Britishness” was a surprisingly fluid and adaptable condition in the hands of different colonial publics.<sup>7</sup> In generalised terms, “Britishness” signalled loyalty to principles which Britain was regarded as being a proponent and defender of and considered British rule as “benevolent and positive” for the most part.<sup>8</sup> For some bearers, “Britishness” was defined in narrow, racial terms, thus seeking to essentialise its meaning. Killingray, in his analysis of “Britishness” in the Atlantic world in the nineteenth century, has shown that “few whites across the Empire could conceive of Britons other than as white.”<sup>9</sup> Though white loyalists sought to define loyalism according to ethnic or racial categories of belonging, colonial “indigenes” were capable of appropriating loyalist identities shaped by civic notions of belonging. In

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4 A Thompson, “Languages of loyalism in Southern Africa, c. 1870-1939”, *English Historical Review*, 118(477), 2003, p. 622.

5 A Thompson, “Languages of loyalism...”, *English Historical Review*, 118(477), 2003, p. 620.

6 C Saunders, “Britishness in South Africa”, *Humanities Research*, 8(1), 2006, p. 61. See also, A Lester, “Colonial settlers and the metropole: Racial discourse in the early nineteenth century Cape colony, Australia and New Zealand”, *Landscape Research*, 27(1), 2002, pp. 40-41; A Lester, “British settler discourse and the circuits of empire”, *History Workshop Journal*, 54, 2002, p. 25.

7 For example, BN Newman, “Contesting ‘black’ liberty and subjecthood in the Anglophone Caribbean, 1730s-1780s”, *Slavery and Abolition*, 32(2), 2011, pp. 169-183.

8 C Saunders, “Britishness in South Africa”, *Humanities Research*, 8(1), 2006, p. 65.

9 D Killingray, “A good West Indian, a good African, and, in short, a good Britisher: Black and British in a colour conscious empire, 1760-1950”, *Journal of Imperial and Commonwealth History*, 36(3), 2008, p. 364.

this sense, “loyalism was neither exclusively ‘Anglo’, nor exclusively white”.<sup>10</sup>

For many Khoesan, their attachment to British subjecthood was bound up with the civil rights they became entitled to during the early nineteenth century. It will be suggested that Khoesan loyalism was primarily expressed through the embracing of British subject-citizenship. While subjecthood is based on notions of loyalty and belonging, it also became entangled with ideas usually associated with citizenship; that is, a language of rights, as well as of state obligations towards those who fall under its jurisdictional authority.<sup>11</sup> Access to the fair acknowledgement and enactment of these rights was not always guaranteed. And yet, while Khoesan may have been unsuccessful on most occasions when appealing to their subject-citizen status and its attendant rights and protection, it is still important to consider their appeals and the processes and mechanisms they pursued to articulate their claims. By embracing their subject-citizenship, Khoesan were appealing to their place as equal members of an imagined imperial civic polity. Most importantly, subject-citizenship extended the possibility of a social status that challenged racial classifications.

This analysis explores the ways in which Khoesan experiences of colonial subject-citizenship unfolded in the years following the passage of the most significant piece of legislation to affect them, Ordinance 50. It considers the extent to which a colonial and mission-inspired discourse of Khoesan subject-citizen status mattered to Khoesan and how it contributed to the emergence of a Khoesan civic identity at the time. During the period stemming from 1828 to 1834, residents of the Cape Colony witnessed two key legislative moments that together provided the space for a budding Khoesan civic identity to find public expression. These two moments were: the passage of Ordinance 50 in 1828 and the proposed vagrancy legislation of 1834, along with the protests it precipitated in the latter months of that year.

Khoesan reactions to these two legislative moments reveal the kinds of contests over civic identity that were occurring among this ethnic assortment of indigenous peoples, as well as the narratives of loyalism and subject-citizenship that they were deploying to protect the civil liberties they had been

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10 A Thompson, “Languages of loyalism”, *English Historical Review*, 118(477), 2003, p. 620; S Dubow, “How British was the British world? The case of South Africa”, *Journal of Imperial and Commonwealth History*, 37(1), 2009, pp. 2-10.

11 A valuable comparative text is B Majumdar, “Citizen or subject? Blurring boundaries, claiming space: Indians in colonial South Africa”, *Journal of Historical Sociology*, 26(4), 2013, pp. 479-502.

granted. At the forefront of the public debate at the time were notable figures of the London Missionary Society (LMS). John Philip (the superintendent of the LMS in the Cape Colony), James Read and a number of other LMS missionaries publically and vociferously campaigned for the protection of civil liberties on behalf of the Khoesan. The LMS' missions were also focal points for the defence of Ordinance 50 in the years following its passage when it came under threat of being repealed by the Cape's Legislative Council.

The article proceeds with a discussion of loyalism and subject-citizenship in the Cape colonial context during the early nineteenth century. This is followed by a brief reappraisal of Ordinance 50, exploring its influence upon Khoesan civic identity and how it reinforced loyalism among Khoesan. In the subsequent sections, the proposed vagrancy ordinance of 1834 and the concomitant resistance against the measure are analysed. In doing so, the article seeks to uncover the dynamic ways in which Khoesan civic identity had begun to coalesce into a more clearly defined loyalist identity during the period under consideration.

### **Loyalism, subject-citizenship and humanitarian imperialism at the Cape**

In keeping with a trend in other settler-colonies across its nascent empire, Britain found it difficult to maintain satisfactory control over both settlers and Khoesan at the Cape. In time, the "imperial factor" would come to prove hugely influential in the emergence of nineteenth century South Africa.<sup>12</sup> Though not without significant challenges to its authority, most notably in the form of the Frontier Wars and Great Trek, British imperialism was deliberately interventionist in order to bolster the Cape's capitalist economy. The Cape's economic output was moulded to suit Britain's financial imperatives, protecting its trading interests in South Asia and the East and the development of the metropolitan economy. Together with the important motivating factor of economic interest, Britain's imperial intervention in the Cape Colony would also, over the course of the early nineteenth century, come to be influenced by humanitarian sentiment. These two factors were not incompatible; humane working conditions were considered more conducive to productive labour.

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12 A Atmore & S Marks, "The imperial factor in South Africa in the nineteenth century: Towards a reassessment", *Journal of Imperial and Commonwealth History*, 3, 1974, pp. 108-111.

