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Abstract

Social Control and Incarceration in Lesotho: A History of Strategies, 1850-1970

Samuel John Severson

2021

This dissertation explores how technologies and infrastructures for promoting control and cohesion have interfaced with the social and political history of Lesotho over the *longue durée*. This approach allows for tracing lines of historical continuity and change during a period spanning the coalescing of the nation from communities on the Southern African Highveld in the early-19th century, the onset and grinding realities of British colonial rule and the rise of a local economy dependent on labor migration to South Africa, and the unravelling of empire and the challenges of governance in the years following official national liberation in 1966. I detail how social control strategies over the 19th and 20th centuries interfaced with local and imperial political exigencies, shifts in international penological, biomedical, and scientific racist discourse, and, above all, the responses and forms of knowledge produced by Basotho confronted with coercive technologies and infrastructures. I argue that whereas Highveld technologies disciplined conformity inside of societies, the colonial state introduced prisons and other new punitive technologies as engines for producing social and moral alterity within the politically bounded community. The colonial administration sought to use carceral detention to subjectify and problematize groups of people as embodied threats, on account of their supposedly essential criminality, lunacy, and, for a time, leprosy infectiousness. The motivations for these moves were both ideological and instrumental: in addition to officers wanting to confront conduct which they viewed as problematic in its own right, the creation of the need to control internal

problem people(s) served as a basis for shared work with local partners. While shifting punitive regimes did indeed coercively impose a measure of control and open new social fissures, this process never played out precisely as envisioned. In the late colonial era, mounting local and metropolitan pressure led the administration to reverse course: rather than using judicial punishments to simply try to deter crime and stigmatize particular social groups, prison administrators and staff were charged with rehabilitating supposedly maladjusted people for reintegration back into the national community. The Prison Service stuck to this official mission, moreover, even as social tensions and political conflict escalated in the years following independence.

Social Control and Incarceration in Lesotho: A History of Strategies,
1850-1970

A Dissertation
Presented to the Faculty of the Graduate School
Of
Yale University
In Candidacy for the Degree of
Doctor of Philosophy

By
Samuel John Severson

Dissertation Director: Robert W. Harms

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Abbreviations and Glossary

Abbreviations

ANC – African National Congress

BAC – Basutoland African Congress

BAR – Basutoland Annual Report, compiled by the colonial administration

BCP – Basotho [originally Basutoland] Congress Party

BELRA – British Empire Leprosy Relief Association

BMDAR – Basutoland Medical Dept. Annual Report

BMP – Basutoland Mounted Police

BNC – Basutoland National Council

BNP – Basotho [originally Basutoland] National Party

BPA – Basutoland Progressive Association

BPP – British Parliamentary Papers

BR – Basutoland Records, a six-volume set of primary sources published by GM Theal in 1883

CO – Colonial Office

CRO – Commonwealth Relations Office

DO – Dominions Office

FCO – Foreign and Commonwealth Office

HC – High Commissioner for Southern Africa

HCTs – High Commission Territories of colonial Lesotho, Botswana, and Swaziland

JC – Judicial Commissioner

JME – *Journal des Missions Évangéliques*

JTC – Juvenile Training Centre

LLB – *Lekhotla la Bafu* (often translated as Council of Commoners)

LON – League of Nations

LPS – Lesotho Prison Service

MDC – Medical Detention Centre (Mohale’s Hoek)

MO – Medical Officer

MP – Member of Parliament

NUL – National University of Lesotho

ORC – Orange River Colony

PEMS – Paris Evangelical Mission Society

PMU – Police Mobile Unit

RC – Resident Commissioner

RIC – Royal Irish Constabulary

UN – United Nations

WHO – World Health Organization

Abbreviations for Archival Collections

BL – British Library

BNA – British National Archives

FSA – Free State Provincial Archives

FSD – Free State Provincial Archives Depot

LC – Leribe Collection (in Thomas Mofolo Library)

LNA – Lesotho National Archives

LSM – London School of Hygiene and Tropical Medicine

MMA – Morija Museum and Archives

MRA – Matsieng Royal Archives

NLCT – South African National Library, Cape Town

NLP – South African National Library, Pretoria

OBL – Oxford University’s Bodleian Library

SANA – South African National Archives

SCA - Senkatana Clinic archives

TML - Thomas Mofolo Library (at National University of Lesotho)

UCT - University of Cape Town library

UWL - University of the Witwatersrand library

WCA - Western Cape Provincial Library

WCL - Wellcome Library

Glossary of key Sesotho terms

Bafo – commoners

Bohali – bride price

Balepera – people suffering from leprosy

Boramotse (sing. ramotse) – traditional village administrator or ‘headmen’

Mephato – initiation lodges

Lekhotla – traditional court

Lebollo – initiation

Letsema – labor tribute convened by a Mosotho lord

Lifaqane – a period of acute conflict and hunger on the Southern African Highveld, c. 1816-26

Liretlo – medicine murders

Lithoko (sing. *thoko*) – praise poems

Marena (sing. *morena*) – Basotho nobles, lords, or ‘chiefs’

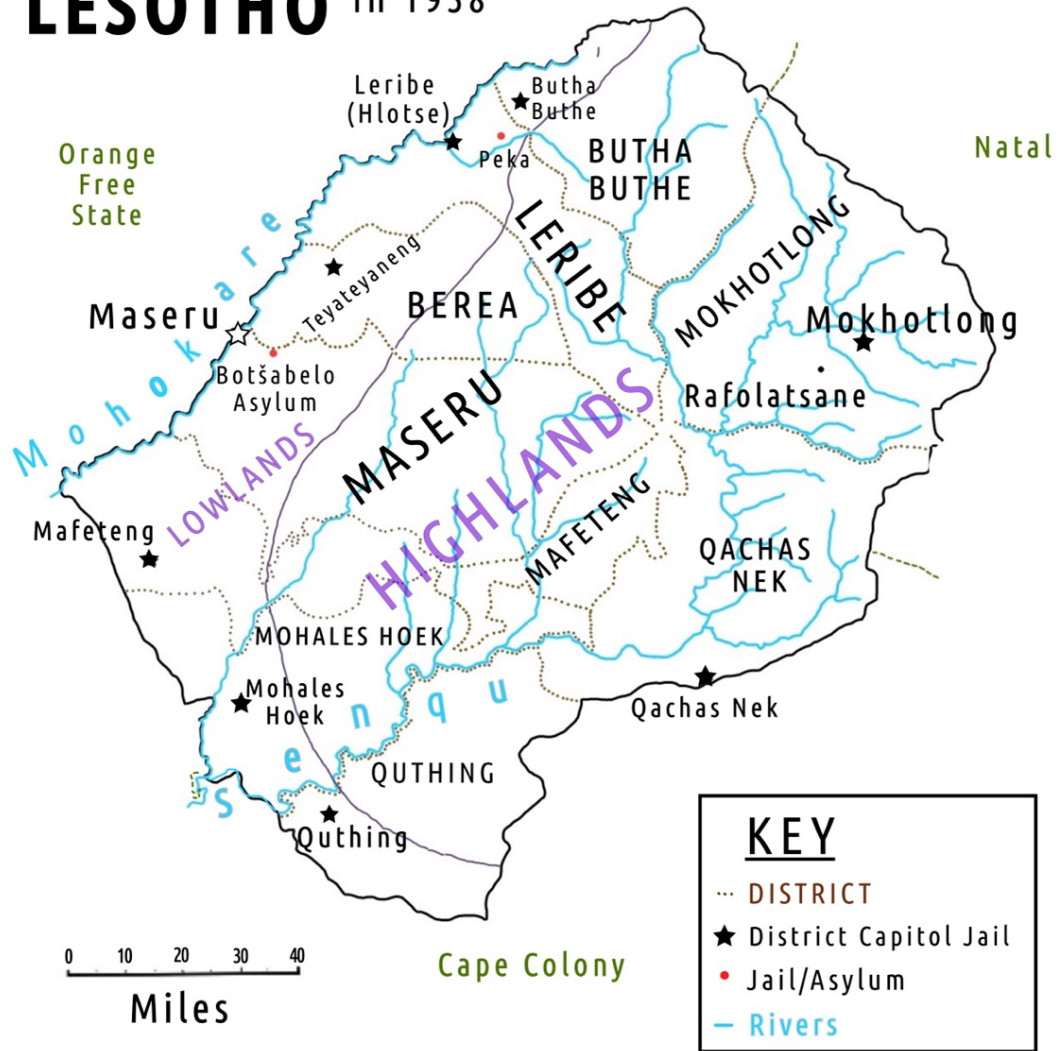
Morena e moholo – Paramount Lord or ‘Paramount Chief’

Mohokare – Caledon River

Pitso – public forum convened by a lord or government

Qomatsi – ‘State of Emergency,’ imposed following the Nationalist coup in 1970

LESOTHO in 1938



Framing punishment in Lesotho and beyond: history and historiography

Introduction

After Thomas Thabane's party coalition won victory in snap elections in June 2017, enabling him to be sworn in again as Lesotho's Prime Minister after nearly three years in opposition, the first order of business was the government budget. After observing debate over a number of items, Thabane took the floor of parliament when the question of funds for the nation's correctional services came up. He spoke for over fifteen minutes:

Courts were established so that they can provide a punitive response. However today it is no longer called punishment but recently has been termed *corrections*. How do you correct someone who stabbed a woman with a knife, what is that?... There is no one who loves a man who is busy raping women, there is no one who loves a boy who is busy raping grandmothers, these things happen each and every day in our communities, however we are still busy talking about *correction*. That boy should be taken to prison and be sentenced to lashes, and beaten on the buttocks... A person who kills must be killed as well. But [the Americans] are saying, you Lesotho, because you do not have the capacity to be self-sufficient, if you want us to give you financial support, you must not kill these kinds of people?... We will not simply abandon our values because of foreigners... The cases in which a person decides to ambush a single woman knowing very well that she has nobody to protect her, and then forcefully sleeps with her without her will. That kind of a person should get...this thing that is bothering him cut off... The preventable misbehavior should be punished harshly so that whenever a person thinks about doing such things they will quickly reconsider. The fact is that a prison is called a Correctional Service, what is it that it corrects, that thing is a prison, a prisoner is a prisoner, this individual has lost their humanity ... People must be terrified of prison so that they abandon their evil ways which normally result in them going to prison because if prison is a nice place to be we will forever do these things. What about victims?... This legislation that is brought here by the whites from the West they never talk about the victims, they talk about the perpetrator who did bad things to others. They do not talk about the victim, go and listen to it, that thing, when it is debated there at the UN there is no one that talks about the victim. This woman who has been raped, this family whose mother has been killed, this family whose father has been killed and the kids left as orphans, nothing is said about them, the only thing discussed are the rights of the person who made the children lose their father... The whole focus today is on this person who perpetrated these evil deeds... My conclusion is that I maintain that the minister should be given funds but we should also revisit this issue of correctional service versus jail, what do we say about it. [Applause].¹

¹ Hansards, 'Tenth Parliament, National Assembly: Meeting 1, Session 1,' 24 July 2017, 18-24 [Sesotho]. The PM's words, it must be noted, might have been shaped by the assassination of his estranged wife, some six weeks earlier. Thabane's current wife (Maesiah Thabane) was charged in February 2020 with hiring the gunmen, and Thabane resigned as PM in May 2020 and has since

I first heard a snippet of the speech on the radio while commuting on a public taxi, and was surprised by the boisterous laughter and applause the words elicited from fellow passengers. As I discussed Thabane's rhetoric with other Basotho over subsequent days, interlocutors noted how support for the PM's argument was rooted in growing popular frustrations with high levels of violent crime and the sense that a loved one might be assaulted or even killed at any time. Like other populist politicians, Thabane's rhetoric was couched in us-versus-them terms, identifying one enemy of the people from within and another outside the nation: wicked people inside the nation were being given a free hand, abetted by foreign donors whose demands were not only naively bleeding-heart but also deeply neo-colonial. The speech also staked out a very clear position on two debates which have framed discussion of punishment in the territory for at least the last century and a half, relating to the merits of social control versus socialized conformity, and between Sesotho tradition and Western progressive universalism.

In arguing for a harsh push to establish firm control over people convicted of criminal activity, the PM invoked assumptions woven into the historical foundations of sociological theory, dating back to the discipline's founding in the writings of Max Weber and Emile Durkheim.² Weber argued that creation and maintenance of the state hinged on

maneuvered to avoid murder charges himself: Kabi, P. 2020. 'Why Thabane Has Not Been Arrested over Lipolelo Murder.' *Lesotho Times*, Sep. 8. <https://lestimes.com/why-thabane-has-not-been-arrested-over-lipolelo-murder/>.

* Lesotho was known as Basutoland during the colonial era, spanning from 1868 through 1966. I use Lesotho throughout, both to simplify matters and to honor the fact that the local name predates the British arrival. The people comprising the nation (or tribe, in European eyes) of Lesotho came to refer to themselves collectively as Basotho (sing. Mosotho) over time, and to shared language and cultural practices as Sesotho.

² Durkheim, E. 1984 [1893]. *The Division of Labour in Society*. Halls, W., trans. London: Macmillan, especially 44-64. Weber, M. 1946. 'Politics as Vocation,' and 'The Chinese Literati' in *From Max Weber: Essays in Sociology*, Gerth, H. and C.W. Mills, eds. and trans., New York:

the capacity to effectively suppress claims to the right to use of force by other entities within geographic borders: the state creates its own legitimacy by deeming particular forms of conduct out of bounds and defending the exclusive right to use coercion to respond to breeches of its rules. For Durkheim, punishment of criminals served as social and moral glue: collective identity and shared notions of appropriate conduct were reified through the act of punishing people who transgressed laws and norms. By letting criminals ostensibly run rampant, in the PM's narrative, the state was surrendering its very legitimacy and fueling the moral dissolution of society. The operational principles of the corrections department, which Thabane denounced, officially align with the prevailing international penological consensus: the most individually-rehabilitative, and socially productive, forms of incarceration look to ensure inmate welfare, including by providing good-conditions, job-training, and counseling. A key ideological assumption underpinning this welfarist approach is that crime is not exclusively borne of individual moral weakness but also a collective failure to provide the offender with the adequate educational resources, economic opportunities, and moral guidance to encourage conformity with laws prior to commission of the crime.

Punishment and imprisonment come with a lot of historical baggage in Lesotho. As throughout much of the African continent, prisons arrived in the territory with the advent

Oxford University, 196–244 and 416-44, respectively. The two theorists fundamentally diverge on whether punishment is rooted, per Durkheim, in emotion, or, as in Weber, a process of *rationalization* of ends as means: for a masterful summary of these theories on punishment and their compatibility: Garland, D. 1990. *Punishment and Modern Society: A Study in Social Theory*. Chicago: University of Chicago, 23-82, 177-92. Also: Terpstra, J. 2011. 'Two Theories on the Police: The Relevance of Max Weber and Emile Durkheim to the Study of the Police.' *International Journal of Law, Crime and Justice* 39/1: 1–11. For a moral philosophical examination of state coercion: Benjamin, W. 1986. 'Critique of Violence,' in *Reflections: Essays, Aphorisms, Autobiographical Writing*, Jephcott, E., trans. New York: Schocken.

of colonial rule. The first lock-up was built in 1869, by members of an expeditionary force from the Cape Colony. After a brief period in which colonial magistrates sought to use the criminal legal system to attack the authority of African lords and laws, engendering vicious strife, the administration based in Maseru reversed course. As in many other colonies governed by the logics of indirect rule, the administration maintained an official monopoly over judicial incarceration, flogging, and execution, while also outsourcing the majority of violence work – policing and punishing in the name of the state – to local partners, in this case the ruling family and aristocracy. Maseru and London envisioned that the continued use of customary punitive logics and technologies would promote political and social stability. Traditions, as interpreted and fetishized by colonial officers, were leveraged by the administration to beat back calls from Basotho for political reform from the 1880s through the late-1930s. After WWII development replaced the defense of tradition as the official rationalization for colonialism. Maseru stated its intention to build a criminal legal system in Lesotho in line with the metropolitan system, which was not only heavily reliant on penal imprisonment as punishment but also sought to leverage incarceration to reform criminals into productive members of society. This pivot in orientation was much slower in practice, and proceeded on account of the consistent pressure brought to bear by prisoners and warders locally, as well as by domestic, South African, and English activists. In light of these developments, Thabane’s idea that punishments of clear exogenous origin, like prisons, could and should be effectively Sesothoized through an infusion of a harsher retributive ethos, is a highly novel, and historically controversial, notion indeed.

This dissertation explores how technologies and infrastructures for promoting control and cohesion have interfaced with the social and political history of Lesotho over

the *longue durée*. This approach allows for tracing lines of historical continuity and change during a period spanning the coalescing of the nation from Highveld communities in the early-19th century, the onset and grinding realities of colonial rule and the rise of a local economy dependent on labor migration to South Africa, and the unravelling of empire and the challenges of governance in the years following official national liberation in 1966. I detail how colonial carceral strategies interfaced with local and imperial political exigencies, shifts in international penological, biomedical, and scientific racist discourse, and, above all, by the responses and forms of knowledge produced by Basotho confronted with state efforts at social engineering.

The advent of colonial rule obviously brought a significant shift in the ways in which political authorities sought to use punitive instruments. I argue that whereas Highveld technologies disciplined conformity inside of societies (or necessitated dissolution of political bonds), prisons and other colonial punitive technologies were deployed as engines for producing social and moral alterity within the political community. The colonial state sought to use carceral detention to subjectify and problematize groups of people as embodied threats, on account of their supposedly essential criminality, lunacy, and, for a time, infectiousness. The motivations for these moves were both ideological and instrumental: in addition to officers wanting to confront conduct which they viewed as problematic in its own right, the creation of the need to control internal problem people(s) served as a basis for shared work with local partners. Maseru had to contend, however, with the slow stigmatization of certain forms of conduct which it deemed criminal, and officials consistently expressed frustration with the lack of bureaucratic integration in the work of policing and punishment by customary and colonial authorities. An effort to build

a different sort of stigma and policing relationship, in fact, led the administration to launch a multi-decade effort to compulsorily detain Basotho suffering from leprosy.

The late-colonial era, meanwhile, witnessed a partial reversal in the instrumental goals of penal confinement: following World War II, metropolitan officials and local activists forced Maseru to reorient the territory's carceral system around the official goal of healing and rehabilitating inmates to be productive members of an inchoate democracy, using ostensibly universal best practices, rather than continuing to produce social and moral hierarchies in a putatively traditional and tribal kingdom. While these shifts did profoundly improve the conditions of detention and work in the territory's prisons over the late-1950s and 60s, Basotho politicians representing interest groups forged by missionization, colonialism, the growth of racialized industrial capitalism in South Africa, and the struggle for national liberation, sought to weaponize the state's penal machinery to punish political rivals after independence in 1966. In the wake of a 1970 coup by the Basotho National Party, prison guards and administrators, the majority of whom were sympathetic to opposition parties, were able to temper the use of carceral facilities as instruments of state repression by invoking their technical authority and the discursive strength of the rehabilitative ideal. While this stance continues in the present, Thabane's remarks before parliament also serve as a powerful illustration of how internal debates and political contests over the use of prisons as instruments for generating social control versus cohesion, honoring approaches imagined to be traditional versus universal, and producing conformity versus difference, remain very much live questions in the political and social life of Lesotho.

Literature Review

An English-language metanarrative of just state punishments first took shape in hagiographies to the Great Men like John Howard (and, in a few cases, Great Women, such as Elizabeth Fry) who advocated for incarceration as a humane and socially productive alternative to corporal and capital sanctions.³ With time, debates over the ostensible successes and failures of various carceral approaches gave rise to more rigorous, if similarly teleological, historical investigations and theorizing by policymakers and social critics on the march towards progress.⁴ In the 1930s, the Frankfurt School Marxists Georg Rusche and Otto Kirchheimer offered a particularly novel critique of penal reform, arguing that such ideologies, and punitive regimes since time immemorial, were overdetermined by labor dynamics and economic modes of production. The rise of social history fueled a wave of new scholarship on incarceration in the 1970s: rather than enlightened individuals catalyzing penal reform over the late-18th and 19th centuries, the emergence of penal reformism was one manifestation of a broader post-Enlightenment shift in discourses of class and gender, fueled by the growth of capitalist political economies.⁵

³ See, for example: Field, J. 1850. *The Life of John Howard with Comments on His Character and Philanthropic Labours*. London: Longman; Gordelier, C. 1862. *A Lecture on the Public Life and Character of Elizabeth Fry*. London: Ward; Richards, L. 1920. *Elizabeth Fry, the Angel of the Prisons*. New York: D. Appleton.

⁴ Webb, B. and S. Webb, 1922. *English Prisons under Local Government*. London: Longmans; Wines, F. 1895. *Punishment and Reformation an Historical Sketch of the Rise of the Penitentiary System*. London: Swan Sonnenschein; Ruggles-Brise, E. 1921. *The English Prison System*. London: Macmillan; idem 1924. *Prison Reform at Home and Abroad: A Short History of the International Movement since the London Congress, 1872*. London: Macmillan; Lewis, O. 1922. *The Development of American Prisons and Prison Customs, 1776-1845*. Albany: J.B. Lyon; Teeters, N. 1955. *The Cradle of the Penitentiary: The Walnut Street Jail at Philadelphia, 1773-1835*. Philadelphia: Temple University; Whiting, J. 1975. *Prison Reform in Gloucestershire, 1776-1820: A Study of the Work of Sir George Onesiphorus Paul*. London: Phillimore.

⁵ Rothman, D. 1971. *The Discovery of the Asylum; Social Order and Disorder in the New Republic*. Boston: Little, Brown; Ignatieff, M. 1978. *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850*. New York: Pantheon; Melossi, D. and M. Pavarini. 1981. *The Prison and the Factory: Origins of the Penitentiary System*. Cousin, G., trans. London: Macmillan;

The publication of Michel Foucault's 1975 *Surveiller et punir* (translated into English in 1977 as *Discipline and Punish*) transformed the study of prisons. The French theorist posited that an epochal shift from corporal punishment towards incarceration was coeval with the industrial age: the need for disciplined workers and states' desires to better surveil and control subject populations led to the construction of an array of disciplinary technologies. Institutional archipelagos – including schools, hospitals, mental institutions, and prisons – were established to apply varying degrees of coercion to inculcate discipline in their charges, and to differentiate and stigmatize deviance from norms. In this way the state created 'capillary power,' diffused into the very psyches of subjects, as a replacement to the infrequent displays of punitive corporal violence in the name of the sovereign. In so doing, Foucault incorporated central elements of Weberian, Durkheimian, and Marxian social theory: punishment was indeed about control, specifically in the interests of economic and political elites over subaltern people, but it also served to mold epistemology and moral principles. Such a narrative, moreover, offered a potent counterpoint to old narratives recounting the march of humanity towards ever higher plains of civilization: as Clifford Geertz wryly observed, *Discipline and Punish* reads like a 'Whig history in reverse—a history, in spite of itself, of The Rise of Unfreedom.'⁶

While historians quickly took issue with the periodization and motivations of officials offered up by Foucault, the focus on the epistemic foundations which produced

O'Brien, P. 1982. *The Promise of Punishment: Prisons in Nineteenth-Century France*. Princeton: Princeton University; Rafter, N. 1985. *Partial Justice: Women in State Prisons, 1800-1935*. Boston: Northeastern University. With few exceptions (such as Hindus, M. 1980. *Prison and Plantation: Crime, Justice, and Authority in Massachusetts and South Carolina, 1767-1878*), discussion of the centrality of race in penal regimes in the U.S. did not receive due attention until the early 1990s.

⁶ Geertz, C. 1978. 'Stir Crazy.' *The New York Review of Books*, Jan. 26. <https://www.nybooks.com/articles/1978/01/26/stir-crazy/>.

ideas about crime revolutionized the study of states and punishment, including in the global south.⁷ Scholars focused new attention to interrogating the various impacts of shifting punitive interventions on societies.⁸ The conspicuous political weaknesses, popular illegitimacy, and lack of technological and financial resources of colonial administrations compared to metropolitan counterparts deeply complicated the travelability of the notion of capillary power to colonial space. One particularly valuable concept gleaned from Foucault, however, which runs throughout the French theorist's scholarship, is governmentality: states took shape by producing and reifying knowledge about the populations they sought to control, including through measures like censuses and penological classification.⁹ Matthew Arnold, Clare Anderson, and Stephen Pierce demonstrated that colonial punishments and penal colonies were vital sites for the production of knowledge that circulated and cross-pollinated future projects in both metropolitan and colonial spaces.¹⁰ Other writers detailed the production of moral knowledge and processes of subject formation in additional sites, including the hospital,

⁷ On Foucault's ahistoricism: O'Brien, P. 1978. 'Crime and Punishment as Historical Problem.' *Journal of Social History* 11/4: 508–20; Garland, D. 1985. *Punishment and Welfare: A History of Penal Strategies*. Brookfield: Gower; Alford, F. 2000. 'What Would It Matter If Everything Foucault Said about Prison Were Wrong? Discipline and Punish after Twenty Years.' *Theory and Society* 29/1: 125–46.

⁸ For an early article on colonial prisons as effective instruments of domination: Williams, D. 1980. 'The Role of Prisons in Tanzania: An Historical Perspective.' *Crime and Social Justice* 13: 27–38.

⁹ Scott, D. 1995. "Colonial Governmentality." *Social Text* 43: 191–220; Cohn, B. 1996. *Colonialism and Its Forms of Knowledge: The British in India*. Princeton: Princeton University.

¹⁰ Arnold, D. 1994. 'The Colonial Prison: Power, Knowledge, and Penology in Nineteenth Century India,' in *Subaltern Studies VIII: Essays in Honour of Ranajit Guha*, Arnold, D. and D. Hardiman, eds., 148–84. Oxford: Oxford University; Anderson, C. 2016. 'Convicts, Carcerality and Cape Colony Connections in the 19th Century.' *Journal of Southern African Studies* 42/3: 429–42, and 2018. 'The Andaman Islands Penal Colony: Race, Class, Criminality, and the British Empire.' *International Review of Social History* 63/26: 25–43; Pierce, S. 2001. 'Punishment and the Political Body: Flogging and Colonialism in Northern Nigeria.' *Interventions* 3/ 2: 206–21.

bedroom, and mission compound.¹¹ In these spaces, as in prisons, colonial knowledge about Africans focused on the production of racial and tribal difference.

At the same time, the bevy of new scholarship revolutionized colonial studies by drawing into focus the areas of profound weakness and ambivalence of European authorities, as well as spaces of considerable power by Africans to shape their own lives. This realization challenged the old conceit – shared by imperial and radical historians alike – that colonial states were capable and bent on unilaterally projecting power. Indeed, in Frederick Cooper’s memorable phrasing, ‘If Foucault saw power as “capillary,” it was arguably arterial in most colonial contexts—strong near the nodal points of colonial authority, less able to impose its discursive grid elsewhere, often little interested in obtaining or dispensing much knowledge about its subjects.’¹²

Florence Bernault provided an early and influential comparative analysis of African prisons as the beating hearts of the colonial disciplinary machinery made in the wake of the paradigm shift in colonial studies.¹³ Despite a cursory nod to the notion that the diversity of African socio-cultural approaches to producing cohesion and control prior to the advent of colonialism, as well as variations in the precise political economic aims of empires and officials, meant the processual hybridization or ‘vernacularization’ of punitive

¹¹ Vaughan, M. 1991. *Curing Their Ills: Colonial Power and African Illness*. Cambridge: Polity; Stoler, A. 1995. *Race and the Education of Desire: Foucault’s History of Sexuality and the Colonial Order of Things*. Durham: Duke University; Comaroff, J. and J. Comaroff. 1991 and 1997. *Of Revelation and Revolution*, 2 vols. Chicago: University of Chicago.

¹² Cooper, F. 2005. *Colonialism in Question: Theory, Knowledge, History*. Berkeley: University of California, 48-9.

¹³ Bernault, F. 2003. ‘The Politics of Enclosure in Colonial and Post-Colonial Africa,’ in *A History of Prison and Confinement in Africa*, Bernault, F., ed., 1-54. Portsmouth: Heinemann. Also: Bernault, F. 2007. ‘The Shadow of Rule: Colonial Power and Modern Punishment in Africa,’ in *Cultures of Confinement: A History of the Prison in Africa, Asia and Latin America*, Dikötter, F. and I. Brown, eds., 55–94. London: Hurst and Company.

regimes in different African territories over time, Bernault also identifies a number of patterns ostensibly demonstrating the ways ‘that the colonial prison did not supplant, but rather encouraged penal *archaism*.’¹⁴ She argues that prison systems ‘grafted’ on to African societies during the colonial era were wholly different in form and function from parallel models in Europe: the former facilities differed from that latter in being shaped by indifference to rehabilitation and were, instead, sites for the application rather than the phasing out of sovereign violence. From the late-19th century onwards, the primary hierarchy these institutions were designed to reify was racial, evinced by the fact that an element of penal design which was uniform across the continent – despite other architectural variations – was segregated space for the detention of Africans and Europeans. In addition to facilitating state repression of political opponents, colonial regimes widely relied on penal systems as instruments for engineering extractive economies: judicial incarceration served both as a source of cheap convict labor for public and private sectors, and generated ‘free labor’ by coercing Africans to sell their labor to get the cash necessary to pay taxes (and thereby avoid imprisonment for tax default). Bernault rounds out her arguments with the idea that the general illegitimacy of colonial regimes, and the specific illegitimacy of their penal practices, poisoned the politico-cultural well for African societies after the end of formal colonialism:

Colonial jails ... submerged African prisoners in corporal punishment, the personalization of sentences and authority, and the confusion between political and economic imperatives. Colonial legacy, moreover, has encouraged radical forms of political detention, later practiced extravagantly by post-colonial regimes. African prisons today reflect the exasperation of colonial modes of governance and social control.¹⁵

¹⁴ Bernault 2003, 16

¹⁵ Ibid, 33.

While each of Bernault's observations provides food for thought, scholars focused on African history have roundly critiqued the work.¹⁶ Two limitations are most pronounced. First, the chapter traffics in the fallacy Frederick Cooper terms 'leapfrogging legacies.'¹⁷ Bernault connects very real instances of brutality in the prisons of independent African nations to the cynicism and brutality saturating the use of these prisons under colonial regimes working to coerce taxation and inscribe racial difference in the years before WWII, but accomplishes this feat by saying very little about a period in the 1950s and 60s in which penal development was an animating cause for many people in both colony and metropole alike. Indeed, during this intervening era, African activists and politicians in locales around the continent displayed a keen interest in building up the trappings of putatively modern states, including penal institutions oriented around social welfarism. To be sure, decades of colonial underdevelopment of penal infrastructure and training of prison workers constrained the possibilities for post-independence states to mirror penological approaches in the Global North, but it is far less clear that these dynamics overdetermined the shape of things to come. This leap-frogging also facilitates a second move of dubious historical and analytic rigor: framing African penal systems as particular founts of backwardness, thereby channeling the afropessimism animating much human rights literature and Western journalism.¹⁸ These treatments overwhelmingly tend

¹⁶ McCracken, J. 2005. 'A review of *A History of Prison and Confinement in Africa*.' *African Affairs* 104/415: 347–49; Anderson, D. 2005. 'Varieties of Incarceration, a review of *A History of Prison and Confinement in Africa*.' *Journal of African History* 46/1: 158–60; Bruce-Lockhart, K. 2017. 'Imagining Modernity in the Uganda Prisons Service, 1945-1979.' PhD Diss, University of Cambridge, 29-31.

¹⁷ Cooper 2005, 17-8.

¹⁸ Wines, M. 2005. 'The Forgotten of Africa, Wasting Away in Jails Without Trial.' *The New York Times*, Nov. 6; The Economist, 2004. 'Where Life Means Death.' *The Economist*, Mar. 25, <http://www.economist.com/middle-east-and-africa/2004/03/25/where-life-means-death>; *Lesotho* (Season 4, Episode 3). *Inside the World's Toughest Prisons*. Netflix, 2020.

to focus on the worst abuses, and pay little heed to stories of African prison administrators, guards, lawyers, and sometimes even politicians, toiling to defend and improve prison conditions with an eye towards building kinder and more law-abiding societies. The move to situate deteriorating prison conditions in much of the continent over the last two decades in a register of resurgent atavism or underdevelopment, moreover, elides consideration of the way that the broadly observable turn away from a commitment to penal welfarism and towards a control-oriented paradigm in Africa is but a small piece of a global phenomenon accompanying the rise of neo-liberalism from the late-1970s onwards.¹⁹

The last two decades have also witnessed the production of many illuminating historical studies of colonial incarceration, and punitive regimes more broadly, firmly rooted in time and place. Stacey Hynd has diligently mapped the tensions marking imperial legal and rhetorical pretensions, as well as the brutal forms of penalty – including not just imprisonment but also flogging and execution – meted out by European and/or African authorities during the colonial era.²⁰ The literature further maps how imperial spaces served

<https://www.netflix.com/title/80116922>; Sarkin, J. 2008. ‘An Overview of Human Rights in Prisons Worldwide,’ 1-39, and Pete, S. 2008. ‘A Brief History of Human Rights in the Prisons of Africa,’ 40-81, in *Human Rights in African Prisons*, Sarkin, J., ed. Athens: Ohio University.

¹⁹ Garland, D. 2001. *The Culture of Control: Crime and Social Order in Contemporary Society*. New York: Oxford University.

²⁰ Hynd, S. 2011. ‘Law, Violence and Penal Reform: State Responses to Crime and Disorder in Colonial Malawi, c.1900–1959.’ *Journal of Southern African Studies* 37/ 3: 431–47; idem 2012. ‘Murder and Mercy: Capital Punishment in Colonial Kenya, ca. 1909—1956.’ *International Journal of African Historical Studies* 45/1: 81–101; idem 2015. “‘Insufficiently Cruel’ or ‘Simply Inefficient’?: Discipline, Punishment and Reform in the Gold Coast Prison System,’ in *Transnational Penal Cultures: New Perspectives on Discipline, Punishment and Resistance*, Miller, V. and J. Campbell, eds., 19–35. New York: Routledge. On judicial corporal punishment, see also: Pierce 2001; Anderson, D. 2011. ‘Punishment, Race and “The Raw Native”’: Settler Society and Kenya’s Flogging Scandals, 1895–1930.’ *Journal of Southern African Studies* 37/3: 479–97.; Killingray, D. 1994. ‘The “Rod of Empire”’: The Debate over Corporal Punishment in the British African Colonial Forces, 1888-1946.’ *Journal of African History* 35/2: 201–16; McClendon, T. 2018. ‘Whipping Boys: South Africa’s Limited Reform of Judicial Corporal Punishment in the 1960s and 1970s.’ *African Studies* 77/ 3: 354–77. Peté, S. and A. Devenish. 2005. ‘Flogging, Fear

as experimental landscapes for new approaches to incarceration and prisoner of war detention, which were subsequently used in facilities and conflicts elsewhere in the world; these studies have also illustrated the ways that brutal displays of sovereign power largely coincided with moments in which colonial regimes felt their own weaknesses most acutely, notably at the onset and crumbling of imperial rule.²¹ Dior Konaté's *Prison Architecture and Punishment in Colonial Senegal*, pairs an illuminating study of infrastructure with detailed analysis of the ways that structures shaped the lives and responses of prisoners.²² Laurent Fourchard and David Killingray, meanwhile, examine the halting processes through which ideas of rehabilitation, juvenile justice, and professionalization of correctional personnel gained pace in the waning years of colonial empires.²³ Katherine Bruce-Lockhart's pioneering dissertation offers perhaps the most sustained and trenchant critique to the Bernaultian vision, revealing the enduring efforts of prison workers in post-

and Food: Punishment and Race in Colonial Natal.' *Journal of Southern African Studies* 31/1 : 3–21.

²¹ Klose, F. 2013. *Human Rights in the Shadow of Colonial Violence: The Wars of Independence in Kenya and Algeria*. Geyer, D., trans. Philadelphia: University of Pennsylvania, 2013; LeSueur, J. 2001. 'Torture and the Decolonization of French Algeria: Nationalism, Race and Violence During Colonial Incarceration,' in *Colonial and Post-Colonial Incarceration*, Harper, G. 161–175. London: Continuum. Anderson, D. 2004. *Histories of the Hanged: Britain's Dirty War in Kenya and the End of Empire*. London: Weidenfeld & Nicolson; Elkins, C. 2005. *Britain's Gulag: The Brutal End of Empire in Kenya*. London: Jonathan Cape; Branch, D. 2005. 'Escaping the Colonial Archipelago: Imprisonment and Colonialism in Kenya, c. 1930–52.' *International Journal of African Historical Studies* 38: 239–266; Bourgeat, E. 2014. 'Penality, Violence and Colonial Rule in Kenya (1930-1952).' PhD Diss., Oxford University; Pinto da Cruz, B. 2019. 'The Penal Origins of Colonial Model Villages: From Aborted Concentration Camps to Forced Resettlement in Angola (1930–1969).' *Journal of Imperial and Commonwealth History* 47/2: 343–71; Munochiveyi, M. 2014. *Prisoners of Rhodesia: Inmates and Detainees in the Struggle for Zimbabwean Liberation, 1960-1980*. New York: Palgrave Macmillan.

²² Konaté, D. 2018. *Prison Architecture and Punishment in Colonial Senegal*. Lanham: Lexington Books.

²³ Fourchard, L. 2011. 'The Limits of Penal Reform: Punishing Children and Young Offenders in South Africa and Nigeria (1930s to 1960).' *Journal of Southern African Studies* 37/3: 517–34; Killingray, D. 2003. 'Punishment to Fit the Crime?: Penal Policy and Practice in British Colonial Africa,' in *A History of Prison and Confinement in Africa*, Bernault, F. ed., 97–118. Portsmouth: Heinemann.

colonial Uganda to try to run a professional and self-consciously modern penal regime in the face of tumultuous national politics, including under the murderous regime of Idi Amin.²⁴

The literature on colonial and post-colonial punishment has also witnessed new attention to the ways that local people shaped carceral practices. Mirroring broader patterns, this historical scholarship has focused on three principal avenues: resistance, intermediation, and cooptation. Adding to an older body of literature arguing that banditry and other varieties of crime embodied a form of protest, scholars have drawn into focus how prison rebellions were not the mindless riots portrayed by colonial authorities but rather political uprisings.²⁵ Particularly in light of the pioneering scholarship of James C. Scott, increased attention has also been placed on ‘infrapolitics’ amongst inmates, or small acts of indirect or ambiguous protest which serve both to telegraph an unbowed state and to accumulate small victories over time: examples include hunger strikes, graffiti, and political prisoners whistling resistance songs.²⁶ A great deal of compelling scholarship on

²⁴ Bruce-Lockhart 2017.

²⁵ Zinoman, P. 2001. *The Colonial Bastille: A History of Imprisonment in Vietnam, 1862-1940*. Berkeley: University of California; Warren, J. 2002. ‘The Rangoon Jail Riot of 1930 and the Prison Administration of British Burma.’ *South East Asia Research* 10/1: 5–29; Anderson, C. 2007. *The Indian Uprising of 1857-8 Prisons, Prisoners and Rebellion*. New York: Anthem. The crime as political resistance argument, pioneered in the African context by Allen Isaacman (1977. ‘Social Banditry in Zimbabwe (Rhodesia) and Mozambique, 1894-1907: An Expression of Early Peasant Protest.’ *Journal of Southern African Studies* 4/1: 1–30), notably drew upon the writings of Eric Hobsbawm (1959. *Primitive Rebels*. Manchester: Manchester University) and E.P. Thompson (1975. *Whigs and Hunters: The Origin of the Black Act*. London: Allen Lane).

²⁶ Scott, J. 1985. *Weapons of the Weak: Everyday Forms of Peasant Resistance*. New Haven: Yale University; Scott, J. 1992. *Domination and the Arts of Resistance Hidden Transcripts*. New Haven: Yale University; Munochiveyi, M. 2012. ‘Suffering and Protest in Rhodesian Prisons During the Zimbabwean Liberation Struggle.’ *Journal of Southern African Studies* 41/1: 47–61; Buntman, F. 2003. *Robben Island and Prisoner Resistance to Apartheid*. Cambridge: Cambridge University. Kieran McEvoy (2001. *Paramilitary Imprisonment in Northern Ireland: Resistance, Management, and Release*. New York: Oxford University, 43-7, 72-107) gives a particularly powerful treatment of what Scott (1990: 202-3) referred to as ‘public refusals’ in the context of imprisonment, notably including hunger strikes.

African history over the last quarter century has focused on the role of local intermediaries – including clerks, translators, police, soldiers, and, recently, prison warders and jailers – in shaping colonial practices.²⁷ Other scholars have drawn attention to the ways that intermediation happened in the everyday, including beyond the ambit of the state: subaltern people were sometimes able to leverage their way into statuses, roles, and discourses, which not only facilitated claims-making but seized space to reimagine and rearticulate the social and moral world.²⁸

The study of prisons in Lesotho has received little attention from scholars, and has yet to be explored in a book length history. Details of the construction of prisons in Lesotho, Botswana, and Eswatini (then Swaziland) feature as a chapter in the 1969 volume *African Penal Systems*: the chapter, and the work as a whole, detail as process whereby colonial underdevelopment, fueled by cynicism and parsimoniousness, created prisons systems in Africa far out of sync with the best penological practices on display in More Developed Countries.²⁹ Rolland Mokoma's 1985 essay 'The Criminal Justice System of Basutoland' provides a short but insightful account of the construction of the prison system during the early colonial era, if one that tends, like much of the literature of the era, to overstate the

²⁷ Lawrance, B., et al., eds. 2006. *Intermediaries, Interpreters, and Clerks: African Employees in the Making of Colonial Africa*. Madison: University of Wisconsin; Clayton, A. and D. Killingray. 1989. *Khaki and Blue: Military and Police in British Colonial Africa*. Athens: Ohio University Center for International Studies; Echenberg, M. 1991. *Colonial Conscripts: The Tirailleurs Senegalais in French West Africa, 1857-1960*. London: Currey; Iliffe, J. 1998. *East African Doctors: A History of the Modern Profession*. New York: Cambridge University; Heaton, M. 2013. *Black Skin, White Coats: Nigerian Psychiatrists, Decolonization, and the Globalization of Psychiatry*. Athens: Ohio University; Moyd, M. 2014. *Violent Intermediaries: African Soldiers, Conquest, and Everyday Colonialism in German East Africa*. Athens: Ohio University;

²⁸ Peterson, D. 2006. 'Morality Plays: Marriage, Church Courts, and Colonial Agency in Central Tanganyika, ca. 1876–1928.' *The American Historical Review* 111/4: 983–1010.

²⁹ For a more recent analysis of the ways that Lesotho's prisons system is out of step with parallel practices in the global north, see: Ntau, N. 2016. 'The Efficiency of the Imprisonment Regime in Lesotho's Penal and Criminal Justice: Is It Reformative?' LLB Thesis, National University of Lesotho.

administration's power.³⁰ The colonial criminal-legal and penal systems also make notable appearances in scholarship detailing the relationship between the colonial state and traditional authorities, including Burns Machobane's 1990 *Government and Change*, Elizabeth Eldredge's 2007 *Power in Colonial Africa*, and the 2006 *Medicine Murder in Colonial Lesotho* by Colin Murray and Peter Sanders.³¹ In addition, Itumeleng Kimane has produced pathbreaking sociological work on juvenile justice and incarceration in Lesotho, which includes a historical perspective.³² In his 1994 seminar paper, 'A Prison or a Place for Recovery?,' Owen Kalinga makes the point – which I expound upon in chapters 3 and 4 – that Botsabelo Leper Asylum effectively represented a biomedical jail.³³ Motlatsi Thabane's 2021 article 'Public Mental Health Care in Colonial Lesotho' article, moreover, makes an important contribution to the literature, noting the centrality of the colonial penal system for state interventions into the lives of Basotho facing mental health crises.³⁴

In addition to providing the first sustained examination of prisons in Lesotho, this dissertation represents one of the first *longue durée* studies on the social and political history punishment in an African territory. By taking this long view I am better able to identify and interrogate the emergence, shifting interpretations, and re/inventions of

³⁰ Mokoma, RC. 1985. 'The Criminal Justice System of Basutoland: An Interpretative Essay,' Thomas Mofolo Library at the National University of Lesotho (TML).

³¹ Machobane, LBBJ. 1990. *Government and Change in Lesotho, 1800-1966: A Study of Political Institutions*. New York: Palgrave Macmillan, 1990. Eldredge, E. 2007. *Power in Colonial Africa Conflict and Discourse in Lesotho, 1870-1960*. Madison: University of Wisconsin; Murray, C. and P. Sanders. 2006. *Medicine Murder in Colonial Lesotho: The Anatomy of a Moral Crisis*. Edinburgh: Edinburgh University.

³² Kimane, I. 1984. 'Youth, Delinquency and Justice in Lesotho.' Staff Research Paper. Roma, Lesotho: National University of Lesotho.

³³ Kalinga, O. 1994. "'A Prison or a Place for Recovery?,' Botsabelo Leper Settlement in Basutoland, 1914-1931,' in *University of the Western Cape's South African and Contemporary History Seminar*, University of Cape Town Library (UCT).

³⁴ Thabane, M. 2021. 'Public Mental Health Care in Colonial Lesotho: Themes Emerging from Archival Material, 1918-35.' *History of Psychiatry* 32/2: 146-61.

discourses and strategies of social control than would be possible if analysis was centered more narrowly on one or a pair of the pre-colonial, colonial, or post-independence era(s). Moreover, while there have been many excellent works of historical scholarship on Lesotho produced over the years, scholarly interest in the territory has ebbed somewhat since the official defeat of Apartheid in neighboring South Africa in the early 1990s. As such, there remains significant work to be done incorporating theoretical perspectives and innovations of the new colonial studies. In this dissertation I focus a great deal of attention on exploring ways that Basotho continued to shape their own history, even if not precisely as many would have liked, during the colonial era. This includes through understudied moments of active resistance, such as uprisings at Botsabelo Asylum in 1914, Maseru Gaol in 1949, and Maseru Central Prison in 1955, as well as infrapolitical acts, like mass desertion from Botsabelo, in shaping carceral strategies. I also detail the ways that inmates detained in asylums and prisons were able to coopt and reinterpret colonial discourses to agitate for policy change. Lastly, my treatment of the role of prison staff in the colonial (and early independence) era draws into focus the profound way that intermediaries shaped the realities of life and work in Lesotho's carceral system.

Sources and Methods

The research for this dissertation was carried out across four countries, on three continents. The bulk of the archival and oral history fieldwork was carried out in Lesotho. I conducted over forty formal interviews – as well as a great number of informal conversations – with 30 policymakers, academics, folk historians, and people who spent time in Lesotho's prisons or Botsabelo asylum. Although interview subjects granted me formal permission to use their names in this study, I've decided to use pseudonyms for the former residents

and inmates of carceral institutions in order to protect their privacy. The interviews were carried out in both English and Sesotho. In Lesotho I carried out research at the Lesotho National Archives in Maseru, the Thomas Mofolo Library in Roma (both the general collection and the Leribe Collection), the Morija Museum and Archives, the Matsieng Royal Archives, and the archives of Senkatana Clinic. I also examined documents in a number of places in South Africa: in Bloemfontein at the Free State Provincial Archives and Archives Depot; in Cape Town at the Western Cape Provincial Library, the National Library, and the University of Cape Town; and in Gauteng at the Pretoria-branch of the National Library, the South African National Archives, and the University of the Witwatersrand's library. In the United States I made extensive use of the manuscript and archive collections of the library systems of New York City, Columbia University, and Yale University. And, in the United Kingdom, I carried out research at the British National Archives in Kew, the British Library, the Wellcome Library, the Archives of the London School of Hygiene and Tropical Medicine, the Imperial War Museum, and Oxford University's Bodleian Library.

Roadmap of Chapters

The dissertation contains three parts, each comprised of two chapters. The first pair explores how narratives about the purpose of punishment interfaced with politics and strategies of governance. In Chapter One, I detail how Lesotho came into being by providing a refuge from period insecurity on the Highveld, (re)producing order by using economic and psychological technologies to discipline a diverse array of peoples into particular stations in life, without imputing an essential moral hierarchy to social groups on the inside. The first generation of missionary observers – deeply impressed with the

lack of brutal punishments which their fellow non-conformist humanitarians were then toiling to reform in metropolitan Europe – crafted a heroic story of progress in the kingdom of Lesotho, under the enlightened monarch Moshoeshoe, beginning in the 1830s. This story came under fire with the arrival of European settlers from the Cape, and fresh waves of missionaries and colonial officials, from the 1840s onwards: the communities lumped together as members of the Basotho tribe were branded as a confederation of brigands. A series of wars with the expansionist European community in the Orange Free State over the 1850s and 60s led to tremendous suffering and death in Lesotho, and the hemorrhaging of swathes of arable land. In 1868, with the collapse of Moshoeshoe’s capital on Night Mountain seemingly imminent, the British agreed to intercede. ‘Basutoland’ was annexed to the Cape Colony, which sent soldiers and magistrates to directly administer the territory. Policymakers and magistrates, informed by missionaries who were less sanguine about how social control in Lesotho worked than their predecessors, sought to use the criminal law to fundamentally reorder society. The people at the top of the local political hierarchy, African nobles, were at the bottom of the new moral hierarchy which Cape officials sought use judicial incarceration and other coercive measures to inscribe. This effort to undermine the powers and authority of lords, paired with other hasty reform measures, fomented armed resistance which led to the collapse of Cape Rule in the early 1880s.

Chapter Two explores the elaboration of social control strategies in Lesotho during the period spanning from 1884 through 1938. The British officials who replaced outgoing Cape magistrates approached the task of building up power within the territory’s social and political order following the general imperial strategy of ruling directly through local elites, relying on ethnological theories blending contemporary scientific racist theories about so-

called Natives with particularistic ascriptions about the essence of the Basotho tribe. The idea of giving wide latitude to lords to carry out the violence work of policing and punishment in the interior of the country made sense, in the colonial imagination, not only because Basotho were supposedly innately law-abiding and utilized humane forms of punishment, but also because this was the best possible system. The old idea of rapidly importing universal institutions would not do, as Basotho were culturally (and/or biologically) unsuited for such techniques. Instead, while outsourcing the majority of work to traditional authorities from the aristocracy, the administration set up a parallel infrastructure of punishment, reliant on its monopoly on judicial incarceration, flogging, and execution. This system might be used to single out for punishment those crimes which were deemed particularly morally repugnant, such as murder, or politically sensitive, such as tax default and cattle-rustling across the border. While the colonial punitive infrastructure did fill out with time – particularly as the rise of labor migration across the border in the wake of the 1899-1901 South Africa War meant more Basotho passing through spaces where the colonial state was directly responsible for policing and punishing crime – Maseru was perpetually frustrated about the lack of integration and cooperation between the aristocracy and its own officers when it came to surveillance and punishment. The system also provoked significant criticism from Basotho activists, and particularly from mission-educated elites who believed that the criminal justice system should be organized around a universal Western model, and organic intellectuals who criticized the ways that the politico-juridical system perverted the priorities of lords, making them dependent upon the colonial regime for their authority rather than looking to their subjects for legitimacy. Escalating social conflict and crime throughout the interwar period led the

administration to officially pivot towards implementing universal best practices of policing and punishment in the years immediately preceding and following World War II.

In Chapters Three and Four I examine the history of the largest carceral institution in the nation from 1914 through the early 1950s: Botšabelo Leper Asylum. While international leprophobia spiked in the early 20th century, this fact alone does not explain why Lesotho emerged as the only non-settler colony in Africa to face a stringently enforced policy of compulsory segregation of persons suffering from leprosy. In Chapter Three, I demonstrate how Maseru seized upon biomedical detention in hopes of securing the sort of surveillance cooperation with the aristocracy which it was failing to secure when it came to the problem of crime. Officials imagined that people infected with leprosy would be easier to police and confine, both because of the visibility of the malady's symptoms and the expectation that a broad-based stigma would emerge once Basotho viewed the sick as infectious. In the weeks after the facility opened, 700 patients passed through the gates. The asylum quickly ran into difficulties. In May, a group of inmates rebelled, seizing hold of the male compound for two days. In October patients began to slip under the facility's barbed wire fence. By the end of the 1914 over a third of inmates had fled. The administration proved unprepared to conduct its own violence work at the asylum. Meanwhile, the aristocracy failed to return escapees, per the administration's expectations. Lords and their communities did not fear leprosy as expected. With the asylum on the verge of collapse, the administration approached patients with both carrots (including visitation rights and jobs which allowed for remittances to be sent home) and sticks (including jails inside the asylum for punishing deserters), while continuing to pressure traditional authorities to police more aggressively for new infections and deserters. In 1928, under imperial pressure

to alter its leprosy policy, Maseru came up with a new plan: the administration created its own force of leprosy inspectors charged with surveilling the countryside for sick people and monitoring the diligence of lords in policing the malady.

In Chapter Four, I examine many of the same events covered in the previous chapter, but focus on the administration's evolving relationship with patients instead of with lords. I use the sociological concepts of social death and the sick role to examine the elaboration of asylum policy over the period spanning between 1914 and 1960. A key mistake of asylum planners in 1914 was engaging residents as biomedical prisoners; officials expected inmates to meekly accept social isolation, emotional alienation, and rapid physical decline. Beginning in 1915 the administration was forced to acknowledge that the success of compulsory segregation hinged on institutionalization of sets of rights and responsibilities inhering in residents' statuses as asylum patients/sick people. The articulation of these roles interfaced with the construction of both extra- and intra-asylum social life. Botšabelo was institutionally unique in Lesotho in the way that it brought non-missionary European officials into close and long-term contact with a Basotho social cohort who were both socio-economically subaltern and – as a matter of colonial policy, if not always ideology – morally blameless for their detention. Out of these relationships patients both secured powerful advocates and, especially, versed themselves in the moral language and pretenses of colonial policymaking. Asylum residents leveraged and redefined myriad institutional and societal roles – including as dutiful patients, heartsick mothers, wayward Christians, helpless outcasts, and aspiring citizens – to make moral claims on the administration. The arrival of sulfa drugs in the late 1940s, however, profoundly altered life at Botšabelo: leprosy was transformed from a frightful malady, ostensibly best checked by keeping the

sick segregated from the healthy, into a readily curable infection. These changes undermined the longstanding compact of rights and obligations between ex/patients and the administration. As waves of asylum residents were discharged as cured over the 1950s, a large number opted to settle nearby the asylum rather than returning to their places of birth. These decisions were not only motivated by shared interest in utilizing and maintaining hard won entitlements, but also a testament to the real stigma of leprosy the administration had inculcated into society over time and the vibrancy of the community patients had built inside the asylum.

In Chapters Five and Six, I examine the relationship between penal reform and national politics in the late-colonial and early post-independence eras. In 1947 a new Prison Proclamation was introduced in Lesotho, creating a Prisons Department and Prisons Service distinct from the police. This move was part of a broader imperial effort to standardize and putatively modernize approaches to crime. Under the new laws, the primary official mission of prisons was to reform inmates. In Chapter Five, I trace the shift from a rhetorical penological pivot in the late-1940s into a genuinely welfarist model by the late 1950s. Basotho activists – first with the League of Commoners and, later, the nation’s first political party, the Basutoland African Congress – forced these reforms, leveraging contacts in the British Left to create and publicize scandals in the metropole. The biggest and most important scandal came following an uprising in the new prison in 1955, resulting in the death of four prisoners and one warder, the wounding of dozens more, and the escape of over thirty inmates. In the wake of the rebellion, and speeches on the floor of the British Parliament, significant funds and energies were poured into securitizing penal infrastructure and professionalizing the prison service, as London sought to outrun

the emergence of a scandal concerning prison conditions in Lesotho. New regulations and facilities were also introduced for capital and corporal punishment, and for female and juvenile male prisoners.

In Chapter Six I detail the history of the prison service during the lead up and aftermath of independence in 1966. I also seek to reframe and complicate understandings of anti-politics in Lesotho. While James Ferguson and others demonstrate how an emphasis on technical matters by Western donors obfuscates the ways that development initiatives produce clear political winners and losers, I show that there are also sound reasons why Basotho acting in good faith have embraced anti-political strategies. I trace how the Lesotho Prison Service (LPS) was able to hold itself together during a period of escalating political strife in the 1960s, and outright repression after 1970, by emphasizing its apolitical, bureaucratic orientation. I demonstrate that the approach of prison administrators and officers during this time must be understood as anti-political, rather than simply apolitical, because the discourse of preserving best penological practices and furthering national development was used to mask the true nature of LPS's efforts – to provide active comfort and aid to the opposition party – from the ruling party

**Part I. The Birth of Prisons in Lesotho,
1850-1938**

Chapter 1

The moral symbolism of punishment: making a tribe in the 19th century Mohokare River Valley

1.1 Introduction

The drop likely killed the condemned instantly. The distance from the top of the most precipitous ledge on Night Mountain (*Thaba Bosiu*) onto the rocks below is over 50 feet. When a local prince and an American tourist stopped to peer over the edge at the execution grounds of King Moshoeshoe's capital in the early 1860s, their imaginations conjured far different associations.¹ Tlali Moshoeshoe drew a corollary to the classical Tarpaeian Rock described by Plutarch, a site atop Capitoline Hill in Rome where traitors were thrown to their deaths during the republican era. Reginald Fenton, meanwhile, merely saw confirmation of his prejudgments that his hosts were uncivilized and cruel. The site meant something different still to the French missionary Eugene Casalis, who some years before was accompanying Moshoeshoe on a walk when the king pointed out the krantz from below, and related how a sense of guilt followed him after past executions; in the monarch's comments the missionary sensed the universality of Christian conscience, and the vast potential for moral government to flower in a rugged, beautiful land.²

The idea that judicial punishments provide a gauge for the moral condition and relative 'level of civilization' of a society is commonsense, today, within liberal communities in places as geographically disparate as Lesotho, the United States, and

¹ Fenton, R. 1905 *Peculiar People in a Pleasant Land: A South African Narrative*. Girard, KS: Pretoria Publishing, 342-44. Tlali kindly provided the visiting Fenton with a tour of his father's capital. The pro-Boer American did not write up and publish his notes from the journey until 1905. On the Tarpaeian Rock, see Plutarch. 1859. "Coriolanus," in *Plutarch's Lives*, John Dryden, trans. Boston: Little, Brown, & Co, 73.

² Casalis, E. 1861 (published in French in 1860). *The Basutos*, London: J. Nisbet, 220-1.

France.³ Advocates of criminal justice reform invoke the idea that the persistence of capital punishment, high rates of incarceration, and violence within penal institutions demonstrate the moral regressiveness of some political communities compared to others. The logic of these appeals is not timeless or innate, but rather quintessentially modern. Until the 19th century, most communities around the world employed violent punishments to judicially sanction crime. As the industrial revolution took hold in western Europe and the northeastern United States in the early 19th century, nonconformist Christian intellectuals – fired by Enlightenment ideals of individual rights and human rationality – spearheaded movements to reform judicial sanctions in the name of civilization and productivity. An array of new institutions, including penitentiaries, reformatories, and workhouses, emerged in centers of industrialization.⁴ Technological innovation went hand in hand with an ascendant discourse of progress; reforming individuals to live more upright lives was

³ Nelson Mandela pithily conveyed the sentiment when he wrote, 'No one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens but its lowest' (1994. *Long Walk to Freedom: The Autobiography of Nelson Mandela*. Boston: Little, Brown & Co, 201). Perhaps the most frequently quoted expression of this idea is apocryphally attributed to Fyodor Dostoyevsky, 'The degree of civilization can be judged by entering its prisons' (Vinitsky, I. 2019. 'Dostoyevsky Misprisoned: "The House of the Dead" and American Prison Literature.' *Los Angeles Review of Books*, December 23).

⁴ While designed as a replacement to spectacular violent punishments, the elaboration of new disciplinary institutions also interfaced with the needs of government and capital to regiment workers for industrial labor, and to exert a more systematic form of social and psychological control over proletarianized and alienated urban populations. Foundational theoretical texts include: Rusche, G. and O. Kirchheimer. 1939. *Punishment and Social Structure*. New York: Columbia University; Foucault, M. 1995. *Discipline and Punish: The Birth of the Prison*. Sheridan, A. trans. New York: Vintage; Garland, D. 1985. *Punishment and Welfare: A History of Penal Strategies*. Brookfield, VT: Gower. Foundational historical texts include: Sellin, J.T. 1944. *Pioneering in Penology: The Amsterdam Houses of Correction in the Sixteenth and Seventeenth Centuries*. Philadelphia: University of Pennsylvania; M. Ignatieff, 1978. *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850*. London: Pantheon; O'Brien, P. 1982. *The Promise of Punishment: Prisons in Nineteenth-Century France*. Princeton: Princeton University; Spierenburg, P. 1984. *The Spectacle of Suffering: Executions and the Evolution of Repression: From a Preindustrial Metropolis to the European Experience*. London: Cambridge University; idem, 2007. *The Prison Experience: Disciplinary Institutions and Their Inmates in Early Modern Europe*. Amsterdam: Amsterdam University.

critical to the work of creating not just better workers, but also better societies. The same impulses which rallied some evangelicals to advocate reforming systems of punishment at home, pushed others to forge mission societies to carry gospels and moral frameworks into the global south.⁵

In any history of punishment and confinement in Lesotho, institutional technologies like jails and asylums stand as obvious products of the colonial era. The stories of how these technologies were articulated in Lesotho as infrastructure animates the subsequent chapters of this dissertation. The construction of these disciplinary institutions, however, required more than just bricks and iron. As in the North Atlantic, the revolution in mechanisms for social control was built upon an intellectual foundation which simultaneously framed the old way of effecting social control as anachronistic, and the new as more moral and efficient. A technology which was more inconspicuous than the total

⁵ Despite the existence of robust literatures exploring the myriad historical forces animating penal reform in the North Atlantic, and detailing humanitarian campaigns and missionization, both at home and abroad, there is still much work left to be exploring connections between these moral crusades. Scholarship which delves with a critical eye beyond the linkages discussed in hagiographies of John Howard and Elizabeth Fry, as well as of members of the Clapham Sect who were simultaneously involved in abolition, penal reform, and missionary society movements, include: Carey, H. 2019. *Empire of Hell: Religion and the Campaign to End Convict Transportation in the British Empire, 1788-1875*. New York: Cambridge University, particularly 30-2; Follett, R. 2001. *Evangelicalism, Penal Theory and the Politics of Criminal Law Reform in England, 1808-30*. New York: Palgrave; Devereaux, S. 2015. 'Inexperienced Humanitarians? William Wilberforce, William Pitt, and the Execution Crisis of the 1780s.' *Law and History Review* 33/4: 839–85; and Pierce, S. and A. Rao 2006. 'Discipline and the Other Body: Humanitarianism, Violence, and the Colonial Exception' in Pierce, S. and A. Rao, 'Discipline and the Other Body: Correction, Corporeality, Colonialism.' Durham: Duke University: 1-35. On the role of evangelical missionaries working to bring moral progress to the British working classes: Lewis, D. 1986. *Lighten Their Darkness: The Evangelical Mission to Working-Class London*. London: Greenwood; Auerbach, S. 2015, "'Beyond the Pale of Mercy": Victorian Penal Culture, Police Court Missionaries, and the Origins of Probation in England.' *Law and History Review* 33/3: 621–63. On the politics of mission societies more broadly: Thorne, S. 1999. *Congregational Missions and the Making of an Imperial Culture in Nineteenth-Century England*. Stanford University: 1999; Harries, P. 1999, *Butterflies & Barbarians: Swiss Missionaries & Systems of Knowledge in South-East Africa*. Athens: Ohio University; Comaroff and Comaroff 1991 and 1997.

institution, but no less impactful for the remaking of Highveld societies, from the 19th century through the present, has been the instrument of comparative social morality and levels of civilization.

This chapter explores the strange political career of the ideas of Eugene Casalis and other early missionaries in the creation and positioning of Lesotho within a narrative of linear moral progress. The Frenchman's writings are a rich source of data on the early history of Lesotho, beginning in an era when the nation was largely still in the mind's eye of Moshoeshoe. The weight given to Casalis' voice by subsequent generations of historians comes not just from the fact that Casalis produced some of the first written sociological and historical portraits of peoples living in the Mohokare River Valley, but also the sense that his expressions of self-reflexivity, deep knowledge of local language, and evident affinity for his hosts made him a reliable observer.⁶ In this chapter I interrogate how ideology shaped what the missionary focused on in his descriptions of society, and proceed to detail how these decisions impacted the shape of governance and social control in Lesotho over subsequent decades. The findings I describe very much echo the phenomenon the anthropologist Michel-Rolf Trouillot describes as *silencing*.⁷ The traces of a submerged story became visible only when I began to read scholarship on the history of prisons and penology in the North Atlantic parallel to primary and secondary sources on 19th century Highveld.⁸ I was struck by the conspicuous overlap between metropolitan debates over the essence of human behavior and the ways that European observers and, later, colonial

⁶ Couzens, T. 2005. *Murder at Morija: Faith, Mystery, and Tragedy on an African Mission*. Charlottesville: University of Virginia.

⁷ Trouillot, M.R. 1995. *Silencing the Past: Power and the Production of History*. Boston: Beacon.

⁸ Cooper, F., and A.L. Stoler, eds. 1997. *Tensions of Empire: Colonial Cultures in a Bourgeois World*. Berkeley: University of California.

policymakers, conceptualized what effective and moral criminal justice looked like in Lesotho.

When Casalis and two compatriots from the Paris Evangelical Mission Society (PEMS) took up residence in Lesotho in the 1830s, they drew from constellations of metropolitan discourse about civilized and productive forms of punishment at home, and converted it into a metric for assessing (and a medium for describing) the moral health of their new home and, particularly, the moral legitimacy of its king, Moshoeshe.⁹ The systems of punishment for law-breaking which the evangelists found in place – relying primarily on fines, rather than performative displays of violence – informed the view that they were dealing with an advanced African community, albeit one still in need of Christian salvation and literacy, not to mention pants and petticoats. Over the course of nearly two decades of living alongside and serving as a political advisor to Moshoeshe at Night Mountain, Casalis became a loyal and active supporter of his host. In the 1830s and 40s, a moment in which evangelicals were toiling to do away with brutal and spectacular punishments in the North Atlantic, the Frenchman sent a stream of correspondence for a metropolitan audience noting both the low levels of crime and the dearth of violent punitive mechanisms in the Mohokare River Valley.

⁹ Casalis 1861, and idem. *My Life in Basutoland: A Story of Missionary Enterprise in South Africa*. J. Brierley, trans. London: Religious Tract Society, 1889 (published in French in 1884). The Paris Mission published letters from its personnel station around the world beginning in 1826 – and from Casalis and his comrades in Lesotho beginning in 1833 – in *JME (Journal des Missions Evangeliques)*, copies at Morija Museums and Archives in Lesotho, henceforth MMA, and Union Theological Seminary in New York City). For extensive translated passages of *JME*, see R. Germond, R. 1967. *Chronicles of Basutoland*. Morija: Morija Printing Works. On the theological orientation of PEMS: Neele, A. 2013. ‘Theological Education of Nineteenth-Century French Missionaries: An Appropriation of the Catholicity of Classical Christian Theology,’ in *Studia Historiae Ecclesiasticae* 39: 149–78.

During the period in which Casalis was living in Lesotho and writing about the nation in France, spanning from the early 1830s through the late 1860s, a debate raged amongst North Atlantic prisoner reformers about whether the rationale for humane punishment was fundamentally a moral or a practical question.¹⁰ As noted above, a faith in the universality of the thirst for atonement with God through Christ inspired evangelicals to push reforms around the world. As non-conformists advocated for putatively humane punishments, like imprisonment, over the early- to mid-19th century, penal reform was also catalyzed from a separate, rationalist direction. This school, rooted in the philosophical school of Associationism, hinged on an efficiency argument for reforms, rather than a religious one: incarceration and other physically non-violent punishments were useful because they could effectively refashion unproductive and depraved individuals into productive workers and citizens. Atheist reformers like Jeremy Bentham argued the universal human desire to seek pleasure and avoid pain was the key to unlocking lasting moral reform in individuals, rather than through Christ.¹¹ In Bentham's view, behavior could be reprogrammed by cognitively 'associating' rule following with good experiences, and deviation with bad; his famous panopticon was proffered as the most technologically sophisticated instrument for carrying out this work.

The monopoly of Paris Evangelical missionaries over the production of written narratives of society was short-lived. Over the 1840s and 50s new narratives about the

¹⁰ Forsythe, W.J. 1990. *Penal Discipline, Reformatory Projects and the English Prison Commission 1895-1939*. Exeter: University of Exeter, 7-9. Godfrey, B., P Lawrence, and C. Williams. 2007. *History and Crime*. London: SAGE, 138-9.

¹¹ Bentham, J. 1843. 'Panopticon; or, the Inspection-House.' In *The Works of Jeremy Bentham, Vol. IV*, John Bowring, ed., 37-172. Edinburgh: W. Tait. On Associationist penology, see McGowen, R. 1995. 'The Well-Ordered Prison: England 1780-1865.' In *The Oxford History of the Prison*, N. Morris, N. and D. Rothman, eds., 79-110. New York: Oxford University Press, especially 100-2.

confederation of peoples coalescing in the Mohokare River Valley emerged, including from a growing white settler community eyeing African lands and stock, less culturally relativistic missionaries (or those vested in the success of a different African polity), and the vanguard of British colonial personnel. Moshoeshoe himself participated actively in the emerging ocean of letters circulating around the Highveld grasslands and the coast, relying on Casalis both as a clerk and for advice on how to style his political project to the outside world. Sons from Moshoeshoe's junior houses also studied letters in Casalis' schoolroom and in Cape Town, and began to clerk for their father over time. In February 1858, while studying in the British Cape Colony, Tlali Moshoeshoe dipped pen in ink vial and proceeded, over several weeks, to pour out deep wells of emic knowledge and Sesotho auriture on the page. His handwritten 'Litaba tsa Basutu' (Story of Basotho), now housed in the Grey Collections of the South African National Library, is the oldest written history of Highveld peoples by an African.¹²

The body of various sources, and above all Tlali's account, suggest that Casalis dramatically oversimplified the reasons for the rarity of violent punishments in the Mohokare Valley.¹³ Moshoeshoe's infrequent use of executions and floggings was rooted

¹² Tlali George Moshoeshoe. 'Litaba tsa Basutu,' 1858. National Library of South Africa in Cape Town (SANL - CT), Grey Collection. Much of the work was translated and annotated by Mosebi Damane and Peter Sanders in 1978, 'The Story of the Sotho [Part I],' in *Mohlomi: Journal of Southern African Studies* 2, 115–61, and idem 1990, 'The Story of the Sotho: Part II,' in *Mohlomi: Journal of Southern African Studies* 6, 139–64.

¹³ Liberal Africanist texts produced during the years following independence, in 1966, foregrounded a vision of the 'usable past,' centered on the story of Moshoeshoe as nation-builder (Sanders, P. 1975. *Moshoeshoe: Chief of the Sotho*. London: Heinemann; Thompson, L. 1975. *Survival in Two Worlds: Moshoeshoe of Lesotho, 1786-1870*. Oxford: Clarendon Press). From the 1970s onwards there were also incisive political economy based studies which foregrounded class relations, exploitation, domination, and ideology on the Highveld (Kimble, J. 1978. "Towards an Understanding of the Political Economy of Lesotho: The Origins of Commodity Production and Migrant Labour, 1830–1885." MA Thesis, National University of Lesotho; idem 1986. "Clinging to the Chiefs: Some Contradictions in Colonial Rule in Basutoland." In *The Contradictions of Accumulation in Africa*, edited by H. Bernstein and B. Campbell, 25–69. Beverly Hills: Sage;

in instrumental considerations as much as moral sensibilities. Spectacular displays of sovereign power were infrequent because they were not necessary; the kingdom possessed alternative structures for surveilling and socializing its people, deterring crime, and settling disputes. That morality is foregrounded over efficacy in the writings of Casalis, speaks to the concerns of the missionary, not necessarily those of Moshoeshoe. Indeed, it is entirely reasonable to think that had an ardent Benthamite drafted the earliest history of the kingdom, Moshoeshoe — with his tightly nested social technologies promoting adherence to labor tribute, military service, and participation in initiation lodges where young people were corporally disciplined to abide by their station in society — would have been cast as an innovative rationalist on matters of crime, rather than as a proto-evangelical. As we will see, Casalis' lack of emphasis on explicating how precisely order was maintained through psycho-social discipline (including what a Foucaultian-minded theorist might reasonably call capillary power), in favor of detailing what the system lacked in terms of sovereign power, unwittingly primed the ground for a second, more socially and politically pivotal silencing from the 1880s onwards.¹⁴

Thabane, M. and N. Pule, eds. 2002. *Essays on Aspects of the Political Economy of Lesotho: 1500-2000*. Roma: National University of Lesotho). Beginning in the 1990s Africanist scholarship began to incorporate more of the bottom-up ethos into narratives (Eldredge, E. 1993. *A South African Kingdom: The Pursuit of Security in Nineteenth-Century Lesotho*. Cambridge: Cambridge University; Showers, K. 2005. *Imperial Gullies Soil Erosion and Conservation in Lesotho*. Athens: Ohio University), albeit in ways which have been criticized for reverse orientalism and lack of rigor (Thabane, M. 1996. "A Mutual-Benefit Utopia Where Exploitation Was Unknown? Elizabeth Eldredge's Liberal Interpretation of Social Relations in Nineteenth-Century Lesotho." *South African Historical Journal* 34/1: 240–48; Epprecht, M. 2006. Review of Showers, K. *Imperial Gullies*. H-Net Reviews, April. <https://www.h-net.org/reviews/showpdf.php?id=11658>). Other scholars sought to weave together original research with insights from both the liberal and political economy schools: Machobane, LBBJ. 1990. *Government and Change in Lesotho, 1800-1966: A Study of Political Institutions*. New York: Palgrave Macmillan; Gill, S. 1993. *A Short History of Lesotho*. Morija: Morija Museum & Archives.

¹⁴ On capillary power, or 'the point where power reaches into the very grain of individuals, touches their bodies and inserts itself into their actions and attitudes:' Brochier, J. and M. Foucault. 1977. 'Prison Talk: An Interview with Michel Foucault.' *Radical Philosophy* 16: 10-15, 10.

Over the late 1850s and 1860s, Moshoeshoe and confederated peoples defended their lands from a series of invasions by white settlers from the Orange Free State. During this period, the monarch, aided by Casalis and his literate sons, implored the British for protection. He pleaded for Queen Victoria to admit his kingdom into the empire, and to rule the land through his court on Night Mountain. The United Kingdom intervened only in 1868, when Lesotho looked to be on the verge of complete collapse. The British, moreover, did not proceed to rule through the existing aristocratic hierarchy. After Moshoeshoe's death in 1870, the territory was annexed to the Cape. The strategy for Cape rule was formulated by a son of PEMS turned magistrate, Samuel Rolland, who advocated a combined assault on the power of nobles by missionaries and magistrates.¹⁵ Although cultural chauvinism certainly infused Rolland's plans, his blueprint also displayed a keen eye for how social control in the Mohokare Valley did function.

Rolland's plan proved so destabilizing, and was implemented in such a breakneck and aggressive fashion, that Cape magistrates and policymakers provoked two wars in rapid succession. First came Moorosi's War, in 1879. This conflict was followed by the much larger and destructive period of civil strife known as the Gun War, which commenced in 1880, and saw Basotho rebels fight Cape troops and Basotho loyalists to a standstill. Even after a peace treaty was signed in 1881, the territory remained politically divided and ungovernable to magistrates. When the Cape sought to pass to London the political tumult and the financial tab of its making in Lesotho, British parliamentarians lambasted Cape policymakers for their abject idiocy, observing that if the latter had only read Casalis they

¹⁵ Burman, S. 1981. *Chiefdom Politics and Alien Law: Basutoland under Cape Rule, 1871-1884*. New York: Africana; idem. 1990. "Fighting a Two-Pronged Attack: The Changing Legal Status of Women in Cape-Ruled Basutoland, 1872-1884," in *Women and Gender in Southern Africa to 1945*, C. Walker, ed., 48-75. Cape Town: D. Philip.

would have known that Basotho were inclined to civilization and loyalty as a race. In this move there was a subtle but significant shift.

As Paul Landau has incisively argued, missionaries created tribes in Southern Africa.¹⁶ Over the early 19th-century Europeans arrived in the Highveld, expecting to find tribes. In writing down ethnographic and genealogical data about the communities where the missionaries set up shop, missionaries fixed what had previously been malleable discourses for describing networks of political affinities.¹⁷ The new approach to political communities of tribes and clans soon took on a life of its own. It was leveraged by prominent Highveld political players, including Moshoeshoe, as a means of inscribing (or, in Landau's words, 'back-dating') claims to territory and the fealty of people.¹⁸ Tribal and clan distinctions were also instrumentally useful to European proselytizers as a means of demarcating the jurisdictional turf of non-conformist mission societies, and as buckets for comparing their successes and uncompleted work in transplanting universal (liberal bourgeois) values and mores amongst communities across the subcontinent. Prior to the 1870s and 80s, missionaries frequently referenced the comparative level of civilization and characteristics of tribal groups. Yet, even if tribal distinctions were held to be natural and timeless, missionary conceptions of levels of progress were far from static; the supposedly good and bad qualities of tribes inhered in culturo-political institutions and emerged as products of leadership, and therefore were changeable over time. There was something far different, however, about the way that Parliamentarians in the early 1880s used the concept of tribe when considering how to engage politically with Lesotho's people.

¹⁶ Landau, P. 2010. *Popular Politics in the History of South Africa, 1400-1948*. Cambridge: Cambridge University.

¹⁷ *Ibid*, 60-1.

¹⁸ *Ibid*, 128.

Administrative control over the territory was passed back to London in 1884, a moment in which North Atlantic views about the nature of human behavior were undergoing a paradigm shift. The growing purchase of social Darwinism over the 1870s in London and Cape Town interfaced with rise of a new penological science. Expert opinion coalesced around the notion that criminality – and ‘moral character’ and behavior writ large – were biologically heritable.¹⁹ This new consensus deflated the old evangelical versus rationalist debate, as the formerly disparate camps were increasingly bracketed together as proponents of the quaint idea that post-natal experiences could lead people to meaningfully change their behaviors and attitudes. Experts looked beyond the scale of individuals and families, moreover, arguing that moral and intellectual characteristics inhered in entire groups of people, according to race or tribe or nation and, within racial communities, according to class.

When the new colonial administration in Lesotho set about trying to establish its authority in 1884, British officials leveraged the same story as advanced by MPs in Westminster. The administration looked to the House of Moshoeshoe as founts of the noblest qualities of the race or tribe of Basotho. The skeleton crew of officers in Lesotho began working diligently to reestablish the power of the monarch (now glossed as a

¹⁹ On this criminological turn: Forsyth, 9-13; Godfrey, et al., 78-80; Garland 1985, 150-1 and 265-76. For information about the eugenics movement which spread like wildfire through the ranks of liberal elites in England and the Cape beginning in the late-1860s, specifically via Francis Galton, see: Dubow, S. 1995. *Scientific Racism in Modern South Africa*. Cambridge: Cambridge University; Breckenridge, K. 2014. *Biometric State: The Global Politics of Identification and Surveillance in South Africa, 1850 to the Present*. Cambridge: Cambridge University, 28-45; Levine, P. 2010. “Anthropology, Colonialism, and Eugenics,” in *The Oxford Handbook of the History of Eugenics*, Bashford, A. and P. Levine, eds., 43–61. New York: Oxford University, 48, on theories of heritable criminality; Mukherjee, S. 2016. *The Gene: An Intimate History*. New York: Scribner, 56-68, for one of the pithiest of myriad histories on how the emerging science of genetics interfaced with the construction of race science.

‘paramount chief’) over a weakened and politically riven aristocracy, and divested themselves of moral claims from Christian commoners who had bought into the missionary and magistrate promises of liberal political and economic reforms. For the most part, nobles, who had been under political assault during the period of Cape Rule, welcomed the return of the narrative of judicious, grace-filled Moshoeshoe, including its new association with biological essentialism; in sharing the colonial story, local African lords lay claim to the fealty of diverse groups of people, lumped together as Basotho, in a way which foregrounded dynasty and pedigree rather than effective administration or popular support. Casalis’ writings were marshaled in the construction of a politico-legal edifice of tradition, supposedly suited to the culturo-biological nature of Basotho.²⁰ Although the administration reserved the prerogatives of judicially sanctioned corporal and capital punishment, African lords were legally empowered to adjudicate all types of cases and, in practice, enjoyed sweeping powers to punish crimes as they saw fit. The emerging system of social control provided the administration with coercive power without having to invest

²⁰ The most detailed inside perspective on colonial visions of the characteristics of Basotho comes from Godfrey Lagden, who arrived in Lesotho with the new administration in 1884 and assumed the Residency in 1892. Lagden would go on to infamy for peddling racial or tribal essentialism while chairing the Native Affairs Commission for the British reconstruction government following the South Africa War; this report would provide the intellectual germ for segregation and, eventually, Apartheid (Legassick, M. 1995. “British Hegemony and the Origins of Segregation in South Africa, 1901-14,” in *Segregation and Apartheid in Twentieth Century South Africa*, Beinart, W. and S. Dubow, eds., 43–59. New York: Routledge). In his sprawling two-volume history *The Basuto* (London: Hutchinson, 1910), Lagden describes ‘the present status and evolution of the aboriginal races, and the... advancement of the natives upon lines in harmony with natural development’ (viii). For a view of the constellations of subcontinental race lore emerging during 1870s and exploding in the 1880s– including the idea that *Bakuena* (people of the crocodile) or Basotho ‘had made further advances towards civilization than any other branch of the Bantu’ (518) – see Stow, G. 1905. In *The Native Races of South Africa*. Theal, GM, ed. London: Macmillan. Saul Dubow traces Stow’s efforts to propagate his ideas within the *Cape Monthly Magazine* during the 1870s (2006. *A Commonwealth of Knowledge: Science, Sensibility, and White South Africa, 1820-2000*. Oxford: Oxford University, Chapter 2, especially 76-77 and 108-110), and his posthumous popularity after the writings were compiled and edited by the influential historian George McCall Theal (Dubow 1995, 67-70).

in expensive carceral infrastructure. Ironically, the more that Casalis' writings were invoked during the era, the more that questions and ideology which had motivated the missionary receded from discussion and, over time, from memory.

1.2 Technological innovation and social control in a frontier zone

The early decades of the 19th century were a period of breakneck change on the Highveld, the plateau resting at some 5,000 feet above sea level sprawling across the central-eastern portion of the southern African subcontinent. The Highveld was a frontier milieu, lacking centralized political authority.²¹ It was marked instead by overlapping edges of territorial space, occupied by peoples belonging to different socio-cultural groups and swearing fealty to different local power brokers; this overlap generated competition for resources and conflict, as well as sharing of technologies, languages, and values. A period of conflict known as 'the time of troubles' (or *Lifaqane*), lasting roughly between 1815-26,²² spurred

²¹ In the early 1900s historians inspired by the writings of Frederick Jackson Turner began to use a frontier model to analyze the processes of conflict, acculturation, and innovation on the Highveld over the late-18th and 19th centuries: Saunders, C. 1988. *The Making of the South African Past: Major Historians on Race and Class*. Cape Town: David Philip, 114-15. The Highveld frontier milieu was characterized by innovation, moving people, and cross polity acculturation, as well as conflict: Legassick, M. 2010 [Reprint of 1969 dissertation]. *The Politics of a South African Frontier: The Griqua, the Sotho-Tswana and the Missionaries, 1780-1840*. Basel: Basler Afrika; Eldredge 1993; Coplan, D. 2000. "A Measure of Civilisation: Revisiting the Caledon Valley Frontier." *Social Dynamics* 26/2: 116–53; Landau 2010; King, R. 2019. *Outlaws, Anxiety, and Disorder in Southern Africa: Material Histories of the Maloti-Drakensberg*. Cham: Springer Int'l.

²² The causes of the turmoil are hotly debated, but for an overview: Hamilton, C., ed. 1995. *The Mfecane Aftermath: Reconstructive Debates in Southern African History*. Johannesburg: Witwatersrand University. According to Moshoeshe (1858), the causes of the time 'when all one could hold in one's hands was war' (s. 22) came from both the east and the west of the kingdom: Bantu-language speaking refugees and armies came from the East, as groups of people abandoned their homes in hopes of outrunning the advancing armies of King Shaka; from the West came Afrikaans-speaking Griqua raiders, who leveraged their monopoly on guns and horses (which Tlali notes were then called *likhomo tsa haka*, literally 'haka cows,' s. 56) to capture cattle and slaves.

the consolidation of smaller groupings based around networks of kinship ties into increasingly large polities which could provide better physical and economic security.²³

The advent of larger political communities required scaling-up and adapting legal systems to effectively settle intra-communal disputes and facilitate social cohesion. Innovating upon longer standing political institutions, an emerging cohort of kings (and one prominent queen) bound together expanding dominions through networks of patronage, and used initiation school technologies to discipline young people in rigid hierarchies based on class roles, gender roles, and age roles.²⁴ Moreover, in order to build upon rather than undermine existing hierarchies, and limit trampling upon localized mentalities and sensibilities concerning just punishments, the emerging class of monarchs largely looked to subordinate lords to settle torts in their own wards and fiefdoms; kings and queens did serve, however, to resolve conflicts which arose between nobles and geographically disparate communities. Livestock, and cattle especially, were the currency of exchange in Highveld societies; the transfer of horns was used in the legal system both to seal contracts like brideprice, and for judicial punishment. Although stock fines were certainly the sanction of first resort, nobles also occasionally employed physically and

²³ Eldredge (1993) has demonstrated how the intense conflicts over land, livestock, labor, and other resources over the 1790s-1820s rewarded the invention and speedy adoption of political, military, and social technologies that increased security. The development of new technologies and confederations was self-promulgating, as late adopters and slow innovators might fall prey to more powerful neighbors. This was particularly the case during *Lifaqane*. David Coplan (2000) and Paul Landau (2010), meanwhile, have highlighted how communal identity or political affiliation was far from indelible, even—or especially—during times of insecurity; newcomers shared modes of subsistence, political organization, and communion with the sacred with their adoptive communities.

²⁴ On social relations and governmental institutions in the Mohokare Valley over the 19th century, see: Machobane 1990, 1-28; Thabane, M. 'The nature of social relations in the nineteenth century,' in Thabane and Pule 2002, 59-77; Gill, 54-57; Epprecht, M. 2000. *This Matter of Women Is Getting Very Bad': Gender, Development and Politics in Colonial Lesotho*. Durban: University Of KwaZulu-Natal, 20-9.

socially violent punishments – including beatings, executions, and ostracism – to defend their power and social order.

One of the most successful of the emerging class of Highveld monarchs was Moshoeshoe. Over the span of a little more than two decades, he transformed his status from princely heir to a small band – people nesting themselves within the Mokoteli lineage branch of the larger genealogical community committed to honor of the Crocodile (Koena) – in the upper Mohokare River Valley, into subcontinental power broker. Born Lepoqo and initiated as Letlama, the name Moshoeshoe was drawn from a praise poem referencing the swishing sound of a metaphorical razor as he shaved the beards (read: stock) of rivals.²⁵ During the time of troubles, Moshoeshoe proved to be a strong long-term strategist. He leveraged the mountainous terrain of his home to launch cattle raids on neighboring communities and defend his own stock holdings. Destitute commoners, as well as fellow princes with their own followings, swore fealty to the young lord as *morena oa moholo* (meaning ‘great king’ or ‘great lord,’ later glossed in English as ‘paramount chief’) in exchange for military defense pacts and a cattle patronage system (*mafisa*) used both to generate livelihoods and seal marriage contracts. By the 1830s, the king controlled a swathe of territory spanning from the Qhaba (Modder) River in the east to the Maloti (Drakensberg) escarpment in the west.²⁶ Even after finding himself securely ensconced as the central hub of a powerful confederation, Moshoeshoe continued to scale up his efforts

²⁵ Ellenberger, DF. 1993 (Published in French 1912). *History of the Basuto, Ancient and Modern*. Macgregor, JC., trans. Morija: Morija Museum & Archives, 106-7.

²⁶ On river toponymy see Du Plessis, M. 2017. ‘The Name of the Fourth River: A Small Puzzle Presented by a Fragment of Kora, for Johan Oosthuizen.’ *Stellenbosch Papers in Linguistics* 48: 123–37.

to secure internal social control by dispersing patronage and continuing to build his confederation.

The monarch also vigilantly monitored activity at the edges of his dominion. The most consistent source of raiding and tension came with the people following Queen Mmanthisi and Prince Sekonyela, who were referred to as Batlokoa on account of their leopard (*tlokoa*) crest.²⁷ Moshoeshoe would eventually send Molapo, a beloved second son and accomplished tactician, to preside over the northern reaches, a ward termed Leribe, which abutted the heartland of the people of the leopard. Kings claiming lineage under a duiker crest (*phuthi*) were Moshoeshoe's allies on Lesotho's Southern flank, adjoining kingdoms that also spoke Nguni-languages. Moshoeshoe continued to build out his confederation to the West over the 1830s by securing the fealty of Lord Moroka and his people of the Kudu (*Barolong*), centered around Black Mountain (*Thaba 'Nchu*), as well as Lord Moletsane and his people of the lion (*Bataung*), then based near Mekuatleng.²⁸ These confederated lords provided a buffer between the territorial core in the middle Mohokare Valley, and powerful Afrikaans-speaking, mixed-race Griqua (or 'Bastard') and Koranna polities, feared not only as fellow raiders of livestock, but also as hunters and traffickers of human chattel. Upon learning of the settling of white missionaries amongst the Griqua on the Western frontier, Moshoeshoe broadcast his desire that one or more of

²⁷ I am convinced by Landau's (2010) argument that missionary records on tribes and clans calcified a 'virile public discourse into heritage tale' (61). The use of clan crests (*liboko*, sing. *seboko*) to signify groups of people, in this chapter, is simply shorthand for collectivities promoting particular discourses of ancestry at a given time. It doesn't negate that people hopped from one story of ancestry to others over time.

²⁸ For details on geopolitical situation over the late-18th and early-19th century: Landau 2010; Legassick 2010; and Cavanagh, E. 2013. *Settler Colonialism and Land Rights in South Africa: Possession and Dispossession on the Orange River*. Basingstoke: Palgrave Macmillan.

these people come to live amongst his people, hoping to glean new insights into their worldview and technologies.

1.3 Casalis' assessment and narrative of a Highveld kingdom's moral health

In 1833, a trio belonging to the fledgling Paris Evangelical Mission Society (PEMS), who had effectively been wandering on the veld looking for a place to ply their trade, were delighted to learn of the king's open invitation to European missionaries.²⁹ In 1837, after working with his colleagues Thomas Arbousset and Constant Gosselin to found the local mission headquarters – a community they dubbed Morija — Eugene Casalis established a mission in the king's capital of Night Mountain. The monarch and missionary quickly became close. Both were profoundly interested in the other's understandings of cosmology, ethics, and geopolitics. The king was fascinated by the tales of the judges and prophets from the Old Testament, and particularly by the story of the strange clothes, trials, travels, and redemption of Joseph; perhaps he saw something of Joseph's capacity to be a wise vizier in the young Frenchman.³⁰ Over time, Casalis did indeed become a trusted diplomatic advisor. In his capacity as scribe and clerk to Moshoeshoe for some eighteen years, Casalis generated – along with missionary reports to the Paris headquarter and publications in its journal – the oldest extant written records of life in the middle Mohokare Valley.

In his accounts Casalis demonstrates not only the zeal for spreading Christian civilization broadly shared by fellow non-conformist missionaries, of his and subsequent generations, but also a far rarer habit of mind. The missionary was only twenty years old

²⁹ Casalis 1889, 137-8.

³⁰ Ibid, 222-3.

when he first met the king, and was able to see (if not always countenance) the virtues of many African institutions and technologies.³¹ Casalis – known affectionately in Night Mountain as *mahloana-matsoana* (little black eyes) for the jet orbs peering out from beneath wire-rimmed glasses – was animated by a deep stripe of reflexiveness.³² He was troubled to report to the king ‘that the nations which recognised Jesus Christ still loved war, and applied themselves to perfecting the military art.’³³ In Moshoeshoe, the Frenchman saw a monarch as committed to mercy and peace as any of the Christian kings of Europe. Having been raised in a household, moreover, where tales of the repression that befell his Huguenot ancestors following the revocation of the Edict of Nantes were drilled into him as a child, Casalis was moved by the king’s openness to freedom of conscience amongst his people.³⁴ The missionary was perhaps most astounded by the practices of criminal justice in the kingdom, and the ways that fines used to try to ‘wipe away the tears’ of victims predominated in place of judicially imposed suffering engineered to generate

³¹ To be clear, Casalis did not doubt the superior moral virtue of French bourgeois mores concerning gender roles, architecture, agricultural methods, dress, or food: for a particularly strident use of civilizational comparison see ‘Lettre de M. Casalis sur l’etat et le progres de Morija,’ 26 May 1834, in Theal, GM. 1883. *Basutoland Records*, Vol. III. Cape Town: WA Richards & Sons, 27-32, especially 30. Unlike his contemporaries, and particularly those working after 1850, Casalis did not attempt to command local people to change, but rather to discuss and debate the issues cordially. The missionary was also deeply interested not just in the ‘what’ or ‘how’ of the way things were done at Night Mountain, but also the ‘why.’ While his colleagues dogmatically railed about initiation lodges as ‘schools of the devil,’ and Casalis himself harbored suspicions of the long-term moral impact of the institutions, he also acknowledged the social value of *mephato* for educating the young about ‘the proprieties and duties of life, as they are understood by these people’ (Casalis 1861, 261). The place where Casalis was most unwilling to give ground came with polygamy, which he saw as exploitative of women’s labor; the missionary’s beliefs were not so dogmatic, however, as to preclude having a cordial discussion and debate with Moshoeshoe over polygamy in the old testament and the idea of hiring household domestic help in lieu of taking additional wives (Casalis 1889, 225-8. Also: Casalis 1861, 188-90; Germond, 515-16).

³² Ellenberger, V. 1938. *A Century of Mission Work in Basutoland*. Morija: Morija Printing Works, 94.

³³ Casalis 1889, 224.

³⁴ *Ibid*, 7-8; Moshoeshoe’s freedom of conscience – including conversion, adoption of mores, and burial customs – extended to members of his own family as well as society.

fear and, ostensibly, deterrence. Casalis was well acquainted with the brutality at work in metropolitan penal facilities, having first ministered to shackled, half-starved, and sometimes raving inmates at a military base in Bayonne.³⁵

As noted in the introduction, the birth of Christian missions in Lesotho coincided with a revolution in punitive technologies and infrastructure in Western Europe and North America. Non-conformist Christians played an important political and intellectual role in this process, by agitating for reforms and by creating institutions which would ostensibly facilitate the redemption of persons through honest toil and structured prayer. The penal reforms promoted by these activists circulated widely in the Atlantic. During his training for mission work in Paris in 1831, Casalis might have passed Alexis de Tocqueville in the streets as the latter prepared for his own journey, to inspect and report on the cutting-edge penal system emerging in parts of the United States – particularly under Quakers in Pennsylvania – for the new July Monarchy.³⁶ The missionaries brought beliefs about the need for humane mechanisms of preventing and responding to crime with them from Europe to Africa. Having heard numerous legends of African kings who killed or sold into slavery their followers without compunction, Casalis was not prepared for the society he actually encountered.³⁷ The depth of his misassumptions fueled the strength of his efforts

³⁵ Ibid, 25.

³⁶ Pierson, G. *Tocqueville in America*. Baltimore: Johns Hopkins, 1938, 27-8, cited in de Tocqueville, A., and G. de Beaumont. 2019 (originally published in French in 1833) *On the Penitentiary System in the United States and Its Application to France*. E. Ferkaluk, trans. Cham: Palgrave Macmillan, xvi.

³⁷ Casalis 1861, 16 and 217. For more on French-language exoticist imagery of Africans: Miller, C.L. 1990. *Theories of Africans: Francophone Literature and Anthropology in Africa*. Chicago: University of Chicago. Although Casalis accepted that there was cannibalism practiced in the subcontinent, it was not a central motif of his writing like it was for Arbousset. For examples see, Arbousset, T. and Daumas, F. 1846. *Narrative of an Exploratory Tour to the North-East of the Colony of the Cape of Good Hope*. Brown, J.C., trans. Cape Town: Robertson, 52-61 and 302; idem 1991, *Missionary Excursion into the Blue Mountains*. Ambrose, D. and A. Brutsch, eds. and trans. Morija: Morija Museum & Archives, 58-69, 72, 112, 161-65.

to tell a different story. Just as Moshoeshoe perhaps favored the biblical story of Joseph for what it said about his friend in a patched frock coat, two of the local stories Casalis and his compatriot Thomas Arbousset, stationed in Morija, most frequently dwelt upon in their writings – those of Mohlomi and Rakotsoane – cast the lord of Night Mountain as a proto-evangelical.

Mohlomi was a noted doctor, rainmaker, and philosopher over the 18th and early 19th centuries, who travelled widely throughout the subcontinent.³⁸ As a young man Moshoeshoe sought out the polymath for advice on how he might become a great lord. Like Huldah to Josiah, the Mohlomi of legend warned Moshoeshoe about the impending ‘time of troubles,’ but also foretold that the king could effectively shepherd his people through the destruction with moral leadership.³⁹ When the ambitious prince asked the best medicine or sorcery for acquiring followers, the sage responded: ‘Motse ha o na sehlare, sehlare ke pelo’ (power is not won by medicine, a [good] heart is the medicine). Mohlomi further advised his mentee on the merits of various methods of securing the consent of the governed. In lore, the meeting was a pivot in Moshoeshoe’s life, setting a rash and ill-tempered young man on an upward trajectory towards monarchical grace. Moshoeshoe’s encounter with Mohlomi was a parable of wisdom.