Humanitarian imperialism imbibed both cultural chauvinism and the myth that indigenous peoples were backward, child-like and susceptible to corrupting influences, therefore requiring protection. This was especially so in those colonial settings with sizeable European settler populations, such as the Cape. Humanitarian imperialism was also “conversionist” in orientation, in that it believed colonial “indigenes” were capable of being converted into equal subjects. This idea stemmed from a prevalent humanitarian doctrine at the time, namely, the unity, or “oneness”, of humankind. Though duplicitous, the predominance of this imperial viewpoint meant that for much of the period under investigation, “the road to Empire was paved with good intentions”.<sup>13</sup>

For the Khoesan, their colonially-inspired ethnic identity was drawn from an assortment of pre-colonial ethnicities which bore linguistic, cultural and cosmological similarities, but which also exhibited variety and dissonance.<sup>14</sup> Due to the ensuing collapse of Khoesan sovereignties, there were no “tribal political structures” to which their colonial-ethnic identity could be attached during the early nineteenth century. “[U]sing the semantic ground of the coloniser” for their own identity-making purposes, scores of Khoesan identified with the imperial power which exercised sovereignty over them directly, rather than through local power brokers.<sup>15</sup>

Settler-colonialism refers to the factors attendant with the settlement of Europeans in colonial territories. Though still in its infancy, studies on settler-colonialism (as a distinct form of colonialism) have helped to clarify its differences with imperialism – especially in terms of how each related to colonised “indigenes”. In a seminal work, Patrick Wolfe has argued that settler-colonialism sought “the dissolution of native societies” in order to create “a new colonial society on the expropriated land base”.<sup>16</sup> Settler-colonialism was about establishing the permanence of presence. In the Cape context, the colonised were targeted for elimination as well as assimilation as a labouring underclass to serve the interests of the settler-colonial economy. British imperialism was complicit in this process during the early nineteenth

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13 J Heartfield, *The Aborigines' Protection Society: Humanitarian imperialism in Australia, New Zealand, Fiji, Canada, South Africa, and the Congo, 1836-1909* (London, Hurst & Company, 2011), p. 303.

14 Consider the discussion by A Barnard, *Hunters and herders of Southern Africa: A comparative ethnography of the Khoisan peoples* (New York & Cambridge, Cambridge University Press, 1992), Chapter 13 & 14; N Penn, *The forgotten frontier: Colonist & Khoesan on the Cape's northern frontier in the eighteenth century* (Cape Town, Double Storey Books & Athens, Ohio University Press, 2005), p. 5.

15 C Crais, “Custom and the politics of sovereignty in South Africa”, *Journal of Social History*, 39(3), 2006, p. 726.

16 P Wolfe, “Settler colonialism and the elimination of the native”, *Journal of Genocide Research*, 8(4), 2006, p. 388.

century. However, as noted, it sought to bend settler-colonialism to its will, which at the time, was motivated by judicial and evangelical-humanitarian ambitions in addition to economic gain. The establishment of British imperial sovereignty was about imposing an image of Britain on the Cape. Though as Anthony Atmore and Shula Marks have observed, while British imperialism at the Cape “wore humanitarian garb”, the British were primarily concerned with protecting their economic interests.<sup>17</sup>

Interpretations of the effects of British imperialism on the region’s inhabitants have been a contested theme in South African historiography. Liberal historians, such as WM Macmillan and CW de Kiewiet, argued that British imperialism was for the most part beneficial for the Khoesan and Bantu-speaking populations of South Africa. Afrikaner, or pro-settler, historians, such as FA van Jaarsveld and CFJ Muller, forwarded a similar view of the effects of British imperialism, arguing that while it was advantageous for the African peoples of the region, it had adverse effects for Afrikaners. Atmore and Marks, in weighing up these interpretations, have insisted that British imperialist intervention entailed the establishment of “white colonist superiority”; that such superiority was “inseparable from the intimate involvement of metropolitan imperialist power in South Africa”.<sup>18</sup> British imperialism at the Cape presented an ambiguous paradox for the colony’s “indigenes”. For while British imperial power in the region advocated a liberal discourse that extended rights, established oversight and promoted protection in principle, it also engaged in aggressive colonial expansion and conquest. Furthermore, while British imperialism sought to contain the harsher aspects of settler-colonialism at the Cape, it nonetheless, envisioned the white settlers as political and economic allies. These contradictions presented challenges and constraints for Khoesan resistance, but they also opened up other possibilities for pushing back at the dispossessing effects of settler-colonialism.

What all colonies shared in common was the exercise of sovereign authority that had usually been attained in the first instance at least, through force.<sup>19</sup> Colonies were inescapably lands of conquest. However, for the British and the Khoesan, there was an intriguing twist on this otherwise standard imposition of colonial rule. The Khoesan had been dispossessed and forced into servitude

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17 A Atmore & S Marks, “The imperial factor in South Africa...”, *Journal of Imperial and Commonwealth History*, p. 108.

18 A Atmore & S Marks, “The imperial factor”, *Journal of Imperial and Commonwealth History*, p. 108.

19 A Pagden, “Fellow citizens and imperial subjects: Conquest and sovereignty in Europe’s overseas empire”, *History and Theory*, 44(4), 2005, p. 30.

in Cape colonial society by European settlers, predominantly of Dutch descent, during the period of VOC rule.<sup>20</sup> The British inherited an already subjugated Khoesan populace in the south-western Cape and a turbulent interior, where violent conflict between the trekboers and the Khoesan had been going on for close to a century.

As such, power dynamics in the Cape Colony following the First British Occupation were not solely shaped by the interactions of a single coloniser and the colonised. It is crucial to acknowledge this, as it complicates the way in which colonialism was experienced by the Khoesan in the Cape context. In a similar vein, John Comaroff has argued that colonialism “was shaped as much by political, social and ideological contests among the colonisers as by the encounter with the colonised”.<sup>21</sup> This observation has a strong bearing on this study. Colonialism at the Cape was neither a homogenous force nor monolithic. In effect, it was influenced by the different political, economic and moral interests of various groups, as well as regional factors; most notably the long distances between Cape Town and the interior districts of the Colony. There was no single colonising culture. Rather, there was a number of different colonising cultures, which were regularly in contest. These colonising cultures were systematically subsumed under an over-arching British colonising culture over the course of the early nineteenth century. Even so, British colonising culture was also not hegemonic.

The more permanent Second British Occupation from 1806 onward ushered in an imperial state determined to impose its rule. A great deal of the legislation introduced by the British at the Cape following the advent of the Second Occupation was motivated by a metropolitan desire for the imperial state to impose itself upon an established, though embittered, European settler population that, for the majority, was not British in origin. As mentioned though, the Dutch-speaking farmers were also the local collaborators the British needed to effectively rule and make the Colony pay its way. The relationship was fraught with tension. It is clear from a wide variety of archival sources that this friction was not lost on Khoesan servants and it had significant consequences for master and servant relations within the domestic sphere, as both were now subjects of the Crown.

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20 MF Borch, *Conciliation, compulsion, conversion: British attitudes towards indigenous peoples, 1763-1814* (Amsterdam & New York, Rodopi, 2004), p. 126.

21 J Comaroff, “Images of empire, contests of conscience: Models of colonial domination in South Africa”, F Cooper & AL Stoler (eds.), *Tensions of empire: Colonial cultures in a bourgeois world* (Berkeley, University of California Press, 1997), p. 192.



The resulting contests between master and servant statuses and their attendant rights were very much shaped by the introduction of legal reforms intended to regulate discipline and punishment within the domestic arena. Similar reforms affecting the rights of masters to discipline and punish their slaves were introduced from the mid-1820s through to the early 1830s, in expectation of eventual emancipation in 1838. Importantly, civil rights were imparted to the Khoesan through the colonial state and by extension, the imperial state, embodied in the monarch and established via the authority of the Colonial Office in London. Even so, there was also an ongoing contest among interested parties throughout the period under review concerning the recognition of the natural rights of indigenous peoples in Britain's colonial territories. This became a pertinent point of debate throughout the Empire during the 1830s, when indigenous rights to land *vis-a-vis* settler rights was brought into sharp focus by the evangelical-humanitarian lobby.

Nonetheless, the labour reforms introduced by the British at the Cape were in themselves not enough to ensure compliance on the part of masters and it required agency on the part of aggrieved Khoesan to pursue the legal recourse to which they were entitled. Historical analyses of the identities of colonised individuals and groups have often been conveyed via the discourse of resistance.<sup>22</sup> However, rather than being treated as synonymous with "resistance", the term "agency" is employed here in keeping with historiographical developments surrounding the concept following the "cultural turn" of the 1960s and 1970s. In this regard, Ann Stoler and Frederick Cooper have noted that resistance as a theme in colonial studies has been a popular choice among scholars since the 1960s.<sup>23</sup> They have cautioned against treating resistance as opposition only, arguing that such an approach fails "to capture the dynamics of either side of the encounter or how those sides were drawn". In addition, they also call for greater emphasis to be placed on hybridities as opposed to Manichean dichotomies, thereby bringing to light the "contingencies and contradictions" of colonial rule and how these came to bear upon indigenous responses.<sup>24</sup>

Since the 1980s and 1990s, the related Cape historiography has shown that Khoesan agency was not always subversive, nor necessarily resistant. Khoesan

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22 For a brief discussion of this trend, see A Stoler, "Rethinking colonial categories: European communities and the boundaries of rule", *Comparative Studies in Society and History*, 31(1), 1989, pp. 134-135.

23 A Stoler & F Cooper, "Between metropole and colony: Rethinking a research agenda", F Cooper & A Stoler (eds.), *Tensions of empire...*, p. 6.

24 A Stoler & F Cooper, "Between metropole and colony...", F Cooper & A Stoler (eds.), *Tensions of empire...*, p. 18.

agency regularly revealed itself in the embracing of the modernity British imperialism brought with it – in new forms of law, literacy and Christianity, as well as the organisation of space and time. Many Khoesan were aware of the glaring contradictions “between the ideals espoused by British imperial statesmen in London” and Cape Town, on the one hand, and the oppressive realities of the settler regime, as manifested in daily interactions on farmsteads throughout the Colony, on the other.<sup>25</sup> These contradictions played a fundamental role in shaping Khoesan responses to British imperialism and settler-colonialism; the ‘space’ between the competing aims of British imperialism and settler-colonialism provided Khoesan room for manoeuvre in their struggles over the composition of their everyday lives as servants and subjects.<sup>26</sup>

The liberal (as defined by early nineteenth century standards) ethos of empire can be interpreted as having appeared as a beacon of hope compared to settler-colonialism. Therefore, in this analysis, agency is used to refer to a challenge, with challenges having been varied, multiple and not mutually exclusive; ranging from desertion, theft and arson to strategies of accommodation and assimilation. Khoesan agency was more open-ended than straightforward counter-hegemony. As subordinate subjects, but subjects nonetheless, Khoesan did not always challenge the system of rule in revolutionary ways or outside the confines of the British imperial state.

The implementation of British imperial sovereignty in the Cape Colony following the commencement of the Second Occupation – while certainly an act of imposing European colonial imperatives over an indigenous people – would be misconstrued if only represented as having been destructive of Khoesan independence. Rather, a century and a half of settler-colonialism had already been destructive of Khoesan independence, characterised by extensive land, livestock and resource dispossession. British imperial sovereignty came to offer the idealistic prospect of a regained “independence” for Khoesan by means of their colonial status as British subjects.

While the Second British Occupation did not denote a clean break with the *VOC* past, it did usher in a period of notable reforms which numbers

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25 N Etherington, “Indigenous Southern Africans and colonialism: Introduction”, P Limb, N Etherington & P Midgley (eds.), *Grappling with the beast: Indigenous Southern African responses to colonialism, 1840-1930* (Leiden & Boston, Brill, 2010), p. 4.

26 For a comparative discussion, see A Holland, “Introduction”, A Holland & B Brookes (eds.), *Rethinking the racial moment: Essays on the colonial encounter* (Newcastle-upon-Tyne, Cambridge Scholars, 2011), pp. 2-7.

of Khoesan deftly employed to improve their lot as servants and fend off the worst excesses of settler-colonialism. As Dubow has noted, the “British occupations signalled a profound shift in ideology and laid the foundation for subsequent structural reforms”.<sup>27</sup> The insertion of British sovereignty – in the form of the rule of law and ideology – between master and servant was in effect rather ambiguous for both the Khoesan and the European settlers. Justice, as conceived by the Khoesan or their masters, did not neatly align with imperial prerogatives. But the prospect of redress remained nonetheless and this proved crucial to the way Khoesan responded to colonialism and negotiated their place as imperial subjects in a settler colony.

Cape historiography has a rich collection of work dealing with the interactions between Protestant missions and the Khoesan. Early contributions to the field were mainly narrative and tended to be hagiographic; lauding the European missionaries for their efforts to Christianise the aboriginal inhabitants of southern Africa.<sup>28</sup> More recent studies have presented critical observations of how evangelical-humanitarianism carried a message of social equality along with the promise of salvation. As Elphick has noted, the conversion of the Khoesan threatened to unravel “the fabric of the racially based, hierarchically organised social order” of the Cape.<sup>29</sup> Elbourne has also argued that by adopting Christianity, Khoesan challenged and disrupted existing power relations.<sup>30</sup>

While respectability and Christianity have received their due attention, the role loyalism played in shaping Khoesan identity during the first half of the nineteenth century remains neglected. Ross contends that “Throughout the Colony, and indeed beyond its borders, [the] combination of Christianity and respectability was attractive to a considerable number of the free people of colour”.<sup>31</sup> This article argues that loyalism be considered as an additional influential element in this combination of factors that moulded Khoesan identity and which Khoesan responded to and remoulded in turn. The performance of loyalism to the British Crown may be added to the ambit

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27 S Dubow, *A commonwealth of knowledge: Science, sensibility and white South Africa, 1820-2000* (Oxford & New York, Oxford University Press, 2006), p. 20.

28 A notable example is J Du Plessis, *A history of Christian missions in South Africa* (Cape Town, Struik, 1965).

29 R Elphick, *The equality of believers: Protestant missionaries and the racial politics of South Africa* (Charlottesville & London, University of Virginia Press, 2012), p. 27.