Rakotsoane was the leader of an independent following in the Mohokare Valley. Crazy with hunger and the violence of the time of troubles, his group began hunting people

³⁸ Thomas Arbousset collected the most extensive data on Mohlomi (1846, 265-77; 1991, 63-5). Azariele Sekese, a mission-educated Mosotho historian, expanded upon these writings with tidbits of lore (albeit nearly a century after the events in question), in the pages of the Paris Mission’s newspaper *Leselinyana*: 1 Apr. 1892; 15 June 1906; 26 June 1913; cited in Sanders, 22 fn 11. Polished historical investigations have been produced by Machobane (1978. “Mohlomi: Doctor, Traveller and Sage.” *Mohlomi: Journal of Southern African Studies* 2: 5–27), Sanders (1975, 21-3), and Thompson (1975, 23-7).

³⁹ Arbousset 1846, 274 ; Casalis 1861, 213; Ellenberger 1993, 106-7.

too weak to fight back. Amongst the victims of these *malimo* (devourers of people/cannibals) was Moshoeshoe's paternal grandfather Peete.⁴⁰ When Moshoeshoe's first capital in Butha-Buthe was faced with being overrun by the people of the leopard crest in 1824, the prince led an exodus of over 100-miles through rugged terrain to the more defensible Night Mountain. While the group was traversing Lipetu Pass, however, the *malimo* fell upon stragglers, including Peete. When Rakotsoane was later captured and hauled before Moshoeshoe's court, the king's people demanded blood for blood. The king rejected the calls for revenge, however, saying that this would be an unfit way to honor the 'living sepulchers' of kin. Casalis wrote, 'These words were sufficient to rescue the wretches whom he wished to bring to repentance. They saw in the clemency of their chief an unhoped for means of restoration, and resolved themselves to avail themselves of it.'⁴¹ The *malimo* were not only spared death, but also provided with land and cattle so as to have a less macabre means of generating sustenance. Moshoeshoe's encounter with Rakotsoane was a parable of mercy.

As with many other missionaries, Casalis also had a strange obsession with Shaka, founder of the amaZulu nation and empire.⁴² The former caricatured the latter as a leader who amassed power 'by putting to death, without mercy, anyone who would not submit to his authority.'⁴³ Although such statements are resonant with the martial race stereotype that

⁴⁰ Casalis 1861, 17-9. Casalis emphasizes the sociological motivations of starvation and desperation during *lifaqane* as compelling people to prey on people, whereas Arbousset exoticizes cannibalism as normal practice for some groups of people in the subcontinent (see note 31, above).

⁴¹ Casalis 1861, 19.

⁴² Eldredge, E. 2015. *Kingdoms and chiefdoms of southeastern Africa: oral traditions and history, 1400-1830*. Rochester: University of Rochester, 185-236; Harms, R. 2018. *Africa in Global History*. New York, Norton, 356-9.

⁴³ Casalis 1861, 16-7; idem, in Theal 1883, Vol. III, 28. On Shaka legends over time: Hamilton, C. 1998. *Terrific Majesty: The Power of Shaka Zulu and the Limits of Historical Invention*. Cambridge: Harvard University.

would explode following the victory of people grouped as amaZulu over British troops at Isandlwana in 1879, jumping to correlate the two streams of discourse elides at least one important distinction. There is no evidence that Casalis believed that there was a prenatally determined Zulu nature. The story of Rakotsoane is instructive here. As with Shaka, the supposed cannibal was cast as a foil to the wisdom and decency of the lord of Night Mountain. Unlike Shaka, however, Rakotsoane was presented with the opportunity to abandon his wicked lifestyle under the enlightened tutelage of a great king. Although far less of a reclamation project, Moshoeshoe was himself cast as having undergone a moral rebirth following his meeting with Mohlomi.⁴⁴ Even as Casalis and other nonconformist missionaries reified (or *ethnografied*) tribes into existence, populating these conceptual containers with stereotypes and assessments of the relative progress towards a civilizational ideal, they believed progress was both possible and desirable. As we will see, however, their work was ultimately used as the basis for more deterministic discourses.

1.4 Tlali Moshoeshoe's 'Story of Basotho'

While missionaries and travelers began the process of chronicling events in the early 19th century Mohokare Valley, it was not long before local elites began to create their own written accounts.⁴⁵ Tlali Moshoeshoe compiled one remarkably early and divergent view

⁴⁴ MMA: Leselinyana, 'Buka ea taba tsa Ba-Sotho,' 1 Sep. 1892. The Mosotho historian Azariele Sekese discusses Moshoeshoe's behavior before receiving the counsel of the sage; he suggests the prince killed four followers for being slow in carrying out orders, and another for milking a cow without permission.

⁴⁵ Much of the correspondence blended the instrumental and personnel, as Moshoeshoe communicated via clerks (Casalis and, later, the monarch's literate sons, particularly Tlali and Tsekelo) with friendly, ambivalent, and antagonistic officials in Bloemfontein, Cape Town, Durban, and London. Much of the official correspondence was compiled by the early imperial historian and prolific bibliographer George McCall Theal in a six-volume collection, *Basutoland Records*, published by C. Struik in Cape Town in 1883 (henceforth cited as *BR* i. – *BR* vi.).

on the history and sociology of the region in 1858, while attending school in Cape Town.⁴⁶ The project began at the behest of Tlali's host, the British Governor of Cape Colony, Sir George Grey, who suggested the prince write the history of his tribe. In the evenings, after putting down his studies of Alexander, Herotodus, and the Tarpeian Rock, the first son of Moshoeshoe's fifth house began writing down everything he could recall about his homeland. Beyond the events which Tlali personally witnessed, it includes snippets of praise poems and numerous anecdotes related to the prince by his grandfather Mokhachane (Moshoeshoe's father).

The document is raw and honest. Tlali, for example, notes the absurdly comic circumstances of the earliest encounters with missionaries to pass through his father's community; an itinerant Irvingite preacher visited Night Mountain accompanied by a translator with a thin understanding of negation in the local tongue, so it appeared the missionary spent several days shrieking at the community to 'pray to small dolls' and

⁴⁶ Biographical details gleaned from: 'Symposium George Tlali Moshesh' in *Ilanga Lase Natal*, 26 Nov. 1915, Readex African Newspapers Online; Damane, M. and P. Sanders, 1978. 'Preface' in Moshoeshoe, G.T. "The Story of the Sotho – Part I," M. Damane and P. Sanders, eds., in *Mohlomi: Journal of Southern African Studies* 2: 115–161, 115-119. Tlali was born in 1835. In 1856 the prince and his younger brother Tsekelo set out on their own to attend school in the Cape, first enrolling at a technical institute and then heading off for more challenging studies in Zonnenbloem, Cape Town in early 1857. The brothers quickly came under the wing of Cape Governor George Grey. In 1858 Tlali, christened George in the Anglican Church, took quill to paper and compiled a 111-page document titled 'Story of the Basotho,' at the urging of the Governor. The brothers' education came to an abrupt end in 1858, sent home by Grey after Tsekelo flirted with a domestic servant to the Governor. The pair settled in their father's capital, assisting the king as clerks, translators, and envoys. Tlali later turned away from Christianity and married the daughter of the famed prophetess 'Mantsoupa. After the death of Moshoeshoe in 1870, and the advent of Cape Rule shortly thereafter, the brothers signed on with the Governor's Agent as policemen. When the colonial effort to disarm the territory led to a rebellion and civil war, Tlali sided with the Cape and one half-brother, paramount Letsie, against the rebels led by their other half-brother Masupha and nephew Joel. After the war Tlali was rewarded for his loyalty to the Cape with a land grant just outside Lesotho, near the town of Matatiele. Some 4,000 mourners from Lesotho and South Africa attended his funeral in 1915.

‘covet the wives and cows of your neighbors.’⁴⁷ While the prince was immensely proud of his father, the portrait of Moshoeshoe is far less grandiose than in the accounts of Casalis and Arbousset, or later imperial and liberal scholarship. Moshoeshoe was not presented as a man of singular decency and wisdom, nor as a predestined nation-builder.⁴⁸ The lack of instrumental political goals for the text makes it a compelling document to assist in ‘reading against the grain’ of missionary reports and official correspondences. Despite the name of the document, flagging Basothodom, the text itself supports Landau’s argument about tribes being a politico-cultural bucket of exogenous origin: Tlali described communities in terms of shared stories of common ancestors, charting dozens of lineages living in the Mohokare Valley. A critical reading of ‘Story’ also supports the theory that the nonviolent sensibilities imputed to Moshoeshoe were exaggerated, both by interlocutors and at times by the king himself.

By the 1840s Moshoeshoe frequently proclaimed his commitment to eschewing warfare and violent punishments, having ostensibly turned the page on the rash actions of his younger self.⁴⁹ For the missionaries this transformation was all about personal growth. As the king aged, he took more to heart the wise advice of Mohlomi and, of course, the missionaries themselves. Tlali offers some additional insights into the complexities and motivations underpinning his father’s zeal for nonviolent governance. First, the socio-political status quo was in his father’s favor.⁵⁰ The king had effectively crushed or

⁴⁷ Tlali 1858, s. 63; see also Sanders 1975, 46.

⁴⁸ Moshoeshoe’s Mokoteli branch of the clan bearing the Crocodile totem (*Bakoena*) lay at the center of the story, surrounded by a collection of peoples with overlapping and diverging networks of political affinities. There is no mention of the Afrikaans-speaking settlers in the Free State, a signal perhaps of the Eurocentrism infusing much of the historiography on the mid-19th century Highveld.

⁴⁹ Tlali 1858, s. 98.

⁵⁰ Tlali, ss. 29-35, especially s. 30; see also s. 72 for a later campaign. Tlali makes clear that it was

subordinated rivals, and violently smashed groups of brigands who preyed upon his people.⁵¹ While successful raiding had paved Moshoeshoe's path to the apex of regional power, providing many of the cattle dispersed to solidify his own patronage network, shaving of rich men's beards was no longer in the king's own interest. Second, the king was not forced to deal with questions of intra-communal violence frequently, because of the decentralized nature of political and juridical power in the kingdom.⁵² Moshoeshoe was only responsible for enforcing the law in the first instance within his own community of Night Mountain, while subordinate lords were allowed to enforce laws according to their own ethical standards in their own communities. Third, Moshoeshoe was highly cognizant, particularly with Casalis at his side, of the need to be mindful about representational politics with the outside world; the path to British favor, and support against rivals, was imagined to be moral respectability.⁵³ Fourth, as we shall see below, there were still times when the king felt it necessary to display his sovereign power with acts of extreme violence.

success in raiding and parlaying the gains into new allies which allowed his father to become 'a lion amongst the Basotho' (s. 29) and made it so 'there was no longer anyone who could scratch a louse from himself onto Moshoeshoe' (s. 31). As for Casalis and Arbousset, it was not that they were unaware or neglected to document the wars and raids launched by Moshoeshoe on neighbors, including during their early years in the kingdom, so much as they did not see the actions as emblematic of the king's later character. Moshoeshoe's third son Sekhonyana (Nehemiah) wrote that Casalis convinced the king not to launch certain reprisals, including against King Hintsa ('A Little Light from Basuto-Land,' in *Cape Monthly*, May 1880: 280–92, 285). For an extended list of Moshoeshoe's raiding exploits, see Arbousset 1846, 284-5.

⁵¹ Tlali details how 'Moshoeshoe made [the Tsepa] people bend over for a beating' after working with raiders. He also recounts a nighttime reprisal attack on the Leopards in which Moshoeshoe's soldiers were 'thrusting with their spears in every direction,' and, 'at dawn, the bodies of the dead could be seen scattered about the village.' (s. 38; see also s. 16 on Tsepa; see also the reprisal on the Mpiti, s. 30. See also Backhouse, James. 1844. *A Narrative of a Visit to the Mauritius and South Africa*. New York: J.L. Linney, 360-1, on the violent response to highwaymen.

⁵² Tlali notes that his father was reluctant to involve himself in squabbles between subordinates, referring to them as the 'affairs of boys' (s. 98).

⁵³ Tlali writes, Moshoeshoe 'thought that among all these black peoples he was the Queen's great subject' (s. 92); see also the description of how Moshoeshoe modified his behavior at the request of British officials (s. 91).

Perhaps the great lacuna in early missionaries' assessment of the peaceful maintenance of order in Moshoeshoe's kingdom was their lack of attention to psychosocial controls. Gender, class, and age-based conceptions of honor and shame were drilled into young people through their families and, especially, in *mephato* (initiation lodges). From a young age girls and boys were socialized to know and abide by expectations of appropriate conduct organized around rigid social hierarchies: younger siblings deferred to older, sisters deferred to brothers, wives deferred to husbands, age-mates deferred to the lord's son, village leaders deferred to nobles of higher rank, and so on across all manners of social stations. For Casalis, a democratic ethos pervaded the king's court.⁵⁴ It was a site the lowliest commoner could make his voice heard (women were generally denied access to the court). Tlali's account, however, makes clear that there were deeper cultural dynamics at work that the missionaries failed to observe:

As for the lord of the Basotho himself [Moshoeshoe], he is not troubled by what the people say, because he knows that the people are poor and of no importance at all. All that concerns them is to be given meat. That is all. For a commoner to say anything is very difficult in Lesotho. If a man is to speak he must be called... Even if a man is the son of a lord...he will not try to speak...for they may criticize him and he would feel ashamed.

⁵⁴ Numerous Basotho activists and intellectuals have noted a Highveld political culture of old, expressed by the saying *morena ke morena ka batho* (a lord is a lord by the people), as a key loss during the onset of colonial rule; see, Jingoos, S. 1975. *Chief Is a Chief by the People*. Perry, C. and J. Perry., eds. London: Oxford University, 171-183. In an environment characterized by land-abundance and malleable identities, the *bafo* could (and did) quit the jurisdiction of abusive or incompetent leaders, and take up with more responsive ones. Moreover, the democratic political ethos found expression—albeit exclusively for men—in the institution of the *pitso*, or public gathering. It was expected that, before making important decisions, lord would provide for an open public debate and seek to incorporate suggestions as much as possible into their ruling. At the same time, Moshoeshoe did actively exert pressure on confederates both through the latent threat of withdrawing patronage and the active measure of 'placing' relatives (ousting the existing lord)—who were presumably more responsive to his wishes—in more and more jurisdictions over his tenure as Paramount. Thabane 1996 and Kimble 1978 take a dimmer view of class relations; Epprecht 2000, meanwhile, highlights how all but a few women (in leadership positions) were denied a political voice.

The institutional technology of *lebollo* (initiation) represented the culmination of the socialization process within gender roles. In addition to learning skills, notably including fighting, young men's bodies were disciplined with tests of endurance and intense physical violence to loyally follow orders.⁵⁵ Young women were schooled to be dutiful wives and mothers. Violation of codes of conduct could result in public scorn, corporal sanctions from family members, and in more extreme cases, ostracism. Networks of patronage reinforced codes of behavioral conduct with a coercive edge, as access to the means and fruits of production could be revoked from above; clients who displeased patrons – whether commoner to lord or lord to king – might be punished by the loss of cattle or lands, just as a male head of a household might deny his children or wife access to food.⁵⁶ Psycho-social dynamics also cast the story of Rakotsoane in a slightly different light. By looking past the personal harm, Moshoeshoe created a legend for himself as a magnanimous leader. The legend of king who could look past such a horror and personal grievance was a tool for recruiting new followers. The incorporation of a former enemy and his people not only reduced the number of opponents, but added a group of seasoned warriors into the ranks of those honor bound to fight when called upon by their new king. While willing to forgive raiding and even attacks from rivals, we shall see that Moshoeshoe was less kindly disposed towards those who broke vows of fealty.

⁵⁵ Casalis 1861, 261-9. For a review of literature on initiation, see Thompson, 3 fn 2. The efficacy of initiation schools in binding age-mates together was exemplified by the service that Makoanyane provided Moshoeshoe over the course of their lives (see Tlali, ss. 25, 27, 30, 33-4, 45, and especially, 48; Arbousset 1846, 278-87).

⁵⁶ The arrangement meant milk, dung (for fertilizer, building, and the cook fire), and, eventually, draft power for the male client. Male commoners were obligated to provide lords with military service, tribute labor (*letsema*), and accept the legitimacy of the lord's political and judicial decisions. Cattle might be recalled if a lord became dissatisfied with the conduct of a subordinate. Pule and Thabane (2002), Ch. 1; Eldredge (1993), 34-40; Machobane (1990), 14-7.

The decade following the arrival of missionaries in 1833 was a period of relative peace and abundance in the inchoate kingdom. Conflict with rival polities ebbed. The local economy thrived, blessed by good rains and the introduction of wheat and peach trees by the missionaries. The first three Paris Evangelicals were joined by new colleagues, opened new missions, and slowly secured converts, notably including two of Moshoeshoe's wives and Molapo. Missionaries also successfully prevailed upon the king to outlaw witch-finding and European alcohol in the kingdom, as well as to temporarily discontinue initiation schools on Night Mountain for much of the 1840s.⁵⁷ While ecstatic about the trajectory of their project, the missionaries also spied an ominous cloud on the geopolitical horizon when wagonloads of European, Afrikaans-speaking settlers calling themselves *trekboere* (sing. *trekboer*) began to trundle across the Senqu (Orange) River over the late-1830s. The settlers secured Moshoeshoe's permission to settle in an area they dubbed *Transoranje* ('Across the Orange,' Transorangia in English), centered around present-day

⁵⁷ The initial witch-finding ban, applying to Thaba Boisu, was promulgated in response to an elderly woman being stoned to death at Night Mountain (Casalis, 18 Nov. 1840, in *JME*: 1841, 334). The ban was extended to the entirety of Lesotho in 1855, when killing a witch became punishable by death ('Proclamation by Moshesh,' 27 Aug. 1855, *BR* ii., 152-3). On liquor ban: Moshoeshoe, 8 Nov. 1854, 'Ordinance against the introduction and sale of Spiritous Liquors in the territory of the Basutos,' in *BR* v.2, 133. As for initiation, Casalis was able to temporarily convince Moshoeshoe to ban the practice at Night Mountain in 1840 (Casalis Report, 18 Nov. 1840, in *JME*: 1841, 334); these claims are corroborated by Letsie's testimony that many of his younger brothers were never circumcised (Letsie's testimony, in Cape Colony 1873. *Report on Native Laws and Customs of the Basutos*. Cape Town: Saul Solomon & Co., 48). Initiation at Night Mountain began again sometime between 1848 and 1854, when Moshoeshoe's relations with PEMS were declining, and he needed disciplined soldiers for war with the people of the leopard. In 1848, during a period in which Casalis was recalled to Paris (1848-51) to work at headquarters, missionaries clashed with Moshoeshoe over the king's decision to mount a campaign on Sekonyela. Missionaries ordered their communicants not to fight and even denied communion to any individuals who ate meat from captured stock; this stance caused many converts (including Molapo) to renounce Christianity, and significantly undermined goodwill between PEMS and the aristocracy (Arbousset, 29 Dec. 1848, in *JME*: 1849, 186-7; cited by Thompson, 148; for more on the clashes see Sanders 1975, 153-62). It seems likely that initiation at Night Mountain resumed in the aftermath of the 1848 campaign, and it was certainly going by the time Moshoeshoe prepared to attack Marabeng (Arbousset, 8 Nov. 1854 [*sic*, it must be 1853], in *JME*: 1854, 163).

Bloemfontein. The number of Europeans continued to grow over the early 1840s, and engage in tit-for-tat cattle raids with Moshoeshoe's allies (and trade for kidnapped slaves, legalistically styled 'apprentices,' with the Griqua and Koranna).⁵⁸ While no match for Moshoeshoe's people militarily in the 1830s or 40s, the increasing numbers and organization of the white settlers alarmed both the king and the missionaries. The growing political tensions of the frontier over the 1840s led Casalis to redirect much of his epistolary output from musings on political and moral philosophy to Politics.

The PEMS missionaries in Moshoeshoe's kingdom widely cast the Dutch-speaking settlers as the worst purveyors of violence on the frontier. It seems the former regarded the latter with the particular contempt of the faithful for apostates; in their vision the settlers were fallen people who, unlike Africans, had been born with civilization at their fingertips, but had made the active choice to continue to pursue rough lifeways and, most damningly, to continue to trade and exploit slaves. The callousness which farmers ostensibly treated humane life, and their imperiousness in dispensing justice in Moshoeshoe's territory, was a particular cause of concern.⁵⁹ The king filed a formal complaint with the Cape in November 1839, penned by Casalis, following an egregious incident. In October, while Moshoeshoe was away from Night Mountain, a score of armed settlers rode up to the mountain fortress hunting for two men. The fugitive pair, both of Griqua descent, had recently arrived. The posse charged that one man had stolen sixteen cattle and the other

⁵⁸ On Highveld slaving (and predation on the San more generally): J.M. Orpen, in *BR* v., 72; Eldredge, E. 1994. 'Slave Raiding across the Cape Frontier,' in *Slavery in South Africa: Captive Labor on the Dutch Frontier*, Eldredge, E. and F. Morton, eds., 93–126. Boulder: Westview Press.

⁵⁹ Moshoeshoe to Stockenstrom, 26 Nov. 1839, in *BR* i., 36-37; see also Capt. Arend to Stockenstrom, 28 Nov. 1839, *ibid*, 37-8. The response stated these matters were beyond the jurisdiction of the Cape and that Moshoeshoe had the Lt. Governor's blessing to punish the offenders as he saw fit (Hudson to Casalis, 18 Dec. 1839, *ibid*, 40).

had struck a farmer. After searching out and returning the stock in question, Moshoeshoe's councilors handed over the two alleged criminals under the promise that the pair would be taken for trial in a magistrate's court. The sight of vultures led residents of Night Mountain to the men's bodies. The pair had been shot, while still bound, only a short distance from the capital. Moshoeshoe was outraged both to learn what had happened and by the fact that the farmers did not respond to his court summons. He wrote to the Lieutenant Governor in the Cape:

Both were killed on my ground and near villages belonging to me. Now Your Honor will readily understand that by such an unwarrantable act of self revenge, they have brought me into difficult circumstances with the nation to whom the two men belonged... If the farmers assume the right of acting as Judges and Executioners in my Territories, the security of myself and people is at once in danger... Joseph and Kievit deserved punishment, but they had a right to expect that the punishment would be proportioned to the crime, and that it would be inflicted by a proper authority.

In 1842 Casalis drafted a letter from Moshoeshoe requesting official recognition from the Cape as the legitimate source of juridical authority in his corner of the Highveld.⁶⁰ The request blended a bit of fawning with a bit of boasting. As the greatest champions of civilization around the world, the British should lend their 'protective aegis' to the keenest student of civilization on the Highveld. Moshoeshoe's mantle of worthiness, moreover, was most exemplified by his model of judicial mercy. Cape Governor George Napier agreed, and issued a proclamation recognizing Moshoeshoe's as 'rightful sovereign.'⁶¹ The following year the two men signed an official treaty, outlining the boundaries of Moshoeshoe's territory and stipulating the terms of alliance with the British Crown.⁶² The king was charged to 'restrain[ing] and punish[ing] any attempt to violate the peace,'

⁶⁰ Casalis, on behalf of Moshoeshoe, to Governor-General of the Cape, 30 May 1842, in Germond, 164.

⁶¹ 'Proclamation by Governor Sir George Napier,' 7 Sep. 1842, in *BR* i., 48.

⁶² 'Napier Treaty,' 13 Dec. 1843, in *BR* i., 55-6.

recovering stolen property, apprehending ‘banditti,’ and extraditing Cape ‘fugitives from justice.’ The intellectual basis of this alliance was a shared recognition of Moshoeshoe’s ability to effectively, and humanely, maintain political and social control in his corner of the Highveld.

1.5 Dueling narratives: the Queen’s greatest subject or Fagin of the Maloti?

The deal with the British did not last long. A story of Moshoeshoe as king of thieves was emerging to counter the enlightened monarch narrative. Raiding for the stock of neighboring communities was part of life on the Highveld.⁶³ It provided a means for men, or boys seeking to be recognized as men, to procure cattle to win followers, or to pay brideprice to secure wives and thereby reproduce society. The 1840s witnessed not just white settler complaints about Moshoeshoe’s role in cattle raiding, but also an increasing number of hostile missionary representations. The arrival of ontologically rigid members of the Paris Mission in the Mohokare Valley, who were less inclined to acknowledge the sophistication and benefits of African institutions than Casalis or Arbousset, as well as the perspectives of Wesleyans who were making inroads and conversions amongst peoples who Moshoeshoe counted as vassals (people of the kudu) and foes (people of the leopards), diverged from the glowing portraits flowing from Night Mountain and Morija.⁶⁴ In 1845 the British sent a representative to monitor relations between the polities in the frontier zone. Henry Warden was uninterested in the socio-cultural intricacies of raiding, viewing the practice as theft, pure and simple. Over the late 1840s Warden bought into and

⁶³ On an extended discussion on the history and historiography of raiding, see King 2019, 145-191.

⁶⁴ Julian Cobbing accuses historians of being biased towards PEMS and Moshoeshoe, and hostile to Sekonyela: Cobbing, J. 1988. “The Mfecane as Alibi: Thoughts on Dithakong and Mbolompo.” *The Journal of African History* 29/3: 487–519, 515 fn 147-9.

promoted the view that the inchoate Basotho confederation was a particularly bad actor, driving conflict by continuously preying on the property of African polities, like the people of leopard, and upon white settlers.⁶⁵

Despite Warden's support for the emerging white settler narrative of Basotho thievery, and his work conveying this perspective to European and Cape publics, the *trekboere* resented British encroachment into their affairs. After a newly installed Cape Governor, Harry Smith, declared British sovereignty over Transorangia in 1848, the farmers launched an armed rebellion. The Cape crushed the uprising but quickly followed up with efforts to placate its conquered foes. To conciliate the vanquished farmer rebels, and chasten Moshoeshoe for continued raiding by members of his confederation, Warden redrew the map of regional borders on terms favorable to the settlers and Sekonyela, king of the people of the leopard. Moshoeshoe accepted the new map, still hoping to retain the status of 'the Queen's greatest subject.'⁶⁶ The king's decisions to swallow pride and narrow self-interest, and effectively turn the other cheek in the pursuit of the higher good of peace, are widely celebrated in Lesotho's national memory and nationalistic historiography. The apotheosis of this vision came in 1852, when yet another Cape Governor, George Cathcart, marched on Night Mountain to force Moshoeshoe to pay an enormous fine, ostensibly to compensate the king's neighbors for lost stock.⁶⁷ Although Basotho cavalry drove the

⁶⁵ Moshoeshoe 1858, ss. 91-8. There was a recrudescence of conflict in the northern reaches of Moshoeshoe's kingdom over the late-1840s, as Molapo and King Sekonyela 'kept giving one another tobacco' (s. 98). With Casalis on leave in Paris, the king of Thaba Bosiu acceded to pressure from subordinates and launched a massive raid on the Leopards. Casalis was trying to put the mission house in Paris back in order between 1848-51, and was sorely missed as a voice of caution for both Moshoeshoe and PEMS, see 50n57.

⁶⁶ Tlali 1858, s. 92.

⁶⁷ Cathcart to Sekonyela, 17 Dec. 1852, in *BR* i., 620.

invaders into retreat, Moshoeshoe immediately followed up his victory with a diplomatic letter playing on Cathcart's wounded pride:

This day you have fought against my people, and taken much cattle... I beg you will be satisfied... I entreat peace from you,—you have shown your power,—you have chastised,—let it be enough I pray you; and let me no longer be considered an enemy of the Queen. I will try all I can to keep my people in order in the future.⁶⁸

This move was a marked political success, injecting new life into the enlightened king narrative. Cathcart responded with a warm note, and issued a proclamation stating that because Moshoeshoe made a 'full and humble submission, and sued for peace' that a state of 'good understanding and amity' with the Crown was restored.⁶⁹

While such magnanimous and shrewd deeds are understandably celebrated, the narrative of cheek turning overly simplifies a complex historical situation. Moshoeshoe was not willing to purchase peace at any price. Perhaps the most illuminating instances came just before and just after the king outmaneuvered Cathcart. In 1851, Moshoeshoe's longstanding subordinate Moroka made a gambit for independence, and was crushed for his ostensible disloyalty. A combined army of Moroka's people of the kudu, Griqua, and Cape troops under the centralized command of Warden were routed by warriors commanded by Moshoeshoe's son Masopha and ally Moletsane; the year of the battle of Veirvoet was known for many subsequent years as *tihela* (throwing off, from the verb *ho liha*), an allusion to the 152 enemy soldiers killed after being driven by ax and spear from

⁶⁸ Moshoeshoe to Cathcart, 20 Dec. 1852, in *BR* i., 627.

⁶⁹ Cathcart to Moshoeshoe, 21 Dec. 1852, in *BR* i., 627-8; Proclamation, 23 Dec. 1852, in *BR* i., 631. Moshoeshoe followed up by delivering to the governor's agent an additional two dozen stolen cattle and three thieves, sending his own sons to assist in the burying the fallen British soldiers, and, later, charming Cathcart in person (Owen to Cathcart, 28 Dec. 1852, in *BR* i., 632). After their meeting Cathcart described Moshoeshoe as 'not only the most enlightened, but the most upright chief in South Africa, and one in whose good faith I place perfect confidence' (Cathcart to Green, 22 Mar. 1853, *BR* ii., 42).

the edge of the mountain's cliff.⁷⁰ Ten months after the return of good understanding and amity with the Crown, Moshoeshoe leveraged his political capital and, in the words of Tlali, looked at King Sekonyela 'and decided that he would go on fighting him, year after year if necessary. Then he went and destroyed him.'⁷¹ After the battle of Marabeng in 1853, the people of the leopard scattered, with many families throwing in their lot with new aristocratic lineages in Lesotho and others taking refuge together in Wittebergen Reserve.⁷²

The threat posed by Moshoeshoe's other major rival, the white settler community, presented a more intractable problem for the monarch. By 1854, Cape officials were weary of the high administrative costs for the Orange River Sovereignty, and allowed the formation of independent farmer republic of the Orange Free State (OFS). This growing community, with high levels of gun ownership, and political connections in the Cape, emerged as the primary military threat to Basotho in the years following Veirvoet and Marabeng. Over the late 1850s and 60s the OFS launched a series of border wars against Basotho, repeatedly pointing to cattle theft as *casus belli*.⁷³ The first invasion – known as Senekal's War – came in 1858. Farmers marched on Night Mountain, pillaging homesteads, villages, and mission stations on their way. The active role of PEMS in advocating for Moshoeshoe, and critiquing white settler behavior in correspondence with the Cape, blew back on the missionaries. Commandoes razed the missions at Beersheba and Morija; the latter attack resulted in the destruction of all written copies of

⁷⁰ Nehemiah 1880, 283; see also Theal, Preface, *BR* iii., lii-liii.

⁷¹ Tlali 1858, s. 99. Tlali emphasizes, however, that his father did work to try to maintain peace (s. 98).

⁷² King, R. 2018. 'Among the Headless Hordes: Missionaries, Outlaws and Logics of Landscape in the Wittebergen Native Reserve, c. 1850–1871.' *Journal of Southern African Studies* 44/4: 659–80.

⁷³ On Free State official's pronouncements for going to war: Theal, GM. 1886. *A Fragment of Basuto History, 1854 to 1871*. Cape Town: Saul Solomon, xxviii-xxlviii.

Moshoeshoe's laws and much of Arbusset's life work.⁷⁴ Although Basotho forces rallied and drove the farmers into retreat, a weapons gap was ominously trending towards weapons chasm.⁷⁵ A far more destructive invasion, known onomatopoeically as the 'Seqiti' war, for the crack of farmer cannons, commenced in 1865.⁷⁶ This time the commandoes not only sought to recoup losses and secure fresh spoils in stock, but worked to extirpate Africans from the land so as to clear territory for white settlement.⁷⁷ The cordial relations Moshoeshoe had enjoyed with earlier settler leaders, like Josias Hoffman (OFS president from 1854-55), faded away, as presidents like Jacobus Boshoff (1855-63) and Johannes Brand (1863-1888) promoted the legend of the essential cupidity and feloniousness of Basotho. The antipathy of this narrative rubbed off in the account of Fenton, who drew upon Charles Dicken's *Oliver Twist* in describing Night Mountain as 'garret to the "nation of thieves,"' and casting Moshoeshoe as Fagin and Tlali as the artful dodger.⁷⁸

King Moshoeshoe turned eighty in 1866, but worked tirelessly, despite his advanced age, to secure intercession during the border wars. He reprised the roles of supplicant and protégé, simultaneously lauding the British sense of justice and arguing that London could effectively civilize the territory through the king's office.⁷⁹ The British

⁷⁴ Lelimo, M. 1998. *The Question of Lesotho's Conquered Territory*. Morija: MMA; see also, Gill, 97-8. On Arbusset's lost work, see 'Mr. Arbusset's Journal,' 7 May 1858, in Germond, 243-4.

⁷⁵ Wodehouse to Secretary of State for the Colonies, 2 May 1868, in *BR* iii., 252.

⁷⁶ Theal (1886, 46-99) richly synthesizes documents and the events of the war, if with a decidedly pro-Afrikaner bent; see also, Sanders 1975, 228-241, and Thompson, 237-52.

⁷⁷ Wodehouse to Brand, 11 Feb 1868, in *BR* iii., 871.

⁷⁸ Fenton, 332-5. Fenton's account mocks the 'prevailing squalor' atop the mountain, and how 'a tattered European blanket, and a frowsy long-haired monkey skin kaross served to huddle up the pitiful form of him [Moshoeshoe] who was acknowledge the wisest, richest, and most powerful of all South Africa's native rulers.' While Fenton betrays profound ignorance to cast this poverty as timeless, the description does speak to the extreme privation faced by Basotho during the era of the border wars.

⁷⁹ Since the early 1860s Moshoeshoe had asked the British to 'be recognised as Her Majesty's subject, and that my subjects, the Basutos, may on account of and through my chieftainship be Her Majesty's too' (Moshoeshoe, 6 Dec. 1861, cited in minutes of meeting between Moshoeshoe and

finally answered Moshoeshoe's supplications in March 1868, proclaiming a Lesotho now on the verge of complete collapse before an invading Free State army as British Territory.⁸⁰ The same month a contingent of Frontier Armed and Mounted Police (FAMP), commanded by Walter Currie, crossed the Mohokare River and established three police camps.⁸¹ Unsurprisingly, the primary concern of the force was preventing stolen livestock from crossing the border. In the Treaty of Aliwal North, signed in February 1869, Cape Governor Wodehouse and President Brand settled the question of Lesotho's borders, without even allowing Moshoeshoe to be present. Outraged but desperate, the king agreed to the new map, reducing his dominion to a third of the size it had been three decades earlier.⁸²

1.6 A new missionary narrative of aristocratic and patriarchal exploitation

Moshoeshoe died in 1870, only months after the arrival of the first British administrative personnel. The king's eldest son by his first house, Letsie, assumed the position of *morena oa moholo*. The kingdom, ravaged by conflict for over a decade, now found itself bitterly

JM Orpen, 19 Feb. 1862, *BR* iii, 144). In this arrangement the king wished to effectively expand upon his own system of confederation, building in a new rung above his own. Moshoeshoe elaborated to Orpen, 'I wish to govern my own people by... our own laws, but if the Queen wishes after this to introduce other laws into my country, I would be willing.' The British, however, were unwilling to accept an arrangement whereby the king maintained qualified sovereignty.

⁸⁰ Even as requests from Night Mountain turned to pleas during the Seqiti War, the British held Lesotho at arms length until it seemed the capital might soon fall. In early 1868 Moshoeshoe received news Lesotho would become a British Territory (Wodehouse to Moshoeshoe, 13 Jan. 1868, in *BR* iii, 840), and the king expressed relief at being 'allowed to rest and lie under the large folds of the flag of England' (Moshoeshoe to Wodehouse, 26 Jan. 1868, in *BR* iii, 843). Sadly, the commandoes continued their destructive advance until March. Under Proclamation No. 14 of March 12, 1868, British annexation was formalized; colonial officials believed Lesotho's monarch and nobles had signed away sovereignty to forestall further suffering and the sacking of Night Mountain.

⁸¹ Theal 1886, 132-3: Advanced Post (in present-day Berea), Cornet Spruit (Mohale's Hoek), and Maseru.

⁸² The Cape did not ratify the treaty until March 1870, only a few days after the passing of Moshoeshoe. Wodehouse then conveyed the terms of the agreement to Basotho authorities, see *BR* v., 65-68 and 96-110.

divided politically. The second and third sons of Moshoeshoe's first house, Molapo and Masopha, ruling over Leribe and Berea districts respectively, rejected overrule by their brother. The British debated just how to proceed with governing newly acquired 'Basutoland' and, particularly, the appropriate role for a monarchy riven with internal conflicts. Colonial bureaucrats in London weighed fiduciary responsibility to metropolitan publics against a moral duty to promote liberal values and institutions.⁸³ In 1871, instead of opting to govern Lesotho through the monarchy, in the manner proposed by Moshoeshoe – or coopting nobles under the Shepstonian system as advocated by the police commander in the territory – London approved the annexation of the territory by the Cape Colony, as a cost-conscious way of promoting civilization.⁸⁴ The significance of this move was compounded the following year, when the Cape was granted self-governing status. Officials in Cape Town began to dictate policy in their far-flung 'Native Reserve,' confident they could cow any local opposition with the protection racket diplomacy of threatening to withdraw protection against an OFS invasion.

Building new institutions for administration, surveillance, and punishment were priorities for the vanguard of colonial officials. This infrastructure served as the coercive backbone of the inchoate state. The territory was divided into the four districts of Berea, Cornet Spruit (Mohale's Hoek), Thaba Bosigo (Maseru), and Leribe, each administered by a Resident Magistrate.⁸⁵ After Charles Griffith's 1871 appointment as Cape Governor's Agent and Chief Magistrate for Basutoland, he rapidly set about recruiting a local police

⁸³ Griffith, 'Annual Report of Governor's Agent, 1873,' in *Cape Parliamentary Papers* 1874, vol. i, cited by Burman 1976, 48.

⁸⁴ Lagden 1910, 469-72.

⁸⁵ Proclamation 51 of 1871, 24 Aug. 1871, in *BR* vi, 100-103 [258-67]; Magistrate's powers enumerated in Barkly Amended Regulations, 119-22 [317-26].

force: Tlali and nine other nobles signed on as officers, and 100 commoners enlisted as the rank and file.⁸⁶ Amongst the first messages Griffith sent back to Cape Town was a request that each magistracy be provided with six pairs of handcuffs and cat-o'-nine tails, as well as funds for building lock-ups in district capitals.⁸⁷

While the first generation of missionaries are remembered for vocally advocating for their royal patron, later waves of French-speaking protestants were increasing hostile to the aristocracy.⁸⁸ The growing antipathy towards local political technologies and institutions was partially rooted in a rising tide of culturo-racial chauvinism. But it was also based on an increasingly fine-tuned appreciation for how social control operated differently in Lesotho than in Europe, and the time worn experience of seeing lords check religious and cultural conversion. Emile Rolland, scion of a prominent PEMS family, was intrigued by the prospect of using the colonial state to aggressively remake society in the image of an idealized European form.⁸⁹ He sent a pivotal memorandum to the Cape Governor arguing that ruling through the existing aristocracy meant condoning and abetting slavery.

In Rolland's understanding of obligatory communal labor (*mafisa*) and bride price (*bohali*), nobles used their power and wealth to exploit the unpaid labor of commoners and

⁸⁶ Griffith to Southey, 27 Feb. 1872, *BR* vi., 413, cited by Burman, S. *Chieftdom Politics and Alien Law: Basutoland under Cape Rule, 1871-1884*. New York: Africana, 1981, 203 fn 8. See also Southey to Griffith, 11 Oct. 1872, in *BR* vi. 519-20. On Cape policing on the frontier: Western Cape Archives (WCA), CCP 1/2/2/1/19: 'Frontier Police Force,' Select Committee Report, 1872.

⁸⁷ Griffith to Barkly, 16 Aug. 1871, in *BR* vi, 96-97 [246-7].

⁸⁸ On the generational divide, see Gill, 92-4. Gill also details the growing inter-denominational squabbles between PEMS and the Roman Catholics who arrived in Lesotho in 1862 (and, after 1875, also with Anglicans), 102-5.

⁸⁹ Europe and Africa were double foils in the mind of Emile, who knew France less than he knew Lesotho, having been born at a new mission station in Beersheeba (then in Lesotho) in 1836; the station, run by Samuel Rolland, had converted the highest number of individuals prior to being put to the torch by a commando in 1858. I suspect that at least part of Casalis' openness to Sesotho practices was his latent appreciation for ugly aspects of metropolitan life.

women.⁹⁰ He recommended a joint push by magistrates and missionaries to undermine traditional authorities: magistrate courts, mission schooling, and Christian marriage could be dangled to commoners as instruments for liberating themselves from the bonds of aristocratic and patriarchal power. In Rolland's mind, transforming Lesotho into a just society would require not only the construction of new laws and physical infrastructure like jails, but also outreach to alter local perceptions about the nature of crimes, culpability, and justice. In this way, officials and missionaries could 'pave the way for the introduction of statute law' in the future.

In 1872 a newly arrived crop of resident magistrates took up these questions.⁹¹ A Special Commission was tasked with studying existing laws and making recommendations for new statutes. Tlali, and a handful of prominent Basotho nobles and missionaries, provided testimony. When the Cape promulgated a revised legal code for the territory in

⁹⁰ Rolland argued, 'The possession of a large number of women is a great source of wealth and influence to a Basuto chief. Each wife or concubine... enriches her husband by the produce of her gardens and labour, and by her children, the boys being servants and cattle herds and the girls being available for sale' ('Notes on the Political and Position of the Basuto Tribe,' in *BR* iv., 130). Rolland argued that the desire to purchase wives was a key driver of the cattle raiding, which had fueled geopolitical tensions (ibid, 146-7; see also, Comaroff, J. 1989. 'Images of Empire, Contests of Conscience,' *American Ethnologist* 16/4: 661-85, 666-7;). Given, however, that 'it would be impossible all at once to introduce colonial law,' Rolland suggested that the best course would be 'to frame temporary regulations... calculated gradually to educate them so as finally to pave the way for the introduction of statute law' (147-8). He proposed a 7-pronged approach for combatting polygamy (134-37; Epprecht 2000 notes how this vision effectively proposed replacing Sesotho patriarchal structures with a Victorian patriarchal model: 69 and 232 fn 6), as well as further ideas about how to promote individual industry and Christianity by making land alienable and attacking initiation schools as the 'starting point and mainstay of heathenism, the "school of the devil"' (139). For more on Rolland's vision, see Burman 1981, 37-8.

⁹¹ Cape Colony. 1873. The Basotho cultural interlocutors detailed how local courts made no distinction between civil and criminal matters. Criminal trespasses were treated as torts, matters requiring compensation payments to victims and lords. They also explained how certain acts that the magistrates viewed as criminal – including infanticide, abortion, and homosexuality – were not understood locally to constitute offenses. The missionary descriptions of systematic class and gender oppression, meanwhile, primarily touched upon matters relating to the Cape's civil, rather than criminal, legal statutes.

1877, it was maximally aggressive towards the aristocracy.⁹² Not only did the laws vest magistrates with a wide punitive repertoire, including fines, imprisonment, and flogging and capital punishment (of males), but it sought to blur the boundaries between civil and criminal law when it came to the issues which concerned Rolland. It became an assault to force a young person into a marriage or an initiation school, and to physically coerce the labor obligations of commoners to chiefs.⁹³ The code also undercut the authority of nobles' courts by giving magistrates sweeping appellate powers. Given the thinness of the Cape's presence, however, fines handed down by chiefs, rather than sentences of time or pain handed down by magistrates, remained the principal currency of justice. In the next chapter I describe the elaboration and design of penal infrastructure in Lesotho over the late-19th and early-20th centuries, but here suffice it to say that magistrates' actual power to imprison was severely limited by a lack of infrastructure for women and for men facing long-sentences.

Chief Magistrate Griffith's broad plan was for the administration to bide its time, allowing for a growing cohort of Christianized elite to seize upon legal and market mechanisms to gradually supplant the aristocracy.⁹⁴ The recruiting efforts of mission churches were bolstered both by the displacement and trauma of the border wars as well as the rapidly shifting social landscape. The advent of taxation, new market opportunities, and the growing monetization of the economy, meanwhile, changed the relationship between lords and commoners. The rush of diamond prospectors to Kimberley in the early 1870s

⁹² Proclamation No. 44 of 1877, 29 Mar. 1877, reprinted in Burman, S. 1976. *The Justice of the Queen's Government: The Cape's Administration of Basutoland, 1871-1884*. Leiden: Afrika-Studiecentrum, 24-39.

⁹³ *Ibid*, section on 'Courts of Law.' On tribute labor, see Burman 1981, 76-7

⁹⁴ See Epprecht 2000, 71-6; Showers, 24-29.

gave rise to a ‘golden age’ of agriculture in the Lesotho, as savvy Basotho agriculturalists began using oxen-drawn steel ploughs to produce wagonloads of grain for sale in the booming town. Suddenly there were wealthy commoners, some of whom nobles sought to punish by ‘eating up’ up their newfound assets with judicial fines. Missionaries attacked local practices of brideprice and initiation schools from the pulpit and in the classroom, and insisted their flocks use magistrate’s courts. Not everyone, however, embraced the new order. A prophetic movement emerged calling for a return to traditions of old: female prophets known as *matuela* received messages in trance states, introduced healing dances, and called upon people to discard Western lifeways and technologies.⁹⁵ The movement, which peaked in 1876, was an early articulation of the idea that colonialism was a wellspring of social contamination rather than progress.⁹⁶ Ultimately, time was not allowed for Griffith and Rolland to incrementally change society, as imperious district magistrates and Cape officials precipitated a series of armed conflicts with traditional authorities.

1.7 Clashing narratives and civil wars

The first of two wars against Cape rule, known as Moorosi’s War, came following a jailbreak in the Southern district of Quthing in 1879.⁹⁷ Moorosi was king of a following

⁹⁵ WCA, NA 272, Tsekelo Moshoeshe to Griffith, 30 Aug. 1873, cited by Burman 1976, 57-58; *Leselinyana*, Oct-Dec 1875, cited in Burman, 73-4; Gill provides details on the movement, 125-27.

⁹⁶ On an earlier millenarian movement to the South of Lesotho, see: Peires, J. B. 1989. *The Dead Will Arise: Nongqawuse and the Great Xhosa Cattle-Killing Movement of 1856-7*. Johannesburg: Ravan; Zakes Mda’s novel *The Heart of Redness* masterfully animates the same events (2000. Oxford: Oxford University).

⁹⁷ The story of Moorosi, Doda, and Austen is extraordinarily well covered in the literature, so I offer only the brief sketch here to points relevant to our larger argument. For information on the uprising: King 2019, 193-217; Burman 1981, 108-131; Sanders, P. 2011. *Throwing down White Man’: Cape Rule and Misrule in Colonial Lesotho, 1871-1884*. Pontypool: Merlin; Atmore, A. 1970. “The Moorosi Rebellion: Lesotho, 1879,” in *Protest and Power in Black Africa*, A. Mazrui and R. Rotberg, eds., 2–36. New York: Oxford University; and Eldredge, E. 2007. *Power in Colonial Africa Conflict and Discourse in Lesotho, 1870-1960*. Madison: University of Wisconsin, 55-70.

bearing the Duiker (*Phuthi*) totem, and a longstanding and powerful confederate of the late Moshoeshoe. In the colonial imagination, however, Moorosi was little more than a king of thieves, a notorious raider who presided over a multi-lingual, multi-racial following united by a shared passion for pilfering stock.⁹⁸ John Austen, the magistrate for Quthing, directly precipitated the war by arresting Moorosi's son Doda in late 1878, on a charge of horse theft. Instead of allowing the prince to be sent to the notorious Breakwater Prison in Cape Town, Moorosi's men stole into the Quthing magistracy in January 1879 and forced the door of the ramshackle lockup, liberating Doda.⁹⁹ In March, with Austen issuing ultimatums for the surrender of the prince, the king and armed followers took refuge on a defensible mountain. In November 1879, Cape forces – backed by men sent by Moshoeshoe's heir and successor, Letsie Moshoeshoe, to demonstrate loyalty to the colonial regime – scaled the peak with ladders. The rebels were slaughtered, and the handful of survivors shipped off to prisons outside the territory. Soldiers mutilated Moorosi's body, and sent the monarch's head to King William's Town for public display. Despite the Cape's seemingly resounding victory, the peace was short-lived. Emboldened by its victory, the Cape government of Prime Minister Gordon Sprigg and Governor Henry Bartle Frere immediately pushed aggressive measures seeking to double the hut tax, disarm Basotho of firearms, and open Quthing to white settlement.¹⁰⁰

⁹⁸ King 2019, 157-63. For more on the duiker totem, see Eldredge 1993, 134.

⁹⁹ Austen to Griffith, 23 Nov. 1878; Griffith to Ayliff, 28 Jan 1879, cited by Burman 1981, 217n55.

¹⁰⁰ Petition from Letsie to Bertle Frere, 21 Jan. 1880, in *BPP 1881* [c.2569], 9-12. The objections to the measures were discussed in an extended *pitso* (public forum for men) held at Night Mountain in July 3, 1880 (Minutes, in *BPP 1881* [c.2755], 51-57). Over the previous decade thousands of Basotho had braved the considerable dangers of traveling into *makhooeng* (place of the whites) – and often also the harsh and terrifying conditions in mine compounds and pits in Kimberley – specifically to acquire modern rifles. Particularly given the belief that another war with the Free State was likely, many Basotho men would rather than fight that surrender their hard-earned and essential property. Guns also had cultural significance: during the *pitso*, Letsie's son (and eventual

The Gun War thus came on the heels of the Moorosi War.¹⁰¹ The sons of Moshoeshoe disagreed about whether to accept or resist Cape demands, and a civil war commenced in 1880. The conflict pitted Cape-loyalist *mateketoa* (those who received ‘tickets’ for their surrendered weapons) led by Paramount Letsie, against *mabelete* (‘wild’ or ‘unbroken’ persons) led by Letsie’s brother Masopha Moshoeshoe and nephew Joel Molapo. Cape troops again crossed the Mohokare River, but this time were repeatedly thwarted and routed by the rebels. *Mabelete* used their knowledge of Lesotho’s mountainous terrain to launch quick but devastating assaults on colonial troops over the summer months of 1880-81. In one attack at Qalabani in October 1880 rebels killed 39 Cape troopers.¹⁰² The *mabelete* were also able to secure rough, if proportionate, justice for Moorosi in January 1881: John Austen’s severed head was sent to Letsie.¹⁰³ The conflict was marked by all the atrocities that attend with war. Combatants preyed upon the homesteads, kraals, and bodies of civilians.¹⁰⁴ Although colonial troops withdrew in 1881 – a face saving measure for the Cape involving Basotho paying a one-time indemnity in exchange for the lifting of the demand to surrender firearms and preserving the geographic integrity of the territory – insecurity and internecine strife continued. Nowhere was the violence more acute than in the northern district of Leribe, where a succession battle known

heir) Lerotholi described how the act of acquiring a gun was part of what distinguished a Mosotho man from a boy (53-3).

¹⁰¹ On the Gun War, see Eldredge 2007 71-89, and Sanders 2010.

¹⁰² EB Hartley to Brig. Gen. Clarke, Form No. 65, 20 Oct. 1880, in *BPP* 1881 [c.2755], 280.

¹⁰³ The deed was done by Lelingoana, grandson to Sekonyela, who was able to reestablish the Leopards in Lesotho, in the district of Mokhotlong, after the war. See LNA S9/1/2/2: Orpen to Secretary of Native Affairs, 13 Sep. 1882, cited by Eldredge 2007, 234 n 32.

¹⁰⁴ Loyalists who surrendered their guns were particularly vulnerable targets for rebels. This led *leteketoa* Tlali to keep his herds in the Free State during the war. Ambrose, *Maseru: An Illustrated History*, Morija: MMA, 1993, 58.

as *Lepatlepatle*, waged between Molapo's sons Joel and Jonathan, was grafted onto the fighting and did not peak until 1883.¹⁰⁵

The aftermath of the Gun War thus proved to be a continuation of the humiliation for the Cape. Magistrates were unable to surveil the territory or project power beyond the immediate reach of a handful of administrative 'camps' – the seats of the Cape magistracies – adjoining the eastern and northern border of the territory.¹⁰⁶ Their ally Paramount Letsie, who moved the royal capital from Night Mountain to Matsieng (meaning 'place of Letsie's people') after becoming *Morena e Moholo* in 1870, was also weakened by the war and continuing disorder.¹⁰⁷ Letsie's authority over his kin had been tenuous from the beginning of his paramountcy, and was significantly eroded by his decision to relent in the face of Cape ultimatums and his inability to protect subjects who surrendered their guns. Masopha, meanwhile, had burnished his image through his principled opposition to the Cape's meddling in Lesotho's internal affairs, tactical brilliance during the fighting, and symbolical decision to take up residence on Night Mountain. As word of the social turmoil in Lesotho reached London, members of the House of Lords lumped criticism on the Cape Government for its rash actions, 'If we traced back their earlier history it would be found

¹⁰⁵ For details on *Lepatlepatle*, see Lesotho National Archives (LNA), S3/25/1/1, *Annual Report for 1883*, 83-88. Molapo died in 1880. Succession was complicated by the fact that Molapo's eldest son by his first house, Josefa, was severely mentally ill. Jonathan was the second son by the first house. Although socially junior to Jonathan by dint of being the eldest son of the second house, Joel was older than his brother in years. Open conflict between the brothers broke out shortly after their father's death, continued intermittently for another three decades. During the Gun War Jonathan officially sided with Letsie and the Cape, and Joel led a group of rebels. The first wave of violence between the brothers crested in 1883. Joel's forces marched on Jonathan's capital, cutting a swathe of destruction, rape, and death across the land. Jonathan then launched a brutal reprisal.

¹⁰⁶ LNA S3/25/1/1: Moffat to Blyth, 21 Dec. 1883, ff. 94-5.

¹⁰⁷ Letsie (and, before being placed in Leribe, Molapo) moved from Night Mountain to help establish Morija, but relocated six miles eastward after the community was razed by Free Staters during the 1858 war (Theal 1886, 59).

that ... there were no more loyal people than the Basutos, and but for their disarmament the Cape Government would have found amongst them their most staunch supporters and most able allies.’¹⁰⁸ When the aggressive imperialist partnership of Cape Governor Henry Bartle Frere and Cape Prime Minister Sprigg collapsed over 1880-81, the new local government, under Prime Minister Thomas Scanlen, was keen to pass the political responsibility and financial expense of governing Lesotho back to London.¹⁰⁹ And indeed, Cape Rule had resulted in a humiliating and expensive stalemate, given local people cause to be suspicious of the motives of missionaries and officials, and exacerbated social and political divisions. It thus took some time for officials in London to decide how to handle the ‘prickly hedgehog’ embodied by Lesotho.¹¹⁰

The jurisdictional and technological division of social control that emerged in the decades following the resumption of British imperial rule in 1884 are discussed in the next chapter. Before delving into the systems for customary fines and penal servitude, or the evolving relationship between Maseru and Matsieng, it is first vital to examine how the rationale(s) for exercising the coercive powers of the state were built on a narrative foundation which repurposed old stories in new ways. As intimated above, a key issue for officials in Whitehall and Westminster was how to frame the history of British involvement

¹⁰⁸ Hansards Online, House of Lords, Lord Brabourne, 24 Mar. 1881, Volume 229. <https://hansard.parliament.uk/Lords/1881-03-24>. See also: Hansards Online, House of Commons, MP O’Donnell, 13 Mar. 1882, Volume 267. See also Earl of Derby, quoted from Hansard, House of Lords, 14 June 1883, Vol. 280 cc 520-30.

¹⁰⁹ Bartle Frere was recalled to London in 1880 to face censure over his reckless, expensive, and belligerent policies in the subcontinent (Schreuder, D. 1969. *Gladstone and Kruger: Liberal Government and Colonial “Home Rule”, 1880-85*. London: Routledge & K. Paul, 75-80). The following May, Sprigg stepped down (Ibid, 174n5). The pair incited not only the Moorosi and Gun Wars, but also the ‘Ninth Frontier War’ pitting Cape soldiers against amaXhosa peoples (1877-79), the Anglo-amaZulu War (1879), the Sekukuni War (1879), and the Transvaal War or First Anglo-Boer War (1880-81).

¹¹⁰ *BPP 1883* (c. 3708), p. 105, cited by Machobane 1990, 115.

in the territory. During the interregnum between the official end of the Gun War in 1881 and the resumption of British imperial rule in 1884, it became clear that the representations of the territory carved out by the Cape magistrates and missionaries on the ground would no longer do. Officials wanted to reestablish a more cooperative relationship with the aristocracy. However, as a putative champion of freedom, committed to stamping out slavery around the globe, Britain could not make common cause with African nobles committed to dominating and exploiting the unpaid labor of commoners. The Free State tale of Lesotho as a den of thieves, keen to prey innocent neighbors' property before turtling within a shell of British protection, was also a problem for an empire committed to the promotion of law, order, and peace. Further raising concern were the rumors in liberal activist circles in England – particularly amongst the Aborigines Protection Society – of growing use of spirituous intoxicants in Lesotho, supposedly threatening the 'rapid impoverishment and gradual decay of a fine and industrial race.'¹¹¹

The Colonial Office and their allies in Parliament gravitated to the idea of reprising the previous terms of British-Basotho relations. Lord Emly cited a letter from 'A French missionary, M. Cassilis [*sic*],' who 'had given an interesting account of Basutoland, where he had laboured for 40 years,' describing 'the state of things which at one time prevailed, under which the Basutos were united with this country,' and further averring 'the great majority of [Basotho] would desire to return to the state of things which existed in 1869.'¹¹² In December 1883, after reading reports of the sacking of a magisterial fort in Leribe, the Colonial Office had had enough, and announced plans to officially disannex the territory

¹¹¹ BPP 1884 (c. 4263), 'On drunkenness and brandy selling, - Basutoland,' 44. LNA S3/25/1/1: Rev. Widdicombe minute, attached to Bailie to Blyth, 21 Dec. 1883, f. 90.

¹¹² Hansards Online, House of Lords, Lord Emly, 14 June 1883, Volume 280.

from the Cape and assign administration to the High Commissioner in Cape Town.¹¹³ The commissioner at the time, Hercules Robinson, quickly repealed the Rolland-inspired laws and, under Proclamation 2B, promulgated on 29 May 1884, granted Nobles' Courts the power to handle all criminal or civil cases in the territory. The Irishman Marshal Clarke was sent to reestablish the imperial foothold on the ground, as Resident Commissioner. The Colonial Office provided Clarke with straightforward instructions:

Expenditure must not exceed revenue... For the present, it will not be possible to attempt more than the protection of life and property and the maintenance of order on the border. The Basutos should be encouraged... to establish a system of internal self-government sufficiently stable to enable them to suppress crime and settle inter-tribal disputes.¹¹⁴

The mechanics of imperial control in Lesotho beginning in 1884 looked, on the surface, very familiar. Over the 1850s and 60s Moshoeshe had implored the British to take Lesotho as a British Territory which could be ruled via the king's court on Night Mountain. Although the British had rebuffed the idea at the time, this idea now appealed to London, at least rhetorically. In Letsie they saw a partner who might live out his father's vision.

1.8 Colonial Governmentality and the Shared Story

The resumption of British imperial control in Lesotho overlapped with a broader sea change in British governmental rationality, both at home and abroad. As William Forsyth wrote in a pioneering text on the intellectual history of British penology, 'By 1880...it was widely argued [in England]... that moral and intellectual qualities were not primarily the result of postnatal experience but were transmitted by heredity.'¹¹⁵ At the same time,

¹¹³ Lord Derby to HC, 17 Dec. 1883, cited in Lagden, 1910b, 557.

¹¹⁴ *BPP 1884 (C. 3855)*, No. 56, Lord Derby to Clarke, 25 Jan 1884.

¹¹⁵ Forsythe 1990, 10.

imperial policymakers were beginning to argue that the moral and intellectual qualities of groups of people, lumped according to nations or races or tribes, were also fundamentally shaped by heredity.¹¹⁶ In his work on the emergence and circulation of scientific racism in South Africa, Saul Dubow maps how the discourse surrounding native policies in the Cape of the late 1870s was marked by a transition from the logics of the civilizing mission towards ‘the hard edged coin of social Darwinist thinking.’¹¹⁷ Dubow further suggests that ‘no better example of this shift can be found than the 1878 presidential address delivered by the governor and high commissioner, [Henry] Bartle Frere, to the newly constituted South African Philosophical Society.’¹¹⁸ In his speech, the architect of disarmament in Lesotho called for the creation of an ethnological body tasked with scientifically cataloging the ‘characteristics – intellectual as well as physical – of the native African races,’ which he imagined could be used to cater governmental policies towards tribal groups.¹¹⁹

Although the Cape was no longer in control in Lesotho after 1884, the new imperial administration was predicated on assumptions *à la Bartle Frere* about the existence of a ‘Basotho race’ endowed with discrete tribal characteristics. Instead of launching fresh ethnographic studies as the former governor had called for, however, British parliamentarians and colonial bureaucrats mined old missionary accounts – and above all

¹¹⁶ Breckenridge (2014: 27-62) maps the connections between ethnography in Southern Africa and metropolitan discourses on race by way of the career of Francis Galton, a foundation figure in the eugenics.

¹¹⁷ Dubow, S. 2006. *A Commonwealth of Knowledge: Science, Sensibility, and White South Africa, 1820-2000*. New York: Oxford University, 111. Depictions of tribes began to focus less on depictions of groups’ comparative progress towards a cultural and political ideal, and more on whether the physical and intellectual endowments of various tribal or racial groups would result in their collective survival or extinction.

¹¹⁸ Dubow 2006, 112.

¹¹⁹ Frere, H.B. 1878. ‘The Native Races of South Africa,’ in *The Transactions of the South African Philosophical Society* 1/2, cited by Dubow, S. 1995 *Scientific Racism in Modern South Africa*. Cambridge: Cambridge University, 32-33.

Casalis' rich reports and letters – for data. In the new imperial imagining, the local aristocracy could be given relative freedom because nobles had demonstrated a proclivity for humane governance in the past. Moshoeshoe was cast as the apotheosis of the best qualities of the race, thereby justifying colonial support for the exercise of political power by his bloodline. This support was all the more essential because missionaries – extending from Casalis through Rolland – were now held to have been demonstrably wrong on one important count: there were limits on how far (or, for liberals not quite ready to abandon the idea of progress, and capable of tolerating discursive dissonance, at least how fast) Basotho might realistically progress in the bourgeois Northern European cultural and political molds. The geologist George Stow distilled this argument in *The Native Races of South Africa*:

To attempt to establish a history for a race which, from the remotest ages, had been unable to build up a history for itself, must, one is inclined to believe, always prove a failure and to expect to turn men... from the debasement and degradation of serfdom and slavery, suddenly into a race of noble-minded patriots, can be an idea entertained by enthusiastic visionaries, who hope for miracles in utter defiance of all the experiences of past history.¹²⁰

The universalistic pretensions of zealous reformers during the period of Cape Rule had thus been doomed, not because magistrates launched an all-out assault on systems which enjoyed meaningful levels of popular legitimacy, but rather because of an inherent incompatibility of the alternative institutions with the essential nature of The Basotho. The post-1884 order was supposedly premised on a more scientifically sound foundation,

¹²⁰ Stow, 321. The above passage is located in the section on the peoples glossed as Bastards or Griqua working with members of the London Mission Society, but the determinist tribal logic carries over into the discussion of Basotho and PEMS. Stow was an active participant in the intellectual life of elite white liberals in the Cape, and contributed to the Cape Monthly several times, prior to his death in 1882 (Dubow 2006, 109). His manuscript, which he intended to dedicate to kindred spirit Bartle Frere, was picked up and edited for publication by the historian George McCall Theal in 1905 (Editor's Preface, v-vii).

holding that any social, economic, and political reforms had to be unfurled in such a way as to ensure no clash with tribal characteristics.

In this moment of transition, in which the expense and futility of forcibly reorienting society was drawn into high relief by two wars, the old discourse and stereotypes produced by Casalis and Moshoeshoe resurfaced. The notion of the essential tendency of Basotho to judicial sobriety and humane punishment was useful to authorities in both Lesotho and England: lords lodged a claim that they had ruled morally in the past, and could and would do so going forward, while the British were able to walk away from a moral commitment to ensuring good governance and a financial commitment to investing in infrastructure in the territory. For the half century following the resumption of imperial rule in Lesotho, the shared story of the humane governance of Moshoeshoe – recorded for posterity by missionaries, and none more proximately, persistently, or persuasively as Casalis – served as the narrative core underwriting the political compact between the administration and lords. As we shall see, beginning in the next chapter, this story profoundly shaped the elaboration of governmental institutions and processes over subsequent years. In returning to Casalis' focus on the moral character (turned characteristics) of leaders, authorities promulgated the notion of political legitimacy inhering in blood. This move elided consideration of formerly critical technological components underwriting societal cohesion, like the psycho-social controls observed by Tlali. Even more fundamentally, the discourse made the delivery of services from authorities to subjects, like access to land and justice in the courts, into a secondary issue.

1.9 Chapter Conclusion

Paul Landau has shown how missionaries carried assumptions of the existence of tribes onto the Highveld over the early 19th century, and actually served to reify these socio-political groupings through their work and writings.¹²¹ A major factor in this reification process was the active participation of political authorities vested in solidifying or advancing claims over land and people. Moshoeshoe was an early and successful adopter of this strategy. Tribe was not the only socio-political expectation which missionaries carried with them into the fields of the lord, nor the only one Highveld leaders seized upon as useful. PEMS personnel, and above all Eugene Casalis, also assumed that judicial and punitive approaches said something fundamental about the nature of society. As with tribe, Moshoeshoe deftly leveraged a discourse of his humanitarian approach to social control and punishment to underwrite a moral claim to power. Over a period of over thirty years, spanning from the 1830s through the late-1860s, Moshoeshoe, Casalis, and allies worked to populate the culturo-political container of Basotho tribe with stories of the king's abiding mercy and judiciousness.

Casalis and Moshoeshoe were not able to craft a narrative unopposed for long before being challenged by political and intellectual authorities with different interests. White settlers sought to undermine the monarch's moral standing as a pretext to seize lands inhabited by people with ties of fealty to Moshoeshoe. Other mission societies also challenged PEMS' narratives, desirous to extol their own good work inculcating universal virtues in different imagined communities. A lot more than pride was on the line. With British political support and trade in arms hanging in the balance, success in establishing

¹²¹ Landau 2010.

the truth of moral government could be the difference between holding together a polity or watching it crumble, between reaping a harvest or losing the land to invaders, and between life and death for hundreds if not thousands of subjects.

Yet, when the British did formalize their support for Moshoeshoe in 1868, the discursive landscape was shifting. The emphasis on responsible governance and humane punishment, which had so inspired Casalis, was receding in import to missionaries as well as to liberal policymakers in the Cape and London. The generation of European observers who sought to craft a narrative about Lesotho after the territory became a British colony foregrounded a different litmus test of social morality and Christian civilization: free labor. This metric was used to justify attacking, rather than defending, the social order. Emile Rolland and his fellow magistrates demonstrated little concern about whether use of the scourge and the rifle were in line with the teachings of Christ.

The political career of Casalis writings took a stranger turn still after the return of rule from London in 1884. A British desire to attempt indirect administration through the aristocracy, rather than directly via their own magistrates and other personnel, coincided with deep shifts in the ways that metropolitan experts understood human behavior. Whereas early missionaries in the kingdom had cast Moshoeshoe as an exemplar of how proto-evangelical leadership could lead a community out of the moral wilderness, the colonial state was committed to the idea of civilization as biologically overdetermined. Few officials in London or Maseru seemed to care, or even remember, the older debate which had raged amongst reformers in Europe only a few years before, relating to whether social and moral reform came from appeals to conscience or responses to stimuli. The old narratives produced by Casalis, staking out a claim in this debate, and seconded by

Moshoeshoe to bolster his political position, were recycled for new ends. The old narrative provided reason, embraced both colonial officials and local lords, for the aristocracy taking charge of social control in the territory once again.

The legend of the judicious and merciful tradition of Moshoeshoe continued to grow after 1884. Although the colonial state and descendants of the houses of Moshoeshoe were the most obvious beneficiaries, they were far from the only purveyors of these stories; the narratives rapidly trickled through Lesotho's social strata, from the top on down, and were seized upon by a variety of interests. The advance of an increasingly brazen anti-African and European-supremacist legal order on the other side of the Mohokare River – stretching from the expansions of pass laws to segregation and beyond – gave Basotho a collective reason to support a narrative undergirding the continuation of territorial sovereignty. Over time popular histories became an idiom of patriotism to ordinary Basotho assailed by overlapping structures of physical and economic violence within local, national, regional, imperial, and even global systems. Colonialism was rife with psychological violence, empowering officials and structures that paternalistically undervalued and dismissed the knowledge, expertise, and even the morality of Basotho; the existence of a forebearer who understood and acted upon putatively universal ideals – at a time when British judges were still putting fellow citizens to death – was a symbol affirming the wisdom and worth of a national collective. The narrative would, furthermore, come to feature in critiques of the aristocracy as corrupted, and in anti-colonial and nationalist pronouncements about an august past showing the possibilities of, and potentially even a path towards, a more just future.

By the early years of the 20th century, the missionary narrative of Moshoeshoe's

ardent opposition to capital punishment, extolled for posterity in the writings of Casalis, was becoming hegemonic in Lesotho. One of the last primary sources attesting to more monarchical ambivalence about the penalty are minutes of an exchange in the Basutoland National Council, a body formed in 1903 to allow a select group of elites to advise the administration on policy.¹²² During the 1911 session, the administration put before the council a measure banning judicial executions of juveniles.¹²³ A number of councilors rose to speak in support of the measure, noting that the law was in line with Sesotho tradition based on Moshoeshoe's ardent opposition to the death penalty. A small group of elderly councilors who had personally known the late king pushed back against this argument, however, and went on to name a short list of people Moshoeshoe put to death over his long tenure as king, including young people. Although these dissenters' words were inscribed in minutes and remain available at the Morija Archives, their arguments have been all but forgotten. My decision to rehash these testimonies now is neither motivated by positivist absolutism nor a dismissal of the real social goods and political space secured by leveraging the narrative of merciful Moshoeshoe over time. It is based, rather, on questions about the deeper intellectual and political limitations of these stories.

Here it is useful to return to where we began: considering how and why different observers looked at the same sheer ledge at Night Mountain and perceived different moral worlds in the communities stretching out on the plains below. On the surface the portrayals of society by Reginald Fenton and Eugene Casalis appear to be diametrically opposed. The

¹²² The 100-member body, comprised of prominent nobles and a handful of commoners selected by the administration, was created in 1903 to share news and offer legislative advice for the High Commissioner. The next chapter provides more details about the council.

¹²³ MMA, *Litaba tsa Lekhotla la Sechaba (ka 1911)*, Day 2. Maama Letsie was a particularly ardent opponent of the (mis)representation of his grandfather. For an English synopsis of the conversation: BNA, CO646/1, 1911, 13-17.

American tourist purveyed a shallow but destructive mythology of exoticism and barbarism. The French missionary, on the other hand, worked tirelessly for decades to promote the idea that Moshoeshoe's kingdom was the greatest purveyor of humane social order and, indeed, genuine justice, on the Highveld. Yet, despite the marked difference in the rigor and substance of their arguments, the portrayals shared significant ideological and epistemological overlap. In their portrayals of life in the middle Mohokare Valley, both authors engage in inductive arguments about levels of civilization. This approach was based not just on the commonsense of ideal-types of just and humane government, but also the premise that closeness or deviation from these ideal types provides a meaningful metric of the character of a society and, even, of its constituents.

One can simultaneously acknowledge Casalis' good faith effort to define his host society, and in a way that served to bolster his patron's political position, while also recognizing the ways that the story of benchmarking civilization in the Mohokare Valley is replete with violence and exploitation. Categorization of this sort is, quite simply, an instrument of division, designed to rationalize treating groups of people differently than others. This intellectual architecture, moreover, has often represented a rigged game, in which economically and politically dominant groups have played an outsized role in shaping discourse about which institutions, practices, and people are normative and humane (and what and who is deviant). It would be remiss to fail to also note, with the hindsight of over two centuries of carceral archipelagos sprawling around the world – perpetrating 'slow violence' against tens of millions of incarcerated individuals, and facilitating various forms of domination and exploitation against hundreds of millions of others, particularly the poor and/or brown-skinned people – that the notion that prisons

represent an obvious improvement over the sovereign violence of European *ancien regimes* is clearly more complex than allowed for in either John Howard's gospel or Jeremy Bentham's philosophical proofs.

Although the historiography of Lesotho is deeply marked by teleological theory – spanning across the hopeful evangelism of Casalis, triumphalist imperial Whiggism, and Marxist framings of the past as prelude to the ultimate victory of Lesotho's workers over capital — the first son of the fifth house of Moshoeshoe models an alternative approach. Despite grappling with contentious political issues (involving his own family no less) the prince was able to recount the past without simplifying events or subjects to make them cohere to a prefabricated narrative. 'Litaba tsa Basutu' also draws into focus the ways that peoples in the Mohokare Valley adopted systems from one another as well as from missionaries and officials, and adapted them to their own ends. Tlali's approach thus serves as a polestar for this dissertation. Instead of framing elaboration of the systems of social control as trending towards some end or ideal, or of disciplinary institutions having a correct form based in a particular ethno-cultural provenance, I seek to trace how institutions and infrastructures have been re/invented within the particular crucible of Lesotho's politics with profound and surprising impacts on the lives of people.

Chapter 2

By kraal or gaol: social control, punishment, and progress, 1884-1938

2.1 Introduction

Dueling metanarratives animate the history and mythology surrounding penal strategies in Lesotho: a progressive universalism and a traditionalist critique. The former holds that penal confinement is the most technologically advanced, socially productive, and morally upright means for human communities to respond to criminal trespasses by individuals. The traditionalist critique, meanwhile, foregrounds cultural specificity and relativism: the fact that Highveld societies did not use confinement prior to contact with Europeans, and generated forms of social harmony and conformity using other mechanisms, gave rise to the notion that imprisonment in Lesotho was not only a superfluous technology, but arguably also one which was culturally out of place.

Events surrounding the crumbling of empire, from the late-1930s through Lesotho's independence from Britain in 1966, fixed in place the popular association – in Lesotho, Britain, and liberal scholarship – of the administration with progressive universalism and Basotho, both nobles and early nationalists, with traditionalism. Such a vision, however, confounds and conflates the shifting positions of intellectual and political authorities during the period spanning the first half century of British imperial rule. This chapter explores how the elaboration of strategies, technologies, and infrastructures for social control interfaced with discourses of universalism and traditionalism during the period spanning from 1884 through 1938. This era witnessed British administrators stand as vocal proponents of the utility of Sesotho traditions of punishment, some lords support

the use of some Western techniques of punishment in the name of effective crime control, African petty bourgeoisie activists continuously press for a transition to putatively universal punitive regimes, and an association of organic intellectuals offer a powerful challenge to hegemonic narratives of what constituted tradition and served to prevent crime.

Traditionalism and universalism emerged as politically charged discourses with the advent of colonialism. The pugnacious universalism of Cape policies primed Lesotho for the subsequent British imperial embrace of traditionalism. When the Cape assumed direct control over Lesotho in 1871, officials set about trying to build up a criminal legal system aimed to eventually supplant the aristocracy. Policymakers perceived that the hard power of lords flowed from their ability to wield economic coercion.¹ Order was underwritten by patron-client relationships: commoners followed the social expectations set forth by lords for fear of the withdrawal of their means of livelihood, including both loaned cattle (*mafisa*) and allocations of land plots. This *control by the kraal* extended into the judicial realm: legal trespasses were overwhelmingly punished with fines in livestock. Cape magistrates envisioned replacing the existing system, which was seen as exploitative and economically stultifying, with *control by the jail* (or gaol, per period British spelling).² While the

¹ Motlatsi Thabane has trenchantly dissected structures governing class relations in early and mid-19th century Lesotho, both in their own right and as a corrective to earlier liberal and Africanist accounts that presented society as egalitarian: 2002. “The Nature of Social Relations in the Nineteenth Century,” in Pule and Thabane 2002: 59-77; and 1996. ‘A Mutual-Benefit Utopia Where Exploitation Was Unknown?’ *South African Historical Journal* 34/1: 240–48. For more analysis of the forms of power infusing social relations: Mothibe, T. 2002. “State and Society, 1824-1833,” in Pule and Thabane 2002:15-34, 25-7 and 32-4; Burman 1981, 37-8. As discussed in Chapter 1, social relations and political legitimacy were further woven together with threads of fealty and obligation, overlaid with the potential for gendered forms of honor and shame, which extended from the paramount and high-ranking nobles down through subordinate lords to ‘headmen’ (*boramotse*) and commoners.

² Missionaries and magistrates saw the specter of slavery in *matsema* (tributary labor) and *bohali* (bride price, and specifically the fact that polygamous lords and wealthy men ‘purchased’ more

construction of the territory's first lock-ups was indeed part of this endeavor, the small size and structural insecurity of these facilities meant that magistrates themselves used fines, as well as the cat o' nine tails, as the primary penalties for breaches of colonial statutes. As detailed in the proceeding chapter, the aggressive attack on the political and judicial authority of lords (and African firearm ownership) led to two wars, and the ultimate collapse of Cape Rule.

When the new imperial government arrived in Lesotho in 1884, the territory was awash in violence, disorder, and political discord sown by Cape policies. The founding of a new administration involved a dramatic reframing of what moral wrongs its officers were imagined to battle against: a campaign to combat lawlessness emerged in place of the Cape's crusade to stamp out economic exploitation. Thus, despite the fact that the new administration concurred on the question of how traditional modes of social control in the *Mohokare* worked, it diverged on the question of the morality of these structures. Tradition and stability instead emerged as fetishes for the new Maseru-based administration. The underlying ideological rationale was that Sesotho political and legal institutions stood as the best *possible* mechanisms for fighting the scourge of crime, and enforcing social control more broadly, in the territory.

The resumption of imperial rule in 1884 witnessed the construction not only of a dual legal system,³ much discussed in the literature, but also parallel infrastructures for

wives and also, eventually, children to put to work): see 65n90; Epprecht 2000, 17-24; Burman 1990. The practice of nobles expropriating the independently generated wealth of commoners in court ('eating up') was cast, moreover, as an assault upon the sanctity of private property and the very spirit of industry in the nation (Rolland, 'Notes on the Political and Position of the Basuto Tribe,' in *BR4*, 130; Griffith to Southey, 27 Feb. 1872, in *BR6*, cited and discussed by Thabane 2002, 70).

³ Until the 1980s the notion of African societies having discrete colonial and traditional laws was common sense: Poulter, S. 1972. 'The Place of the Laws of Leroghi in the Legal System of

violence work.⁴ The coercive and punitive division of labor, hashed out between the administration and aristocracy over the first several decades of imperial rule revolved, most fundamentally, around space. In Lesotho, the specific geographical features of the territory compounded the more general urban and rural divide that Mahmoud Mamdani describes as a defining feature of colonial governance in Africa. With the interior shrouded in a ‘mountain penumbra,’ the British built bigger and more closely spaced police and penal

Lesotho.’ *African Affairs* 71/283: 144–62; Allott, A.N., ed. 1970, *Judicial and Legal Systems in Africa*. London: Butterworths. This paradigm came under a torrent of critique with the rise of the ‘invention of tradition’ and ‘legal pluralism’ scholarships, which detailed how ostensibly dual legal codes were created through the colonial encounter – and, indeed, entangled and mutually-constitutive – and therefore part of a ‘plural’ legal order. On invention: Ranger, T. 1983. “The Invention of Tradition in Colonial Africa,” in *The Invention of Tradition*, E. Hobsbawm and T. Ranger, eds., 211–62. Cambridge: Cambridge University; Chanock, M. 1985. *Law, Custom and Social Order: The Colonial Experience in Malawi and Zambia*. Cambridge: Cambridge University; Starr, J. and J. Collier. 1989. *History and Power in the Study of Law*. Ithaca: Cornell University; Spear, T. 2003. “Neo-Traditionalism and the Limits of Invention in British Colonial Africa.” *The Journal of African History* 44 (01): 3–27. On pluralism: Benton, L. 2002. *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900*. Cambridge: Cambridge University; Merry, S.E. 1988. “Legal Pluralism,” *Law and Society Review* 22: 869–96; Mann, K. and R. Roberts, eds. 1991. *Law in Colonial Africa*. Portsmouth: Heinemann.

⁴ Michol Seigel’s scholarship exploring the labor of policing as ‘violence work’ is useful to think with when analyzing the relationship(s) between the colonial state and aristocracy in constructing and maintaining social order in Lesotho. Seigel builds on Weber by detailing how ‘police realize—they make real—the core power of the state’ by coercing the people the state claims to govern (2018. *Violence Work: State Power and the Limits of Police*. Durham: Duke University, 10). Critically, the use of actual force in these encounters between police and publics can remain latent. The reification of state authority hinges on the telegraphing of the potential for violence in the encounter. By focusing on the labor of policing, Seigel calls attention to how ‘violence comes to function in specific institutions with histories and futures, and... has real people behind it’ (11). The text further informs the theoretical basis of this dissertation by building on a long line of neo-Marxist and post-structuralist scholarships which move past the conceit that policing and punishment are primarily shaped by levels of crime, and instead call attention to the instrumentalities of criminal legal systems. Seminal texts include: Rusche, G. and O. Kirchheimer. 1939. *Punishment and Social Structure*. New York: Columbia University; Bittner, E. 1970. *The Functions of the Police in Modern Society*. Chevy Chase, MD: National Institute of Mental Health; Hall, S., et al. 1978. *Policing the Crisis: Mugging, the State, and Law and Order*. New York: HM; Harring, S. 1983. *Policing a Class Society: The Experience of American Cities, 1865-1915*. New Brunswick, N.J: Rutgers University; Dubber, M. and M. Valverde, eds. 2006. *The New Police Science: The Police Power in Domestic and International Governance*. Stanford: Stanford University; Gilmore, R.W. 2007. *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California*. Berkeley: University of California.

facilities in the band of ‘lowland space’ (less than 2000m elevation) adjoining the border.⁵ The handful of ‘camptowns’ abutting this border represented areas where the Basutoland Mounted Police (BMP) served as the first line of surveillance and violence work, and where criminal defendants were generally whisked into the colonial court system. Rural and overwhelmingly mountainous space, meanwhile, was left almost entirely to nobles to control.

Notwithstanding professions of confidence in Basotho technologies of social control, the imperial administration began rebuilding and expanding the carceral infrastructure inherited from the Cape within weeks of arriving in the territory. New or expanded jails in the lowlands were built each decade between the 1880s and 1930s. From the beginning, Maseru maintained that access to institutions of universal criminal legal system was a right for the small cohort of Europeans in the territory. The early administration also enshrined an official monopoly over the power to impose corporal and capital punishment, as well as judicial incarceration.⁶ In the 1890s colonial officials invoked moral universalism with the idea that just desserts and effective deterrence

⁵ Interview with RC Mokoma, 22 Feb. 2017, Roma, Lesotho; Mokoma, RC. 1985. “The Criminal Justice System of Basutoland: An Interpretive Essay.” Roma: NUL; Basutoland Gov’t. 1907. *Annual Report*. London: HMSO, 7 (each annual report provides data on new construction, additions, and repairs of penal facilities); Pim, A. 1935. *Financial and Economic Position of Basutoland*. London: HMSO, 2-4 and 87-8.

⁶ The Resident Commissioner’s Court (RCC) was the only legal body in the territory empowered to impose a death sentence, exclusively for murder and treason, and this ultimate penalty was only imposed once during the quarter-century spanning from 1884 through the beginning of 1909 (*BAR 1909-10*, 13). Unlike in many other locales in ‘British Africa,’ there was no provision allowing for traditional authorities to impose judicial corporal punishment or incarceration. On ‘customary flogging:’ Crowder, M. 1988. *The Flogging of Phinehas McIntosh: A Tale of Colonial Folly and Injustice: Bechuanaland, 1933*. New Haven: Yale University; Pierce 2006; Killingray 2003. On ‘native prisons:’ Bernault, F. 2007. “The Shadow of Rule: Colonial Power and Modern Punishment in Africa” in *Cultures of Confinement: A History of the Prison in Africa, Asia and Latin America*, F. Dikötter and I Brown, eds., 55–94. London: Hurst and Company, 61-2; Braatz, E. 2015. “Governing Difference: Prisons and Colonial Rule on the Gold Coast, 1844–1957.” PhD Dissertation, New York University.

required that Basotho face the jail cell, lash, or gallows – and therefore colonial courts – for committing select grave crimes. The emergence of labor migrancy to South Africa as an economic necessity and rite of passage for Basotho men, particularly in the first three decades of the 20th century, also fueled the growth of the carceral system: migrants transiting through lowland border space meant more work for colonial police, judges, and warders.

Lords and princes on the 19th century Highveld adjudicated torts between aggrieved parties. The advent of imperial rule meant nobles faced pressure not only to mend social injuries but also to maintain constant surveillance of subjects, and to remit persons accused of particular crimes to the administration for trial and, potentially, punishment. By the early years of the 20th century the royal capital of Masieng served as the effective command center for a customary ‘franchise’ of police, with footholds in nearly every corner of the territory. A succession of paramounts used the Highveld technology of ‘placing’ to install sons and allies in new jurisdictions, subordinating locally-based lords in the process. In this way it became increasingly difficult for lords to passively, much less actively, resist colonial dictates – as Masieng and Maseru were constantly engaged in the work of sharing intelligence and coordinating action. The creation of a National Council in 1903, moreover, allowed for the codification of Sesotho legal and political traditions, and the annual liaising of administrative officials and the highest echelons of the Basotho aristocracy on matters of tradition, law, and order.⁷

Claims about the efficacy of customary controls in checking crime became more tenuous during the period spanning from the 1910s into the 1920s. While the colonial state

⁷ BNA CO 646/1: Lerotholi and Sloley, opening addresses, 6 June 1903; Machobane 1990, 76-96.

maintained that migrancy was a profound boon to the territory materially, officials were forced to also acknowledge real social costs. Both prominent lords and colonial bureaucrats argued that marked statistical increases in robberies, stock thefts, assaults, and murders every few years flowed from the loss of traditional values and mores attributable to young African migrants encountering urban life, and reimporting crime and vice into the territory. Critics from the petty bourgeoisie, meanwhile, blamed nobles: not only were lords unaccountable and backward, by dint of being empowered on account of blood rather than qualifications or competence, but the ranks of the aristocracy as a whole included and protected more than a few jackals clothed as shepherds.⁸ In the late 1910s a new organization emerged which centered blame for all social problems – including rampant crime – on the changes wrought by colonialism, capitalism, and mission churches: *Lekhotla la Bafo* (LLB, ‘Council of Commoners’) maintained that Sesotho traditions and institutions, notably including relationships within and across social classes of commoners and lords, were once infused with reciprocity and interdependence in ways that facilitated social harmony for all.⁹ While framed as a more studious traditionalism, LLB critiques likely married 19th-century Highveld political ethics with creative applications of liberal discourse.

⁸ Machobane 1990, 129-53; Nyeko, B. 2002. “Resistance to Colonial Rule and the Emergence of Anti-Colonial Movements,” in *Essays on Aspects of the Political Economy of Lesotho: 1500-2000*, Pule and Thabane, eds., 131–51. Roma, Lesotho: NUL, 133-8; Kunene, D. 1989. *Thomas Mofolo and the Emergence of Written Sesotho Prose*, Johannesburg: Ravan, 24-9; Weisfelder, R. 1974. ‘Early Voices of Protest in Basutoland: The Progressive Association and Lekhotla La Bafo.’ *African Studies Review* 17/2: 397–409.

⁹ Ibid; Machobane 1990, 153-60; Nyeko, 138-47; Mekenye, R. 2012. ‘Re-Examination of the Lekhotla La Bafo’s Challenge to Imperialism in Lesotho, 1919-1966.’ *IJHSS* 2/10: 77–91; Edgar, R. 1987. *Prophets with Honour: A Documentary History of Lekhotla La Bafo*. Johannesburg: Ravan.

Debates about the morality and efficacy of ostensibly Sesotho-traditional versus British-modern instruments of social control surged in the 1910s, catalyzed not only by pressure from mission-educated Basotho elites and peasant intellectuals, but also bureaucratic pressures emanating out of London to standardize policies towards crime and punishment within the empire. The administration invoked the supposed centrality of physical chastisement in Sesotho tradition to deflect metropolitan pressure to curtail its own use of judicial corporal punishment. Maseru instead took steps to make the legal infliction of pain more uniform and to rein in the pervasive extrajudicial physical violence meted out by police, warders, lords, and messengers. The number of offenses punishable by caning, and actual sentences involving the brutal instrument, expanded dramatically over the 1910s into the 1920s, as the administration responded to a rising tide of complaints about lawlessness in the Sesotho press and the National Council. The 1910s also witnessed a dramatic escalation in the number of hangings carried out by the administration.

The introduction of a Prison Proclamation in 1917 served to assuage concerns within the colonial establishment about the direction of Lesotho's penal system, but also left administrators and warders in a position where they were forced to respond to discrepancies between policies and practices more than ever. The legislation was lifted from the statutes of South Africa and colonial Zambia without adequate consideration of what penological expertise and carceral infrastructure was required for implementation. Jail officials struggled with basic legal (and safety) requirements, such as procuring adequate segregated spaces for confinement of female, mentally ill, and juvenile offenders, and made little effort to maintain biometric records or to classify prisoners as mandated by law. These realities testify to the fact that incarceration in pre-WWII Lesotho was aimed

to punish with suffering and deter with fear. The system did not promote the moral reform of individuals or the differentiation of criminals as a social class, as waxed on about in London and called for locally by progressive-minded Basotho and expatriate missionaries.

In 1938 the administration passed two laws overhauling Lesotho's political and legal systems: officials arrogated the powers to dictate who was (and wasn't) a lord and to review (and amend) the decisions of Native Courts. The colonial regime thus took firm control of the central instruments for effecting social control in rural territory. While the changes 'vindicated' decades of critiques from the BPA, they were only precipitated by a period of acute crisis and tragedy.¹⁰ In the wake of a horrific famine in Lesotho in 1932-33, London dispatched an economist to carry out a detailed review of colonial policies in the territory.¹¹ Alan Pim's report called for recalibrating colonial rule in the territory to an indirect, rather than ostensibly parallel, mode: that is, lords should be employees of the administration rather than partners vested with a high degree of autonomy. The case for these reforms hinged largely on the relationship between lords and crime: the milieu in which Pim carried out his investigations was rife with rumors and cases of nobles themselves involved in organizing crime, brutally cracking down on minor offenses, and seeking to settle scores independently of Maseru and Matsieng.

In the years following the end of WWII, development and modernization emerged as watchwords of the British imperial establishment, including in His Majesty's Prisons in Africa. In Lesotho funds arrived to build a new central prison and provide training for warders, as we shall see in Chapter Five. Colonial officials at the time cast themselves as redoubling an older commitment – supposedly evidenced by existing prison buildings and

¹⁰ As Murray and Sanders rightly observe: 25.

¹¹ Pim, A. 1935. *Financial and Economic Position of Basutoland*. London: HMSO, vi-viii.

laws – to pulling a society with 19th century technologies of social control towards the institutions and standards which were universally the most humane and effective way to do social control in the 20th century. The problems with this metanarrative of a sustained British push to build progressive penal institutions are not merely academic: the myth has, perhaps most notably, enabled colonial and African policymakers in the decades following WWII to slouch into a fatalistic register, citing the supposedly enduring incompatibility of Sesotho culture and incarceration, when confronted with evidence of bad conditions of life and work in Lesotho’s prisons. This chapter offers a very different narrative of the elaboration of structures for social control in the territory.

2.2 The front side of the law: re/imagining policing in the early colonial era

Prince Lerotholi and a retinue of hundreds of horsemen met Marshall Clarke and Godfrey Lagden outside Mafeteng camp on March 17, 1884.¹² As the eldest son of Paramount Letsie escorted the new British Resident and Assistant Resident into the colonial capital, the party passed razed buildings and the skeletal remains of horses, grim evidence of the conflict and insecurity that had plagued the territory since 1880. The following day, the trio joined the paramount, outgoing Cape officials, dozens of lords, prominent missionaries, and some 2,000 commoners for a *pitso* (public forum). Tributes and prayers ceremonially marked the political transition underway. Direct rule by the government of the Cape Colony was out. Maseru would now report to a High Commissioner (HC, also in Cape Town) who, in turn, answered directly to the Colonial Office in London.¹³ Clarke faced the urgent question of

¹² HMSO 1884b [C.4263]: Clarke to Robinson, 21 Mar. 1884, with *pitso* minutes, 19 Mar. 1884; OBL, MSS Afr.s 154: Lagden diary, entries Mar. 16-19, 1884; *ibid*, MSS Afr.s 210, box 2, folder 3, Clarke to Lagden, nd.

¹³ Maqutu, WCM and AJGM Sanders. 1987. 'The Internal Conflict of Laws in Lesotho.' *The Comparative and International Law Journal of Southern Africa* 20 (3): 377–404, Poulter, S. 1970.

how to expeditiously promote the social controls demanded by the High Commissioner and the Colonial Office in London: namely checking the smuggling of stolen stock and liquor across the border. These issues took precedence to the generalized insecurity in the territory on account of the political pressure brought to bear, respectively, by Free State politicians and the metropolitan paternalistic humanitarians in organizations like the Aborigines Protection Society.¹⁴

Clarke and Lagden were each carefully selected for their roles. Clarke was chosen because of his experience working with traditional authorities while serving as a magistrate and military officer underneath Theophilus Shepstone, setting up a system of indirect rule in Natal.¹⁵ Lagden, meanwhile, was recommended by Clarke, and confirmed by the Colonial Office, on account of his expertise in ethnology, an interest which had nearly cost the young officer his career on account of an unauthorized expedition into the Asante Empire.¹⁶ London hoped that Lagden's knowledge of comparative civilization would

"The Judicial System of Lesotho (Conclusion)." *Comparative and International Law Journal of Southern Africa* 3 (3): 309–24.

¹⁴ HMSO 1884a [C.3855], Herbert to Stanley, 12 Nov. 1883; Derby to Smyth, 16 Oct 1883; Aborigines Protection Society to Derby, 8 May 1884, 21 May 1884; United Presbyterian Church (UPC) to Derby, 4 June 1884; Bramson to UPC, 14 June 1884; HMSO 1884b [C.4263], Clarke to Robinson, 22 Oct. 1884.

¹⁵ On Shepstone: McClendon, T. 2010. *White Chief, Black Lords: Shepstone and the Colonial State in Natal, South Africa, 1845-1878*. Rochester: University of Rochester. On Clarke: 'Marshall Clarke' in Montgomery-Massingberd, H. 1976. *Burke's Irish Family Records*. London: Burke's Peerage Ltd., 240-2; Lagden and Rosmead correspondence, 1884 (OBL, MSS Afr.s 211, Box 3, f.2).

¹⁶ *Ibid*; *The Times* [London]. "A Journey to Coomassie," 4 Jan. 1884. The Times Digital Archive; *ibid*, "Sir Godfrey Lagden," 27 June 1934; Lagden, 'West Africa—Correspondence' (OBL: MSS Afr. s 209, Box 1, f.3) details Lagden's walk north from Cape Coast, arrest and detention by soldiers of the Asantehene in Kumasi, and rebuke from Whitehall. On practices of comparative ethnology: Stocking, G.W. 1968. *Race, Culture, and Evolution: Essays in the History of Anthropology*. New York: Free Press, especially 69-91; Seth, S. 2016. "Darwin and the Ethnologists: Liberal Racialism and the Geological Analogy." *Historical Studies in the Natural Sciences* 46 (4): 490–527. Lagden tried his own hand at cultural comparison in 1924, *The Native Races of the Empire*. London: W. Collins.

support the pragmatic Clarke in building up an administrative approach that dovetailed with the supposed ethno-tribal traits of Basotho to promote effective social control. Notwithstanding the rhetoric about tailoring colonial policies to accord with local traditions, the new administration adopted a policing approach in line with broader shift in the techniques and rationales of surveillance and violence work within the British Empire.

Cape policing was predicated on High Victorian Era conceits of the indispensability of the British to the world. Historians of British metropolitan and imperial policing identify three central Victorian-era typologies, which were ethnologically fused with discourses of race and nation.¹⁷ In the England of the 1880s, Whig histories presented the creation of the London Metropolitan Police in 1829 as the apotheosis of an august Anglo-Saxon tradition of self-government.¹⁸ This first ideal type was contrasted against the foil of a foreign, ‘continental’ approach: the paramilitary *maréchaussée* and *gendarmerie* created by absolutist monarchs in 18th-century metropolitan France and its colonies were criticized (and caricatured) in Britain as the personal brute squad of despots, rather than as protectors

¹⁷ Pike, L.O. 1873. *A History of Crime in England: Illustrating the Changes of the Laws in the Progress of Civilisation*. London: Smith, Elder & Co; Finnane, M. 2016. ‘The Origins of “Modern” Policing.’ In *The Oxford Handbook of the History of Crime and Criminal Justice*, 457–73. New York: Oxford University; Emsley, C. 1999a. ‘A Typology of Nineteenth-Century Police.’ *Crime, History & Societies* 3/1: 29–44; Emsley, C. 2014. ‘Policing the Empire/Policing the Metropole: Some Thoughts on Models and Types.’ *Crime, History & Societies* 18(2): 5–25.