30 E Elbourne, *Blood ground: Colonialism, missions, and the contest for Christianity in the Cape colony and Britain, 1799-1853* (Montreal & Kingston, McGill-Queen's University Press, 2002), p. 7.

31 R Ross, *Status and respectability in the Cape colony, 1750-1870: A tragedy of manners* (Cambridge, Cambridge University Press, 1999), p. 119.

of respectability. Loyalism, like respectability, was based on the idea of reciprocity. Something was expected in return by those who expressed and performed loyalism. Those who embraced loyalism to the Crown chose to subject themselves to British imperial authority and sought the protection and recognition that accompanied their subject status. Loyalism was linked with equality and held out the prospect of acting as a social leveller; even though, as Ross has reminded us, racism would ultimately trump “any ideas of a common behavioural code” in the Cape Colony.<sup>32</sup>

By appealing to the recognition of their rights as subjects, however, colonial “indigenes” made a bold, uncomfortable claim: that they were legally and morally entitled to be included in the world of the coloniser. Subject-citizenship was a status that could be acquired without racial qualification. Subjecthood and citizenship tend to be treated as discrete, even disparate, categories. Citizenship implies a relationship between an individual and the state in which the state extends certain rights. In turn, the individual may place demands on the state to ensure his/her rights are observed and protected. Of course, the state can exert control by denying rights to those that fall under its legal jurisdiction. Nonetheless, rights relate to what behaviour is considered acceptable and lawful as well as what is considered improper or immoral. Washbrook has noted that “[t]he law may be seen to represent a set of general principles through which political authority and the state [however constituted] attempt to legitimise the social institutions and norms of conduct which they find valuable”.<sup>33</sup> The colonial state expressed its intentions to those who were subjected to its authority via colonial law. However, in order to control colonial spaces and bodies, the colonial state depended upon local bureaucracies and procedures in order to implement its intentions. In a colonial setting where subjecthood was complex and in contest, it is understandable that the practicalities of applying the law created tensions in the related identity struggles.

Within the Cape colonial context of the 1820s, the colonial state oversaw the extension of rights to both Khoesan and slaves. Members of these social categories acquired rights pertaining to mobility, employment and legal recourse by virtue of being subjects of the Crown. The distinction between subjecthood and citizenship was blurred as a consequence. The appeals to

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32 R Ross, “Missions, respectability and civil rights: The Cape colony, 1828-1854”, *Journal of Southern African Studies*, 25(3), 1999, p. 343.

33 D Washbrook, “Law, state and agrarian society in colonial India”, *Modern Asian Studies*, 15(3), 1981, p. 649.

“indigene” subject rights that followed indicated a breaching of the boundary between subjecthood and citizenship in Khoesan identity politics, with citizenship normally considered to be the preserve of the white settlers. Mamdani has labelled this contradictory paradigm “a double-sided affair”. On the one hand, the colonial state governed a racially-defined citizenry via a regime of rights and the rule of law. On the other hand, the colonial state ruled over racially-defined subjects in a manner that was usually coercive and motivated by administrative justice and economic concerns.<sup>34</sup> However, the extension of legal rights and in principle, legal equality, to the Khoesan unsettled this dichotomy. Rather, there was a duality as subjects could claim a legal status normally associated with being a citizen. As such, subjecthood transformed into an imagined subject-citizenship, appealed to via expressions of loyalism.

Loyalism was expressed in response to contact with British institutions and organisations. Perhaps the most crucial aspect of this in the Cape colonial context was the discourse of subject-citizenship and its attendant rights inspired by the evangelical-humanitarian movement. For colonial “indigenes”, viewing the British Crown as a source of protection came to underpin this particular strain of loyalism. The campaign for equality before the law for all British subjects was particularly intense at the Cape during the early nineteenth century. As more and more Khoesan became aware of their rights as colonial subjects, so they fashioned their own kind of loyalist ideology. For Khoesan, equality before the law, in principle, was established with the passage of Ordinance 50 in 1828.

### **Ordinance 50 as a conduit of subject-citizenship**

The late 1820s and early 1830s marked the political heyday of the LMS in the Cape Colony. John Philip was well connected with leading members of the anti-slavery lobby in Britain; in particular, the House of Commons MP Thomas Fowell Buxton. Drawing on these influential networks, John Philip was able to successfully campaign for the granting of civil liberties to the Khoesan. Due to the significant influence the LMS could boast of having in the Colonial Office in London during the 1820s and 1830s, much of the related historiography has tended to focus on this aspect of the framing and

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<sup>34</sup> M Mamdani, *Citizen and subject: Contemporary Africa and the legacy of late colonialism* (Princeton, Princeton University Press, 1996), p. 19.

passage of Ordinance 50 – the most important piece of legislation to affect the Cape Khoesan. However, apart from the work of Malherbe, which has explored in detail Khoesan livelihoods before and after Ordinance 50, little attention has been paid to how the Ordinance reinforced an idea that was already in circulation among Khoesan constituents; that is, imperial subject-citizenship tied to loyalism.<sup>35</sup>

Stanley Trapido, in a seminal paper, situated the introduction of Ordinance 50 within the Cape's brief experiment with liberalism. The late 1820s and early 1830s were marked by contests between the competing interests of different groups. These included the slave-owning Dutch gentry, the new English merchant class (following the UK Government's 1820 settlement scheme), and the British colonial officials under direction from their imperial overseers. Added to this mix were the missionaries, along with a few independent journalists.<sup>36</sup> The latter two, together with the humanitarian Governor, Richard Bourke (1826-1828), were the most instrumental actors in the liberal agenda at the time.

On 17 July 1828, Ordinance 50 was passed in the House of Commons and later confirmed by an Order of the King in Council. This meant that it could not be amended or repealed by the Cape Government without the sanction of the House of Commons. Ordinance 50 removed all legal obligations on the Khoesan to work for the settlers and put them on an equal legal footing with other non-slave members of Cape society. The Ordinance emphasised personal liberty, but rather than this being framed as an inalienable human right, it flowed from the benign favour and goodwill of the monarch and British Parliament. This amounted to a colonial paradox. A rights discourse, as promulgated by humanitarian sympathisers and backed up, for the time being, by the Colonial Office, was an important means by which colonialism was legitimised.<sup>37</sup> At the same time, the extension of legal equality to all British subjects provided colonised "indigenes" with a powerful, ideological tool of resistance.

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35 VC Malherbe, "The Cape Khoesan in the eastern districts of the Colony before and after Ordinance 50 of 1828" (Doctoral thesis, Cape Town, University of Cape Town, 1997).

36 S Trapido, "The emergence of liberalism and the making of Hottentot nationalism, 1815-1834", in University of London, Institute of Commonwealth Studies, *Societies in Southern Africa in the 19<sup>th</sup> and 20<sup>th</sup> centuries: Collected Seminar Papers*, 17, 1992, p. 34. The most prominent of these journalists was John Fairbairn, who became the editor of the liberal *South African Commercial Advertiser*. Fairbairn was also John Philip's son-in-law.

37 B Ibhawoh, *Imperialism and human rights: Colonial discourses of rights and liberties in African history* (New York, State University of New York Press, 2007), p. 8.

The consensus in the related historiography is that Ordinance 50 did not radically transform settler society. The colonial authorities were not prepared to introduce a minimum wage and the lack of sufficient land for Khoesan peasants to settle on meant that in material terms the Ordinance did not amount to any significant structural change in the Cape economy.<sup>38</sup> In legal terms, the new judicial administrative structure was not always able to ensure strict compliance with the new measures on the part of masters. The colonial state's shortcomings in this regard meant that legal equality did not necessarily translate into equal justice. Even under the new legal dispensation, some Khoesan who sought the intervention of the courts in disputes with farmers found their prospects for a fair hearing and impartial justice aided by the assistance of prominent humanitarians.<sup>39</sup>

Upon coming into effect in the Cape Colony in January 1829, Ordinance 50 repealed six pieces of legislation which had theretofore worked to initially erode and eventually eradicate Khoesan independence, particularly their freedom of movement within the Colony. Both the Caledon Code of 1809 and the Apprenticeship Act of 1812 were repealed, as well as other legislation dating back to 1787 and 1803, before the Colony came under British control. The most important changes ushered in by the Ordinance were relayed in its second clause:<sup>40</sup>

... whereas by usage and custom of this Colony, Hottentots and other free persons of color [sic] have been subjected to certain restraints, as to their residence, mode of life and employment, and to certain compulsory services to which other of His Majesty's subjects are not liable... no Hottentot or other free person of color, lawfully residing in this Colony, shall be subject to any compulsory service to which other of His Majesty's subjects therein are not liable...

Khoesan were no longer required to have fixed places of abode and they could move about the Colony freely without the fear of arrest or imprisonment for vagrancy. As such, the ordinance instituted the decriminalisation of Khoesan

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38 H Giliomee, "The eastern frontier, 1770-1812", R Elphick & H Giliomee (eds.), *The shaping of South African society* (Cape Town, Maskew Miller Longman, 1989), p. 452; S Newton-King, "The labour market of the Cape colony, 1807-1828", S Marks & A Atmore (eds.), *Economy and society in pre-industrial South Africa* (London, Longman, 1980), pp. 199-200 & LC Duly, "A revisit with the Cape's Hottentot ordinance of 1828", M Kooy (ed.), *Studies in economics and economic history: Essays in honour of Professor H.M. Robertson* (Durham, Duke University Press, 1972), pp. 26-56.

39 Western Cape Archives Repository (CA), Colonial Office (CO) 2710, Report, D Moodie, Cases against Scheepers and Van Niekerk, Graham's Town, 24 April 1829.

40 House of Commons Parliamentary Papers (HCPP), No 339, 1829, *Return to an address of the honourable House of Commons, dated 5<sup>th</sup> June 1829; Copy of the order in council relative to the natives of South Africa*, p. 2.

mobility. This was further emphasised in the second clause, which ordered that the Khoesan were not to be subjected:<sup>41</sup>

“to any hindrance, molestation, fine, imprisonment or punishment of any kind whatsoever, under the pretence that such person has been guilty of vagrancy or any other offence, unless after trial in due course of law... .”

In light of these stipulations, Ordinance 50 drew out a sharp distinction between Khoesan and slave statuses. Although still landless (except for those who acquired land at mission stations and in the Kat River Settlement) and still bound to labour for the colonists owing to few other alternatives for survival, the Ordinance gave the Khoesan basic civil liberties within the broader context of what was still an oppressive society.<sup>42</sup> Slavery, though, had also come under scrutiny from the metropole’s humanitarian gaze. Legislation aimed at ameliorating the working conditions of slaves had been passed at the Cape in the preceding years.<sup>43</sup> Even so, the wording of Ordinance 50 clearly positioned the Khoesan as British subjects. By doing so, the passage of Ordinance 50 meant that the social and political boundaries of Cape colonial society were widened, creating new possibilities for a more loyalist Khoesan identity to emerge.

### **Khoesan responses to proposed vagrancy legislation**

In 1834, the Cape’s Legislative Council was constituted. One of its first proposed measures was the re-introduction of legislation that criminalised vagrancy on Crown land. Motivated by labour shortages in the aftermath of Ordinance 50, as well as rumours and reports of increased crime, and most importantly, apprehensions about the impending freedom of the slaves, the Civil Commissioners of every major district in the Colony petitioned the Council on behalf of the colonists to enact an ordinance banning vagrancy or squatting.<sup>44</sup> News of this proposal spread quickly throughout the Colony, triggering several Khoesan-led public meetings and counter petitions. It was

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41 HCPP, No 339, 1829, *Return to an address of the honourable House of Commons, dated 5<sup>th</sup> June 1829; Copy of the order in council relative to the natives of South Africa*, p. 2.

42 School of Oriental and African Studies (SOAS), Council for World Mission (CWM), South Africa, Incoming Correspondence, 16A/2/B, H Calderwood to Directors of the LMS, Cape town, December 1838.

43 W Dooling, *Slavery, emancipation and colonial rule in South Africa* (Scottsville, University of Kwa-Zulu Natal Press, 2007), pp. 82-91.

44 HCPP, No. 425, 1837, *Report from the Select Committee on Aborigines in British settlements*, Appendix No 7, Vagrant Ordinance, Reports of the Civil Commissioners, pp. 151-166.



reported at the time that the “public attention was engrossed, and the public feeling intensely excited”.<sup>45</sup>

In order to emphasise the significance of the mission protests that occurred in response to the Council’s proposed bill, a brief foray into mission population figures is useful. In 1830, the combined population of five of the Colony’s most prominent LMS mission stations, and for whom population statistics are most reliable (Bethelsdorp, Theopolis, Pacaltsdorp, Zuurbraak and Hankey), stood at approximately 2 200. In 1834, this number was estimated to be at approximately 4 200; the increase accounted for by the fear generated by the possible renewal of vagrancy legislation that saw thousands of Khoesan flee to missions. If added to the number of residents in the Kat River Settlement, which was estimated to be at 3 000 during the early 1830s, then the total number of Khoesan and other “free people of colour”, to employ the colonial parlance of the time, resident at these LMS missions and affiliate stations fluctuated between 5 200 and 7 200. Given that the total size of the Khoesan population was estimated to be around 32 000 in 1836, then at the height of the panic surrounding the proposed vagrancy ordinance in 1834, some 23% of the total Khoesan population was located at these LMS missions alone.<sup>46</sup> This figure does not include the residents of other LMS missions or those of the Moravians.