¹⁸ A professional, uniformed, civilian, non-political, non-gentry force of ‘Bobbies’ was cast as an extension of the citizen constable enshrined in the Statute of Winchester in 1285. What made the Bobby distinctly modern, in period and later Whig representations, was their ostensible capacity to prevent crime via the patrol, rather than simply reacting to the hue and cry. Henrika, K. 1984. ‘Tribal Exemplars: Images of Political Authority in British Anthropology 1885-1945,’ in *Functionalism Historicized: Essays on British Social Anthropology*, Stocking, G. ed., 59–82. Madison: University of Wisconsin, 612; Reynolds, E. 1998. *Before the Bobbies: The Night Watch and Police Reform in Metropolitan London, 1720-1830*. Basingstoke, Hampshire Philips, D., and R. Storch. 1999. *Policing Provincial England, 1829-1856: The Politics of Reform*. London: Leicester.

of and for the citizenry.¹⁹ The Royal Irish Constabulary (RIC), created in 1822 and controlled by Dublin Castle (the English colonial administration), represented a third ideal type. This force was designed to surveil and control swathes of large, sparsely populated countryside and, in a part of the Union, moreover, where many people yearned for political independence. Its constables were organized along paramilitary lines, and outfitted with firearms.²⁰ To English pundits in the late-19th century, the efficacy of the RIC could be explained by looking to the second branch of the mythical family tree: the Normans. Unlike at home, where the democratic impulse was vaunted, in Ireland and elsewhere in empire,

¹⁹ Cameron, I. 1977. 'The Police of Eighteenth-Century France.' *European History Quarterly* 7/1: 47–75; Emsley, C. 1999b. *Gendarmes and the State in Nineteenth-Century Europe*. Oxford: Oxford University. The English Whig critique, it must be noted, conveniently ignored the hierarchical organization of an LMP under the unified command of the Home Secretary, not to mention that the force was repeatedly deployed to attack fellow English people; see, for example, Belcham, J. 1982. '1848: Feargus O'Connor and the Collapse of the Mass Platform,' in *The Chartist Experience: Studies in Working-Class Radicalism and Culture, 1830-1860*, J. Epstein and D. Thompson, eds., 269–310. London: Macmillan.

²⁰ Two early prominent experiments with exporting this model were in New Zealand and India. When George Grey was hosting Tlali Moshoeshoe and pushing the prince to write history, the Cape Governor was fresh from an effort to set up a Maori police force in New Zealand modeled on the RIC, which ultimately collapsed in the face of white settler opposition: see Hill, R. 1986. *Policing the Colonial Frontier: The Theory and Practice of Coercive Social and Racial Control in New Zealand, 1767–1867*. Wellington: V. R. Ward. More famously still, when Charles Napier — brother of George Napier, who deputized Moshoeshoe as the Queen Victoria's policeman on the Highveld in 1842 — set out to establish a police force in the Sind in 1843 he lifted the RIC standing orders and protocols directly (Curry, J. 1932. *The Indian Police*. London: Faber and Faber, 31-2, cited by Sinclair, G. 2018. 'The "Irish" policeman and the Empire: influencing the policing of the British Empire—Commonwealth,' in *Irish Historical Studies*, 36(142), 173-87, 183); see also Emsley 2014, 10. While the RIC did indeed provide an important model for the establishment of British police forces in colonial space, this influence largely occurred prior to the rise of eugenicist discourse, and the attendant intellectual and genealogical gymnastics. Sinclair and Emsley both highlight how the Irish model held up in Whig histories and relatively recent scholarship (notably Palmers, S. 1988. *Police and protest in England and Ireland, 1780-1850*, Cambridge: Cambridge, 545) overstates the distinctions between the ideal types. The Irish constabulary itself became increasingly militarized in the wake of the Fenian Rising and formation of the Republic Brotherhood in 1867. By the late-1870s, even as a fetishized Irish model continued to be invoked by architects of enlightened police policy, British imperial policing bore increasingly tenuous resemblance to the RIC model of the early 19th century, including in Ireland itself.

an officer corps bearing the blood of conquerors would deliver ‘divided and confused people[s] from anarchy.’²¹

The Irish model had an important early influence on the Southern African subcontinent, including in Lesotho during the era of direct rule from Cape Town.²² In the 1850s the Cape Colony transitioned away from using the regular military units of the Cape Mounted Rifles to police the space at the outer reaches of the colony, towards a paramilitary model called the Frontier Armed and Mounted Police (FAMP), partially modeled on the RIC. After Lesotho became a protectorate of England in 1868, the FAMP was immediately sent across the Mohokare. It established ‘police camps,’ which became the seats of magistracies.²³ At the time, the presence of this force was widely appreciated by Lesotho’s population, as physical embodiments of the British promises to prevent further incursions into the territory by Free State commandoes.²⁴ In 1872, after Lesotho was annexed by the Cape Colony, police tasks were handed to a newly created, locally-based force: the Basutoland Mounted Police (BMP).²⁵ The unit was designed to provide magistrates with investigative wherewithal and coercive muscle independent of the aristocracy. This first iteration of the BMP was not only made up of Africans but also led largely by Africans: 100 privates recruited from the missions reported to eight NCOs and three officers of noble

²¹ Henrika 1984, 61-2.

²² Tylden, G. 1940. ‘Permanent Colonial Forces of Cape Colony,’ in *Journal of the Society for Army Historical Research* 19 (75): 149–59; Chanock, 45-6; Sinclair, 184; Grundlingh, A. 1991. “‘Protectors and Friends of the People’? The South African Constabulary in the Transvaal and the Orange River Colony, 1900-08.” In *Policing the Empire: Government, Authority, and Control, 1830-1940*, D. Anderson and D. Killingray, 168–82; Van Onselen, L. 1959. *A Rhapsody in Blue*. Cape Town: H. Timmins, 14-27.

²³ FOA: Untitled articles, *The Friend*, 3 Oct. 1869 and 6 Oct. 1869.

²⁴ All but a handful of these police departed the territory in 1870: Theal, GM. 1920. *History of South Africa, 1795-1872*. Vol. 5. London: George Allen, 61.

²⁵ Griffith to Southey, 27 Feb. 1872, in BR6; Theal 1920, 77; Burman 1981, 33.

blood, including Tlali Moshoeshe. The brief lifespan of this African-led, armed, self-consciously modern police force stands as testament to a moment of ascendant Cape liberalism.²⁶

When Clarke mulled over the question of how best to police Lesotho in 1884, the growing strength of the idea that Western political institutions were not readily compatible with African cultures created a different set of possibilities than existed a mere dozen years earlier.²⁷ Although the force created in June 1884 was also called the Basutoland Mounted Police, it was a far different institution than its predecessor. The entirety of the old force was sacked. Much of the rank and file were later rehired, at lower rates of pay. The old officers were not brought back. While a handful of nobles did join the force as officers over ensuing years, these men were always placed under the direct command of a white officer; from the late 1920s through the 1950s, moreover, an unofficial color bar prevented Basotho from rising beyond the rank of sergeant.²⁸ The duties of the reconstituted BMP were greatly reduced. The new force was responsible for patrolling the border, with an eye towards curtailing the smuggling of stock and liquor. It was also responsible for ensuring order in the police camps, work that was mostly comprised of guarding prisoners in jails and checking the passes of Africans to affirm that the holders had secured permission from the

²⁶ HMSO 1883 [C.3708], Blyth statement, 2 Apr. 1883, 115. The cost savings of a force with locally-recruited officers was also a factor: J.H. Bowker, 'Minutes of Evidence,' 7 Jul. 1871 (*BR6*, 52-4) and Mills to Griffith, 11 Oct. 1872 (*BR6*, 183).

²⁷ HMSO 1884 [C.4263], Robinson and Clarke correspondence, 12 June 1884, and attached 'Standing Orders for the Basutoland Mounted Police,' 81-84.

²⁸ C. Notsi, author interview, 19 May 2017, Maseru; T. Khomari, author interview, 18 July 2017, Maseru; M. Mokete, author interview, 26 July 2017, Maseru. This bar can be glimpsed in the silences of budget estimates and expenditure reports, where the long running line item for Native Officer disappears in the 1926. The following year's report reads, 'the Police force consists of native non-commissioned officers and men under European officers' (*BAR 1927*, 10). Pim notes one African officer on rolls from 1923-1934, 209.

proper authorities to venture into the ‘colonial reserve.’ Beyond the thin band of space adjoining the border the new administration ceded virtually all policing and juridical authority to their partners in the traditional authorities.

Historians of empire have incisively described the latter model of effecting surveillance and control as a typology in its own right: franchise policing.²⁹ The paramountcy received the inchoate state’s blessing to wield a measure of legal violence.³⁰ The front line of surveillance for lords were ordinary people. Village ‘headmen’ (*boramotse* in Sesotho, literally ‘village fathers’) were bound to report land disputes, threats, and fights to the court of their liege lord; an obligation captured by the axiom ‘blood and soil [issues] are for the lord’ (*mali le mobu ke tsa morena*).³¹ When it came to potential use of violence, representatives of higher-ranking lords sometimes sent men to support headmen and villagers. These ‘court messengers’ effectively embodied the police forces of individual nobles, acting with the authority of their lord when investigating crimes, issuing

²⁹ Emsley 2014, 11. Blanchard, E., et al. 2016, ‘Tensions of Policing in Colonial Situations,’ in *Policing in Colonial Empires*, Blanchard, et al., eds., 11-40, Bern: P. Lang, 24-5, argues this framework is too ‘state centric,’ denies lords ‘agency,’ and neglects to consider how Black ‘chiefs were not allowed to police whites.’ The first two elements of this critique does not invalidate the franchise model so much as draw attention to the varying degrees of autonomous authority wielded by lords across space and time, both in empire and within individual colonies. The third argument, at least in the case of Lesotho, projects the situation at the end of the colonial era backwards throughout an 82-year period characterized by much change: from the 1880s through the 1910s, European colonial authorities and missionaries were indeed exempt from so-called traditional law, but many traders opted-in because the system worked well. Laws were not put in place barring Europeans from seeking justice in African courts until 1928 (LNA: S3/16A/1/1) From the mid-19th century through the 1910s, more than a handful of landless Europeans (and an even greater number of South Asians) crossed the border, swore fealty to an African lord (or, in the case of a woman, to a husband), and became full subjects. Maseru made a concerted effort to trace and deport these individuals and families (and other so-called ‘undesirables’) between 1917-20: LNA S3/14/9/5.

³⁰ Dr. LBBJ Machobane, 9 Aug. 2017, author interview, Lithabaneng; Griffith to Southey, 27 Feb. 1872, in Theal, *BR6*, 146-9; BNA DO 35/457/1, Sturrock to Eales, 23 Apr. 1934; Jingoos, 178-80.

³¹ P. Bereng, author interview, 21 Apr. 2017, Ladybrand.

summons, making arrests, and executing judgments. Lagden described 'The System' of policing in early colonial Lesotho:

The Chiefs were given duties... When criminals were wanted or tax had to be collected they acted... They did the entire Police work leaving the uniformed force drawn from their ranks little beyond the duty of carrying messages. That was a system [Basotho] liked. It admitted of no oppression. It was certainly effective.³²

The Colonial Office wanted Maseru to administer lightly and Lagden provided a rationalization for the soundness of franchise policing. Letting his comparative ethnological imagination run wild, the officer wrote:

The character of the Basuto was a distinct force... Instinctively they were law-abiding. They were amenable... to control by those whom they respected... Active by nature as all mountaineers are, more industrious than most native races, eager for education and advance, they had all the temperament of which promising nations are made.³³

As absurd as such sweeping statements of tribal characteristics are on their face, ethnological science deeply inflected the political and social history of Lesotho. A vision of a people, united by shared ethno-cultural traits of a mountaineering race, interfaced with a policy of limited investment in the infrastructures used for surveillance and control in the metropole. Money spent on these ostensibly culturally anathema technologies was wasteful and, even, counterproductive. Support for the aristocracy – and, especially, the paramountcy – as the front line for policing and disciplinary work, on the other hand, represented a more productive and, even, culturally sensitive approach to establishing control over the territory. One area of violence work the administration never asked of lords, on account of the fact that there was no historical evidence of compatibility between

³² Lagden 1910b, 629.

³³ Lagden 1910b, 629.

Sesotho traditions and forcible incarceration, was to establish or administer the ‘native prisons’ found in a few corners of the empire.³⁴

2.3 Placing, policing, and the paramountcy

Letsie acceded to the paramount’s throne in 1870, following the death of Moshoeshoe.³⁵ Despite being universally recognized as the agnatic heir, Letsie was treated differently than his father. The new monarch’s brothers and his late father’s confederates bristled at the prospect of overrule from Matsieng. This challenge was capped by Masopha’s decision to move from Berea, the ward he was assigned by Moshoeshoe, to the late king’s capitol of Thaba Bosiu.³⁶ Masopha’s relocation intimated that Moshoeshoe’s third son, rather than the first, was the *true vessel* of their father’s political project. Letsie’s awkward political position and fissiparous pressures increased further still after the arrival of the Cape administration in 1871. The Cape provided protection against the existential threat of a Free State invasion, on one hand, but was committed to undermining and supplanting the monarchy, on the other. Matsieng’s moral and political standing were deeply tarnished by the decision to cleave to Cape demands during the Moorosi Rebellion and Gun War.³⁷ During the latter conflict, Masopha burnished his image as the principal rebel commander.

³⁴ OBL, MSS Afr.s 211, Box 3, Lagden, Address to Royal Scottish Geographical Society, 3 Jun. 1901, 358.

³⁵ Blanchet-Cohen, T. 1977. ‘Moshoeshoe, the Chieftainship and the Basotho: The Past Lingers on: A Review Article.’ *Journal of Southern African Studies* 3/2: 230–35; Ashton, H. 1938. ‘Political Organisation of the Southern Sotho.’ *Bantu Studies* 12/1: 287–320; Jones, G.I. 1966 ‘Chiefly Succession in Basutoland,’ in *Succession to High Office*, J. Goody, ed., 57-81, Cambridge: Cambridge University; Hamnett, I. 1965. ‘Koena chieftainship seniority in Basutoland,’ *Africa* 35: 241-51.

³⁶ Theal, *BR6*: Austen to Bowker, 26 Jan. 1871, 5-7; Masopha to Barkly (transcribed by T. Jousse), 15 Jul 1871, 34-5; Griffith to Barkly, 7 Aug. 1871 and 8 Aug. 1871, 86-7. Also: Burman, S. 1979. ‘Masopha c. 1820-99,’ in *Black Leaders in Southern African History*, C. Saunders, ed. 100–113. London: Heinemann.

³⁷ Sanders 2011.

The arrival of an imperial administration in 1884, professing a desire to work with and reinforce customary authority in Matsieng, and hostile towards the maverick Masopha, represented an important boost in Letsie's political fortunes.³⁸

Letsie's approach to asserting his political preeminence on the East Bank of the Mohokare, and extending his authority into the Maloti, used technologies of power which converged with British expectations. The most basic building block was the common sense of shared identity as a unified kingdom. During his lifetime Moshoeshoe not only worked to promote the idea of himself as king of a unified people amongst his own lords and subjects but also, with the aid of loyal missionaries like Casalis, to the outside world.³⁹ Letsie continued to promote this vision after acceding to the throne. With the 1884 resumption of British rule, the local administration embraced the idea that Matsieng was the political heart of a unified Basotho political community. Clarke and Lagden viewed the paramountcy as a foundation upon which to build a standardized – yet wholly traditional – system for social control.

Officials were optimistic that the Highveld technology known as *placing* would facilitate bureaucratic standardization.⁴⁰ Moshoeshoe used this practice to install (*ho bea*,

³⁸ Eldredge 2007, 118-21.

³⁹ European observers readily embraced the notion that the peoples of the Mohokare River Valley were a coherent political unit – that is, a tribe. It is far harder, however, to gauge the extent of local buy-in to this idea at the time. Eldredge contends 'the creation of a national identity of belonging to the BaSotho nation was readily understood by the participants themselves as the nation was being formed.' 1993, 41; see also 42-46. While likely correct to a degree, it is also undeniable that people of the duiker (*Baphuthi*) and other princely lineages – including of Masopha and other scions of the people of the crocodile (*Bakoena*) – later explicitly argued that *political sovereignty* resided at a more local level. On the dismemberment of the *Baphuthi* polity: Machobane 1990, 97-99.

⁴⁰ The practice of existing political authorities sponsoring sons, brothers, and allies to build out new nodes in networks of authority has been widely observed in the popular political traditions of Highveld peoples: Machobane 1990, 9; Schapera, I. 1956. *Government and Politics in Tribal Societies*. London: Watts, 120-4; Murray, C. and P. Sanders. 2006. *Medicine Murder in Colonial Lesotho: The Anatomy of a Moral Crisis*. Edinburgh: Edinburgh University, 22; Ashton, 202-6; Eldredge 1990, 63.

literally ‘to put/place’) kin and allies in strategic locales, thereby creating buffer zones against rival polities, and facilitating the expansion and defense of the king’s territorial dominion. After acceding to the paramountcy in 1870, Letsie quickly began to place sons and allies in the Maloti.⁴¹ Other prominent sons of Moshoeshoe did the same within their own smaller dominions. Although placed lords and their retinues sometimes clashed with established leaders, the former generally sought to co-opt and build upon the existing structures.⁴² They claimed *bokhinapere*, territory and subjects upon which ‘to graze’ (the term literally refers to a knee halter for a horse). The new subordinates had little choice but to assent to a reduction in territory and status, for fear of drawing the wrath of the sponsoring authority. After 1884, the imperial administration looked favorably at placing. Officials imagined a network of sons relaying back intelligence from remote and opaque corners of the territory, and enacting orders from Maseru injected into the political hierarchy through Matsieng.⁴³ Thus, instead of trying to build up a rural police force, in the style of the RIC, the administration lent its political support to building out the nodes and network of the paramountcy throughout the nation.

Pace Maseru’s expectations, the popular political ethos governing placing had long been one of decentralization and local independence.⁴⁴ This did not change under Letsie’s rule. Placed sons of the paramount still expected to govern as lords, not as bureaucrats. Many jealously defended their newly acquired political and juridical authority, while also

⁴¹ Conz, C. 2017. ““Wisdom Does Not Live in One House”: Compiling Environmental Knowledge in Lesotho, Southern Africa, C.1880-1965.” Ph.D., Boston University, 50-97, provides a rich study of the settling of the Maloti by Bantu-language speakers; Sanders 2011, 64-78.

⁴² P. Bereng, author interview, 7 July 2017, Maseru.

⁴³ Lagden 1910b, 629.

⁴⁴ For a pithy articulation of these principles: HMSO 1883 [C.3708], Mphoma’s remarks, Pitso minutes, 2 Apr. 1883, 116. See also: Mothibe 2002, 28-9; Ashton, 206-12.

bowing to certain pre-established obligations related to tribute and legal appeals. Moreover, rather than the establishment of the Matsieng franchise facilitating the institutionalization of a bureaucratic aristocracy, subjected to consistent oversight from above, the system seemingly emboldened the placed nobles to stray from established norms governing the relationship between nobles and subordinates. As members of LLB would later observe, leaders with long-standing roots in a community depended for their legitimacy and very livelihoods on maintaining the support of the people they governed, while placed leaders derived their legitimacy – at least in the first instance – from connections to a higher political authority.⁴⁵

Clarke's tenure in Lesotho was marked by a sustained effort at relationship building. The resident believed that a politically-strong paramount, and mutual support between Maseru and Matsieng, represented the bedrock for building a lasting legal and social order in the territory. It also embodied a more realistic assessment of power relations in Lesotho than under Cape Rule, when imperious magistrates had issued ultimatums under the illusion that they were the most powerful authorities in the land. This approach required the administration to exercise restraint, so as to build trust between colonial officers and lords, and avoid embarrassing or undermining Matsieng. Maseru therefore did nothing when it learned of executions of accused sorcerers by Masopha's son in 1886, despite an imperial fixation with stamping out this practice.⁴⁶ Officials notably also swallowed back

⁴⁵ Jingoos, S. 1975. *A Chief Is a Chief by the people*. J. Perry and C. Perry, eds. London: Oxford University, 173-81.

⁴⁶ HMSO 1886 [C.4644]: Enclosures to Clarke to Robinson on 5 Aug. 1885, 19-20, and 28 Oct. 1885, 72-4. Clarke was able to prevail on Letsie and Jonathan to try and fine Motsoene, the mentally-unstable and violent first son of Molapo, thirty cattle for killing a commoner (Free State Archives [FSA], IBB Box 28: Annual Report, 1886-87, Clarke's report and Barrett's report), and three years later Motsoene's followers were punished by Jonathan for looting and assaulting members of a community they accused of witchcraft (LNA S3/25/1/7: Barrett Report, 30 Jun.

their bile for several years as Mhlontlo or Umhlohlo (Sesothoized as Mohlohlo), a former king of amaMpondomise lineage wanted in the Cape for putting to death three belligerent colonial officials in 1880, went freely about his life in the Maloti foothills.⁴⁷ The most politically dicey issue confronting Maseru in the 1880s and 90s was the prevalence of internecine conflict driven by lords fighting over territory, followers, and succession.⁴⁸

Lagden replaced Clarke as British Resident in 1893. The aspiring ethnologist moved to translate the changes of the preceding nine years into new approaches to policy. The political and financial footing of the administration was certainly surer than a decade earlier. Moreover, in the person of Paramount Lerotholi, who had acceded to the throne in 1891 following the death of his father, Maseru saw a partner who was cooperative and decisive where the late Letsie was, at least in colonial representations, cagey and vacillating. At the moment in which Lagden came into his new office, however, the territory was once again on the knife's edge of civil war. The legitimacy of Lerotholi's paramountcy was challenged by a junior half-brother and hero of the Gun War, Maama.⁴⁹

1890). On colonial attitudes to witchcraft and witch-finding: see Luongo 2011, 91; Browne, G. 1935. 'Witchcraft and British Colonial Law.' *Africa* 8/4, 481-487, and Roberts, C. 1935. "Witchcraft and Colonial Legislation." *Africa: Journal of the International African Institute* 8/4: 488-94, both cited by Luongo 91n68; Gray, N. 2005. "Independent Spirits: The Politics of Policing Anti-Witchcraft Movements in Colonial Ghana, 1908-1927."

⁴⁷ Surmon reports, 31 Dec. 1883, 85-6 (LNA S3/25/1/1) and 30 Jun. 1885, 9-10 (LNA S3/25/1/2). On the Mhlontlo case: Crais, C. 2003. 'Chiefs and Bureaucrats in the Making of Empire: A Drama from the Transkei, South Africa, October 1880.' *American Historical Review* 108/4: 1034-56; Eldredge 2007, 154; Zakes Mda's 2015 historical novel *Little Suns*. Johannesburg: Random House.

⁴⁸ Loch minutes, 47 (AR 1892-3): Internal warfare was viewed as requiring an urgent response from Maseru not simply to protect life, but because of the way it could impact relations with the Free State. Clarke learned this lesson only days after arriving in Lesotho, as a fresh round of fighting in Leribe between followers of Jonathan and Joel Molapo drove civilians across the Mohokare in search of refuge, kicking up a storm of protest from Bloemfontein. The response by Matsieng and Maseru, working together to adjudicate the claims of the two brothers, became a model for how to handle so-called 'tribal quarrels,' which, sadly, continued to rage for years to come.

⁴⁹ Lagden, 1910b, 583- 89; On Maama's exploits during the war, see Mangoaela, 1921, 96 [Sesotho].

After a set of small skirmishes, Maama abandoned his claim in late 1894. Lerotholi rewarded the administration for its support during the contest by agreeing to a fine for violently punishing communities under Maama's control.⁵⁰ This act of buy-in from Matsieng proved to be a watershed moment in the process of the administration arrogating more responsibility for handling both internecine conflict and matters of criminal justice involving violence committed by nobles more broadly.⁵¹

In the months following this victory, Lagden moved swiftly to revise the division of judicial responsibilities when it came to punishing crimes of physical violence.⁵² The administration outlawed not only participation in bloodshed at the behest of lords, but also the act of mobilizing to attack another community. These crimes were punishable with fines imposed by a combined court of colonial and traditional authorities. Despite some internal grumbling from officers in the field, Maseru had no choice to continue to bracket warfare differently than other forms of assault and homicide, not simply because of popular pressure, but also because no 'room could be found in the Gaols' when small armies of 'people engaged in such disturbances.'⁵³ Lagden also prevailed on the high commissioner to remake the laws concerning murders and other forms of criminal homicide: the colonial administration henceforth claimed the exclusive right to adjudicate these cases.⁵⁴ Lastly, in terms of enforcement of existing policies, the administration once again successfully

⁵⁰ BAR 1894-5, 5-6. Borane Lerotholi, who directed the violence, was imprisoned for 3 months, and then signed up as a police private. Lerotholi used a special levy on followers (*morohane*, 'the tail of the whip,' or *sethabathaba*: Machobane 1990, 109; Ashton 1952, 208) to pay off his personal fine.

⁵¹ OBL, MSS Afr.s 211, Box 3, Folder 1, ff. 48-74, Lagden minutes.

⁵² BAR 1893-94, Lagden minute, 6.

⁵³ OBL, MSS Afr.s 211, Box 3, Folder 1, Barrett minute, nd.

⁵⁴ Commissioner Henry Loch took over for Robinson in 1889. OBL, MSS Afr.s 211, Box 3, Lagden circular, 2 Feb. 1894. The new rules also stipulated that the court would include 'assessors' selected by Matsieng.

pressured Lerotholi to institutionalize new norms by using his house as a model: the paramount publicly rebuked and fined his eldest son and heir, Letsie II (or Letsienyana, meaning Little Letsie) for abusing subjects in custody and torturing a man accused of sorcery.⁵⁵

From the 1870s onwards, the continuing political independence and moral authority of Masopha vexed both Matsieng and Maseru.⁵⁶ Lerotholi's uncle was viewed as fueling political instability, including Maama's bid for the paramountcy. Masopha also flouted Maseru's expressed desire to monopolize the application of punitive physical violence, presenting himself as a model of a more rigid and authentic set of Sesotho values. The famed general employed a stringent approach to discipline, rooted in a deeply conservative view of social and class hierarchies. During the cataclysmic summer of 1897-98 – a time marked also by sustained drought, locusts, and the tail end of a rinderpest murrain which killed hundreds of thousands of cattle in the territory⁵⁷ – Lerotholi and Lagden spied an opportunity to confront the septuagenarian prince directly.

Masopha's son Moeketsi touched off the confrontation by leading an expedition across the Mohokare to forcibly repatriate a woman who had fled her husband.⁵⁸ The princeling was arrested by Free State police, but managed to escape from custody and make it home. After Masopha refused to surrender Moeketsi to the administration, Lerotholi's

⁵⁵ *BAR 1894-95*, Kennan Report, 22, and Lagden report, 7.

⁵⁶ Theal, *BR6*: Austen to Bowker, 26 Jan. 1871, 5-7; Masopha to Barkly, 15 Jul. 1871, 34-5; Griffith to Barkly, 7 Aug. 1871, 86-7 HMSO 1884 [C.3855]: Blyth minute, 30 Jul. 1883; Letsie to Derby telegraphic message, 3 Dec. 1883; Letsie to Blyth, 17 Jan. 1884. HMSO 1886 [C. 4644]: Letsie to Clarke, 23 Oct. 1885.

⁵⁷ Conz, 98-152; Phoofolo, P. "Face to Face with Famine: The BaSotho and the Rinderpest, 1897-1899." *Journal of Southern African Studies* 29, no. 2 (2003): 503–27. An epidemic of smallpox had also ravaged communities in the lowlands for the proceeding two years.

⁵⁸ OBL, MSS Afr. S 2034, Box 2, Period newspaper clippings on conflict and Lagden's notes. Lagden 1910b, 593-8; *BAR 1897-98*, Wroughton Report, 26. See also, Eldredge 2007, 128-39.

armies marched on Thaba Bosiu. The two sides clashed on Khamolane Plateau in mid-January. Masopha was defeated, stripped of his powers, and died within a year. A praise poem (*thoko*) for Lerotholi's eldest son Letsienyana, styled as a crocodile, speaks not only to details of the fighting but also to the growing political hegemony of the paramountcy:

The Crocodile departed from Likhoele on horseback / As a mist crept over the earth / ... He stood at Liphokoaneng and gave orders/ ... that they pass the night with their Sniders loaded / ... He said: 'They show off, these people from Masopha's / They've shown off against me with their sticks of iron.' / He went to ascend the pass of Khamolane / Close to the village of his uncle / Where bulls kick up dust against each other / ... With the white clay flying and the gunpowder reeking! / Then they appeared, and were holding a flag / ... Their lips were trembling / ... Masopha says, Chief, forgive him, he's erred. / ... Before he answered / They brought Moeketsi / Driving him even with their knees / ... *They say that we people from Matsieng are a rising cloud of dust / We're a rising cloud, indeed we agree / We arise like dust in every little pass.*⁵⁹

2.4 A brief history of carceral infrastructure and design in the early colonial era

The network of carceral facilities the new administration inherited from the Cape were both limited and in poor condition. Spaces of confinement in Lesotho were thrown together hastily following the arrival of magistrates from the Cape, beginning in 1869. These windowless 'lock-ups' were little more than specially purposed storage rooms, adjoined to each magisterial district's court and police barracks.⁶⁰ While two African constables were hired to oversee prisoners at each station, the BMP rank and file were also tasked with guard duty, in addition to carrying out patrols, performing arrests, and executing the judgments of magistrates. The constables and police had a nearly impossible task, however, given the architectural insecurity of the structures. Even after the Cape provided handcuffs,

⁵⁹ Mangoaela, Z. 1985 [1921]. *Lithoko Tsa Marena a Basotho*. Morija: Morija Book Depot, 173-75. M. Damane and P. Sanders, trans., 1974, *Lithoko: Sotho Praise Poems*. Oxford: Claredon, 209-13.

⁶⁰ Free State Archives Depot, Bloemfontein [FSD]: Untitled article, *The Friend*, 26 Dec. 1876; Brownlee to Griffith, 19 Sep. 1974, cited by Burman 1990, 74. This nomenclature is technically anachronistic: the terms lock-up, jail (gaol), and prison were used interchangeably when there were only lock-ups, and the same slippage existed for jails and prisons until Maseru Prison was under construction in the late-1940s.

lashes, padlocks, and wrought-iron door hasps, escapes continued to be common.⁶¹ This system of small and structurally insecure jails was predicated on Lesotho belonging to the world of the Cape: lock-ups were used for awaiting trial prisoners and short-sentences, while individuals facing more than a few months incarceration faced the terrifying fate of being carted off to more secure facilities in Cape Town.⁶² Flogging and fines emerged as popular modes of magisterial punishment, moreover, precisely because they presented few logistical hurdles to carry out.⁶³

The conflict of the late 1870s and early 1880s drew the insecurity of the structures into even higher relief. The inability of police to detain prisoners and secure the magistracies when opposed by local lords was plain to see. The escape of Moorosi's son Doda from the Quthing magistracy in 1878, discussed in the preceding chapter, was only the beginning. The same magistracy was razed, and the jails in Maseru and Tlhotse Heights (Hlotse, Leribe) sustained significant damage, during the Gun War and its aftermath. Lore holds that police freed inmates held in the lock-up in Maseru in advance of an attack by

⁶¹ On escapes and structural weaknesses: FSD, *The Friend*, 10 Oct. 1876, and 21 Dec. 1876, 6; WCA, Sworn statements of Pvt. Mahomo and Constable Jeroboam, attached to Austen to Griffith, 4 Jan. 1879. Amongst the first missives the Governor's Agent sent back to Cape Town after arriving in Maseru was an urgent request for six pairs of shackles and six cat-o-nine tails for each magistracy: BR6, Griffith to Barkly, 16 Aug. 1871. Each magistrate was also allotted up to £50 for reinforcing lock-ups, and money was set aside for hiring 8 African constables to oversee the facilities.

⁶² WCA, CO 3320, 'Removal orders' signed by Cape Under-Secretary of Native Affairs H.E.R. Bright. The most famous individual slated for transfer was King Moorosi's son Doda, who was slated to be transferred to the Breakwater for 4 years hard labor for stealing a horse (WCA, CCP 1/2/1/41: Austen to Griffith, 23 Nov. 1878; Bright to Griffith, 10 Dec. 1878), before escaping (ibid, Austen to Griffith, 4 Jan. 1879). A handful of Basotho were indeed sent westward in chains to Cape Town, where they were detained at the fortress known as Roeland Street Gaol (today, rather eerily for historians, the provincial archives of the Western Cape), face the treadmill at Breakwater Prison (a building now repurposed by the University of Cape Town to train MBAs), or toil in the mobile work camps tasked with building up the provinces' roadways and public infrastructure. On Cape approaches to incarceration: WCA, CCP 1/2/1/30, J.C. Molteno, 'Memo of discipline and maintenance of convicts,' 26 Apr. 1876.

⁶³ FSD, *The Friend*, 10 Oct. 1876.

Masopha's soldiers in October 1880.⁶⁴ Despite breaking ground to build a new Maseru Gaol in December, on the site of a model school razed during the fighting, the lingering insecurity and lack of labor prevented construction from advancing.⁶⁵

Clarke approached prison design differently than his Cape predecessors. After rebuilding the badly damaged lock-ups in Quthing and Hlotse over 1884, as a temporary measure, the administration pivoted away from the structurally and functionally flexible Cape model of design to specially purposed jails.⁶⁶ The construction of a new, large jail in Maseru was completed over 1884-85.⁶⁷ It provided the first facility in the territory which could be used for long-term detention and allow for the segregation (in isolation) of 'special class' prisoners; that is, anyone who was not adult, African, male, and of sound mind. Over 1885-86, the two lock-ups in Leribe, in the headquarters of both the district in Hlotse and the (then) sub-district of Butha-Buthe, were replaced with jails.⁶⁸ In 1886, Lagden also oversaw the building of a cluster of stone cells surrounded by a sod wall in Teyateyaneng, early steps in the construction of a new administrative district in Berea.⁶⁹

Although the new penal facilities varied dramatically in size, Maseru Gaol served as a template for the administration's approach to prison design. All were imposing structures with high walls devoid of external windows, simultaneously conspicuous and

⁶⁴ C. Notsi, author interview, 19 May 2017, Maseru. On the burning of the Cape-era Maseru lock-up by Masopha's troops; Walton, J. 1958. 'Old Maseru: Presidential Address.' Maseru: Basutoland Scientific Association, 5.

⁶⁵ C. Notsi, author interview, 28 Apr. 2017, Maseru; D. Ambrose, author interview, 23 Apr. 2017, Ladybrand; UCT, James Walton papers, Photograph c. 1880 featuring 'old goal,' attached to 'Presidential Address to the Basutoland Scientific Association – Maseru. 1958,' n.p.

⁶⁶ HMOS 1884, Clarke to Robinson, 24 June 1885.

⁶⁷ C. Notsi, author interview, 28 Apr. 2017: the site was the 'exact place' of China Garden Restaurant and Christie House, at the westernmost corner of the lot occupied by Vodacom Park (29°18'49"S 27°28'35"E).

⁶⁸ LNA S3/25/1/3: *BAR 1884-85*, n.p; *BAR 1885-86*, n.p. The Butha-Buthe jail was enlarged in 1893 (*BAR 1893-94*, 14) and wholly rebuilt in 1910 (*BAR 1910-11*, 10).

⁶⁹ LNA S3/25/1/3: *BAR 1885-86*, Kennan minute, n.d. and Lagden minute, 1 Jul 1886.

opaque to outside observers. Inside, each of the new jails featured a central yard, constables' quarters, a limited number of large sleeping cells, two or more isolation cells, and open-air kitchens.⁷⁰ From Maseru's perspective the construction of new carceral institutions quickly proved to be a shrewd investment, helping to spur increased tax revenues. The jails were the largest structures in the territory and visible from beyond the police camps. While many Africans were understandably skeptical in the mid-1880s about whether the new administration would last and, therefore, reticent to part with hard earned grain and coin, the effort and expense of the jails telegraphed a clear intent to stay for the long haul. Fear of ending up inside one of the austere looking facilities for tax default, moreover, certainly did not hurt revenue efforts.

In keeping with the larger approach of the administration to the geospatial division of coercive labor, the jails were all located near the border with South Africa in 'police camps' (*likampo* in Sesotho), either the seats of the old magistracies or a handful of new parcels of 'reserve land' specially alienated from Matsieng to the colonial government. Persons arrested by police patrols were marched back to the camps for pre-trial detention, legal proceedings in the court of an assistant commissioner of the district (or, in the sub-districts, the police officer in charge), and, potentially, a prison sentence. The most common charges in colonial courts during the 1880s and 90s involving smuggling — livestock, guns, and, especially, liquor. A greater array of crimes began to appear on the colonial roles in the late-1890s, as the ongoing Witwatersrand (Johannesburg area) gold rush attracted more people into the colonial policed space of the camps and the border.⁷¹

⁷⁰ C. Notsi, author interview, 28 Apr. 2017, Maseru.

⁷¹ Maloka, T.E. 1997. "Khomolua Oela: Canteens, Brothels, and Labour Migrancy in Colonial Lesotho, 1900-40." *JAH* 38/1: 101–22, especially 109, provides a rich portrait of camp life and

Outbound and inbound migrants seeking to link up with labor recruiters, transit the border, and spend wages on consumer goods and services, were detained for pass violations, robberies, and assaults. The effort to exert police control over increasingly bustling urban spaces, and a resultant uptick in prisoners, fueled increasing specialization within the police ranks: some officers worked primarily as patrolmen while others began to report to the jail every day to work as ‘warders’ (reporting to already specialized Constables and Gaolers). In 1895 Lagden proudly reported to his superiors that ‘prison accommodation has now been provided at each station.’⁷² Yet, the penal work remained small for a territory inhabited by a quarter million people: 338 individuals were processed into the territory’s jails in fiscal year 1895, with an average of 75 persons detained each day.⁷³

Perhaps the most striking aspect of prison design in Lesotho, prior to WWII, was what the jails lacked. The emergence of the scientific discipline of penology in the North Atlantic, over the early 19th century, gave rise to common sense architectural features. The radial design, believed to be an effective means of discipling and re-socializing inmates with an internalized sense of omnipresent surveillance, was ubiquitous in metropolitan England, and became increasingly widespread in the empire from the mid-19th century onwards.⁷⁴ Equally common was the use of cell blocks to segregate different classifications

politics. *BAR 1906-7*, Nattle minute, 48. See also: LC, Box 26/0, ‘Prostitutes and Vagrants,’ on 1930s efforts to police camps.

⁷² *BAR 1894-95*, 13.

⁷³ The rate of 30 incarcerated persons per 100,000 people increased over subsequent decades. Rates for 1904, 1911, 1921, 1928, and 1935 were, respectively, 32, 40, 59, 91, 96: these numbers are derived from the populations figures and daily averages of detained persons in the corresponding BAR, as well from the official colonial government censuses of 1904, 1911, and 1921 (Basutoland Gov’t Printer).

⁷⁴ Arnold, D. 1994. “The Colonial Prison: Power, Knowledge, and Penology in Nineteenth Century India,” 148-184 in *Subaltern Studies VIII: Essays in Honour of Ranajit Guha*, D. Arnold and D. Hardiman, eds. Oxford: Oxford University, 164-65 (notes both the efforts and the failures); Carroll-Burke, P. 2000. *Colonial Discipline: The Making of the Irish Convict System* Dublin: Four Courts; Evans, R. 1982. *The Fabrication of Virtue: English Prison Architecture, 1750–1840*. Cambridge:

of prisoners. Classification and segregation represented the first principles of scientific penology: reform and rehabilitation could only proceed if more vulnerable and/or reformable incarcerated people were protected against physical violence, sexual exploitation, and ‘moral pollution’ by more ‘criminally-hardened’ detainees. The jails built in Lesotho prior to WWII featured neither radial designs nor the network of cells that would facilitate classification.⁷⁵ Almost all African males detained in the colonial jails lived, worked, ate, and slept cheek to jowl.⁷⁶ This included individuals charged and convicted of the gamut of criminal offenses ranging from tax-default and vagrancy to assault and homicide. It mattered not whether a man was still awaiting trial, nor whether serving a sentence for a first or fifteenth offense.

Much of the historical scholarship produced over the past forty years on 19th-century metropolitan and colonial prisons focuses on the institutions as sites of knowledge production about social groups.⁷⁷ Prisons in London, Dublin, Cape Town, and Calcutta were used to study and delimit populations, supposedly by studying the linkages between morality, criminality, and deviance, on one hand, and other factors such as class, caste,

Cambridge University; Anderson, C. 2018. “The Andaman Islands Penal Colony: Race, Class, Criminality, and the British Empire.” *International Review of Social History* 63/26: 25–43, 31-2 and 2016. “Convicts, Carcerality and Cape Colony Connections in the 19th Century.” *JSAS* 42/3: 429-442; Johnston, N. 2000. *Forms of Constraint: A History of Prison Architecture*. Urbana: University of Illinois, 56; Waits, M. 2018. “Imperial Vision, Colonial Prisons: British Jails in Bengal, 1823-73.” *Journal of the Society of Architectural Historians* 77/2: 146–67.

⁷⁵ *BAR* 1931, 22-3, details past and best penal practices: A small effort to increase institutional security through penological classification began with the sending of inmates deemed to present a danger to guards or a high flight risk to Maseru in the 1890s. After 1910, the administration also began to transfer persons who successfully escaped, or who had killed police or warders, to higher security (and more brutal) South African prisons: LNA S3/16/1/15, ‘Basuto Prisoners in Union Gaols’ folder.

⁷⁶ Two informants who joined the Prison Service in the 1950s stated that rudimentary classification and segregation only began following WWII and were not fully implemented until the late-1960s and early-1970s: C. Notsi (19 May 2017, Maseru) and L. Monyobi (22 May 2017, Lithabaneng).

⁷⁷ Arnold; Carroll-Burke; Anderson 2016 and 2018; Deacon, H. 1989. *A History of the Breakwater Prison from 1859 to 1905*. Honors Thesis (Social Anthropology), UCT, Chapter 2.

ethnicity, and bodily characteristics, on the other. The institutional control over the bodies of incarcerated persons, and the legal and ideological position that inmates forfeited any claims to privacy while imprisoned, facilitated the collection of biometric and physiognomic data, which could then be used to make scientific arguments. Prison workers in Lesotho, however, not only made no effort to study and classify prisoners based on perceived social recalcitrance and reformability, but also failed to collect basic biometric data, such as the weight and build type of inmates upon admission.⁷⁸ Maseru failed to invest in either the physical infrastructure or the human labor and expertise needed to classify or differentiate subgroups amongst incarcerated populations. This indifference to the idea of using penal institutions for re-socialization and social differentiation — at the point in which the second wave of colonial penal infrastructure was laid down, spanning roughly from 1884 through the early 1910s — was driven by interrelated ideological and instrumental conceits rooted in a nexus of ethnocultural mythology and colonial parsimoniousness.

A deterministic ethno-cultural vision of Basotho character elided the need to propound on the criminological proclivities of sub-populations in Lesotho. The abiding wish of the administration for several decades following 1884 was for Basotho to remain as ‘mountaineers,’ members of an ethno-culturally homogenous kingdom who were ‘innately law abiding’ in character. Criminal conduct during this era was therefore conceptualized by the colonial state as a kind of ethnocultural deviance with moral

⁷⁸ On the signed detention warrants in the Lesotho National Archives (particularly Box No. 190, 304/1) dating from the pre-WWII era, the name, sentence, and whether hard labor was required were diligently filled out, but only rarely the biometric data components. The same pattern is observable on the larger collection of detention warrants from the territory’s second largest jail (in Hlotse) which are now part of the Leribe Collection at NUL (scattered throughout boxes, but primarily in 26/1 and 26/2 for the 1920s and 3/8 for the early 1940s).

characteristics. The task of reforming ostensibly ‘bad Basotho’ therefore fell outside the ambit of the state. Re/socialization was work for families, communities, and lords, as well as missionaries at the schoolmaster’s desk and the pulpit. The institutional function of jails in Lesotho was, instead, as a coercive backstop for instances in which tradition, elders, and lords failed.

The explicit goal of incarceration was punishment and deterrence: the misery of detention and hard labor, it was argued, would educate wayward Basotho about the personal misery involved with transgressing colonial laws. Lesotho’s carceral institutions, therefore, diverged from contemporaneous facilities in the metropole by making little pretense of inculcating job skills, work ethics, or moral compasses in detainees. Presenting before the Royal Scottish Society in 1901, Lagden argued this approach was the best the administration could hope for, as Sesotho norms militated against the creation of stigma and social differentiation of deviants in Lesotho beyond the prison walls: ‘To be a criminal is not to be barred from domestic circles or fellow society; [Basotho] are tolerant of each other's faults, believing that temptation and opportunity are to be blamed rather than human weakness.’⁷⁹

This vision was convenient indeed for an administration under immense pressure to keep down operational costs. Classification schemes required not only sizable capital expenditure on infrastructure but also recurring expenditure on labor. Segregation involved more skilled work when it came to penological sorting of detainees and record-keeping, and even more labor still when it came to supervision and management of jails. The skeleton crew of British administrative and medical officers were overloaded with duties

⁷⁹ OBL, MSS Afr. s 211, Box 3, Lagden, ‘Address,’ 3 June 1901, 353.

and paperwork, and therefore not required to do more than sign off on detention warrants and jail intake forms. As we will see in the subsequent two chapters, persons suffering from leprosy were the one Basotho sub-population who the colonial state took a keen interest in differentiating, surveilling, and, after 1914, actively stigmatizing through compulsory institutional segregation. When it came to collecting data on Basotho incarcerated through the criminal legal system, and working to differentiate the ‘habitual criminal’ or ‘recidivist’ as categories of particularly dangerous people, the administration would persist in the line, through the 1930s, that it lacked the educated personnel necessary to carry out such work.

2.5 The rise of British subcontinental hegemony and Basotho critiques

The South African War, also known as the Second Anglo-Boer War, erupted in October 1899.⁸⁰ The outbreak of fighting provoked great alarm for the colonial administration in Lesotho, as rumors swirled of a potential Basotho uprising against the British. Lagden expedited the construction of telegraph wires between Maseru and outlying districts and scaled up recruitment for the BMP. Although no fighting ultimately took place in Lesotho, the surrender of the last of the last republican guerrillas in May 1902 ushered in a period of fast-moving changes in the forms and functions of violence work in the territory. The

⁸⁰ During the initial phase of fighting, lasting roughly three months, Afrikaner commandoes inflicted tremendous casualties on imperial troops as well as British and African civilians. By the beginning of 1900, the British turned the tide. During the early phase, Lagden was fearful of internal rebellion. Free State representatives did indeed reach out to high-ranking Basotho lords, arguing that the moment was ripe for collectively throwing off the British yoke. Although several prominent nobles – including Paramount Lerotholi, Maama, and Jonathan Molapo – seemingly toyed with the idea of throwing in with the Afrikaners in late 1899 and early 1900, only one, in Lagden’s words ‘crossed the Rubicon’ (1910b, 614). Joel Molapo provided safe harbor and smuggled weapons for the rebels and, later in the war, provided food and shelter to Afrikaner civilians fleeing an increasingly brutal British scorched earth campaign. The post-war trial of Joel on a charge of treason, and the sentencing of Moshoeshoe’s grandson to a year in jail, provided a testament to the growing authority of Maseru and Matsieng: *BAR 1899-1900*, 9, 14-6; also, Coplan 2001, 89, with caveat that Jonathan and Joel are confused.

administration and lords adapted their strategies of control, first in the face of a fast-industrializing political economy in the subcontinent and, increasingly, the critiques of Basotho activists leveraging discourses both of universal civilization as well as tradition.

Following the war, the British held dominion extending unbroken from the Cape past the Zambezi River. This outcome meant a state committed to backing heavily-capitalized industrial mining economy on the Highveld, rather than the ranching and farming pursuits of a European yeomanry. The problem for Transvaal Governor Alfred Milner, and his allies in Witwatersrand business class, was a profound shortage of labor.⁸¹ Mines shut down at the commencement of hostilities and, despite efforts to resume production in mid-1900, only a small number of African workers were willing to sign new contracts. In 1903, the reconstruction government, based in Pretoria, pushed a series of measures aimed to reverse the continuing labor shortage and economic stagnation, capped by a drive to use penal sanctions to coerce labor.⁸² The Milner administration made clear that Africans would not be allowed to withhold their labor until the market responded with sufficiently tempting wages. Lagden was promoted to serve as Commissioner of Native Affairs in Milner's cabinet, and penned an influential report which went on to provide a

⁸¹ Chanock, 406-36; Denoon, D. 1967. "The Transvaal Labour Crisis, 1901-6." *JAH* 8/3: 481-94.