The petitions that were drafted and signed by mission residents in the latter months of 1834 provide crucial insight into the kinds of contestations over status and identity that were occurring within Khoesan mission communities at the time. Khoesan were expressing views on behalf of their communities, without being directly represented by missionaries and as such, the vagrancy agitation of 1834 acted as a significant moment of identity politics at a time of genuine fear that one of the central provisions of Ordinance 50, the freedom of movement, would be annulled.<sup>47</sup> Indeed, events surrounding the proposed vagrant act and the protests against it point towards the kinds of real changes which had taken place for the Khoesan since the passage of Ordinance 50 six years earlier.

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<sup>45</sup> National Archives (NA), London, Colonial Office (CO) 48/156, K B Hamilton, Clerk of the Legislative Council, Cape Town, 27 October 1834.

<sup>46</sup> These figures are taken from the mission reports to the LMS Missionary Chronicle for 1830 and 1834, which included population numbers for all five mission stations. The total population estimate of 32 000 is taken from evidence given to the Select Committee on Aborigines in British Settlements. See HCPP, No 425, 1837, *Report from the Select Committee on Aborigines in British settlements*, p. 598.

<sup>47</sup> E Elbourne, “Freedom at issue: Vagrancy legislation and the meaning of freedom in Britain and the Cape Colony, 1799-1842”, *Slavery & Abolition*, 15(2), 1994, pp. 134-135.

A prominent theme which emerged during the protest meetings is that mission Khoesan took such exception to the proposal because they regarded themselves as loyal subjects of the Crown. This is apparent in a memorial drawn up by the inhabitants of the Theopolis mission at a public meeting in October 1834. The resulting petition was sent to the Governor of the Cape in opposition to the proposed ordinance. The act of drafting petitions in order to lobby the Governor and colonial administration points towards Khoesan initiative in articulating a new identity. References to the desired favour of the monarch in the memorials also highlight the imperial scope of this new identity. Notably, by petitioning the Governor, the participants were acknowledging the power of the colonial administration in their context and recognising its authority over them as colonial subjects. While there were clear ethnic undertones, expressions of Khoesan civic identity were also deployed by the speakers. By sending the Governor a memorial relaying their concerns, the petitioners were also seeking inclusion in the colonial order as equal subjects.<sup>48</sup>

The first to address the meeting was Andries Jager, no doubt, as with the other speakers, a respectable member of the mission community. He first called for each speaker who would follow him to “be careful so as to give offence to nobody” before recounting his upbringing under the “old system” before Ordinance 50, asserting that it was “a system of oppression”.<sup>49</sup> Surprisingly, Jager then went on to explain his understanding as to why the vagrancy ordinance had been proposed in the first place, stating: “It is true that our nation has abused the liberty that was granted us by the 50<sup>th</sup> Ordinance, but let us pray to God for pardon”. The sentiment this statement reflected is also evident in the memorial drafted by the mission for the Governor, which will be discussed later on. Valentyn Jakobs, the next to address the meeting, also invoked the label “nation” in his speech. He associated the poverty of his people with the loss of their land and with the introduction of brandy, which he argued had reduced them to a despicable state. The numerous references made to the “Hottentot” nation by the men who addressed the meeting have been considered indicative of nationalist thought. However, expressions of loyalty to the Crown were also made.

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48 R De Costa, “Identity, authority and the moral worlds of indigenous petitions”, *Comparative Studies in Society and History*, 48(3), 2006, pp. 669-698.

49 SOAS, CWM, South Africa, Incoming Correspondence, 14A/2/B, G Barker to Directors of the LMS, Theopolis, 6 October 1834.

In spite of the support shown for the ordinance by the English settlers, Philip Campher was very clear that he still felt a sense of allegiance to the Crown commenting that “Since our king, the king of England has ruled us, we have become men and the missionaries have done that for us, that our forefathers never thought of”. Campher reiterated that it was due to the work of the missionaries that the Khoesan were in a position to resist the introduction of the vagrancy measure at all. He noted that “In other times no Hottentot could have read this resolution”. Also taking exception to the detrimental effects which alcohol had had on his people, Campher nonetheless pointed out that “When a white man drinks he only is blamed, but if a Hottentot becomes a drunk, the whole nation is blamed”.<sup>50</sup>

No women addressed the meeting, but a number of other men did, including the likes of Jan Boezak, Zwartbooy Ruiters, and Slinger Booy; the latter taking a sarcastic swipe at the Boers who were in the process of moving beyond the boundaries of the Colony into the southern African interior in a protracted exodus that would later on come to be known as the “Great Trek”. Slinger asked of the Governor, “why not oppose those persons who go over the limits with gunpowder”, adding “there are the vagrants”. For a number of these men, their very names reflected the prejudice under which they had been raised before Ordinance 50 and their impassioned pleas to the Governor to prevent the passing of the ordinance were very much framed by their recent memories of how life was before 1828. Following these addresses, the members of the mission agreed to a memorial, in which they stated their position as a collective, asserting that there was “nothing in the existing circumstances of the Colony to call for a new vagrant act”.<sup>51</sup>

Describing the effects of vagrancy legislation as akin to the conditions of slavery two months prior to the abolition of slavery and the commencement of the apprenticeship period was most certainly deliberate and strategic. In doing so, the Khoesan at Theopolis were identifying with the soon-to-be-free slave community and the very real prospect that their post-emancipation existence would be as oppressive as the pre-Ordinance 50 existence of Khoesan should the proposed vagrancy ordinance come into effect. The reference to the civil disorder exhibited by Khoesan who frequented canteens is equally noteworthy, but what is perhaps most striking about the Theopolis memorial,

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50 SOAS, CWM, South Africa, Incoming Correspondence, 14A/2/B, G Barker to Directors of the LMS, Theopolis, 6 October 1834.

51 SOAS, CWM, South Africa, Incoming Correspondence, 14A/2/B, G Barker to Directors of the LMS, Theopolis, 6 October 1834.

is the amended vagrancy act which the community proposed instead of the one that was then under review by the Legislative Council. They noted that they would “most cordially unite in approving an act” that would “subject every Hottentot found in a canteen to twelve months hard labour”. This, they argued, would solve what they referred to as the “evils of vagrancy” and it would do so “without plunging the whole of the coloured classes into a state of slavery”.<sup>52</sup>

As such, in spite of the community’s resistance to the proposed vagrancy legislation, their objections were framed in such a way that they appealed to imperial and missionary sensibilities of orderliness and appropriate social behaviour. This certainly indicates an awareness of their social vulnerability and their acquiescence to colonial norms in order to defend the civil liberties they had been awarded. Their resistance, therefore, must be seen as resting on a foundation of subordination, but with enough political leverage to challenge subordination of a more oppressive kind. Furthermore, just as drunken and disorderly behaviour were certainly acts of independence without fear of punishment after Ordinance 50 for certain individuals, so too appeals to respectability were articulated by other Khoesan in such a way as to represent claims to legitimate social independence.<sup>53</sup>

This was expected to be the reward for assimilation as loyal subjects. In addition, several of the Khoesan of the Eastern Cape missions, and especially those resident at Theopolis and in the Kat River Settlement, began to constitute a Khoesan elite at this time. Certainly those mission residents engaged in public meetings and the drafting of memorials and petitions in 1834 reflected this in their rhetoric. By virtue of being literate, these mission residents could lay claim to a marker of respectability that many others in the Colony, including large numbers of whites, could not. That the Theopolis memorial called on the government to allot more land for the creation of more “Hottentot” settlements, such as those that existed at the Kat River, further reflected the aspirations of a mission influenced elite, who saw their prospects for prolonged social independence bound up with access to land, but still under imperial oversight.<sup>54</sup>

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52 SOAS, CWM, South Africa, Incoming Correspondence, 14A/2/B, G Barker to Directors of the LMS, Theopolis, 6 October 1834.