⁸² Several landmark texts demonstrate how penal servitude boomed in post-emancipation societies as a means of coercing the labor of former slaves: Foner, E. 1983. *Nothing but Freedom: Emancipation and Its Legacy*. Baton Rouge: LSU, 58-60 and 51-40; Marx, A. 1998. *Making Race and Nation: A Comparison of South Africa, the United States, and Brazil*. Cambridge: Cambridge University; Oshinsky, D. 1996. *Worse than Slavery: Parchman Farm and the Ordeal of Jim Crow Justice*. New York: Free Press, especially 70-6 and 55-6; Blackmon, D. 2008. *Slavery by Another Name: The Re-Enslavement of Black People in America from the Civil War to World War II*. New York: Doubleday. Between the 1880s and 1930s, the De Beers Convict Prison, outside Kimberley, provided an early model of the private prison, with state and capital working in tandem to coerce labor according to liberal principles and to hone the security of total institutions: Worger, W. 1987. *South Africa's City of Diamonds*. New Haven: Yale University, 123-145; see also, Turrell, R. 1984. 'Kimberley's Model Compounds.' *JAH* 25/1: 59-75, 67-74.

key rationalization for the suites of segregation and apartheid laws rolled out over subsequent decades.⁸³

The changes in South African policies were felt in Lesotho in short order. Labor migration from the mountain kingdom had spiked just prior to the war, in 1898 and 1899, as Basotho sought to recover from the destruction of wealth caused by drought and rinderpest, which by some estimates killed eighty percent of the cattle in the territory.⁸⁴ Following the conflict, however, workers from Lesotho – as from other nearby African communities, were understandably loathe to return to jobs for a fraction of the pay they had previously received.⁸⁵ The economic calculus changed in 1903, when drought descended once again on the territory: many men were forced by the prospect of impending famine to secure work in Free State diamond mines. Maseru and labor recruiters, moreover, worked to entice lords to prevail upon male subjects to sign new labor contracts. As keen as the administration was to promote migrant labor, it did not stop officials from simultaneously bemoaning how the system forced Africans to leave rural villages and, especially, to have greater contact with working class Europeans. Interracial exchanges

⁸³ Colonial esteem for Lagden’s performance as British Resident in Lesotho during the early days of the South African War, as well as his supposed ethnological expertise on the tribes of the subcontinent, led to a promotion to Commissioner of Native Affairs for the Transvaal in 1901 (OBL, MSS Afr. s 211: Box 3, Lagden to Cox, 24 Apr 1901). His report on ‘the Native Question in South Africa,’ advocated a paternalistic policy of ‘separate development’ committed to keeping Africans from losing touch with the supposed natures and virtues of rural, tribal life: Legassick, M. 1995. “British Hegemony and the Origins of Segregation in South Africa, 1901-14,” in *Segregation and Apartheid in Twentieth Century South Africa*, W. Beinart and S. Dubow, eds., 43–59. New York: Routledge.

⁸⁴ On the relationship between stock losses and migrancy: Phoofolo 2003, 519-22.

⁸⁵ Basotho remained interested, however, in work for the British Army reconstructing railroads at higher pay rates: Maloka, T.E. 2004, *Basotho and the Mines*. Dakar: Codesria, 31. On the types of employment sought out by Basotho, and the relationship between recruiters and lords, see *ibid*, 36 and 56-7, respectively.

were envisioned to fuel detribalization and cultural deviance amongst Africans, leading to criminal behavior.⁸⁶

The predatory penal labor scheme taking shape just across the Mohokare River represented a significant threat to the liberty of Lesotho's residents with family, friends, and business which required venturing near or across the border. The Free State and Transvaal governments hired veritable armies of 'justices of the peace' – largely from the mid-level ranks of disbanded Afrikaner commandoes – to patrol the countryside, searching out and summarily sentencing Africans for violations of vagrancy, masters and servants, and pass legislation.⁸⁷ Unremunerated 'convict laborers' were deployed in securitized mine compounds, as well as an emerging archipelago of penal camps set up to facilitate the reconstruction of buildings, railroads, and bridges destroyed during the war. Basotho who hoped that a British victory would help to protect Africans from exploitation and acts of cruelty by European farmers in the Free State (empowered by the non-enforcement of statutes by anti-African *landdrosts*) were confronted with a new reality where laws were deployed as instruments for systematically terrorizing and exploiting Africans.⁸⁸

Although Lesotho's colonial administration was reluctant as a rule to spend money, the war and its aftermath catalyzed significant new capital and recurring expenditures in

⁸⁶ Chanock 2001, 56-7 and 68-96. Coplan (2001) highlights the long history of economic and personal relationships between Africans and Europeans across the Mohokare: 87-91.

⁸⁷ Free State Archives [FSA] PAS1/1/146, Villers minute, 12 Jan. 1911, outlines the development of convict labor practices. FSA CO184, Folder 4590/03, 'Convict labour: application for, free of charge,' 18 Jun 1903, and, FSA CO266, Folder 1689/04, Van Iddekinge to Supple, provide details of the mechanics of this system from the legal and supervision sides. For the records of an exploding number of justices and the sentencing returns involving overwhelmingly petty crimes: FSA CO304, Folder 4966/04. The editors of *Leselinyana* attributed the increasing predations to the hiring of Afrikaners as justices and police: 1 Aug 1908, 3.

⁸⁸ BLO, MSS Afr. s 211, Box 3: Leretholi denounced the cruelty and even violence of police and white citizen vigilantes at the 1898 National Pitso: 'We are not Springbo[k]s; let us not be shot down in the Orange Free State' (f.190). Ibid, Lagden, Address to the Royal Scottish Geographical Society,' 3 June 1901, 358.

policing and penal infrastructure.⁸⁹ The number of police on the ‘establishment’ of the BMP was scaled up to monitor the border during the South African War, and remained higher than pre-war levels once the fighting subsided.⁹⁰ European police officers continued to be tasked with combating smuggling and controlling the camps. They liaised with counterparts in the South African Constabulary, a mobile gendarmerie created by Milner for rapid deployment to crush any stirrings of African uprising or recrudescence of Afrikaner republicanism.⁹¹ The growth of labor migrancy from 1903 onward meant increasing numbers of Basotho accessing camptowns – in order to speak with labor recruiters and touts, transit the border, and spend wages on consumer goods – and, therefore, more work for the BMP tasked with policing these spaces.⁹² The BMP had their hands full during this period: patrol work was quite dangerous, as heavily armed smugglers plied their trade and repeatedly proved willing to engage in gun battles with police.⁹³ The

⁸⁹ Pim, 197-202: Over the financial years 1904-05, 1914-15, and 1924-25 the administration respectively spent £15,156, £22,923, and £36,756 on police, and £2,202, £4,727, and £11,078 on prisons. To put this in perspective, the respective expenditures and revenues for these years were £78,836, £170,084, £250,197, and £97,034, £151,611, £261,008.

⁹⁰ Just prior to the conflict there were 228 Africans and 19 Europeans in the BMP (*BAR 1898-99*, 14). While the number of Europeans stayed relatively constant, the number of African police grew to 240 by the armistice (*BAR 1901-02*, 16), 250 in 1903 (*BAR 1902-3*, 18), and 271 in 1906 (*BAR 1905-06*, 16). By 1917 the establishment was increased to over 300 Basotho rank and file, not including an additional 150 or so ‘Native Special Police’ paid to surveil the border in hopes of preventing the importation of cattle afflicted with East Coast Fever (*BAR 1917-18*, 8).

⁹¹ Chanock, 45-6; Grundlingh, A. 1991. “‘Protectors and Friends of the People’? The South African Constabulary in the Transvaal and the Orange River Colony, 1900-08.” In *Policing the Empire: Government, Authority, and Control, 1830-1940*, D. Anderson and D. Killingray, 168–82. Manchester: Manchester University; Spencer, S. 2018. “Flooding the Networks: The Aftermath of the South African Constabulary, 1902–14.” *Britain and the World* 11/2: 153–72; Trew, H.F. 1938. *African Man Hunts*. London: Blackie & Son Ltd, 13-25.

⁹² LNA S3/25/1/25, Annual Report for 1907-08, Macgregor’s report on Leribe District, n.p. Resident Sloley expressed some ambivalence about these developments, arguing that lords remained ‘the most efficient instrument it is possible to conceive of for the control of the native population’ (*BAR 1904-05*, 8).

⁹³ LNA S3/16/1/15, Sloley to Gladstone, 19 Sep. 1911 (one private killed) and 25 Oct. 1911 (two privates killed). LNA S3/16A/3/11, 23 Apr. 1917 (one private killed). While there is an extensive colonial record of the violence faced by police, it is far harder to assess violence perpetrated by

activity in towns and along the border, as well as the enforcement of older measures requiring the involvement of colonial courts for serious crimes, also led to increased demand for spaces of judicial confinement. Maseru responded by investing tax-payer funds – as well as a glut of leftover war material, including sheet iron roofs and barbwire – in a fresh round of jail construction, including in Mafeteng (1903), Mohale’s Hoek (1905), Qacha’s Nek (1906), and Butha-Buthe (1910).⁹⁴

Prisons were integrated into the economic life of camptowns over the early years of the 20th century. The majority of criminal sentences handed by colonial courts included the option of a fine in lieu of the jail sentence, but most Basotho still ended up serving the time and being put to hard labor, on account of being unable or unwilling to pay the fine.⁹⁵

While the levels of incarceration in Lesotho paled in comparison to South Africa, with its

police. Period newspaper articles suggest that such violence was well known: see, for example, *Leselinyana*, Motsile, 11 Sept 1909.

⁹⁴ *BAR 1903-04*, 7 and 40; *BAR 1905-6*, 8; *BAR 1909-10*, 10; *BAR 1915*, 14. A new jail was also built in Quthing during the war (*BAR 1899-1900*). Prior to the construction of the Mafeteng jail, the administration rented the use of fortified rooms from a private trader. In addition to these jails, the government also steadily built new police stations, including in Machachaneng and Mokhotlong (*BAR 1904-05*: 7, 21, 24). The panels of sheet metal used to patch together a network of observation posts and blockhouses on the veldt as part of the British counterinsurgency effort became the standard roofing material in Lesotho’s penal facilities; some of the jails’ walls also began to feature barbed wire, which had been manufactured to throw up concentration camps on the other side of the Mohokare: LC 39/1, Mansel to Boyes, 16 Feb. 1906; see May to Sloley, 16 May 1914, on similarities in asylum construction, in BNA CO 417/545.

⁹⁵ The role of culture in the non/payment of colonial judicial fines warrants further research. The rarity of Basotho opting to pay cash fines in place of jail time is a conspicuous feature of the records of colonial Lesotho’s criminal legal system: LNA S3/16A/3/17-9; LC, Boxes 3/1, 3/4, and 3/8. This held true even for fines of a pound or less, in which default might require a person to instead suffer through jail and hard labor for weeks. In 1936, Maseru sent a circular enjoining colonial officers to impose lower fines in order to relieve mounting overcrowding in jails (LC, Box 3/4, How circular, 29 Oct. 1936), but the population of incarcerated persons nonetheless continued to steadily tick upwards. This dynamic might well simply be a testament to the poverty of Basotho who found themselves wrapped up in the criminal legal system. But it also conjures visions of James Ferguson’s (1994. *Anti-Politics Machine: Development, Depoliticization, and Bureaucratic Power in Lesotho*. Minneapolis: University of Minnesota) notion of a ‘bovine mystique,’ in which Basotho informants in the 1970s and 80s described livestock as a special type of commodity that should be bought but not sold. A tendency to opt for jail time instead a fine might well have been driven by the former not requiring the sale of stock reserves to procure cash.

aforementioned convict leasing system, prisoners provided a vital source of camp labor for the administration.⁹⁶ The most common jobs for male prisoners were as groundskeepers on government properties and at the homes of officials. With the exception of Maseru, where the government hired a private contractor, prisoners faced the unenviable task of collecting and burning refuse and ‘night soil’ in each of the camps.⁹⁷ Inmates were also employed within prisons as groundskeepers, gardeners, cooks, and tailors. Female prisoners, overwhelmingly housed in Maseru, were largely sent to work on hospital maintenance and laundry. The only work outside the camps involved periodic roadwork and, where the quarries were beyond the reserve boundaries, the cutting of stone.

Lerotholi was highly cognizant of the geopolitical shifts afoot in the subcontinent in the wake of the South African War. The paramount’s grandfather, Moshoeshoe, had secured protection from London in the late-1860s in order to safeguard the territorial integrity of Lesotho, but with the shape of the map in South Africa in flux, it now looked as if Lesotho’s relationship with England might lead to annexation and the territory’s undoing. Lerotholi made a display of the paramountcy’s faithfulness and usefulness to the British by agreeing to create a Basutoland National Council (BNC), fulfilling the longstanding colonial wish to have a forum for liaising with prominent lords.⁹⁸ In the dead

⁹⁶ High Commissioner’s Proclamation No. 21 of 1917, Part III, Sect. 2, in Basutoland Gov’t 1918, *Basutoland Proclamations and Notices of 1917-18*. Gov’t Printer: Maseru; LNA Box F281, f. 119; LC Box 3/9, folder 2, Judicial Commissioner, ‘Notes’ on roadwork, 1935; Pim 87-8.

⁹⁷ Macfarlane, N. 1926. *Report of Medical Dept. for 1925*. Gov’t Printer: Maseru, 8-9, in BNA DO 92/3.

⁹⁸ Clarke proposed creating a ‘council of advice’ shortly after arriving in Lesotho (HMSO 1884, Clarke to Robinson, 11 June 1884), and colonial antipathy towards the National Pitso as ‘too large and unwieldy’ (BLO MSS Afr. s 211: Box 3, Milner to Lagden, 20 Apr. 1899) continued to build over subsequent decades. Lerotholi worked hard to establish the BNC after the South African War, as discussions about incorporation of Lesotho into its larger neighbor began to gain traction. The paramount selected 94 of the councilors, all powerful nobles and overwhelmingly fellow *Bakoena* (people of the crocodile). Herbert Sloley – who, as British Resident, automatically became

of winter in 1903 ninety-nine of the most prominent nobles and public figures in Lesotho travelled from different corners of the nation to the sleepy administrative capital of Maseru for the first meeting. In the inaugural session councilors were tasked with building a codex of traditional law: the resultant ‘Laws of Lerotholi’ (*Melao ea Lerotholi*) enshrined ostensibly Moshoeshoan principles of governance.⁹⁹ While much excellent scholarship on custom has focused on the problematic and cynical codification of customary laws, the overriding colonial motivation, it seems, was bureaucratic. The flexibility previously considered vital for colonial ‘men on the spot’ swimming in ever shifting political waters, was looked at with growing impatience and unease in Cape Town and London: officials viewed ambiguous spaces in laws as loose ends which invited abuses.¹⁰⁰ The Laws of Lerotholi clearly demarcated lords’ jurisdiction and powers vis-a-vis both their subjects and the colonial state. Colonial authorities, moreover, dreamed of using the council as a means of disseminating orders into the body politic.

Following the founding of the Basutoland Progressive Association (BPA) in 1907, by a group of petty bourgeoisie intellectuals associated with the Paris Evangelical Church, the appropriate balance of Sesotho and Western judicial mechanisms and sanctions was

president of the council – consulted with missionaries to fill the remaining five seats with teachers and clergymen from the ranks of the mission-educated elite (*bahlalefi*). Machobane 1990, 76-96.

⁹⁹ The 24 councilors who had personally known the late king produced a list of 21 items. These laws were subsequently debated and trimmed by the entire council down to 18. The ‘Laws of Lerotholi’ (*Melao ea Lerotholi*) were applied by headmen, chiefs, and ward chiefs to Basotho in matters of civil and family law, and in minor criminal cases (with minor revisions in 1922 and, of course, the much larger reforms of 1938). While the issuing of granting the body legislative powers was frequently raised by councilors, it did not take place until 1960. See also: BNA CO646/1, Minutes of First Session; Machobane 1990, 88-93; Elizabeth Eldredge 2007, 143, 145-7.

¹⁰⁰ Lagden and Clarke continued to correspond until the latter’s death in 1909: in one letter Clarke (BLO, MSS Afr. s 210, Box 2, 22 Apr. 1901) reflects on how the system shifted over time from relying on individuals to institutions. See also: BLO, MSS Afr. s 211, Box 3, Chamberlain to Rosmead, 5 Mar 1897.

perpetually a live political question.¹⁰¹ The association leveraged the missionary discourse of the universality of Western civilization — and British rhetoric about tutoring imperial subjects to build up and manage the institutional trappings of modernity — to frame calls for political and economic reforms.¹⁰² For the BPA, the cause of justice and, indeed civilization, would be furthered by more use of colonial courts and sanctions, including imprisonment, in lieu of traditional courts where lords had long been known to use ‘eating up’ (judicial confiscation) to amass personal wealth, as well as to punish and cow legitimate critique. Although forced to grapple with an administration in Maseru which was reluctant to implement changes which might prove expensive, or undermine social control and efforts to promote migrant labor, the association did win small judicial reforms over the 1920s.¹⁰³ More importantly, as we shall see, the activists primed the political field for more sweeping changes in 1938. If the BPA placed pressure on the administration to live up to the universalist pretensions of metropolitan liberals, another organization soon emerged to challenge the administration’s governing rationality from the other direction.

Josiel Lefela, a largely self-educated student of local history and tradition, founded *Lekhotla la Bafu* (LLB, or the Council of Commoners) in 1919 with the aim of advocating for the overwhelming majority of Basotho, commoners in the countryside who lived by means of subsistence agriculture supplemented with cash from stints of migrant labor.¹⁰⁴

¹⁰¹ See 89n8.

¹⁰² F. Seele, Editorial in *Naledi*, 4 June 1907, cited by Machobane 1990, 131. Mission-educated elites called for the administration to reinvest tax revenues in industrial and agricultural modernization schemes, and hand more of the work of running the nation to people with educational credentials and demonstrable competence, rather than simply the right blood.

¹⁰³ Murray and Sanders, 23-4; Machobane 1990, 172-87.

¹⁰⁴ Edgar, 6-8. Josiel attended school through third grade before working in South African mines, and for a time, as a policeman in colonial Botswana. His younger brother Maphutseng was a key intellectual influence on Lefela and the organization, supplementing a Form C (10th Grade) education at Lovedale with a voracious appetite for reading. The Lefelas also found an important

Although sharing the BPA's outrage over the judicial abuses of lords, LLB offered a far different narrative of the historical trajectory of the nation: rather than the arrival of mission-churches and the colonial state offering a source of assistance for Basotho to progressively climb towards universal civilization, the foreign institutions fueled social decay. The problem with the hereditary aristocracy, in this view, was not that it was incompatible with modernity, but rather that it had been coopted and corrupted. The soundest method of building a more just society would therefore involve a recentering of the political ethics which ostensibly animated leaders like Moshoeshe: the idea pithily captured in the axiom '*morena ke morena ka batho*' — a lord is a lord by [support and consent of] the people. Although Africanist scholars have long accepted Lefela's premise that his was a call to return to an 'authentic' tradition, it seems likely that Lefela's foregrounding of the political rights, egalitarianism, and the power of the *demos* in decision making as definitional to Sesotho tradition involved an innovative fusion of Highveld and Enlightenment ideals. When it came to a political program, moreover, Lefela did not call for a rigid reconstruction of old institutions but instead the building of hybridized political structures that relied on Black leadership and honored Sesotho values. While colonial officials publicly dismissed Lefela and associates as insignificant rabble-rousers, internal correspondence shows a succession of British Residents obsessed with policing the organization's activities. And while it is true that the LLB failed to directly convert its critiques into legislation, the organization paved the road to political reforms by both exposing the intellectual bankruptcy of the notion that governing institutions were wholly

source of political support from the aristocratic establishment near their home community of Mapoteng, Leribe (especially lords Peete, Boshwane, and Motšoenne). On LLB membership: Machobane 1990, 181.

traditional and, therefore, sacrosanct, as well as by making the reformist BPA look like a more palatable organization for Maseru to work with.

2.6 On the laws governing imprisonment, flogging, and executions in the pre-WWII era

During the first three decades of British rule in Lesotho, the standing orders governing the administration of prisons were cobbled together from a patchwork of statutes. This flexibility and ambiguity grew from a quirk in the laws promulgated by Hercules Robinson, High Commissioner for South Africa, when his office assumed legislative authority over Lesotho with the end of Cape Rule. Robinson's General Administration Laws stipulated broadly applicable principles and regulations,¹⁰⁵ but dodged the work of crafting laws for the territory from scratch by also declaring all statutes valid in the Cape as of May 1884 – including those which were defunct but not repealed — as good law in Lesotho.¹⁰⁶ This act of transplantation left colonial officials in Maseru, and at the district level, to draw up their own operating practices, essentially by cherry-picking legal pretexts for expedient

¹⁰⁵ HMSO 1884b [C.4263]: Robinson, [General Law] Proclamation, Section 14, 29 May 1884; Hailey, W. 1953. *Native Administration in the British African Territories, Part V*. London: HMSO, 57-8. This move was later adapted for the two additional High Commission Territories (HCTs): Botswana (called Bechuanaland by the British until independence in 1966) in 1891, and Eswatini (Swaziland until 2018) in 1907: Hailey, 202-5 and 365-9, respectively.

¹⁰⁶ This decision explains why common law in Lesotho is still ostensibly rooted in Roman-Dutch tradition. Berat, L. 1991. "Customary Law in a New South Africa: A Proposal." *Fordham Int'l. LJ* 15/1: 92–128, 105-117. Poulter, S. 1969. "The Common Law in Lesotho." *Journal of African Law* 13/3): 127–44; TML: Burman, S. 1985. "How the Roman-Dutch Law Became the Common Law in Lesotho." *Lesotho Law Journal* 1/1: 25–45. I use the qualifier 'ostensibly' above because of Chanock's (2001) argument that Southern African legal tradition was cobbled together by cherry-picking from continental and British common law to address new questions, such as race, meaning that Roman-Dutch law in Southern Africa must be seen as an 'invented tradition' as much any other set of African customary laws (155-69). This observation applies new terminology and emphases to the older scholarships detailing how South African common law was a 'mixed' or 'hybrid' system: Botha, C. 1923, "The Early Influence of English Law Upon the Roman-Dutch Law of South Africa," *S. Afr. LJ* 40, cited by Berat, 103n58.

practices from over a hundred years of statutes.¹⁰⁷ This approach to prison administration continued until the passage of a Prison Proclamation in 1917. Commissioner Sydney Buxton pushed for an authoritative statute after learning details of the internal workings of Lesotho's jails, particularly relating to corporal punishment. Rather than narrowing the space between laws and practices, however, the aspirational nature of the new proclamation turned the divide into a chasm.

The resumption of imperial rule, and the ostensible pivot to protection of tradition, gave rise to tortuous logic on the question of corporal punishment. As noted in the introduction, flogging was a mainstay of the punitive repertoire under the Cape, largely because it was simpler to carry out than imprisonment. Under Section 12 of General Administration Law 2B of 1884, however, the new British administration banned corporal punishment, save for when handed down by a colonial judge as a sentence for rape. Thus, at the precise moment in which British officials arrived extolling the importance of local customs, they also made a point of officially locking up the whips, intimating that lords could not be trusted to use punitive violence responsibly. The rank hypocrisy and the exoticization of a society by officials like Lagden, who disparaged Basotho for supposedly

¹⁰⁷ A limited number of new proclamations were introduced in Lesotho over the quarter century following the resumption of imperial rule, on account of political inertia and fear of Lesotho's aristocracy. For a chronological list of laws introduced between 1884 and 1909: Kneen and Juta 1949, xxiii-xxvi. The new legislation largely involved matters which could not be resolved by invoking Cape Laws, such as extradition treaties between the Free State and Lesotho: Lagden 1909, 576. See also: University of Cape Town [UCT]: Basutoland Gov't. 1944. *Kamoo Lesotho Le Busoang Kateng*. Morija: Morija. Laws on the far side of the river, meanwhile, changed rapidly in the years following the South African War and, especially, in the wake of the political union of the Cape Colony, Free State, Transvaal, and British colony of Natal in 1910: South African Parliament 1911, *Statutes of the Union of South Africa 1910 and 1911*, Pretoria: Gov't. Printer. This 831-page tome details the bevy of new, amended, and repealed laws immediately following Union. For a glimpse of the sprawling legislative endeavor over the next decade and a half: Blaine, C. and C. Goad, 1924. *Consolidated Index to the Statute Law of the Union of South Africa*. Cape Town: Juta & Co. Chanock 2001, 437-43, shows that the legislative focus was coercing African labor.

engaging in a ‘stern tribal punishment of whipping, almost unto death,’ yet had nothing to say about the conduct of officials like Charles Harland Bell having been known to use the cat-o’-nine tails so vigorously as to break the instrument of torture, is obvious.¹⁰⁸ But the inclusion of Section 12 in the law also hinted at the growth of real unease about the morality of corporal penalties in London over the mid to late 19th century, and the extension of critiques of flogging at home to overseas dominions.¹⁰⁹ The historian Bonny Ibhawoh examines the ideological and legal details of the ‘repugnancy clause’ in African territories during the era of British indirect rule.¹¹⁰

Questions about prison administration in Lesotho came to light in 1916, when Herbert Sloley retired after 14 years as Resident and was replaced by Robert Corydon. Only weeks after arriving in Maseru, Corydon wrote to Commissioner Buxton to verify the

¹⁰⁸ OBL MSS Afr. s 211: Box 3 F2 f90; LC, Record Book for Magistrate’s Court of CH Bell, Case 53, 9 Set. 1876, first cited by Ambrose (2005), 6; on Bell’s discipline also see FSD, *The Friend*, 26 Oct. 1876.

¹⁰⁹ Secretary of State Joseph Chamberlain provided a pithy summation of strands of increasing metropolitan discomfort with Europeans ordering and wielding the lash in the colonies (LNA S3/16/15, Chamberlain circular, 25 May 1897, attached to High Commissioner Buxton, minute 4 July 1917). Officials feared sub/tropical climates and contact with supposedly backwards societies might transform good Britons into brutes. Other officials were genuinely worried about the impact of extreme pain on the bodies and minds of the people forced to endure it. Chamberlain blended the two critiques, predicting that a great many white colonial officers would fail to display the appropriate judiciousness when given the power to impose the physical suffering and humiliation of the lash on black and brown men. Correspondence on this question led to imperial action outlawing sentences over 24 lashes. For more on the history of colonial corporal punishment and British metropolitan oversight: Anderson, D. 2011. “Punishment, Race and ‘The Raw Native’: Settler Society and Kenya’s Flogging Scandals, 1895–1930,” *Journal of Southern African Studies* 37 (3): 479–97, 481–2; Pete, S., and A. Devenish. 2005. “Flogging, Fear and Food: Punishment and Race in Colonial Natal,” *Journal of Southern African Studies* 31 (1): 3–21; Ocobock, P. 2012. “Spare the Rod, Spoil the Colony: Corporal Punishment, Colonial Violence, and Generational Authority in Kenya, 1897—1952,” *The International Journal of African Historical Studies* 45 (1): 29–56; Pierce, S. 2006. “Punishment and the Political Body: Flogging and Colonialism in Northern Nigeria.” In *Discipline and the Other Body: Correction, Corporeality, Colonialism*, S. Pierce and A. Rao, eds., 186–214. Durham: Duke University; Killingray, D. 1994. “The ‘Rod of Empire’: The Debate over Corporal Punishment in the British African Colonial Forces, 1888–1946.” *The Journal of African History* 35 (2): 201–16, especially 202–5.

¹¹⁰ Ibhawoh, B. 2013. *Imperial Justice: Africans in Empire’s Court*. London: Oxford University, 55–64.

legality of the penal practices he discovered at work in the territory: specifically, was a now defunct Cape ordinance from 1847 a legitimate basis for granting a one-sixth sentence remission for good conduct to all prisoners?¹¹¹ The question piqued the commissioner's interest in the territory's jails, and led to the discovery of an *ad hoc* assortment of regulations, including many *ultra vires* practices. Buxton was most alarmed to learn that warders were regularly lashing inmates for prison offenses and escape attempts. The legality of these floggings was a matter of debate: while Section 12 of the General Administration Law 2B strictly limited judicial corporal punishment, Section 14 (the transplantation clause) also meant that Cape Ordinance No. 2 of 1840, empowering warders to administratively lash their charges, was also seemingly good law.¹¹² Buxton and his advisors determined that the simulacral patchwork of prison laws needed to be swept away and remade from the ground up.¹¹³

The process of drafting and negotiation carried out between Maseru and Cape Town took eighteen months, and resulted in the gazetting of two statutes: the Prison Proclamation (No. 21 of 1917) and the derivative Prison Regulations (Gov't. Notice No. 63 of 1918).¹¹⁴ The two laws included well over one hundred sections and subsections mandating the conduct prison guards, inmates, and administrators, including on matters of schedules,

¹¹¹ LNA S3/16/15, Coryndon to Buxton, 9 Oct. 1916, 6 Nov. 1916 and 1 Dec. 1916.

¹¹² LNA S3/16/15, Coryndon to Buxton, 23 Apr. 1917: Realizing he had, to paraphrase a Sesotho expression, unwittingly sat on the hole of the snake, Coryndon explained to Buxton and his Legal Advisor, Patrick Duncan (Sr.), that the limitation on flogging 'has never been understood to refer to gaol offenses,' and downplayed the significance of clarifying such laws 'as they only effect public servants and prisoners.'

¹¹³ LNA S3/16/15: Buxton to Coryndon, 28 Feb. 1917, and 1 June 1917. The laws were truly simulacral in the Baudrillardian sense as copies of an original which no longer existed: the Cape and, later, Union laws had continued to shift while a static copy from 1884 remained in Lesotho.

¹¹⁴ LNA S3/16/15: Telegrams and letters exchanged between the Gov't. Secretary in Maseru and the High Commissioner's Legal Adviser in Pretoria.

rations, punishments, remission, executions, sanitation, visitation, legal representation, inspections, record-keeping, searches, and the grievance process. Rather than adapting the new laws to local conditions and capabilities, the new legislation was largely transcribed *mutatis mutandis* from other territories.¹¹⁵ The primary model, the Union's Prison and Reformatories Act (No. 12 of 1911), was an intellectual product of what historian Martin Chanock describes as the emerging international criminological and penological agendas of the age.¹¹⁶ A debate animating policymakers and criminologists in Northern metropolises was how to strike the balance between the liberal operating principle that incarcerated people were rational actors who could exercise free will to reform their behavior over time, and the emerging view that humans were programmed by nature or nurture to be *either* law-abiding *or* law-transgressing.¹¹⁷ The text of the Union Act endorsed the liberal

¹¹⁵ LNA S3/16/15: The Zambian (North Rhodesian) penal code provided the model for remission.

¹¹⁶ David Garland's landmark *Punishment and Welfare: A History of Penal Strategies*. (1985. Brookfield: Gower) details how, between the publication of the Gladstone Report in 1895 and the start of WWII in 1914, new disciplines of behavioral science – e.g. psychology, social work, criminology – proliferated in England, fueled by confidence in scientific the merits of quantitative data collection and eugenics. The English and American penological agenda explicitly inspired the 1911 S.A. Prisons Act: South African National Archives [SANA], GG 1596, 51/1003, Roos to Governor General's Office, 13 June 1911, and 27 July 1911. On the international agenda and its reception in S.A.: Chanock 2001, 61-82 and 97-109. Keith Breckenridge (2014. *Biometric State: The Global Politics of Identification and Surveillance in South Africa, 1850 to the Present*. Cambridge: Cambridge University) explores another contemporaneous manifestation of modernist faith in the capacity of science to stamp out crime: biometric record keeping, like fingerprinting. Just as with institutional security in the total institutions of mines and jails in S.A., knowledge about fingerprints was cooperatively produced and shared between private industry and the state security apparatus: SANA NTS 5285/F372, 'Taking of finger impressions on mines,' W. Windham and E. Wilson correspondence, 1902; SANA NTS 232/12/F372, Wilson Report 1912, 'The Employment in the Union of South Africa of the System of Identification by Finger Impressions,' and Villiers Roos minute, 11 Feb 1913; SANA NTS 4503/12/F372, 'Establishment of a Central Finger Print Office.'

¹¹⁷ The primary instruments deployed within the emerging penological paradigm to confront 'habitual criminality' specialized institutions and, especially, for holding indeterminate sentence prisoners: Garland 1985, 27-32; Wiener, M. 1990. *Reconstructing the Criminal: Culture, Law, and Policy in England, 1830-1914*. New York: Cambridge University. On indeterminate sentencing in S.A.: Chanock 2001, 98-109; Van Onselen, C. 1985. "Crime and Total Institutions in the Making of Modern South Africa: The Life of 'Nongoloza' Mathebula, 1867-1948." *History Workshop* 19: 62–81, 71-74 and 79n48.

metropolitan view, but the reality was more complex: the law was effectively bifurcated in its implementation, with expertise and funds allocated to rehabilitative institutions for European prisoners, on one hand, and a larger network of draconian work-camps and prisons for African inmates, ostensibly aimed at cowing pathological criminality with institutionalized terror, on the other.¹¹⁸

The tension which animated the elaboration of jail regulations and practices in Lesotho was a product of the reflex of officials to reproduce cutting-edge penological approaches – on display in South African statutes if not practices – and limitations in infrastructure and expertise which were even more profound than on the other side of the *Mohokare*. While the production of Lesotho's penal statutes emerged from a colonial bureaucratic impulse to spell out best practices for local officials and warders, the new rules effectively ensured that the judges and warders on the ground would be out of step with the letter of the law on a daily basis. Jail administrators struggled to keep the records mandated by laws, on account both of time pressures and the limited literacy of warders.

The penal segregation stipulated for mentally ill persons, women, Europeans and Asians, and boys and young men represented an even greater hurdle in a territory with cramped district jails with a limited number of cells, and a dearth of more specialized institutions. The earliest transfer of mentally ill persons to asylums and hospitals in South

¹¹⁸ The South African state made the decision to hire white war veterans en masse for work in black prisons, prioritizing the job skills of adherence to martial discipline, and willingness and skill in the use of physical violence (Chanock 2001, 99-101). While Garland (1985) first detailed the interwovenness of state sponsored welfare and carceral initiatives – used to differentiate the deserving poor from the supposedly undeserving – Chanock demonstrates how race became the dividing line in South Africa. Khalil Muhammad makes a similar argument about the historical pathologization, or what he terms ‘condemnation,’ of blackness in the US during the same period (2010. *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America*. Cambridge: Harvard University).

African, and particularly to Bloemfontein, began during reconstruction.¹¹⁹ On account of the maintenance costs and the reluctance of South African officials to accept many inmates, the administration also used solitary jail cells to hold mentally ill persons with histories of violence (or, in some cases, relying on families of the individual for home detention).¹²⁰ The presence of a growing number of women facing long sentences Maseru Gaol, led to cordoning off and expanding a section of the facility as a Female Annex and the hiring of three full-time wardresses in 1914.¹²¹ Female juveniles and juvenile-adults – girls under 16, or young women between 16 and 20, respectively – were detained in the same facility as adult women. The creation of the annex did effectively guard against heterosexual relationships and assaults involving incarcerated women, and incarcerated men or male warders, in the capital. But women remanded during trial or sentenced to serve short sentences in outlying district jails, while officially required to be confined in solitary cells, often had no such protections.¹²² The handful of European prisoners detained over the

¹¹⁹ BNA CO 646/1, 1908 BNC Session, Sloley remarks, 24-5; LNA S3/16A/3/7, details process of institutionalizing Khomaphinya in Bloemfontein Mental Hospital in 1916.

¹²⁰ BNA DO 92/3: Medical Department, Annual Report, 1927. The penal detention of mentally ill persons was technically a violation of the Prison Regulations Notice (No. 63/1918, §§ 41-43) until 1925, when Commissioner Athlone and Legal Advisor Patrick Duncan Sr. were moved by the case of Rex V. Gugusha to provide new statutory authority for indefinite detention of mentally ill persons deemed to present a danger to society (LNA Box No. 109, 304, Vol. I). MRA, Box 349, Folio 48, 'Care of Lunatics and Imbeciles,' 1942, details the workings of transfers to South Africa in the 1930s: in 1935 30 mentally ill Basotho were detained in Union institutions while eight were detained in jails in Lesotho. For aristocratic attitudes on mental illness over time: BNA CO 646/1, 1908 BNC Session, 22-5; BNA DO 92/1, 1930 BNC Session, 95-8. On the workings of home detention see the case of 'Masephasi (LNA Box No. 109, 304, Vol. I), a woman who bludgeoned to death her own two-year old daughter in 1932.

¹²¹ AR 1914-15, 14; see also Pim, 209. A great many of the women and girl prisoners in Maseru Gaol were serving out commuted capital sentences for infanticide, which was not deemed a criminal act prior to the arrival of the colonial administration: I. Kimane, author interview, 12 May 2017, Roma; S3/16/1/16; LNA S3/25/1/25, BAR1907-08, Sloley minute, 7. On 19th century attitudes towards infanticide: Cape of Good Hope. 1873. *Native Law and Custom of the Basutos*. Cape Town: Saul Solomon, 44 and 47.

¹²² LNA No 109, f 304, Vol. I, Commissioner of Police and Prisons to Gov't Secretary, 7 Mar. 1938.

1910s and 20s were also largely sent to Maseru, and Asian prisoners transferred to either Maseru or to Leribe or Butha Buthe in the north. These institutions were possessed of more extensive facilities for isolation or group segregation, better equipped to handle the distinct ration scales required for non-African prisoners, and, critically in the eyes of colonial state, employed European jailers who might watch over African warders charged with supervising prisoners of a different race.¹²³

Table 1. Prison Capacity in 1938 (from TML: Prisons Dept. Annual Report of 1951, 2)

Facility	Official Capacity
Maseru ("Old Gaol")	150 people
Leribe (in Hlotse)	90 people
Mafeteng	50 people
Teyateyaneng (Berea)	40 people
Mohale's Hoek	40 people
Qacha's Nek	40 people
Quthing	40 people
Butha Buthe	40 people
Mokhotlong	40 people
TOTAL	530 PEOPLE

Adolescent boys and young men presented the most significant logistical challenges for the colonial legal system as a social group, on account of being both overrepresented in criminal behavior and entitled to special protections.¹²⁴ For the first

¹²³ TML: Basutoland Gov't. 1918. *Proclamations and Notices, 1917-18*. Gov't Printer, Maseru, Part III, §§ 70-1. European prisoners allotted 1lb meat, 1.5lbs bread, 1oz sugar, 1oz salt, 1oz coffee, and 2oz rice as a daily ration. African prisoners serving less than 6-month sentences received 2lbs mealie meal, 0.5oz salt, and 2oz rice. 'Other' prisoners — and Africans serving over 6-month sentences and, therefore, susceptible to wasting from the low-protein diet — received 0.5lbs meat and 0.5lbs less mealies. These diets were made more nutritious and interesting, on a seasonal basis, with sauces made from vegetables and legumes from the prison gardens, carted in from Botšabelo Leper Asylum, or purchased at market. See also: Macfarlane memo, in Basutoland Gov't 1926, *Annual Report, Medical Dept.*, Gov't Printer: Maseru, 5-8. On the nutritional defects of this diet and changes in 1938, see: BNA DO35/921/4, 'Gaol Rations in Basutoland.'

¹²⁴ I. Kimane, author interview, 12 May 2017, Roma. As in human communities across time and space, *bashamane* (young men), with active limbic systems and immature frontal cortexes, engaged in a high share of socially destructive activities: Sapolsky, R. 2017. 'Adolescence; or, Dude, Where's My Frontal Cortex?' In *Behave: The Biology of Humans at Our Best and Worst*, 154–73. New York: Penguin.

three decades of imperial rule, the administration relied on families and traditional authorities to discipline and punish young people: although judicial corporal punishment of young men (and all females) was outlawed by statute, the administration considered ‘physical chastisement’ by guardians to be a cost-effective and beneficial corrective for children (and, in a disturbing area of agreement between colonial and Highveld patriarchies, a tolerable one for wives). In the years following the South African War, the colonial state found itself faced with an increasing number of juveniles in administrative custody. According to several prominent lords, this trend was exacerbated by social change, as young men were no longer prevented ‘from mischief by being kept at the cattleposts.’¹²⁵ Attitudes towards juvenile crime shifted in other ways, with colonial officials and mission-educated elites increasingly committed to the idea that teenagers were less culpable for their actions and, therefore, warranted more lenient sentencing.¹²⁶

The High Commissioner handed down new legislation governing the sentencing and punishment of young people in 1920, again copying Union statutes.¹²⁷ And again

¹²⁵ BNA CO 646/1, 1911 BNC Session, Lord Motšoene remarks, 15. The efforts of the colonial state to expand its judicial footprint over time also contributed, as acts which were previously quasi-normative means of demonstrating manhood were criminalized: injuries inflicted during stick duels were sometimes charged as assaults, *chobeliso* (the abduction or ‘seduction’ of a woman by a man for purposes of marriage without or prior to paying bride price) as kidnapping, and, especially, raids for stock on neighbors, as theft.

¹²⁶ BNA CO 646/1, 1911 BNC Session, 13-22. The questions of youth criminality and culpability provoked lively discussion at the National Council in 1911, stemming from the imposition of imperial legislation outlawing the execution of offenders under sixteen years. While several of the councilors, including Paramount Griffith, argued that the law would undermine order, because ‘before this law was made our boys feared,’ others, like the BPA President and AME Rev. Cranmer Sebeta, maintained, ‘Malice and hatred must be proved against a man before he can be sentenced to death. A little boy cannot have the poison of hatred, he is like a little snake, which although it may bite... has not got enough poison.’

¹²⁷ On the intellectual and legal histories of youth criminal culpability in the US, Britain, and South Africa: Skelton, A. 2011. ‘From Cook County to Pretoria: A Long Walk to Justice for Children.’ *Nw. J. L. & Soc. Pol’y* 6/2: 413-47; Bottoms, A. 2002. ‘The Divergent Development of Juvenile Justice Policy and Practice in England and Scotland.’ In *A Century of Juvenile Justice*, B. Dohrn, et al., eds., 413–503. Chicago: University of Chicago; Midgley, J. 1975. *Children on Trial: A Study*

Lesotho lacked the required infrastructure, with the administration possessed of neither reformatory nor borstal school.¹²⁸ But this time, recognizing the institutional deficiencies, the commissioner saw to the amending of the laws of the Union and Lesotho to facilitate the custodial transfer of juveniles (children up to age 16) and juvenile-adults (persons between the ages of 16 and 21).¹²⁹ Officials within South African reformatories turned out to not be on board, however, and proved quite resistant to accepting more than a handful of juvenile Basotho at a time.¹³⁰ By 1925 the population of boys and young men detained in Lesotho's carceral system was straining the capacity of the administration to keep this cohort segregated from men. The administration responded by allocating the bulk of Peka Gaol (in Leribe, then a distinct sub-district) for males between the ages of fifteen and twenty undergoing sentences of three or more months. To give the facility an educative sheen, the detained youth were given technical instruction in farming, brick-laying, and carpentry as part of their labor duties. In 1933 the facility housed a daily average of 55 young men. In late 1933, however, the posting of a European officer in Peka was discontinued, and juvenile incarceration took place in a Leribe (Hlotse) Gaol annex.

of Juvenile Justice. Cape Town: NICRO. As on the other side of the Mohokare, colonial Lesotho had no special juvenile court system, instead treating 'child offenders as smaller versions of adult offenders,' to borrow Skelton's phrasing, 417.

¹²⁸ The Union, and particularly the Western Cape, had a number of these institutions for boys, notably including Porter Reformatory, established in 1882 and modeled on Parkhurst and Redhill in England: Chisholm, L. 1986. 'The Pedagogy of Porter: The Origins of the Reformatory in the Cape Colony, 1882-1910.' *JAH* 27/3: 481-95. Industrial schools for white adolescent boys, run by the Education Dept. rather than Prisons, also proliferated in S.A. after 1917: Chisholm, L. 1991. 'Education, Punishment and the Contradictions of Penal Reform: Alan Paton and Diepkloof Reformatory, 1934-1948.' *JSAS* 17/1: 23-42.

¹²⁹ The laws were the South African Amendment Act, No. 46 of 1920 (§14) and Lesotho's Reformatories Proclamation (No. 68 of 1920): Kneen, J. and H. Juta, eds. 1950. *Laws of Basutoland* London: HMSO, 557-61. Despite the focus on reformatories in the latter proclamation, it served as the legal basis for all subsequent transfers of prisoners from Lesotho to the Union, repealing and replacing the old Prisoners' Detention Proclamation (No. 11 of 1908).

¹³⁰ *BAR* 1929, 16; *BAR* 1932, 25-6; *BAR* 1933, 26; *BAR* 1935, 26.

The rules surrounding judicial corporal punishment were systematically overhauled during the 1910s and 20s, expanding the number of offenses subject to whipping while tightening the regulations governing the application of this violence. Elsewhere in British-ruled Africa, judicial flogging and caning were widely employed to punish men and boys for a great variety of crimes, both by traditional and colonial judges.¹³¹ When it came to flogging men convicted of rape in early colonial Lesotho, there was a tremendous amount of variation in the number of lashes meted out:¹³² normal sentences ranged between four and 12 lashes, occasionally went up to 20, and once – in the case of a Mosotho man convicted of assaulting an Afrikaner woman during the South African War – all the way to 70.¹³³ With the passage of the Obscene Publication Proclamation (9 of 1912) the government not only began expanding the use of judicial corporal punishment to cover a wider array of offenses, but also began the process of replacing the use of the cat with the

¹³¹ Ocobock 2012; Pierce 2006; Crowder, M. 1988. *The Flogging of Phinehas McIntosh: A Tale of Colonial Folly and Injustice*. New Haven: Yale University.

¹³²WCA, CCP 1/2/2/1/19, Barkly proclamation, ‘Basutoland regulations as amended by Select Committee,’ 1871, 25-28. Revised regulations (6 Nov. 1871, in *BR6*, 119-21), allowed up to 36 lashes for men lacking means to pay a fine and up to 50 for rape. This sentencing discretion was common in the subcontinent over the late 19th and early 20th centuries: magistrates were allowed to hand down up to 36 strokes in the Cape (WCA, CO 3320, JC Molteno, Proclamation No. 44 of 1877, 25 Mar. 1877), and magisterial sentences of whipping of Africans in Natal involved no judicial oversight, leading to a ‘cult of the cat [o’ nine tails]’ which surpassed the levels of flogging in the Cape, Transvaal, or OFS until these powers were standardized under the Criminal Evidence and Procedure Act of 1917 (Devenish and Pete, 4-5; Chanock 2001, 104-5).

¹³³ While there was no systematic collection of data on the number of lashes, it is possible to reconstruct some numbers from the reports submitted by district officers to Maseru each year: personnel commented on particular cases, and some submitted data on the number of floggings carried out and the number of strokes imposed. On the case of the 70 stroke sentence, the medical officer present at the flogging intervened after 30 lashes were administered (*BAR 1899-1900*, 21, 30, and 54). The extreme punishment was ostensibly based on the geopolitical ramifications of the crime, but no doubt was also influenced by the racial dynamics of a black man assaulting a white woman. On British responses to sexual violence during the war: Bradford, H. 2002. “Gentlemen and Boers: Afrikaner Nationalism, Gender, and Colonial Warfare in the South African War,” in *Writing a Wider War: Rethinking Gender, Race, and Identity in the South African War, 1899-1902*, G. Cuthbertson, et al., eds., 37–66. Athens: Ohio University.

rattan cane (with the strokes targeted towards a man's buttocks rather than back) and clearly demarcating the maximum number of strokes allowable (in this case 24 'cuts').¹³⁴ While low-level physical bullying of prisoners was tacitly approved of in Maseru, African violence workers who significantly harmed their charges were increasingly liable to find themselves subject to administrative punishment over the 1920s.¹³⁵ In the most high-profile example of the era, the administration dismissed the jailer of Qacha's Nek Prison, Mzozoyana, with only half retirement gratuity for his 28 years of service in the BMP, for inflicting injuries that landed a prisoner in the district hospital. In reviewing the case, Resident Garraway observed he was 'very anxious that an example should be made of this man, in order to influence other members of both the Prison and Police services that they must be more careful in the manner in which they deal with prisoners.'

Five out of the six offenses that the administration first sought to punish with physical agony involved a sexual element, or what Buxton described as a being of a 'bestial character:' in addition to punishing violent rape and, after 1912, the possession of pornography, statutory rape became a caning offense in 1920, and homosexuality and bestiality in the 1930s.¹³⁶ The clear exception to this trend involved legislation allowing for the caning of 'habitual stock thieves,' which came about in 1924 after sustained advocacy by national councilors keen to crack down on a putative surge of theft inside the territory.¹³⁷ An emerging emphasis on technical standardization of the infliction of

¹³⁴ LNA S3/16/15, Buxton to Coryndon, 4 Jul. 1917.

¹³⁵ BNA CO 417/665: Garraway to Frederick, 8 Mar. 1921; Mzonoyana to Jenner, 19 Feb. 1921; Jenner to Garraway, 16 Mar. 1921.

¹³⁶ LNA S3/16/15, Buxton to Coryndon, 4 Jul. 1917; BNA DO35/922/6, Richards's minute, 1 Mar. 1939.

¹³⁷ BNA CO 646/3, 1920 BNC Session, Day 12, and particularly, remarks Labane Chokobane, 3-4. LNA S3/16/1/24: RC's Circular No. 29, 3 Oct. 1924, 'The question of stock thefts in the mountains has been fully discussed in the Basutoland Council, and a general feeling was evinced

formally-imposed pain in South Africa during the late-1910s was replicated in Lesotho over the 1920s: the HC issued directives for the use of rattan canes with specific gauges, length, and levels of flex, to be substituted for the cat.¹³⁸ The 1930s also witnessed a turn towards caning juvenile males – using a higher gauge (thinner) instrument – as the administration became increasingly exasperated and indifferent about the prospects of re-socialization by reformatory.