53 CA, CO 2721/39, J Walken, Constable, Cradock, 20 February 1830.

54 For example, HCPR, No. 425, 1837, *Report from the Select Committee on Aborigines in British settlements*, p. 152.

These were the sentiments of a new civic identity. Membership was determined by family and kinship networks, and brought rewards such as a greater sense of social cohesiveness and status. However, the boundaries of membership were also shaped by the expectation of certain, respectable forms of behaviour, on the part of Khoesan themselves. Understandably, much of this was undertaken by missionaries. And yet, as demonstrated by the memorials of the vagrancy bill agitation, Khoesan members of mission communities also engaged in imposing boundaries of respectability upon other Khoesan. Respectability functioned on a symbolic level to indicate both moral excellence and subject status. Yet, it was not necessarily a straightforward emulation of respectability from above, that being respectability associated with the settler population. Rather, it was associated with the radical missionaries of the likes of James Read and John Philip, who were vocal in expressing their disdain for the colonists. Indeed, in attempting to establish the legitimacy of their own respectability, the Theopolis residents challenged the legitimacy of the respectability of the colonists. Moreover, the loyalist undertones of the protests imply that their opposition to the measure was not revolutionary, but rather stemmed from a sense of effrontery that such a law could be applied to equal subjects.

### **Khoesan loyalism as resistance**

The ability for Khoesan to traverse the Colony with more ease after Ordinance 50 came into effect was made apparent at the time of the vagrancy bill agitation of 1834. Indeed, the clamouring by the colonists for legislation to curb and control vagrancy was due to the large numbers of Khoesan living on government land, commonages and other public spaces in most of the towns and villages in both the western and eastern divisions of the Colony. Equally so, Khoesan increasingly began to hire themselves out when they preferred to or when it was necessary for them to do so in order to acquire wages or other items of remuneration, such as clothing or livestock.<sup>55</sup>

The public meetings held throughout the towns and missions of the Colony at the time of the proposed vagrancy ordinance in 1834 reveal how contentious the issue of vagrancy was and how seriously Khoesan regarded threats of criminalising it.<sup>56</sup> It was described in several mission memorials as

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<sup>55</sup> See for example CA, District of Graaff-Reinet (1/GR), 15/71, Contracts of service, 1828-1834.

<sup>56</sup> CA, Clerk of the Legislative Council (LCA), 6/61, Memorial, Pacaltsdorp, 8 September 1834; CA, LCA 6/57, Memorial, Graham's Town, 1834; & CA, LCA 6/46, Memorial, Caledon Missionary Station, 11 August 1834.

a direct assault on their civil liberties which had been gained in 1828. The residents at the Pacaltsdorp mission were forthright in their condemnation of the proposal when they drafted a memorial opposing the proposed bill in September 1834.<sup>57</sup> It was of particular importance for the drafters of the memorial to denounce the accusations made by many colonists that Ordinance 50 had resulted in an increase in crime throughout the Colony. The Pacaltsdorp petitioners insisted that crime in their district had actually been on the decrease since 1828 and that the real motive of those who were in favour of the ordinance was to place the Khoesan back under settler control.

The indignation felt by respectable Khoesan at the prospect of being labelled vagrants if not employed by the colonists was illustrated in the Pacaltsdorp memorial, which recounted the case of Jonas Botha. Botha was said to have owned “personal property”, which assumedly referred to livestock, “equal to that of many of the Boors [sic]”. He also paid taxes. Following the announcement that a proposed vagrancy ordinance was under review by the Legislative Council, several Field-Cornets had begun to impose restrictions on Khoesan movements, believing the legislation had already been sanctioned. As such, Botha had had to acquire written permission to leave Dyzels Kraal, the grazing place of Pacaltsdorp, in order to visit the mission.

Many Khoesan were well aware of the investigations being conducted by the Commissioners of Inquiry, William Colebrooke and John Thomas Bigge, during the 1820s and the implications their recommendations had for Khoesan legal and social status in the Colony.<sup>58</sup> With many of the Commissioners’ proposals having been brought into effect at the Cape, the metropolitan influence on local affairs was apparent to Khoesan and settlers alike.<sup>59</sup> John Philip was especially keen to submit information on the state of the Khoesan to the Commissioners, believing that the inquiry provided a valuable opportunity to pressure London to introduce reforms. This was not lost on Khoesan associated with the LMS, who clearly grasped the imperial influence that the Commissioners represented.

The high regard in which the efforts of Commissioners Colebrooke and Bigge to investigate the condition of the Khoesan were held was evident at a public

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57 CA, LCA, 6/61, Memorial, Pacaltsdorp, 8 September 1834.

58 CA, CO 3941/80, Memorial, Members of Bethelsdorp to Governor Cole, 1829.

59 See Z Laidlaw, “Investigating empire: Humanitarians, reform and the Commission of Eastern Inquiry”, *Journal of Imperial and Commonwealth History*, 40 (5), 2012, pp. 752-755.

meeting held at Philipton in the Kat River Settlement on 5 August 1834.<sup>60</sup> The meeting was convened in order to discuss the Legislative Council's proposed vagrancy ordinance. Andries Stoffels addressed the gathering, noting that it was the first time he had been "allowed to speak on behalf of his nation".<sup>61</sup> He followed this statement by declaring his thanks to God, "the King and his Council". Stoffels relayed to those present how "the Hottentots were first consulted about their grievances by His Majesty's Commissioners, and after their return to His Majesty, the 50<sup>th</sup> Ordinance came out; then did we first taste freedom". He went on to express his disdain for the English settlers, adding that it was them who were clamouring for a vagrancy ordinance and "not the Government".

Though Stoffels was grateful for the civil liberties that had been granted with imperial sanction and blessing, he was distressed by the failings of Cape equality. He argued that while the "first to the last Settler [was] provided for" as well as the "first to the last Boor [sic]", the "greatest number of the Hottentots [were] not provided with lands." He encouraged the meeting's scribes to "write hastily to the King" so that he would become aware of their situation. Stoffels' address was followed by one made by James Read Junior. Although Read Junior was half-European, he identified as a "Hottentot" and was able to speak Khoe. Intriguingly, like Read Junior, several of the speakers were not ethnic "Hottentots". For example, Esau Prinsloo introduced himself as "a Boor's [sic] child". His mother was a Khoe woman and though he was half-European, he considered himself to be a "Hottentot". In a striking indication of the extent to which he had personally absorbed the conversionist philosophy of evangelical-humanitarianism, Prinsloo conveyed to those present how others often told him that he had "Christian blood", but that he knew "only of one blood that God [had] made". At least one other speaker was also born of a Boer father and a Khoe mother. Another speaker, Mr. Bergman, identified himself as "a Bushman".

Meanwhile, Windvogel Smit recalled how his father would go about "with [a] bow and arrows" when he was young, suggesting that his father may have been San. It is not clear if his mother had been a slave, but he remembered her being tied to a window and branded by her master after which she fled to the "wilderness among the wild beasts". Smit was left with the master for whom

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<sup>60</sup> Both Colebrooke and Bigge were of the opinion that the Khoesan had "a claim to the protection of the Colonial Government". CA, CO 250/15, Report of commissioners, 1823.

<sup>61</sup> CA, Accessions (A), 50, Report of Philipton meeting, 5 August 1834.

he had to herd the sheep. He was pleased to see “one of [his] own nation sitting and writing” down the testimonies. Mr Magerman recounted a similar experience as a child. He had been “ingeboeked”, or indentured, for ten years to a farmer in the Camdeboo.<sup>62</sup>

As the testimonies and identities of these individuals demonstrate, “Hottentotness” was being shaped by civic notions of belonging. The varied ethnic backgrounds of those who spoke were being re-formulated into an overarching, civic identity. The frequent references to the “Hottentot” nation were made along with frequent mention of the benign rule of the British monarch.<sup>63</sup> Almost every speaker also praised Ordinance 50 for how it had transformed their lives, most notably, by granting them the right to freedom of movement. It was acknowledged time and time again that their present state stemmed from imperial intervention, for which they were grateful. The Legislative Council was, however, not to be trusted, given that some of its members supported settler interests. One of the more serious concerns over the possible re-introduction of vagrancy legislation related to the power it would extend to the local authorities. One Kat River resident, Antony Pieterward, wrote to the *South African Commercial Advertiser* warning its readers that the draft bill was dangerous, as it would give “the Field-cornet the power to apprehend on suspicion” and empower the Magistrate to pass sentence “without due proof”.<sup>64</sup> Pieterward appealed to the transcendent power of the King to ensure that the bill was not passed into law.

A second public meeting was held at Philipton on 12 August 1834. Several former soldiers from the Cape Regiment addressed the gathering. Some, such as Daniel Hans, were dissatisfied with what they had to show for years of service in the regiment. In his case, he had received an account of his good character upon his discharge and nothing else. Nonetheless, others expressed their loyalism with a sense of pride. Hans Tromp described himself as an old soldier, who had served his King and country faithfully. Cobus Jager declared that he had “served the King long and was never wanting in [his] duty”. Yet another speaker lamented the feelings of the British settlers towards them, stating that while they were “all subjects of one King” so there ought to be “one sympathy”. The years immediately after Ordinance 50 appear to have

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62 See also *South African Commercial Advertiser*, 3 September 1834 for the testimonies made at the public meeting on 5 August 1834.

63 This point had been expressed in previous memorials sent to Governor Cole following the passage of Ordinance 50. For example, CA, CO 3941/79, Memorial, Members of Bethelsdorp to Governor Cole, 1829.

64 *South African Commercial Advertiser*, 16 August 1834.



emboldened mission Khoesan in particular and a political consciousness of loyalism began to take root during this time to a far greater extent than ever before.

The vagrancy ordinance was eventually passed by the Legislative Council of the Cape Colony on 8 September 1834. However, it was subsequently prevented from passing into law by Lord Aberdeen at the Colonial Office.<sup>65</sup> In keeping with the advice given to the Council by the judges of the Supreme Court before they voted, the acceptance of the resolution into law would have required the repeal of the second clause of Ordinance 50, which was a step too far for the Home Government.<sup>66</sup>

## **Conclusion**

The actual nature and extent of Khoesan assimilation into loyal subjects of the British Crown following the passage of Ordinance 50 of 1828 became more evident during the vagrancy bill agitation of 1834. The speeches made by a variety of speakers at the protest meetings indicate that Khoesan civic identity was deeply influenced by loyalist sentiments. This was especially so among mission Khoesan associated with the LMS. That Christianity functioned as a powerful marker of respectability and a symbolic challenge to the social hierarchy of the Cape is well established in the related historiography.<sup>67</sup> Loyalism has been subsumed under the banners of Christianity and respectability, and neglected in the process. However, prominent representatives of the evangelical-humanitarian clique at the Cape saw themselves as being involved in a bid to create Christian subjects of the British realm.<sup>68</sup> And while some Khoesan became Christians, all Khoesan were legally subjects. Those Khoesan who were exposed to mission Christianity appear to have imbibed ideas of subject-citizenship and deployed it as a tool of resistance against settler-colonialism to a greater degree than those Khoesan who were not affiliated with LMS missions. Even so, mission networks were extensive and only a few Khoesan would never have come into contact with mission Khoesan, or missionaries for that matter. Notions of loyalism and

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65 E Elbourne, *Blood ground: Colonialism, missions and the contest for Christianity in the Cape colony and Britain, 1799-1853* (Montreal & Kingston, McGill-Queen's University Press, 2002), p. 278.

66 HCPP, No 425, 1837, *Report from the Select Committee on Aborigines in British settlements*, p. 174.

67 E Elbourne, *Blood ground...*, pp. 378-380; R Elphick, *The equality of believers...*, pp. 26-29.

68 J Philips, *Researches in South Africa: Illustrating the civil, moral and religious condition of the native tribes*, 1 (London, James Duncan, 1828), pp. 381-384 & 2, pp. 226-227, 360-361.

subject-citizenship travelled along these networks.

There was no universal group response to British imperialism and settler colonialism by the Khoesan. The path to assimilated, subject-citizenship was determined by the individual's degree of exposure to ideas of imperial civic belonging. Evangelical-humanitarianism functioned as an important conduit of loyalism. Even as Khoesan ethnic identities were systematically eroded throughout the course of the eighteenth and early nineteenth centuries, so they were re-made in a more cohesive, civic form at certain key moments, such as during the 1834 vagrancy agitation. Khoesan identity was being remoulded through assimilation into a respectable and largely missionary inspired ideal of loyal subjects. While this ideal certainly existed in the imaginations of missionaries such as John Philip, it is apparent that it existed in the imaginations of Khoesan as well.