The incidence of capital punishment also increased markedly over the 1910s. After a quarter century marked by only one execution, Lesotho's colonial state began hanging Basotho on an almost yearly basis beginning in 1909.¹³⁹ According to Maseru the uptick in executions was driven by the increasing incidence of murder amongst a people who were beginning to lose touch with tribal virtues. While crime rates likely did increase in the face of the social tumult and immiseration accompanying the rise of the migrant labor system, the attitude of the colonial establishment towards the ultimate punishment also changed. The decision to route final appeals for the judicial decisions to the Privy Council in London marked a significant turning point.¹⁴⁰ Although the High Commissioner was still required

that the punishments meted out have not been sufficiently severe.' Proclamation No 46 of 1924 amended No. 80 of 1921 (Stock and Produce Theft Repression), to allow up to 15 cane strokes on the second and subsequent offense; see also decision in *Rex v. Sentso Sehlabo* (MMA: Basutoland Resident Commissioner's Court, *Decisions in Review and Appeal Cases, Vol. I*, 1936).

¹³⁸ S3/16/1/24: Athlone to Smith, 26 Apr. 1927; Smith to Athlone, 30 Mar. 1927; RC's Circular 14, 30 Mar. 1927; see also history of Punishment of Offenders Proclamation (55 of 1921), in *BAR 1931*, 23. While Lesotho's statutes governing judicial corporal punishment were modeled on South African law, Basotho and local colonial officials were keenly aware that social order, and labor discipline for mines and farms, was extra-legally held together with a 'daily bread' of 'hot *sjamboks*' (Afrikaans term for a hide-whip): LNA S7/7/70: Petition from 'Driekopjes Mining Basutos' to Sloley, 3 Dec. 1913; BNA, DO35/922/6: HC's Office to Inskip, 21 Aug 1939; Richards to HC's Office, 1 Mar. 1939.

¹³⁹ Colonial annual reports often list executions. On earlier history of death penalty: *BAR 1909-10*, 13.

¹⁴⁰ The Privy Council became the site of final appeal following the creation of the Court of the Resident Commissioner in 1911: Maqutu, W. and A. Sanders. 1987. "The Internal Conflict of Laws in Lesotho." *The Comparative and International Law Journal of Southern Africa* 20 (3): 377–404,

to furnish the death warrant and could exercise a prerogative of mercy, this power was used far more sparingly once the council was involved.¹⁴¹ The death sentences for murder convictions which once had been consistently commuted to 8 to 20 years terms of imprisonment, now consistently led all the way to the scaffold.

Hangings all took place in Maseru Gaol shortly after sunrise. The facility was locked down the evening before an execution to prepare the gallows. Condemned prisoners were held in isolation in special *rondavels* in a far corner of the jail. Over the 1910s and 20s executions in Lesotho were supervised by (the unfortunately named) Max Cruel, a public hangman for the Union Government, using the jail warders on duty as assistants.¹⁴² The jailer and district medical officer also had to be present for the execution to go ahead. Cruel's professional protestations about the shoddy condition of the instruments of death in Maseru led the administration to commission the construction of a large permanent gallows in 1917. The structure was built at Bloemfontein Prison and brought in by rail. A former jailer recalled how this scaffold created an ominous image as the sun dipped towards the westward horizon in the evening: 'With the dusk, [the shadow] of the platform

378-9; 'Privy Council Appeals,' Order in Council, 13 Oct. 1910, in Kneen and Juta 1950, 9-15; *CAR* 1931, 31. Appeals to the Privy Council might run into the hundreds of British pounds in cost, prohibitive sums for most Basotho. Appeals did become a regular occurrence in the 1940s, however, when, as we shall see in Chapter 5, prominent lords were being sent to the scaffold for medicine murder. On the operation of the privy council: Hynd, S. 2010. "'The extreme penalty of the law": mercy and the death penalty as aspects of state power in colonial Nyasaland, c. 1903-47,' *Journal of Eastern African Studies* 4(3): 542-559, 545-6.

¹⁴¹ LNA S3/16A/3/16: Rex v. Ramahetlana, HC commutation, 3 Dec. 1917; S3/16A/3/13, Murder case files for R. v. Sello, R. v. Ramahetlana, R. v. Pole. A notable exception involved infanticide sentences, where the Court of the Resident Commissioner (CRC) was bound to issue a capital sentence but the Commissioner's prerogative of mercy was invariably used. In 1917 the law was revised to grant the CRC power to directly hand down a prison sentence: LNA S3/16/1/16: Coryndon memo, 22 Sep. 1917; Proc. No. 27, 5 Oct. 1917.

¹⁴² LNA SE/29/2/1; FSA CO586, Folder 1513.

and crossbeam was there, it moved up the wall, and the prisoners... could also see it at times... That's how it was, with all extremely chockablock in Old Gaol.'¹⁴³

2.7 Aristocratic misconduct, imperial inquiries, and the 1938 reforms

In December 1938 the high commissioner signed two laws which overhauled Lesotho's politico-judicial system.¹⁴⁴ Under the *Khubelu* (red) reforms – as they were called on account of the Sesotho translation being published in a scarlet-covered booklet – the commissioner arrogated responsibility for selecting legitimate lords and assigning jurisdictions. The moves officially aimed to adopt a system with 'a greater promise of developing a soundly African system of civilization.'¹⁴⁵ The reforms shook popular understandings of the nature of the relationship between the aristocracy and the administration: the laws made clear that instead of being British allies, Basotho were subjects and lords were employees.¹⁴⁶ The new laws paved the way, moreover, for a different set of colonial employees – judges, police, and warders – to take on more of the

¹⁴³ C. Notsi, author interview, 19 May 2017, Maseru. The scaffold remained in the same location until the late 1950s, when the work of executions was shifted to the new Maseru Central Prison. Whether one believes the gallows was the same one likely depends on how one feels about the 'Ship of Theseus paradox': Plato 1925. *Parmenides* 9. H. Fowler, trans. London: Heineman, 139.

¹⁴⁴ Under the Native Administration Proclamation (No. 61 of 1938), the High Commissioner arrogated the power to name all traditional authorities and their jurisdictions, from the Paramount down to the headmen of small villages. The Native Courts Proclamation (No. 62 of 1938), meanwhile, stipulated that only those lords named in the Government Gazette as recognized purveyors of authority would be allowed to hold courts operating on the basis of Sesotho laws; the judgments of these bodies, moreover, were subject to review by colonial officers. See: Jones, G.I. 1951. *Basutoland Medicine Murder*. London: HMSO, 127-32; Murray and Sanders, 25-9; Machobane 1990, 185-7.

¹⁴⁵ Pim, 181.

¹⁴⁶ Prior to the introduction of this legislation, the consensus expressed by members of the National Council was that the British had 'no right to make laws affecting the way Basotho governed themselves' (Murray and Sanders, 24). This view was buttressed by a longstanding perception that Lesotho was not a British colony at all, but rather a nation in a defensive treaty with England (Pim, 58 and 49). Basotho paid taxes to the British in exchange for protection and independence from South Africa. The fact that the administration primarily operated along the border supported this view.

work of fighting crime using supposedly universal tactics, while continuing to leave the bulk of civil matters to lords and tradition.

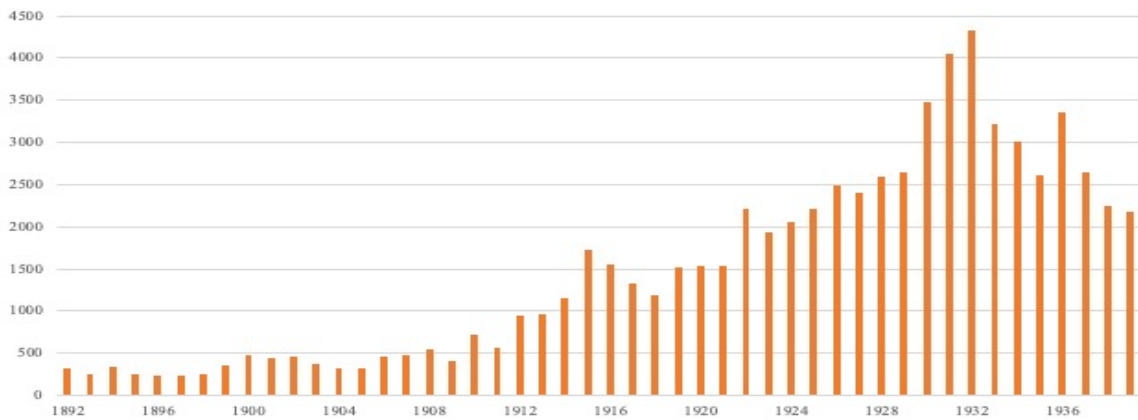
The proximate driver of the reforms was economic collapse. The Great Depression ravaged the balance of trade and spiked outward migration beginning in 1929. A drought – still referred to as '*Lerole*' (The Dust) – descended on the land, unleashing choking storms of desiccated topsoil and the loss of the harvests of both 1932 and 1933. A sustained famine, and surge in opportunistic infections, killed tens of thousands of Basotho. In the wake of this horrific tragedy London dispatched Alan Pim to carry out an investigation on how to rebuild the decimated financial footing of the territory. While the imperial economist's report superficially functioned as a whitewash, laying blame for mass death not on the administration's slow response but on the vagaries of nature and the ostensible indifference of many lords to the suffering of their communities, it also drew attention to how the structures of colonial rule perverted lords' political and financial incentives.

Pim's wide-ranging report devoted significant attention to the question of crime. The economist gleaned information from interlocutors from across the petty bourgeoisie, administration, and aristocracy, who had watched crime rates over the early 1920s and 30s with a sense of escalating moral panic. The Sesotho and English language press of the era – catering largely to mission-educated Basotho, on one hand, and the community of European officials and traders, on the other – served both as an expression and driver of these fears. News sections detailed brazen thefts, assaults, and murders. Op-ed pages, meanwhile, were shriller still, splashed with headlines such as 'THE CRIMINAL REVOLUTION IS AT HAND,' and long screeds about Lesotho's moral declension into 'a nation of thieves and schelms.' Pim also accepted written statements from LLB, which

shared the BPA’s concern not only with the injustice of ‘eating up’ in its own right, but also the social consequence of more crime and violence. In the words of Keable ‘Mote, writing in ANC founder Pixley Seme’s Eshowe-based *Ikwezi le Afrika*:

I am voicing the complaints of thousands of my countrymen who groan under the burden of oppression. The Basutos are asking for an Imperial Commission... When complaints are referred to the Paramount Chief he takes no heed of them and the result is generally fighting and bloodshed. The Basutos require the door of European jurisprudence opened... In many cases the Chiefs are the culprits and their indunas ... defended them in the most heinous cases.¹⁴⁷

Table 2. Number of persons detained in Lesotho's prisons at some point in given year, 1892-1939



Lords were denounced as driving crime in a variety of ways: through direct involvement; by turning a blind eye to lawbreaking, either for material gain or from loyalty to fellow nobles engaged in crime; and by punishing offenses with draconian measures or otherwise seeking to carve out greater politico-judicial autonomy from Maseru and Matsieng. The response of the colonial state to so-called ‘criminous chiefs,’ meanwhile,

¹⁴⁷ Keable ‘Mote, ‘The Awakening of Basutoland,’ 18 April 1931, published in *Ikwezi le Afrika*, reprinted in Edgar, 168-171. ‘Mote was a Mosotho from Leribe, who was involved in LLB activism even while serving as Free State Provincial Secretary of the Industrial and Commerical Workers Union (ICU) during the 1930s, earning the moniker ‘The Lion of the Free State.’

was wholly inconsistent, hinging in large part on the political status of the offender. To examine these phenomena, I turn to three all but forgotten cases of aristocratic lawbreaking.

The pursuit of the fugitive lord Hlajoane Seshophe, over 1930 and 1931, served as a smarting example for colonial officers of not only their utter dependence on the aristocracy for the work of policing, but also how security cooperation could break down in cases where nobles were called upon to pursue their own. It also demonstrated the ways that LLB could bring political pressure to bear on the administration. The clash began with the callous decision of Leribe district official to sentence Hlajoane to five months imprisonment for selling a legally inherited rifle.¹⁴⁸ The lord escaped from Leribe Gaol, in Hlotse, and dug in atop a nearby mountain in May 1930.¹⁴⁹ Hlajoane's displays of marksmanship led colonial police to decide that the matter would best be resolved by Boshokane, lord of the ward. LLB pressurized the situation in the eyes of the administration, by publicizing the case both in meetings and in the press.¹⁵⁰ As weeks without resolution dragged into months, Maseru accused Boshokane – who was known to himself be sympathetic to LLB – of willful dithering.¹⁵¹ HMD Tsuene, acting as President of LLB,

¹⁴⁸ The antipathy between Hlajoane and the colonial state dated back to at least 1907, when the heir of the middling noble Seshophe was described in the annual report as princeling keen to abuse subjects (*AR 1906-7*, 16). Hlajoane also served three months in jail in 1921 as punishment for intimidating and stealing from a trader (LNA S3/5/3/1/21, Hlajoane to High Commissioner, 22 Sept. 1931).

¹⁴⁹ LNA S3/5/3/1/21, Boshokane to Sims, 29 Aug. 1930.

¹⁵⁰ apenciled notes on correspondence refer to pieces which are no longer extant in *Naledi* and *Mochochonono*: LNA S3/5/3/1/21, Griffith to Sturrock, 1 Oct. 1930. On the involvement of LLB, see LNA S3/5/3/1/21: Pokonyane and M. Lefela to Sturrock, 9 Oct. 1930; Sturrock to Griffith, 10 Oct. 1930; Kennan to Foord, 11 Oct. 1930; Pokonyane and M. Lefela to Sturrock, 22 Oct. 1930. See also LNA S3/22/2/5, Tsuene to Webb, 24 June 1930; Tsuene to Griffith, 15 July 1930; Tsuene to Webb, 17 July 1930; 'Proceedings of Lekhotla la Bafo meeting,' 7 Sep., 1930. There were also articles on the case in the PEMS-press organ *Leselinyana* (at MMA, 27 June 1930, and 17 Apr. 1931),

¹⁵¹ Boshokane peppered the Residency (via Matsieng) with legalistic questions and follow-ups about precisely how much force he was authorized to use: LNA S3/5/3/1/21, Sturrock to Griffith, 8 Sep 1930;

seized on the unfolding debacle to lambast the ongoing search ‘by an army of slaves’ and advised the administration that their demonstrable incompetence was proof that the British should simply quit the territory.¹⁵² With Matsieng under immense pressure from Maseru, Boshokane was finally cajoled into storming Hlajoane’s position in February.¹⁵³

The administration’s relief was short-lived, however, as the rebellious lord escaped from custody again only a few weeks later.¹⁵⁴ District officers argued for the need to respond aggressively, so as to scorch the fraying ends of administrative and social order:

The native man in the street is saying that we are beaten and that any man may go into more or less open revolt and fire off guns at people and the Government Police are powerless. They say the Paramount Chief sends up after the lapse of a month or more but the local Chiefs do nothing... All this is very unsettling to the native mind... The people up here are only too prone to break loose as you know, if any weakness is shown, and it seems to me that the time has come to check this growing habit of lawlessness.¹⁵⁵

Maseru again implored Matsieng to exert its influence to get Boshokane to act forcefully.¹⁵⁶ But the lord of the ward seemingly shrugged aside Paramount Griffith’s orders. He – and it should be noted, the self-proclaimed advocates of the common person, in LLB – appeared equally disinterested when Hlajoane took to raiding peasants who the

¹⁵² LNA S3/22/2/5, Tsuene to Webb, 24 June 1930. Tsuene sent dozens of unsolicited letters to the Resident and High Commissioner during the 1920s and 30s. Although the president’s handwriting was consistently elegant and flowery, this missive was adorned with more curlicues than usual, likely fired by righteous amusement at Maseru’s expense.

¹⁵³ LNA S3/5/3/1/21, ‘Statement of Sgt. Nchee, BMP,’ attached to BMP minute, 19 Mar. 1931.

¹⁵⁴ LNA S3/5/3/1/21: Sturrock to Griffith, 28 Mar. 1931; Sims minute 10 Mar. 1930; BMP minute, 19 Mar. 1931. After being handed over to the state in February, Hlajoane was detained under guard in Leribe Hospital, on account of spinal injuries he had ostensibly suffered at the hands of Boshokane’s messengers. After several weeks in a hospital bed, having ‘deceived the Doctor so cleverly that no one thought he could put his feet on the ground,’ hospital attendants and police stopped shackling Hlajoane — as they did the other ailing prisoners held in the same hospital room. On a moonless night in mid-March, when one of his guards stepped out and the other dozed, the lord wriggled out a half-open window and escaped.

¹⁵⁵ Ibid, Sims to Foord, 24 Mar. 1931.

¹⁵⁶ Ibid, Sturrock to Griffith, 28 Mar. 1931; Griffith to Sturrock, 4 Apr. 1931 [Sesotho].

fugitive alleged were too close to the administration.¹⁵⁷ Police privates observing Boshokane's messengers carry out 'the alleged search,' meanwhile, described the operation as 'farical,' with the real quarry being 'fowls belonging to villagers.'¹⁵⁸ Finally, in August, Griffith sent his personal messenger and adroit fixer, Sechaba Teko, to lead the search.¹⁵⁹ Hlajoane was quickly tracked down and forced to surrender. The captive was escorted to Maseru Gaol by Sechaba and a large contingent of police. After a series of trials and appeals, Hlajoane was transferred to a maximum-security prison in the Transvaal to serve out a now significantly lengthened sentence.¹⁶⁰

If the indifference of Boshokane and other lords to the jailbreaks by a fellow noble represented one pole of aristocratic responses to crime, the efforts of Paramount Griffith's senior son Seeiso to crack down on thefts by commoners in his dominion represented the other extreme. The paramount placed Seeiso in the sub-district of Mokhotlong in 1925.¹⁶¹ This far-flung posting, in a district already ruled by two powerful, independent-minded

¹⁵⁷ Ibid, Selomi Moepa to Sturrock, 9 Apr. 1931 [Sesotho]; Foord to Sims, 10 Apr. 1931; BMP minute, 24 Apr. 1931.

¹⁵⁸ Ibid, Sgt. Tjalile's report, attached to Sims to Foord, 27 Apr. 1931.

¹⁵⁹ Ibid, Telegrams between Sims and Foord, 31 July 1931.

¹⁶⁰ Ibid, Hlajoane to Duncan, 16 Dec. 1931; RC's Court Registrar minute, 23 Dec. 1931. The Paramount further fined Lord Boshokane and Hlajoane's father Lord Seshophe, respectively £40 and £20, for aiding a fugitive (Ibid, Griffith to Sturrock, 1 Aug. 1931). LNA, No. 219, f. 877, Foord to Director of Prisons, Pretoria, 12 Feb. 1934 and 22 Feb. 1934.

¹⁶¹ P. Bereng, author interview, 14 July 2017. Matsieng's efforts to settle the far eastern area of Lesotho, today part of the district of Mokhotlong, dated back to the days immediately following the Gun War. In 1881, Griffith's grandfather, Letsie rewarded Lelingoana, king of the people of the leopard, for wartime service, with a land grant in the area. Shortly thereafter the paramount allocated another swathe of territory to his junior son Rafolatsane. These princes decamped to the far-flung region with retinues of age-mates and followers, and established networks of trade, taxation, and intelligence gathering. Although the land area in question was immense, it was also mostly comprised of the arid and rugged spines of the central and eastern ranges of the Maloti mountains, some 10,000 to 11,000 feet above sea level; this forced the lords to share a thin band of pastures and farmland, at a more manageable 7,000 to 8,000 feet in elevation, sandwiched between the two ranges in the catchment of the Senqu (Orange) River. Also: UCT, BC 859, 'Secret. Mokhotlong District. Administrative History, 1-5.

lords, was accompanied by rumors that Griffith was maneuvering to facilitate the ultimate succession of a junior son, Bereng, to the paramountcy.¹⁶² Seeiso persevered, however, in consolidating control over the nobles of Mokhotlong over the 1930s.¹⁶³ As the political conflict intensified and drought began to ravage local communities, theft picked up and people desperately sought to unload their starving cattle so as to be able to put food in their bellies. A European farmer from Natal, visiting the area to buy cattle at a steep discount, relayed to journalists a story of an atrocity he witnessed. The tale and other murmurings about Seeiso's conduct soon appeared in the English-language paper of record in the territory, *The Basutoland News*:

In one instance when dealing with stock thieves [Seeiso] is reported to have beaten the men and then turned his attention to a woman whose only offence, it seems, was that she hid a piece of stolen meat beneath her blanket. The chief made this woman strip off all her clothes, beat her himself unmercifully, and left her bleeding and standing naked before onlookers.¹⁶⁴

The story was reprinted far and wide, including in *The Farmer* in Pietermaritzburg and in *The Times* of London.¹⁶⁵ The High Commissioner and Dominion's Office ordered an inquiry. Another man described his own encounter with the prince to investigators:

Last year while at my cattle post I ran out of food, I took some mealies from a neighbouring cattle post when no one was there. Next day the owner of these mealies arrived and I told him I had taken them owing to starvation and I would return them. I was taken to Chief Seeiso's court and charged with theft of these mealies... [A messenger] made a fire of roots and then told me to dance the "mohobelo" dance, he then took the burning roots and hit me

¹⁶² Ibid, 1. Thompson, 70. LNA, F26: 'Mokhotlong politics,' Kennan report, 27 Apr. 1932.

¹⁶³ Seeiso did ultimately accede to the throne following the death of Griffith in 1939. When Seeiso died in 1940, his wife, Mantsebo, took on the duties of paramount and regent for Seeiso's young son Bereng. Bereng Seeiso took the name Moshoeshe II when sworn in as king in 1960. Bereng Griffith, as we shall see in Chapter Five, was hanged in Maseru Gaol in 1949.

¹⁶⁴ BNA DO 35/456/12, 'The Cruelty of a Chief,' *The Basutoland News*, 26 Sep 1933.

¹⁶⁵ BNA DO 35/456/12, 'Cruelty of Basuto Chiefs: Barbarous punishment inflicted by despots,' *The Farmer*, 13 Oct. 1933. 'Basuto Grievances: Chiefs' Administration of Justice,' *The Times*, 13 Feb. 1934, <https://www.thetimes.co.uk/archive/article/1934-02-13/11/7.html>

over the head, the sparks falling downwards burning my body...Next day... I was fined two head of cattle and a horse.¹⁶⁶

The administration concluded: 'There appears to be no doubt that Chief Seeiso did commit the acts complained of by the correspondent in the Basutoland News,' but was unable to proceed with charges because 'the parties concerned are frightened to speak for fear of reprisals.'¹⁶⁷ Although officials turned up additional cases of people who were whipped and burned in Mokhotlong and other areas, officials insisted 'there is no reason to suppose that there is any particular maladministration of justice by the Basuto chiefs.'¹⁶⁸ Instead officials maintained that Seeiso's desire to prevent economic desperation from spiraling into a rash of crime led him to understandably, if improperly, deviate from standard punitive practices. Ultimately the prince apologized to Maseru and Matsieng, and vowed to desist with violent interrogations and punishments.¹⁶⁹

While the administration opted not to prosecute prince Seeiso, the displeasure in Maseru with lords embarrassing the administration with superiors was soon vented full bore on another lord in Mokhotlong who dispensed her own justice. *Mofumahali* (noblewoman, or 'chieftainess' in colonial parlance) 'Mankata assumed control over a swathe of the territory in 1930 at age 39, following the death of her heirless father-in-law,

¹⁶⁶ BNA DO 35/456/12: Ntsunyane Lepanya statement, n.d. Ntsunyane was later jailed for fighting alongside Mankata: see case study 3, below. Also: Dr. Ogg's report, 7 Mar. 1934.

¹⁶⁷ BNA DO 35/456/12, Kennan minute, 24 Nov. 1933.

¹⁶⁸ BNA DO 35/457/1, Minute on folio cover – signed by Hugh Nimmo Tait (Asst. Secretary, Dominions Office), who was sent to Maseru to investigate – argued, 'There is no reason to suppose that there is any particular maladministration of justice by the Basuto chiefs... The difficulty at present was that native offenders were too poor to be able to pay any fine.' The minute draws a distinction to Botswana, where corporal punishment was used heavily (and legally) by lords. Also: *ibid*, Sturrock to Eales, 23 Apr. 1934.

¹⁶⁹ BNA DO 35/457/1, Sturrock to Stanley, 29 June 1934.

Rafolatsane.¹⁷⁰ 'Mankata quickly found herself embroiled in a conflict over land, followers, and fealty obligations with prince Seeiso and Rafolatsane's widow 'Makori. In November 1933 raiders from 'Makori's village stormed 'Mankata's community seeking cattle impounded by the latter.¹⁷¹ 'Mankata led her community in repulsing the raiders, personally firing with a pair of revolvers while mounted on horseback. When the smoke cleared, eight people lay dead. 'Mankata was tried and convicted in the Resident Commissioner's Court for public violence, and sentenced to six years imprisonment with hard labor in Maseru Gaol. Shortly after her arrival in the capital, the noblewoman fell ill with a nagging cough and began to waste. Perhaps on account of her status and notoriety, jail officials collected biometric data on 'Mankata upon her admission to the jail in June 1934. The administration therefore had clear data on the noblewoman's physical transformation when she was examined by the Maseru medical officer (MO) in March 1935: she had dropped from 139 pounds to a mere 95 in ten months.¹⁷² The MO diagnosed the problem as tuberculosis, and recommended 'Mankata's immediate discharge.

The practice of granting medical remissions to prisoners grappling with debilitating or life threatening illnesses was standard practice.¹⁷³ Tuberculosis necessitated particularly

¹⁷⁰ P. Bereng, author interview, 14 July 2017; UCT, BC 859, 'Secret. Mokhotlong District. Administrative History, 1-5; Thompson, 31. LNA, Box F26, 'Mokhotlong politics,' Kennan report, 27 Apr. 1932.

¹⁷¹ LNA, Box F26, Telegrams, ff. 55-67; MMA, *Leselinyana*, 'Ntoa ha Rafolatsane' [Sesotho], 13 Dec. 1933, and GM Ramasike's article, 'Tsa Maloting a ha Rafolatsane' [Sesotho], 9 May 1934.

¹⁷² LNA No 109, f. 304, Vol 1, MO's reports, 18 Mar. 1935 and 5 Mar. 1936. The discrepancies between the medical exams in 1935 and 1936 demonstrate the sloppy recordkeeping of the Medical Dept. (when records were kept at all): admission weight listed at 119 and 139, and age at 45 and 42, respectively.

¹⁷³ In 1936 the Dominion's Office forwarded a circular throughout the empire requesting information on the ways that administrations utilized the 'the prerogative of mercy... exercised on grounds of ill-health,' and highlighting the provisions of the UK's Criminal Justice Administration Act of 1914, Sect. 17/6 (Secretary Thomas, 29 Feb 1936). In colonial Lesotho the practice involved the Resident petitioning the High Commissioner for a signature on a medical release form (AC-90).

swift action in the name of public health, given that sustained and cramped confinement in jail meant an ailing individual was ‘liable to infect the other prisoners.’¹⁷⁴ In the folder holding the paperwork for over two dozen medical remissions in the 1920s and 30s, today preserved in Lesotho’s National Archives, ’Mankata’s case is the only one which was delayed. Whereas other individuals serving sentences for culpable homicide, public violence, and sexual assault were discharged swiftly, the Resident deemed ’Mankata’s offense ‘most serious,’ and therefore determined ‘she should not be released on light grounds.’¹⁷⁵ One year later, with the noblewoman weighing 83 pounds, producing bloody sputum, and catatonic with ‘persistent melancholia and morbid depression,’ the remission request was approved.¹⁷⁶ Although ’Mankata was released, Maseru and Matsieng agreed that *mofumahali* must be ‘placed under the care of certain selected men to look after her’ and subsequently stymied from exercising political authority independently.¹⁷⁷ The retribution visited on ’Mankata by the colonial regime was both a product of timing and opportunity: with lawlessness and acts of violence ostensibly surging, particularly within the aristocracy, the administration made a harsh example of a noblewoman whose primary source of support came from her community rather than a hereditary claim or deep association with Matsieng.

¹⁷⁴ LNA No 109, f. 304, Vol 1: Gov’t Sec. minute, 25 Mar. 1935. After receiving the MO’s recommendation for discharge, the Acting Resident and Principal MO convinced one another that ’Mankata was ‘malingering’ (Ibid, Minute, 21 Mar. 1935; LNA No. 26: Handwritten minutes, 8 Feb. 1935). On dangers of TB see notes on completed AC-90 form for Sekhoue Kamape and Mafuku Kolobe.

¹⁷⁵ Ibid: Gov’t Sec. minute, 25 Mar. 1935; AC-90 forms for Sekhoue Kamape, Tjambalaza, Sello Mothena. This protocol was not based purely on humanitarian and public health rationales: officials also wanted to avoid creating a financial ‘burden on the system,’ and therefore systematically worked to pass responsibility for providing care and medicine to the families of the ailing (AC-90 for Thesele; see also paperwork for Lisene, Malefane, and Lipholo).

¹⁷⁶ Ibid, Sims to Clarke, forwarding MO’s report, 5 Mar. 1936.

¹⁷⁷ LNA No 109, f. 304, Vol 1: Griffith to Richards, 11 Jan. 1937; Secretary’s minute, 28 April 1936; see also LNA No. 26, Secretary’s minute, 31 Dec. 1936.

The report Pim submitted to the Secretary of State in January, 1935, offered a scathing indictment of colonial administration in Lesotho. The economist argued that the relationship between officials and lords was wholly out of step with the British imperial policy of indirect rule. Such a system, Pim maintained, was fundamentally defined by ‘a degree of supervision as will place the Government in a position to assure justice and fair treatment to the people.’¹⁷⁸ He argued that administration in Lesotho, meanwhile, was characterized by a policy ‘of non-interference, of proffering alliance, of leaving two parallel Governments to work in a state of detachment unknown in tropical Africa.’ In short, British rule offered lords ‘protection without control,’ amounting to a system of ‘parallel’ rather than ‘indirect’ administration. Pim was hardly the first prominent metropolitan observer, however, to report back to London tales of a system which incentivized nobles to neglect duties and flout rules. The increased urgency of the situation in the mid-1930s was certainly due, in part, to the scandal of the famine: there was a strong impulse to do something, anything, which would enable the colonial regime to plausibly promise the horrors of recent months would never again be visited on the territory. But Pim’s shrill warnings about growing lawlessness and disorder also played a major role in both prompting and determining the shape of the Khubelu Reforms.

Pim relayed local concerns to London of how crime and flagging confidence in the criminal legal system were mired in a vicious cycle in Lesotho.¹⁷⁹ The economist noted that it was not just Basotho intellectuals and colonial officers, but also noble informants, who confided an ‘almost unanimous’ belief in ‘the complicity of many Headmen and Sub-

¹⁷⁸ Pim, 49.

¹⁷⁹ It should also be noted that Pim parroted the standard colonial line that crime becoming more intricate and organized in Lesotho on account of Basotho being exposed to criminal syndicates during stints of labor migration in South Africa (84; see also 42).

chiefs while very strong suspicion attaches even to some of the district Chiefs' in property crime, particularly stock theft.¹⁸⁰ Lords neglecting to address criminal offenses, and a handful of nobles engaging in criminal behavior themselves, undermined confidence in the criminal legal system.¹⁸¹ Although not mentioned directly by Pim, Boshokane's lackadaisical search for Hlajoane, represents an extreme example of how unresponsive lords might be to offenses perpetrated by fellow nobles. Frustration and desperation with the existing order, and unaddressed instances of stock theft in particular, in turn fueled punitive excesses and vigilantism.¹⁸² In different ways, the cases of Seeiso and 'Mankata embodied these dynamics: the future paramount sought to leverage a harsh retributive mode of punishment to deter crime; *mofumahali*, meanwhile, in the words of a later colonial officer had 'very bad luck,' in that she 'did what all her subjects wanted to do' in vigorously defending stock by force of arms, instead of allowing for the cattle to be seized and allowing the criminal legal system to play out.¹⁸³

Pim noted two potential approaches to alleviating the problems in customary administration and crime fighting. One would be to 'convert' lords 'into ornamental figures, the real work of the administration being taken over by official agencies.'¹⁸⁴ Pim warned, however, that this approach would require a massive investment in infrastructure. In terms of carceral facilities alone, 'A very considerable expenditure would be required to put the gaols into a satisfactory condition by any modern standard,' given that

¹⁸⁰ Pim, 51.

¹⁸¹ See Pim, 48 and 50.

¹⁸² In Pim's words: 'The growing hopelessness of obtaining redress by legal means for all these evils has recently resulted in a number of cases of manslaughter due to the application of Lynch Law' (53).

¹⁸³ Thompson 1981, 31.

¹⁸⁴ Pim, 181.

‘accommodation is insufficient to allow of any classification of prisoners,’ a lack of ‘adequate lock-ups or satisfactory arrangements for female prisoners,’ and the ‘makeshift character’ of ‘arrangements for juveniles.’¹⁸⁵ On account of these financial costs, and fears of ‘intense opposition’ to functionally abolishing the aristocracy, London determined it would indeed be prudent to take the second option of attempting to ‘preserve and reform the Native system.’¹⁸⁶ The 1938 reforms officially did just this. Yet, even while making these changes, the Dominions Office continued to investigate how to bring Lesotho’s police and prison systems into greater procedural alignment with metropolitan counterparts. While these discussions were placed on hiatus following the German invasion of Poland in September 1939, and the entry of Britain and its empire into World War II, the question of reforming colonial institutions of violence work in Lesotho surfaced again in late 1944.

2.8 Chapter Conclusion

With sweeping reforms to the BMP beginning in 1944, the further paring back of aristocratic powers in 1946, and the founding of a separate Basutoland Prison Service in 1947, the administration moved to cut the aristocracy out of the business of violence work altogether.¹⁸⁷ As elsewhere in empire, development became the watchword of British administration in Lesotho, replacing tradition. At the time the administration set about revising its infrastructure of coercion and control, officials made an important observation:

¹⁸⁵ Ibid, 87-8.

¹⁸⁶ Ibid, 181.

¹⁸⁷ BNA DO 35/1174: Edmund to Lord Harlech, 15 Nov. 1943; Mavrogordato, A. *General Report on the Police Forces in the Three High Commission Territories*, 2. Kneen and Juta 1950: *Police Proclamation* (No. 22 of 1944), Vol. I, 543-58; *Police – Government Notice* (No. 89 of 1944), Vol. III, 320-9.

the carceral system as constructed during the first five decades of imperial rule was distinct from metropolitan institutions not just in technical capacity and appearance but also in function and aims. Indeed, referring to the changes underway in 1947, Maseru reported to London: ‘As is customary in most civilized countries, imprisonment is no longer regarded only in the light of punishment... Efforts are made to educate convicts by teaching them useful callings... This aim will now also be adopted in Basutoland.’¹⁸⁸ Prior to this point the colonial state used its jails to exact retribution and deter crime, and did not implement practices — like biometric record keeping, classification, and job training — which were animating concerns for metropolitan peer institutions. The importation of British penal and policing technologies over time was catalyzed and shaped more by local exigencies than long-term strategic planning or the ideology of a civilizing mission. The origins of Lesotho’s penal system were thus *indelibly colonial*, and only began seeking to replicate a Western model in the 1940s.

British officials, however, soon ceased acknowledging this reality. In Chapters Five and Six, I detail the elaboration of new carceral policies and institutions in Lesotho during the post-war colonial era. When the British directed a slightly greater investment to new infrastructure, training, and regulations, it led to dramatic improvements in the conditions of life and work in the territory’s penal facilities over the space of a couple decades; a reality made all the more extraordinary by how radically the new approaches broke with the practices institutionalized over the proceeding half century. At the same time these changes were underway, the colonial bureaucracy engaged in deep historical revisionism: reforms in the late-1950s and early-60s were cast as being part of a chain of progressive

¹⁸⁸ *BAR* 1947, 7.

British tutelage and investments dating back to the construction of the first lock-ups built by Cape personnel in the 1870s. When confronted with a number of public failures of penal administration (including uprisings, frequent escapes, and revelations of abusive conduct by warders) and the more general divide in technical capacity at prisons in Britain and Lesotho, colonial officials cited lack of local resources and, even, cultural incompatibility between Sesotho traditions and modern universal technologies. A history of divergent systemic priorities was effaced. The story was warped further still as the inevitability of the end of colonial rule became increasingly clear and the British sought to divest themselves of any moral or financial debts: officials claimed that after decades of imperial tutelage and investment in prisons, it was incumbent upon Basotho to take responsibility for running their own institutions according to modern, universal standards.

The afterlives of this sort of late colonial revisionism continue to influence public discussions of prisons in Lesotho in the present, and imbue the origin story of the penal system with more than mere academic importance. A common strain of populist political rhetoric contends that cramped, squalid, and dangerous conditions for inmates in Lesotho's prisons today represents a latter-day defense of Sesotho traditions of austere control, threatened by the neo-colonial meddling of foreign governments and international organizations pushing unwanted and unproductive universalist human rights agendas on Africans.¹⁸⁹ This vision of the past is premised, however, on the late colonial conceit that efforts to reform and improve systems of social control in the Lesotho have been fundamentally driven by external forces and authorities, often despite local opposition.

¹⁸⁹ On this point there was tremendous agreement across the spectrum of MP's belonging to the All Basotho Convention, Basotho National Party, and various splinter parties of the Congress movement:

This narrative is not sustained by the history excavated and examined in this chapter. The colonial state's embrace of modern penology in Lesotho in the post-WWII period cannot be understood absent decades of political pressure from Basotho calling for more modern, more effective, and/or more just mechanisms for promoting social control and cohesion: the BPA drew attention to local abuses by lords and increasing levels of crime over time to pressure the administration to actually establish the sorts of institutions its officials extolled, predicated on rehabilitation (and, later, welfarist) principles; LLB, meanwhile, spurred colonial unease and action by calling for Africans to build a society rooted in a vision of progress and modernity differing from that offered by British officials and missionaries. Thus, while it is certainly true that some sectors of Lesotho's society have long embraced and promoted the notion that violent punishment embodies the most traditional and efficacious approach for stamping out crime and social harming, there are other old and vibrant discourses and, indeed, traditions, of Basotho seeking to progressively confront crime through the rehabilitation of individuals and, even, by addressing the criminogenic aspects of Lesotho's political economy

**Part II. Leprosariums as Incarceration,
1914-1965**

Chapter 3

As we fear fire: experiments in leprosy policing, detention, and stigmatization, 1890-1930

3.1 Introduction

On May 20, 1914, less than five months after the opening of Botšabelo Leper Asylum, a large group of male patients rebelled.¹ The men seized control of the facility armed with stones, farming implements, and sections of piping torn from compound buildings. In the initial tumult of the uprising, the rebels assaulted several guards, the compound manager, and the resident chaplain. Colonial police and representatives of local lords rushed to the scene, encircling the facility with armed men. After two days of negotiations, the rebels put down their weapons. Inmates were forced to watch a trial of the ringleaders. Before handing down jail sentences, the British Resident Herbert Sloley admonished the crowd. Not only was the administration committed to segregation, he crowed, but so too was the aristocracy. The resident had strong reasons to believe his rhetoric, above all the efficient manner in which lords rounded up the sick in the weeks following the asylum's opening. Based on this confidence, little was done to reinforce the facility following the rebellion.

When patients began to slip out of the facility in mass in October, the administration again did not take steps to shore up security or even pursue escapees. Maseru believed that patients returning home to find themselves turned back over to the administration by

* I eschew the dehumanizing English term 'leper,' except in quotations and proper nouns. The Sesotho word *molepera* (plur. *balepera*) does not carry the same derogatory connotation, and uses the noun prefixes reserved for people: *mo (ba)*.

¹ Morija Museum and Archives (MMA): *Leselinyana*, 2 June 1914, 'Tsa Morao,' and 9 June 1914, 'Ntoa ea balepera' [Sesotho]; *Journal des Missions Evangelique* (JME), Dieterlen letter, 13 Apr. 1915, 27; British National Archives (BNA) CO 417/545; *Cape Times*, 21 May 1914, "Mutiny amongst lepers/Police Guards Routed./Serious Situation New Maseru.'

neighbors and community leaders would provide a more permanent form of institutional security than could be accomplished with armed guards and shackles: it would break the resolve of patients to escape. By the end of the summer, however, only a few dozen of the three hundred escapees were back in the administration's custody. With the viability of the facility now seemingly hanging in the balance, the administration was forced to reconsider its assumptions about how best to effect leprosy segregation.

Botšabelo was the largest total institution in Lesotho from 1914 until the 1950s, holding between 450 and 750 people in custody within its barbed wire perimeter year after year. The asylum served as the nucleus of a colonial scheme to compulsorily detain all people infected with leprosy in the territory. This approach to biomedical segregation was noteworthy both in terms of its ambition and coerciveness. The only other colonial administrations to launch similarly aggressive public health campaigns against leprosy were home to sizable populations of Europeans: settler communities not only gave rise to particularly acute concerns about infection – couched in racial discourses about the threats posed by indigenous others – but also possessed the political clout necessary to pressure imperial governments to carry out the expensive work of rounding up and detaining the sick.² Instead, colonial governments overwhelmingly relied on mission societies to provide

² Notable compulsory segregation schemes launched in settler colonies: Hawaii in the 1880s (Gussow, Z. 1989. *Leprosy, Racism, and Public Health: Social Policy in Chronic Disease Control*. Boulder: Westview, 1989; Moblo, P. 1997. “Blessed Damien of Moloka’i: The Critical Analysis of Contemporary Myth.” *Ethnohistory* 44/ 4: 691–726; Herman, RDK. 2001. “Out of Sight, out of Mind, out of Power: Leprosy, Race and Colonization in Hawaii.” *Journal of Historical Geography* 27/3: 319–37), Australia in 1890 (New South Wales in 1890 and Queensland in 1892: Saunders, S. 1990. “Isolation: The Development of Leprosy Prophylaxis in Australia.” *Aboriginal History* 14/2: 168–81, 171-2; Bashford, A. 2004. *Imperial Hygiene: A Critical History of Colonialism, Nationalism and Public Health*. New York: Palgrave Macmillan, 94-103; Evans, R. et al. 1975. *Exclusion, Exploitation and Extermination: Race Relations in Colonial Queensland*. Sydney: ANZBC, 302-8), Cyprus in 1891 (Rogers, L., and E. Muir. 1925. *Leprosy*. Bristol: J. Wright, 1925, 114); British Columbia in 1891 (Mawani, R. 2003. ‘The “Island of the Unclean”: Race, Colonialism and ‘Chinese Leprosy’ in British Columbia, 1891-1924,’ *Law, Social Justice & Global*

biomedical care for persons infected with leprosy on a voluntary basis.³ To understand why Maseru launched such a project, in a territory home to neither a sizable settler population nor substantial natural resources, we must look to the larger history of policing and confinement in the territory. As detailed in the previous chapter, the coercive division of

Development Journal. <http://elj.warwick.ac.uk/global/03-1/mawani.html>), the Cape Colony in 1892 (Deacon, H. 2000. "Racism and Medical Science in South Africa's Cape Colony in the Mid-to Late Nineteenth Century." *Osiris* 15 190–206, 204-5), Malta in 1895 (Rogers, L., and E. Muir. 1946. *Leprosy*. Baltimore: William Wood, 22), Fiji in 1911, and briefly in the Transvaal in 1897 and then the Union of South Africa after 1914 (Horwitz, S. 2006. "Leprosy in South Africa: A Case Study of Westfort Leper Institution, 1898–1948." *African Studies* 65/ 2: 271–95, 275-6). South Rhodesia sought to impose a system of compulsory segregation in 1919, but abandoned the scheme in the 1930s (Iliffe 1986, 220-1). Universal detention laws, which ended up being selectively enforced, were passed in many British colonies in the Caribbean (e.g. Jamaica in 1896, British Guyana in 1905, and Barbados in 1922) and Sri Lanka in 1901, before being converted into voluntary segregation schemes in the late-1920s: Rogers and Muir 1925, 122-5; Rogers and Muir 1946, 116-7. American exuberance over an expanding empire and anti-Asian racism coalesced in compulsory segregation laws passed in the Philippines in 1906, but the patent counter-productiveness of the policy (leading to the hiding of the sick) gave rise to a voluntary system after 1921 (ibid). While French missionaries and officials did force some gravely symptomatic people into isolation in Madagascar and Senegal in the mid-19th century (Rogers and Muir 1946, 115), awareness of the difficulties of enforcement militated against the passage of compulsory segregation laws in the French Empire (ibid; Silla, E. 1998. *People Are Not the Same: Leprosy and Identity in Twentieth-Century Mali*. Portsmouth: Heinemann, 95-101). In West Africa, French authorities did seek, however, to fan old stigmas of the malady – ranging from tales of brutal repression in the Dahomey Kingdom (Bado, J.P. 1996. *Médecine Coloniale et Grandes Endémies En Afrique 1900-1960: Lèpre, Trypanosomiase Humaine et Onchocercose*. Paris: Editions Karthala, 136-7) to more generalized aversions in Arabic-language texts dating back to the early 17th-century (Silla, 46-9) – to socially pressure the sick to accept confinement (ibid, 55). Portuguese imperial officials, meanwhile, seemingly avoided forced segregation because of the high capital and recurrent costs of the approach: Zamparoni, V. 2017. "Leprosy: Disease, Isolation, and Segregation in Colonial Mozambique." *História, Ciências, Saúde-Manguinhos* 24: 13–39.

³ On the ways that leprosy's symbolism in Christian doctrine influenced mission societies' activities: Vaughan, M. 1991. *Curing Their Ills: Colonial Power and African Illness*. Stanford: Stanford, 77-97. This symbolism also had valence for British activist associations: Worboys, M. 2000. 'The Colonial World as Mission and Mandate: Leprosy and Empire, 1900-1940.' *Osiris* 15: 207–18; Vongsathorn, K. 2012. 'Gnawing Pains, Festering Ulcers and Nightmare Suffering: Selling Leprosy as a Humanitarian Cause in the British Empire, c. 1890–1960.' *The Journal of Imperial and Commonwealth History* 40/ 5: 863–78. On the establishment and operation of several mission-run leprosaria in Nigeria, beginning in the 1930s: Shankar, S. 2014. *Who Shall Enter Paradise? Christian Origins in Muslim Northern Nigeria, ca. 1890-1975*. Athens: Ohio University, 78-97. Missions played a somewhat different role in the French empire: although the Catholic Church built the first leprosy hospitals and settlements in French-controlled territories in Africa, the Caribbean, and Asia, passage of the *Loi de Laicization* in 1905 led colonial states to build their own facilities (Silla, 93-4).

labor in British imperial Lesotho was allocated on spatial lines: the administration was responsible for controlling a thin strip of land running along Lesotho's western border, while nobles controlled the mountainous interior. By the mid-1890s, however, Maseru was growing frustrated with just how opaque the interior remained. An ostensible surge in leprosy infections at the same moment led Dr. Edward Long, the principle medical officer in the territory and the architect of colonial-era biomedical infrastructure, to muse that the grave threat also presented a tremendous opportunity.

In 1894 Dr. Long seized upon growing Cape hysteria about leprosy to undertake an ambitious survey on the state of the malady in Lesotho. This experience fueled the medical officer's enduring faith that compulsory segregation was an existential requirement for the territory and that policing could be done on the cheap by using lords. The *visibility* of leprosy symptoms, moreover, was perceived to present a particular inroad for addressing the lack of colonial visibility into the countryside. The first reason was the simple fact that the symptoms of the malady (at least in its lepromatous or multibacillary form) were readily identifiable. This fact gave rise to the assumption that Basotho could be marshaled to do the work of policing with only minimal diagnostic training, so long as lords and communities were convinced to take the threat seriously. Second, and more fundamentally, the gruesomeness of advanced symptoms were viewed as conducive to building the fear and stigma which would underpin compliance by lords and villagers in reporting the sick.⁴

⁴ Long subscribed to a common sense that stigmatization or suspicion of people suffering from leprosy was trans-culturally and trans-historically universal. Rod Edmond examines the history of this viewpoint in *Leprosy and Empire: A Medical and Cultural History* (1996. New York: Cambridge University, 1-9). The universal stigma argument was widely accepted in the West until recently: see, for example, Skinses, O. 1964. 'Leprosy in Society III. The Relationship of the Social to the Medical Pathology of Leprosy.' *Leprosy Review* 35: 175–81. This perspective ignored the observations of numerous Westerners (and particularly missionaries) living in the Global South who detailed, often breathlessly, the continued involvement of people afflicted by leprosy in social

Indeed, in a moment in which officials were lamenting the lack of stigma surrounding criminal behavior, tapping into latent fears of personal disfigurement and death seemed like a lighter lift. Fear was seen, moreover, as a means of offsetting any need to remunerate lords for additional work. This vision won the support of a succession of Residents because of its promise to facilitate greater security collaboration with the aristocracy: local lords would necessarily become enmeshed in a constellation of administrative machinery while liaising with medical officers to check the spread of the malady in their domains. This project did not get off the ground in the 1890s, however, because of the opposition of Joseph Chamberlain, Secretary of State for the Colonies.

By the early 1910s, however, several factors converged to clear the political terrain for the construction of Botšabelo and the experimental use of lords as biomedical police. First, metropolitan perceptions of the etiology of leprosy had swung decisively towards viewing the malady as contagious, and expert opinion coalesced around compulsory segregation as the most effective means of combatting the infection. Second, the threat of

activities: for perspectives on Southern Africa, see Junod, H.A. *The Life of a South African Tribe II. The Psychic Life*. London: Macmillan, 1913, 434; Hermann Dieterlen's observations on Basotho perceptions are discussed in this chapter and the next. The cultural turn demolished the universal stigma paradigm: Michel Foucault (1988. *Madness and Civilization: A History of Insanity in the Age of Reason*. R. Howard, trans. New York: Vintage, 1988, 15-9) famously argued that criminals took over the central role of stigmatized deviants when leprosy supposedly vanished from Europe during the late Middle Ages (of course the infection did not actually disappear, and remained endemic in parts of Scandinavia, Iberia, and the Baltic into the 20th century); Zachary Gussow linked the social construction of leprosy stigma to the advent of colonialism and scientific racism (1989; see also Gussow and G. Tracy, 1970. Stigma and the Leprosy Phenomenon.' *Bulletin of the History of Medicine* 440, 125-49, 127-30); Carlo Ginzburg noted the centrality of anti-Semitism in the Catholic inquisition of 'the lepers' in 14th century France, involving a wave of burnings at the stake and the first large scale segregation campaign anywhere on the European continent (1991. *Ecstasies: Deciphering the Witches' Sabbath*. R. Rosenthal, trans. New York: Pantheon, 31-62); Mary Douglass detailed how interpretations (and translations) of the third book of the Torah/Old Testament have changed in step with ontological and epistemological shifts, notably including the biomedical classification of leprosy as an infection distinct from a host of other dermatological maladies (1999. *Leviticus as Literature*. New York: Oxford University, 182-91 and 176-9).

a debilitating infection catching fire amongst Lesotho's population took on new political import in the wake of the South Africa War, with the small territory standing as an important source of the migrant laborers who were rebuilding and industrializing the Union's economy. Third, the creation of the National Council in 1903 enabled Maseru-based officials to discuss leprosy with the highest-ranking lords in the land and, thereby, to secure promises of the aristocracy being onboard with biomedical policing — declarations which were essential for winning the support of decision makers in Cape Town and London. Long pitched the asylum to the Council in 1911, the paramount set aside ground for Botšabelo in early 1912, construction began in mid 1913, and the asylum officially opened at the start of 1914.

Maseru's confidence in the prospects of their new leprosy control measures, both for combatting the infection and for facilitating closer surveillance cooperation with lords, came hurtling back to earth over the final weeks of 1914. The failure of the scheme provides a window into the operation of colonial power, and the circulation of technical and moral knowledge between colonial administrators and different Basotho social groups. The vocal support for compulsory segregation by aristocratic members of the National Council — as well as amongst the mission-educated petty bourgeoisie — did not translate into consistent cooperation from lower-ranking lords, much less the population of the territory at large. While virtually the entire aristocracy acquiesced to the demand in early 1914 to send persons on the national registry to Botšabelo, many accomplished this feat with deceit: falsely promising the sick that a cure awaited them at the asylum. When the desertion crisis arose over late-1914 and 1915, circulars instructing lords to once again track down a list of persons to send back — this time without being able to rely on

misinformation – went largely ignored. Lords turned blind eyes to the stream of escapees traipsing through and filtering back into their communities.⁵ Fear of contagion, it turned out, was more difficult to manufacture than initially expected: leprosy stigma, we shall see, took decades to take root in Lesotho, not the weeks or months envisioned by colonial planners.

By the end of 1915, Maseru clearly owned a boondoggle. The project had cost over £30,000 in capital expenditure, and was running at an operational cost of some £11,000 per year. In a contentious National Council meeting, prominent lords and officials both outlined how it was the responsibility of their counterpart to fix the situation. Lords demanded that the administration securitize the facility so as to staunch the hemorrhaging of patients, while Resident Sloley and Dr. Long insisted that aristocrats press their subordinates to do their legal and public health duty by rounding up escapees. Ultimately, the two sets of authorities agreed to pursue both courses of action. The administration increased the number of watchmen on staff and built jails within the facility to make examples of punishing deserters. People the on deserter rolls, meanwhile, were gradually traced and turned over to the custody of the administration. Yet, even as nobles and their messengers grudgingly re-detained escapees over subsequent months and years, the aristocracy failed to play the police role in the way Long envisioned: very few lords made an effort to identify or report newly symptomatic cases of infection. The administration ultimately managed to salvage the Botšabelo project over the short term by ceasing to put

⁵ James C. Scott's concept of weapons of the weak (1985. *Weapons of the Weak: Everyday Forms of Peasant Resistance*. New Haven: Yale University; 1992. *Domination and the Arts of Resistance: Hidden Transcripts*. New Haven: Yale University) is useful for framing how mass flight represented a far greater threat than armed rebellion to the viability of compulsory segregation in Lesotho.

singular focus on lords fulfilling a biomedical police role, and attending for the first time to creating a sick role.⁶ I explore the details of the patient-administration relationship — and specifically the ways that inmates sought to leverage discourses of motherhood, patienthood, invalidism, and citizenship over time to secure privileges and rights — in the next chapter.

By the late-1910s Long's dream had morphed into a recurrent nightmare for Maseru. Even as escapes became less of a problem, by dint of the improving asylum conditions, the administration faced new sets of concerns involving the ways that traditional authorities were managing leprosy. As noted above, the administration was continuously frustrated by the failure of lords to report newly symptomatic cases to their colonial counterparts. Some lords further began neglecting administrative tasks involving asylum patients hailing from their communities, on the grounds that the sick were no longer their subjects. The administration thus faced a leprosy management scheme which not only failed to promote the integration of nobles into the biomedical bureaucracy, as planned, but also undermined existing systems of allocating land and resolving legal disputes. In the 1920s, the administration set out to use leprosy laws to charge the families and lords of patients admitted into the asylum with advanced infections. But faced with the grim social and economic realities of actual cases, which became visible and affectively charged when officers served as the tip of the coercive colonial spear themselves, Maseru abandoned the prosecutory route.

The administration created a leprosy inspectorate in 1929. In pivoting towards reliance on a professional police force in place of the aristocracy, the administration

⁶ Parsons, T. 1951. *The Social System*. London: Routledge: 294-9 and 191-211.

presaged larger structural changes in policing which would be rolled out in the late 1930s into the 1940s. Although disillusionment with the prospect of integrating nobles into the colonial biomedical apparatus colored the policy shift, this move was hastened by external developments. Over the 1920s and early 1930s the policy of compulsory segregation came under increasingly forceful critique from organizations like the British Empire Leprosy Relief Association (BELRA) and the League of Nations as costly and ineffective.⁷ Maseru vehemently rejected the notion of switching to a scheme of voluntary segregation, however, on account of the sunk costs of Botšabelo. Beyond the embarrassment of having wasted hundreds of thousands of Basotho taxpayers' pounds, local officials were still more concerned about how a change in policy might negatively impact their intellectual credibility with the aristocracy, patients, and the nation writ large, after a quarter century of shrilly warning that compulsory segregation was the only way to attack an existential threat to the nation. Inspectors were deployed in hopes of showing rapid progress, which might forestall a larger change in policy. Maseru was ultimately able to beat back calls from BELRA to abandon compulsory segregation by selling the idea of Lesotho as a public health laboratory within empire: as other colonies embraced or pivoted to voluntary segregation, the scientific method demanded there be at least one small British territory with an aggressive system of policing and compulsorily detaining sick persons. Patients

⁷ On this shift, see: Wellcome Library in London (WCL) PP/ROG/C.13/3, Box 7, Rogers, L. 1925. 'Memorandum on the Prevalence of and Prophylaxis against Leprosy in the British Empire,' and 'British Empire Leprosy Relief Association' brochure, n.d.; British Library (BL), League of Nations Health Organisation. 1931. 'The Principles of the Prophylaxis of Leprosy: First General Report of the Leprosy Commission.' Geneva: LON.

who were unwittingly detained as part of an experiment in how to encourage greater bureaucratic entanglement between colonial and traditional authorities thus remained incarcerated, an unwitting control group in a new imperial experiment in the efficacy of different public health approaches.

3.2 On the meanings of leprosy in the British Empire and Southern Africa

While leprosy has existed in human societies for millennia, responses to the malady and its symptoms have varied a great deal across time and space. British metropolitan consensus about the dangers of leprosy, and the utility of segregation, swung back and forth over the 19th and first half of the 20th centuries.⁸ The 1880s and 1890s were marked by a sharp increase in both scholarly and popular interest in leprosy in many parts of the world, as well as a drift towards supporting segregation as an effective public health intervention. Hansen's discovery of the 'bacillus leprae' (*mycobacterium lepra*) in 1873 fueled new biomedical interest. Researchers and physicians keenly debated how the bacterium spread.⁹ The well-reported 'martyrdom' of Father Damien de Veuster — a Belgian Catholic priest who built up a purportedly model leprosy colony on the Hawaiian Island of Molokai, only to be infected himself and, finally, succumb to the malady in 1889 — also did much to boost awareness and fear of leprosy for both the public and policymakers in the West.¹⁰ As the dawn of the 20th century approached, biomedical opinion in Britain, and the West more broadly, drifted towards a new consensus about leprosy: the infection was communicable,

⁸ See Edmond, 53-61; Bashford, 81-93.

⁹ Rogers and Muir 1946, 50-61: Popular theories included transmission by human touch, heredity, eating salted fish, and as a side effect of syphilitic infection.

¹⁰ For introduction to the vast literature on Damien: Moblo, 702-15.

posed a serious threat to public health, and could only be effectively countered through segregation.¹¹

As governments formulated new policies for managing leprosy over the 1890s and the early 1900s, settler colonies gave rise to the most totalized segregation efforts.¹² The Cape Colony — Lesotho's neighbor and erstwhile ruler — represented perhaps the most firmly established enclave of segregationist sentiment and practice on the globe.¹³ The Cape Parliament convened a commission of inquiry on leprosy in 1883. The commission's findings read: 'Leprosy prevails extensively in this Colony and is steadily spreading among both white and coloured classes' and, therefore, there was need for an 'Act for the compulsory segregation of all lepers...and the establishment of leper institutions in suitable locations where perfect isolation can be secured.'¹⁴ The Cape Parliament first passed the Leprosy Repression Act in 1884, making segregation of the sick compulsory, and promulgated the legislation in 1892.¹⁵ A rising tide of race lore and eugenicist fervor interfaced with growing concern about leprosy, and led to the broad vilification of people of African (most especially San) and Asian descent, as well as working class Europeans, as embodiments of poor hygiene and a danger to middle-class and affluent whites.¹⁶

¹¹ FSA CO 597 F1762: Second Int'l Leprosy Conference (1909), meeting minutes and reports.

¹² See n3, above.

¹³ Deacon, H. 1996a. "Racial Segregation and Medical Discourse in Nineteenth-Century Cape Town," *Journal of Southern African Studies* 22/2: 287–308; on Australia's claim to this dubious distinction, see Bashford, 93-4.

¹⁴ Cape of Good Hope 1883, *Select Committee on Spread of Leprosy*. Cape Town: WA Richards, 1.

¹⁵ Leprosy Commission 1896, *Report of Leprosy Commission*. Cape Town : W.A. Richards.

¹⁶ Deacon 1996a; see also Swanson, M. 1977. "The Sanitation Syndrome: Bubonic Plague and Urban Native Policy in the Cape Colony, 1900-1909." *The Journal of African History* 18/3: 387–410.

New infrastructure and approaches to the treatment of leprosy accompanied the Cape's segregation laws. Although officials began using Robben Island to house leprosy patients in 1845, the site was essentially a custodial facility, offering few pretenses of therapy.¹⁷ Leprosy patients did not make up a discrete population on the island, being housed alongside mentally ill persons and 'those paupers considered incurably sick.'¹⁸ This changed in the 1890s, with the arrival of new staff, facilities, and therapeutic efforts specifically for leprosy patients. Meanwhile, a second leprosarium called Emjanyana was launched in Thembuland, on the Cape's frontier, in 1894.¹⁹ The facility enabled the Medical Department to both project power further geographically and to begin spatially subdividing leprosy patients by race. Emjanyana's original design was as a 'model village.' Officials imagined rondavels situated on a hillside would 'reproduce home-life' for the entirely African body of patients. This layout was abandoned after two years, however, because residents were 'continually escaping and returning to their homes.' In its place 'two large compounds were built, about a mile apart, one for males and one for females, which, being enclosed, could be locked up and guarded at night.' The compound system at Emjanyana served as the primary model for Botšabelo two decades later.

In colonial Lesotho medical officers and administrative personnel began to express alarm about local rates of leprosy prevalence and transmission over the 1890s. The administration's concern was heightened by suspicion that South African policies were exacerbating local rates of infection. Resident Commissioner Marshall Clarke complained about a dangerous inflow of persons suffering from leprosy in 1893: 'these unfortunates

¹⁷ South African National Archives (SANA) [Pretoria, SA]: Willie Papers, ff. 49, and 53-61.

¹⁸ Harriet D. 1996b, *Island: a history of Robben Island, 1488-1990*. Cape Town: Mayibuye, 58.

¹⁹ Hutchinson, J. 1906. *On Leprosy and Fish-Eating*. London: Constable, 305.

have taken refuge in Basutoland to escape the repression laws of the Cape Colony and the Orange Free State' and unsuccessfully lobbied to transfer highly symptomatic Basotho to Robben Island.²⁰ Responding to the request for data from the Cape's leprosy commission in 1894, Lesotho's district medical officers were ordered 'to furnish returns...and investigate the history of each known case.'²¹ The investigation concluded that while the malady had been 'virtually unknown' only 50 years earlier, 'immigration from neighbouring states' had led to 148 'undoubted cases of leprosy,' and potentially quite a few more, in the territory. The report suggested that the most alarming dynamic was the state of local responses to the infection, with isolation 'being the exception rather than the rule.'

The report noted a diversity of views amongst Basotho about both the causes of leprosy and the nature of the threat posed by the malady. One thing that Bantu-language speaking peoples in the subcontinent could agree upon, however, was that the affliction was a recent arrival. Lexical data supports this notion, as there is no Sesotho-based name for the malady most commonly referred to as *lepera*. Sesotho nosology further reveals an intellectual association between San people and leprosy, with the infection sometimes called *lefu la Baroa* ('sickness of the San').²² Period Basotho understandings inscribed in the mission-press provide similar clues:

Old people in Lesotho claim that leprosy... was affecting the San who lived near the Basotho at Mekuatleng. During Senekal's war [in 1858], a Mosotho married a San wife

²⁰ BNA DO 119/194: Clarke to Loch, 31 Mar. 1893, and Rhodes to Loch, 6 May 1893 and 8 Sep. 1893; BAR 1892-93, 30-1.

²¹ BNA DO 119/194: Long report, 29 June 1895. See also Basutoland Gov't, 1893-94 *Annual Report*, 10.

²² In Sesotho the malady also used to frequently be referred to as *liphats'oa*, a noun made by pluralizing the adjective '*phats'oa*,' meaning 'black and white coloration.'

who was infected by leprosy. He was infected...and died. They say he was the first Mosotho who they saw having that illness. They say, it entered this nation through him.²³

Other Highveld lexicons and orally transmitted histories corroborate the present-day theory that migrants from the Cape carried leprosy across the subcontinent over the mid-19th century.²⁴

To construct knowledge about the new malady, Basotho drew upon a host of intellectual traditions. The colonial medical department was one key source of information.²⁵ A parallel tributary of biomedical knowledge flowed out of mission stations, spread into communities by way of European and African evangelists, mission presses, and, also, in the schools associated with mission stations. As we will see, *bahlalefi*, mission-educated Basotho elites, represented a strong pillar of support for the isolation of *balepera*. Other Basotho social groups drew upon older idioms and traditions relating to the drivers of sickness, including sorcery.

3.3 On the meanings of leprosy in Lesotho

With no settler population and little stigma of leprosy amongst local people, a small and resource poor colony seems a strange location for a large and costly leprosarium. The decision to build Botšabelo makes more sense, however, when viewed in the context of the

²³ MMA *Leselinyana*, 'Lepera,' April 1903, 2.

²⁴ William Anderson Soga, South Africa's first black Medical Doctor, specifically analyzed the lexicon of Bamvana informants (neighbors to the South of Lesotho, in the immediate vicinity of Emjanyana) in trying to date the appearance of leprosy: 'The people say [leprosy] is a new disease and to prove the fact say that they have no name for it... It is known by the name of "*Isifo Samalawu*" or "Hottentot's Disease" (Soga, WA. 'The ethnology of the Bomvanas' quoted from Digby (2007), "On the Notable MD Thesis of William Anderson Soga," *South African Medical Journal* 97(5): 345). For present-day biomedical research, which corroborates the idea that leprosy spread from the Cape into the interior of the subcontinent, see Monot, et al. 2005, 'On the Origin of Leprosy.' *Science* 308/5724: 1040–42, 1040.

²⁵ During the course of the 1894 investigation, medical officers began outreach to inform chiefs of the ostensible contagiousness of the infection and press the leaders to isolate sick people on the margins of villages. BNA DO 119/194, Lagden to Loch, 29 June 1895.

colonial politics of the era. As discussed in preceding chapter, the Moorosi conflict and Gun War imparted a smarting lesson for imperial policymakers about the potential explosiveness of legal reforms and the dangers of alienating the aristocracy. This led early administrators to tread lightly when it came to policies which would arrogate or limit the powers of lords. The building of new medical infrastructure was perceived as a safe, apolitical intervention that served to improve both health outcomes and economic performance. Moreover, the ‘cultural work’ of winning over converts to biomedicine was imagined to enhance goodwill and respect for Western technology amongst the local populace.²⁶ While Maseru largely left the work of building schools to the mission churches and roads to private traders, officials proved more willing to invest in dispensaries and hospitals during the 1890s. The growing popularity of these facilities inspired further investment, as officials saw increasing visits as Basotho effectively ‘voting with their feet’ in favor of Western medicine over Sesotho medicine.²⁷

²⁶ Despite the ostensible pivot to protecting ‘tradition’ with the arrival of British imperial rule, the perception that Basotho needed imperial tutelage to gain legitimate knowledge about health, hygiene, and effective political leadership was widespread amongst colonial personnel: See Stoler L. and F. Cooper 1997. ‘Between Metropole and Colony,’ in Cooper and Stoler, eds., *Tensions of Empire: Colonial Cultures in a Bourgeois World*. Berkeley: University of California, 18-21, on the afterlives of Victorian-era civilizing mission discourse. Biomedicine featured prominently in local officials’ understandings of why the British presence was beneficial or even essential to the people of Lesotho.

²⁷ For a pithy expression of this sentiment see British National Library (BNL): Macfarlane, *A Record of Medical Work in Basutoland*. Courant: Ladybrand, SA, 12: ‘The free dispensaries had been started to help the Basuto and with the idea of combatting witchcraft which was much practised throughout the Territory. The dispensaries were regarded with suspicion at first, but this soon died down, and the attendances became more numerous every year.’

The first government dispensary in Lesotho treated 1,900 patients over the twelve-months after opening in July 1887 (BNA CO 1071/15: Basutoland Gov’t, 1887-88 Annual Report, pp. 10-1). By the end of 1890, a new hospital in Maseru and the dispensaries in five districts interfaced with 11,000 patients. A second hospital was completed in Leribe in October 1891, and over 29,000 patients were treated across the system in 1892 (Basutoland Gov’t, *1892-93 Annual Report*, 7). Although increasing numbers of Basotho did indeed seek out biomedical treatment over time, it does not follow that there was a concomitant dip in support for local doctors and techniques. Over recent decades scholars have documented the existence of medical pluralism in numerous African

Edward Long was the central architect of colonial Lesotho's biomedical infrastructure, as well as the territory's aggressive segregationist approach to leprosy, during his tenure as the territory's Principle Medical Officer, spanning from 1894 through 1922.²⁸ Only weeks after taking on this role, Long took advantage of a request for data from the Cape Leprosy Commission to survey the state of the malady in Lesotho. The doctor's obsession with leprosy dates to at least this point. After using the data collected for the Cape Commission to create a 'Leper Register,' the PMO submitted a lengthy study on leprosy in the territory to his superiors, and requested clearance to systematically isolate the sick.²⁹ Joseph Chamberlain, Secretary of State for the Colonies, not only read Long's report but took the time to pen a lengthy critique: not only was segregation of dubious public health value but it represented a grave violation of imperial subjects' right to liberty.³⁰ As such, the Secretary advised Maseru to work with nobles to mount a different sort of campaign to fight the malady: he envisioned using the aristocracy to distribute biomedical information about hygiene and diet into the nation, and model best practices of

societies in both the past and the present; see Feierman and Janzen, eds. 1992. *The Social Basis of Health and Healing in Africa*. Berkeley: University of California.

²⁸ Long arrived in Lesotho in 1890, a Licentiate of the Royal College of Physicians in London. After serving as a Medical Officer in Mafeteng and Mohales Hoek, Long was appointed as the colony's first Principal Medical Officer in 1894, and held the position for another 28 years.

²⁹ BNA DO 119/194: RC Lagden to High Commissioner, 29 June 1895; see also Basutoland Gov't, *Annual Report for 1893-94*, 10.

³⁰ The erudite Chamberlain was well versed in late 19th century biomedical skepticism about the efficacy of segregation, forcefully expressed in the 1867 and 1890 reports of the Royal College of Physicians and Leprosy Commission in India, respectively. The Secretary personally intervened to kill Long's suggestion of compulsory segregation, noting that 'under such a system personal injustice and suffering may be inflicted without adequate justification or any benefit to the Community at large' (BNA DO 119/194: Chamberlain to High Commissioner Robinson, 18 Oct. 1895). For the involvement of Chamberlain in the construction of the field of tropical medicine: Haynes, D. 2001. *Imperial Medicine: Patrick Manson and the Conquest of Tropical Disease*. Philadelphia: University of Pennsylvania, 127-51 and 154-61; Bruce, C. 1905. 'Mr. Chamberlain and the Health of the Empire,' *The Empire Review* 8: 108-21.

keeping distance from the sick within the context of villages. Local lords would thus serve as educators rather than as jailers or police.

The Medical Department based in Maseru followed the letter of these instructions from London, if not the spirit. The PMO ordered his team of district medical officers to conduct outreach to lords, but primarily to enjoin nobles to banish the sick from village centers and report new cases of infection. The two approaches call to mind Michel Foucault's observation that distinct rationalities of government give rise to differing 'techniques of power.'³¹ Chamberlain envisioned efforts to improve the health of Basotho broadly while Long wished to instead mark out 'lepers' as a distinct population. For the latter, distinguishing the sick as a different class of people marked a first step towards creating a system of surveillance of the few by the many, which he believed provided the best chance of detecting sick people in a territory where colonial officers were few and far between.³² Although barred from detaining infected persons, Long continued to record and monitor all 'confirmed' and 'suspected' cases in the territory. In 1902 and 1906 district medical officers were ordered to survey prominent lords in their jurisdictions about the presence of leprosy, examine those cases which were reported, and submit updated lists to

³¹ Foucault, M. 1991. "Governmentality," in *The Foucault Effect: Studies in Governmentality*, Burchell, et al., eds. Chicago: University of Chicago, 91, see also 87-104. Chamberlain imagined that just as an *enlightened patriarch* worked to inculcate certain values in his dependents, lords could be trained to teach subjects the value of cleanliness (that Basotho were imagined to be unclean is another issue entirely). On other strains of paternalist discourse in colonial leprosy policy: Worboys, 213-4.

³² This turn of phrase is borrowed from Thomas Mathieson's concept of the synopticon, Mathieson, *Viewer Society*.

Maseru.³³ Across populations suffering from various chronic illnesses, only *balepera* were logged and surveilled.³⁴

Over the closing years of the 19th century and first decade of the 20th, the political economy of Southern Africa shifted in ways that buttressed Long's claims about the urgency of segregating *balepera*. During this period there was a dramatic increase in Basotho migration to work on mines and farms in South Africa.³⁵ The administration generated the bulk of its revenue by taxing these wages, and officials viewed themselves as stewards of the migrant labor system.³⁶ Medical department personnel argued that an uptick in leprosy infections might adversely impact colonial coffers by scaring South African industry away from Basotho labor.³⁷ Particularly in the wake of the South African War, with the Transvaal facing acute labor shortages, the High Commissioner in South Africa, and a new generation of metropolitan officials, were keen to ensure that Lesotho remained a healthy pool of bodies for industry. Long continued to highlight the supposedly

³³ *BAR 1906-07*, 43-4.

³⁴ Long pushed his fixation with leprosy in another direction in 1910, launching an epidemiological research project which involved bedbugs feasting on subjects. To test 'the possibility of the bacillus being carried by vermin,' experimental and control groups—that is, persons afflicted and not afflicted with leprosy—were subjected to bites on the face, and the alimentary canals of the insects were examined for signs of leprosy bacterium. Long 1912, 'Extract from the Report of the Principal Medical Officer for 1910,' in Report of the Advisory Committee for the Tropical Diseases Research Fund for the Year 1911. Cd. 6024. London: Darling & Son.

³⁵ Maloka 2004, 51.

³⁶ Macfarlane 1934, 14-5. The first major intervention focused on smallpox; in the mid-1890s the administration decreed that no Mosotho should be issued a pass to leave the colony without a signed certificate of inoculation. By 1900, over half a million certificates had been issued.

³⁷ Ironically the two most prominent British leprologists, Leonard Rogers and Ernest Muir, argued that labor migrancy was in fact the cause of increasing leprosy morbidity in Lesotho: 'Basuto... kept themselves so aloof from other tribes that leprosy was rare' (1925, 31). Around 1872, however, 'many Basutos went to work in the Kimberley mines; there they contracted the disease and carried it to their homes.' The cheek to jowl conditions of mine work and compound life indeed contributed mightily to the 'production' of a host of illnesses: Packard, R. 1989. *White Plague, Black Labor: Tuberculosis and the Political Economy of Health and Disease in South Africa*. Berkeley: University of California, 67-91.

insufficient progress being made via education and efforts to segregate the sick at the local level: even in those instances in which lords and village headmen were convinced to push *balepera* to the margins of communities, seclusion was not as stringent as necessary.³⁸ In some cases *balepera* received visitors and continued to participate in village life, including communal labor, beer drinks, and feasts.³⁹

In 1906 Maseru believed it had found a breakthrough. The principle lord of Leribe District, Jonathan Molapo, set aside a swathe of land in the remote Menyameng River Valley for settlement by *balepera* of the district.⁴⁰ Shortly after the settlement's opening, over forty sick persons, many accompanied by family, moved to the area. Long was cautiously optimistic that Menyameng might 'induce other leading Chiefs to follow Jonathan's example,' and eventually lead to placing the 'leper colonies under the supervision of the Medical Authorities.'⁴¹ Jonathan's decision to create the settlement, however, was fueled as much by political maneuvering as by a commitment to the administration's public health goals. Locked in a bitter dispute with his half-brother, Joel Molapo, over control of Leribe, Jonathan adroitly curried the administration's favor while

³⁸ Dr. LBBJ Machobane interview, 9 Aug. 2017, Lithabaneng. Chief Tsehahla isolated the sick in Ratitlare (*BAR 1902-3*, Blyth's minute, 48), while Headman Enoch restricted villagers to a series of caves outside Sebotoane (SANA, GG 1237-33/1410: Macfarlane minute, 2). At the National Council session in 1908 Ralehlatsa stated, 'At our place the lepers were gathered for inspection but sent home again. What we wanted was for them to be kept apart. The place at Lipetung was tried but it was not large enough' (BNA CO646/1: BNC 1908, 23-4).

³⁹ After being informed of the danger of sharing utensils with the sick at the 1911 BNC session, Lord Motsoene bemoaned how commonplace it was to 'drink beer with lepers' (BNA CO 646/1, 1911 Session, 13). Writing about attitudes towards leprosy amongst Xitsonga speakers, who referred to the malady as *nhlulabadahi* ('the disease which is stronger than the doctors'), the Swiss missionary Henri Junod was similarly perturbed by how symptomatic persons 'even attend beer parties' (434).

⁴⁰ Sitting at 5,500 feet above sea level (29° 01'53" S 28° 10'14" E), the valley is one of very last in a series of rolling foothills before a massive wall of mountains juts up to passes of 9,000 to 10,000 feet in elevation.

⁴¹ Basutoland Gov't, *1906-7 Annual Report*, 45-6.

also using the community as a territorial buffer against his rival. The same forces that catalyzed the Menyameng experiment also fueled its dissolution. When Jonathan moved to set aside more land for the settlement at the junction of the Menyameng and the Menyamaneng Rivers – ostensibly to make room for new arrivals, but also pressing into territory beyond his own command – Joel and allies blocked the effort.⁴² The Menyameng community thus found itself wedged between two leaders quickly edging towards violent conflict. In a dangerous position, and dubious about the settlement's long-term prospects, residents scattered over 1908-09.

Frustration over the failure of village-level isolation efforts and the larger experiment in Leribe, combined with the growing consensus of international experts that compulsory segregation was the most effective means of checking the spread of leprosy, spurred Long to once again begin agitating for the building of a central leprosarium. The collapse of the Menyameng settlement registered in the PMO's mind as evidence that Basotho were incapable of administering facilities or communities involving custody: this conclusion paralleled the larger thread of colonial mythology, discussed in Chapter 2, inducing that Sesotho culture was incompatible with jails because the facilities didn't exist in the Mohokare Valley prior to the arrival of Europeans. The International Leprosy Conferences held in Berlin in 1897 and, especially, in Bergen in 1909, meanwhile, heartily endorsed compulsory segregation: it was the only public measure for governments which were serious about eradicating leprosy.⁴³

⁴² South African National Archives (SANA) in Pretoria: GG 1237, f. 33/1410. See also Macfarlane, 15-6.

⁴³ *British Medical Journal*, 'The International Leprosy Conference at Berlin,' 13 Nov. 1897, 1434. See the Free State Provincial Archives in Bloemfontein (FSA) CO597 F1762, 'Second Int'l Leprosy Conference (1909),' for extensive notes by South African representatives on the Bergen proceedings and recommendations; see, also, Horwitz 2006, 275.

Long approached Resident Sloley with a proposal to build a state of the art asylum in 1910. The ambitious scheme looked to cash out much of the nest egg of tax surpluses the administration had accrued over the previous quarter century.⁴⁴ The main challenge, in the PMO's eyes, was how to round up the hundreds of people on the leprosy registry at the outset and continue to detect newly symptomatic individuals over time. This task was quite clearly too large to foist on a small and thinly spread colonial police force, much less a handful of district medical officers. Long argued to his superior, however, that this quandary should not be viewed as insurmountable obstacle so much as a rich opportunity. Even if Basotho lords were unable to administer jails, they were demonstrably capable of apprehending criminal suspects and remitting these individuals to the administration for trial. Key challenges from the experience of pursuit of criminal justice, however, had been the reticence of some lords to hand over suspects, on account of both a lack of stigma of offenses and opposition to ceding juridical power to the administration. Sloley agreed with Long that leprosy detention should not present either of these challenges: after all, Basotho harbored latent stigma of the disease and lords should only look to Menyameng to see that they were incapable of effectively dealing with the malady on their own.⁴⁵

3.4 Building the Physical and Legal Infrastructure for Segregation

Despite the lack of success in mobilizing lords to decisively support the segregation of *balepera* over the previous decade and a half, officials hoped the recently constituted National Council might serve as an instrument for shaping opinion. After having briefly

⁴⁴ The asset reserves amounted to £137,750 in June 1911 (*BAR 1910-11*, 5).

⁴⁵ LNA S3/16/1/7, Sloley to Long, 10 June 1912.

touched upon leprosy in earlier sessions,⁴⁶ Resident Herbert Sloley and PMO Long looked to the 1911 meeting as an opportunity to lay out a detailed case for segregation to all the top nobles in one sitting, as well as a chance to gauge the reception of these ideas.⁴⁷ Before spilling ink on new leprosy laws, or laying down stone and barbed wire on an asylum, the first materials for building a segregation regime were biomedical knowledge and emotional appeals. Long and Sloley believed that if the aristocracy could be convinced to genuinely fear leprosy, the position of *balepera* in society could be fundamentally altered, both in the physical world and as a matter of subjectivity. The sick would be inspected, classified, and detained as ‘lepers,’ and these persons’ existing social networks would wither away as their very bodies succumbed to disease.

Long addressed the council over the course of three days in May 1911, carefully scaffolding the government rationale. He began with an exposition on germ theory, describing bacteria as a ‘very small insect’ that could be ‘carried in the food which lepers have handled, the spoons they eat with and the clothes they wear.’ Long noted that there were more than 700 names on the leprosy register, and maintained infections would continue to multiply so long as the sick were allowed to move freely about the country. Having sketched the problem, the PMO outlined his solution: ‘The only way by which we can hope to stamp out Leprosy is to prevent the lepers mixing with healthy people.’ He explicitly noted the need to sever friendship and break apart families: ‘We must be prepared

⁴⁶ Leprosy was first discussed at the Third Session in 1908. When pressed by well-heeled councilors Rev, Nicola Mpiti and Chief Josias, on whether the government should be doing more to emulate South Africa’s leprosaria system, Sloley expressed support for the ongoing Menyameng experiment as a more cost-effective means of managing leprosy (BNA CO646/1: BNC 1908, pp. 22-5.). Sloley broached leprosy again after the dissolution of Menyameng, when closing the 4th Session (1910) he enjoined councilors to ‘make little efforts at your own places, and see how you can work about these lepers’ (BNA CO646/1: 1910 National Council, 14).

⁴⁷ BNA CO646/1, 1911 BNC, Addresses by Sloley and Long.

to harden our hearts... remembering that it would be for the good of the whole nation that the lepers suffered the loss of their liberty.’ Long pointed to South Africa as a model for infrastructure:

I have thought out a method by which we can deal with Leprosy in Basutoland. It is a result of a great deal of thinking and looking out through South Africa and elsewhere to see what other people are doing... All lepers must be brought to one place, in that place there will be buildings for them to live in, they will be provided with food and clothing ... but they will have to live always within this ground. The women will have to be kept separate from the men, any child that happens to be born there will have to be removed.⁴⁸

Following the PMO’s presentation, councilors spent hours asking questions and sharing opinions. The transcripts of the session suggest that Long’s pitch struck a cord, as the council was overwhelmingly in favor of proceeding with segregation. Lord Philip captured the mood prevailing in the hall during the discussions:

It is the duty of every member of this Council to urge [fellow] chiefs to take this advice of Dr. Long seriously and to point out a place where these people shall be kept. We are glad to hear that these people will be looked after by Government, it would be difficult for us to look after them.

Based on the interactions in council, Sloley and Long were convinced that, notwithstanding the difficulties inducing the traditional authorities to enforce localized isolation, the existing infrastructure of the aristocracy could be used to find sick people and usher them into the asylum. As the project moved forward, high-level nobles did little to question government narratives, knowledge, and policy proposals. Indeed, representatives reiterated their strong support for the project again at the 1912 and 1913 sessions of the National Council; councilors rose, one after another, to express concern about leprosy and express support for the project.⁴⁹ Lord Tšoloane’s remarks in 1912 suggest the extent to

⁴⁸ BNA CO646/1: 1911 BNC Minutes

⁴⁹ BNA CO646/1: 1912 BNC, Day 13, 1-7; 1913 BNC, Day 14, 6-13.

which officials had sought to instrumentalize fear to win councilors' support for compulsory segregation: 'This must be done. We must fear leprosy as we fear fire.'⁵⁰

After touring several South African leprosaria, and corresponding with officials at others, Long drew up blueprints for the facility.⁵¹ In January 1912, Paramount Letsie, in consultation with the Resident Commissioner, allocated a 1,500-acre piece of ground for an asylum. The site lay at the foot of Berea Mountain, approximately four miles from central Maseru. Before construction could commence, however, the site needed to be cleared of residents.⁵² The act of dispossessing a fellow lord of followers proved to be the biggest point of contention within the National Council.⁵³

An early priority for Sloley, meanwhile, was the selection of a name for the facility.⁵⁴ Writing later in the *Journal of the Royal African Society*, the former Resident Commissioner explained his sense of urgency:

⁵⁰ BNA CO646/1: 1912 BNC, Day 13, 4.

⁵¹ LNA S3/16/1/7: [Director of Public Works] Gibson to Long, 19 Jan. 1912. Long toured Emjanyana (BNA CO 646/1, 1911 BNC, Sloley's address), Sydenham in Bloemfontein, Westfort in Pretoria, and Robben Island (BNA LNA S3/16/1/7: Long to RC, 19 Jan. 1912; Act'g RC to HC Gladstone, 25 Jan. 1912), and corresponded with officials at KwaZulu's Amatikulu (BNA CO 417/516: HC Gladstone to Harcourt, 6 Mar. 1912).

⁵² LNA S3/16/1/7: Long minute, 19 Jan. 1912; Letsie II to Sloley, 4 Feb. 1912.

⁵³ The displaced people belonged to the community of headman Jan Mothobi, a subordinate of Lord Khoabane. The land shortages that led to allocating an already populated site made it impossible to find an area of contiguous ground for resettling the entire community. Paramount Letsie II paraphrased Khoabane's sense of outrage to the administration, 'When these people of his go to different chiefs, they will no more belong to him, but will belong to those chiefs. His reason for crying is that his people are being taken from him' (LNA S3/16/1/7: Letsie II to RC, 4 Feb. 1912, and 9 Feb. 1912). Letsie was shaken enough by the complaints of Mothobi and Khoabane, as well as from other chiefs concerned about the precedent, to propose reducing the size of the facility. He suggested that the location could be used for *balepera* from Maseru district, and that other smaller plots could be set aside in each district. The administration brushed aside this idea, and the people of Mothobi were forced to relocate, either under other lords or on the steep slope of Berea Mountain (Leliea Mothobi interview, Lithabaneng, 12 Aug. 2017). Following the next National Council session, in March and April, 1912, the Resident Commissioner expressed delight that 'the removal of Mothobe [sic] seem[ed] to have been the chief grievance' (BNA CO417/516, High Commissioner Correspondence Book, 1912), rather than cold feet about the project as a whole.

⁵⁴ LNA S3/16/1/7: Act'g RC to HC, 22 Nov. 1913.

Anyone who has had anything to do with African natives must have observed how readily and quickly they give names to new arrivals or to new institutions... As an instance, the medical officer in charge of the Maseru Hospital told me that his operating theatre was known to the native public as “Madimong,” or “the Cannibal’s Cave,” a gruesome allusion to the butchery that is supposed to be carried on there. In order that no such disagreeable suggestion might be made with reference to the new settlement, it was decided to give it... an attractive name.⁵⁵

In an August 1912 telegram, Paramount Letsie referred to plans to send patients to a facility ‘which we can name Botsabelo.’⁵⁶ Sloley and Long were delighted by the name, meaning ‘refuge’ in Sesotho. The name itself hints at the radical experiment in institutional security which the administration was embarking upon: instead of using high walls, roiling seas, or unscalable cliffs to ensure inmates stayed within the facility, Maseru intended to promote such rigorous policing and foment such social antipathy so as to eventually make it impossible for people grappling with leprosy to live outside the asylum. The name thus expressed the pleasant face of a two-sided colonial aspiration: Botšabelo might indeed become an island of refuge, but only when the rest of the nation was transformed into a sea of hostility.

Long drew up the initial plans for the facility.⁵⁷ The design was based on medical needs, with physical security features observed in South African institutions grafted on top. The blueprints centered around two compounds, one for females situated at the southern end of the facility and another for males at the northern end. One low wire fence surrounded

⁵⁵ Sloley, H. 1917. ‘Recent Developments in Basutoland.’ *Journal of the Royal African Society* 16/62: 111–24, 121.

⁵⁶ LNA S3/16/1/7, Letsie II to Sloley, 16 Aug. 1912.

⁵⁷ Director of Public Works Harrison Wyatt Gibson actually rendered the drawings into Blueprints (LNA S3/16/1/7: Gibson to Long, 19 Jan. 1912). Administrators at Westfort in Pretoria, Robben Island, Emjanyana, Amatikulu (in Natal), and Sydenham (in Bloemfontein), corresponded with Long about costs and advice on how to enforce segregation (BNA CO 417/516: Attachments to HC Gladstone to Harcourt, 6 Mar. 1912). In late 1911 and early 1912, Long personally toured Sydenham, Westfort, and Robben Island (LNA S3/16/1/7: Act’g RC to HC Gladstone, 25 Jan. 1912, and Long to RC, 19 Jan. 1912).

the entire facility, and another ran from east to west to bisect the facility into the gendered halves. Each compound was comprised of a square of 20 dormitories (each with 4 rooms with 6 beds) positioned around a courtyard, and surrounded by 10-foot high fences crowned with barbs. Located within both compound courtyards was a dining hall, bathhouse, and a 20-bed hospital. The fence dividing the two compounds was interrupted in the middle of the facility by a shop and common room, and to the east by staff quarters.⁵⁸ A Paris Evangelical Mission church sat to the west of the male compound. The church and dormitory walls were made of heavy corrugated iron sheets procured from leftover British materiel from the South Africa War.⁵⁹ These sturdy sheets were set on stone foundations with timber frames. When construction began in mid-1913, a cheap source of construction labor was secured by turning to the Industrial School in Maseru. Students in the trades built the facilities under the supervision of a handful of instructors, apparently with ‘the experience gained there...of the greatest service to the boys.’⁶⁰

The Leprosy Proclamation (Proclamation No. 41 of 1913) was designed to knit together the existing infrastructure of policing by chiefs with the new biomedical infrastructure of the colonial state. The legal terms of confinement drew heavily from South African codes, particularly the Transvaal Leprosy Ordinance of 1904 and the Orange River Colony Leprosy Act (No. 26 of 1909).⁶¹ A draft of the law was placed before the National

⁵⁸ In the staff area there were seven large stone houses for the European staff, a number of rondavels for Basotho staff, and an engine house for the generator which provided electricity for the facility.

⁵⁹ BNA CO417/545, Report of the Visiting Committee, 16 May 1914, ff. 369-70. The sheets were transported from the military depot in Tempe, Bloemfontein to Maseru by rail. For more on the materials used in the construction of the facility see BNA DO35/408/6: Sturrock to Burmester, 23 Dec. 1930.

⁶⁰ Basutoland Gov't. *1913-14 Annual Report*, 12. A testament to the students' work is the fact that many of the foundations and steel buildings continue to stand.

⁶¹ For drafts and administrative correspondence relating to the proclamation: LNA S3/16/1/7.

Council in 1913, at the specific behest of the Colonial Office.⁶² The legislation detailed policing responsibilities within and across the administrative hierarchies of the chieftaincy and medical department, and made it a criminal offense, punishable by a fine of up to £10 or six months imprisonment with hard labor, to harbor or fail to report any ‘suspected leper.’ Each resident was bound to report suspicions upward: people to headmen and lords, headmen and lords to colonial officers, and officers to the Assistant Commissioner (AC) of the district. The primary area of concern for Councilors were questions over whether ‘people may report lepers to the Government without first reporting to their chiefs?’⁶³ Sloley allayed fears by describing a one-directional system of reporting, acknowledging that ‘every chief has a chief above him to whom he is responsible, up to the Paramount Chief.’

The legislation also outlined the paperwork governing the process of detention. Upon being alerted of potential cases by nobles, the AC notified the district Medical Officer (MO) to arrange a physical exam. If the MO concurred with the suspected diagnosis, an order for removal was issued and the patient rendered to Maseru. The removed person would then be examined by two more MOs tasked with the decision of whether the individual should be released or the Government Secretary should issue a detention order. The law also stipulated that all patients be examined at least once a year by a medical board and, if deemed no longer contagious, provided with a discharge order to present to her/his lord.⁶⁴ The legislation further created a visiting committee tasked with periodically inspecting and reporting on the facility, authorized the Asylum Superintendent to mete out

⁶² LNA S3/16/1/7: Lewis Harcourt minute, 12 Apr. 1912; Gladstone to Sloley, 27 May 1912.

⁶³ Lord Sekhonyana (BNA CO646/2, BNC 1913, 10).

⁶⁴ Even after discharge ex-patients continued to face movement restrictions, and were required to present themselves to the MO of their home district for a medical exam every six months.

discipline to inmates, and empowered the Resident Commissioner to make new rules for the asylum as necessary.

On January 2, 1914, Sloley used the powers conferred by the leprosy proclamation to declare the official establishment of Botšabelo.⁶⁵ By February construction was nearly complete, and preparations were underway to receive staff and patients.⁶⁶ In what might have been an early sign that the aristocracy was not projecting the message the administration intended to convey, rumors swirled around the territory that the facility was a bridgehead for white settlement.⁶⁷ In May 1914 there were 39 persons employed at Botšabelo, 23 Basotho and 13 Europeans.⁶⁸ The facility's first Medical Superintendent, tasked with overseeing both the facility and the treatment of patients, was Dr. Orrock Arnott.⁶⁹ The first chaplain was Hermann Dieterlen, who transferred, along with his wife, Anna Busch Dieterlen, to Botšabelo in December 1913, following the couple's retirement from the Paris Evangelical parish in Leribe.⁷⁰ Dieterlen provided metropolitan readers of the *Evangelical Mission Journal* with a vivid account of the system of receiving patients into the asylum between February and April:

⁶⁵ LNA S3/16/1/7, Basutoland Gov't Notice, 2 Jan. 1914.

⁶⁶ LNA S3/16/1/7, Sloley to High Commissioner's Office, 4 Feb 1914.

⁶⁷ MMA Dieterlen, personal diary, Vol. K, 26 Mar. 1913, on facility as staging ground for white soldiers. See also entry of April 22, 1913 relating rumors of Paramount Letsie II being bribed with an automobile into allowing whites to buy the land, and April 28 that facility was a 'village for whites.' In April 1914, nearly 10% of the Europeans employed by the colonial state (13 of 133) lived inside the asylum, many with spouses and children (BNA CO646/2, BNC 1914, RC's remarks, 20 Apr. 1914, 15-6; BNA CO417/545, Visiting Committee report, 16 May 1914). The rapid emergence of a dense pocket of whites – surpassed only by central Maseru's segregated reserve, and the headquarters of the Paris Evangelical and Catholic churches – settling in behind barbed wire on land recently cleared of Basotho residents, understandably raised eyebrows.

⁶⁸ BNA CO417/545, ff. 369-70: Basotho worked primarily as guards, medical attendants, and interpreters. Europeans were employed as Medical Superintendent, clerk, storekeeper, compound manager, assistant compound manager, bailiff, handyman-electrician, chaplain, matron and four other nurse positions.

⁶⁹ LNA S3/10/5/20, RC to HC, 22 May 1913; see also Macfarlane, 30.

⁷⁰ MMA *JME* 1913/2, p. 438.

One day... a young woman [named Masesilane] came in, brought by her husband... She was placed in house A, room 1, bed 1, and a leather bracelet with a copper plate bearing the number 1 was placed on her wrist... Then began the real occupation... In one day, we received ten, twenty, thirty! And what a spectacle this is! I see on the road a caravan... led by a black guard carrying a large official fold... of signed detention orders... The stewards of the leprosarium receive them without a lot of words: "Men here, women there." ... These unfortunate lepers... are directed towards an open door in a palisade of thorny wire. They cross this threshold. They disappear into a courtyard. And, we know, it is for life!⁷¹

3.5 Desertion and division of biomedical police labor in the asylum's early years

Maseru was ecstatic with the aristocracy's efficiency tracing and transferring the people listed in the government registry to Botšabelo in early 1914. More than 600 patients reported or were delivered to the facility between its opening in February and the uprising in May. After the administration's self-congratulatory reverie was shattered by rebellion, however, an investigation highlighted how lies and misinformation served as a key lubricant in the smooth operation of the initial round-up: 'The lepers' grievance is mostly against their chiefs and headmen, who, it is stated... led them, both male and female lepers, to believe that they would be only temporarily detained, and that as the result of medical attention... they would be cured and released from detention.'⁷² In the weeks following the rebellion, the superintendent set about trying to set the record straight: he repeatedly emphasized to patients that because there was no known cure for leprosy, patients would be detained in perpetuity rather than temporarily. Many inmates, nonetheless, remained suspicious of the latter claim and defiant towards the former.

Once the threat of bitter winter cold passed, a patient exodus began.⁷³ Night after night during October 1914 small groups of patients slipped through the barbwire fence and began the trek to their homes in the brisk spring air.⁷⁴ By the end of the month some 250

⁷¹ MMA *JME* 1914/1, Published letter from H. Dieterlen, 11 Apr. 1914, 439-40.

⁷² BNA CO 417/545, Sloley to High Commissioner's Office, Report on the May 1914 Rebellion.

⁷³ BNA CO 417/545, May to Sloley, 4 Nov. 1914.

⁷⁴ Matsieng Royal Archive (MRA), Box 233, Folio 139, 'List of desertions,' Oct. 1914 - July 1915.

inmates had fled. These escapes (or desertions, in colonial parlance) continued at a high rate into the summer. Yet, Maseru remained sanguine about asylum security, making no effort to install more fencing or hire more guards. Officials maintained that the most far-sighted response was, instead, to break the very will of patients to escape:

The hardships of the journey, the want of help or assistance on reaching their villages resulting in hunger and privation, and finally their return to Maseru by their own chiefs and not the Government Police, would show [deserters] that to escape from Bots'abelo entailed discomfort and misery and could not be successful, and that it was really by the will and action of their own people that they were confined there.⁷⁵

The administration's wish to instill greater fear of punishment for desertion amongst inmates, by transporting a few recaptured escapees to Robben Island (a scheme first floated locally in the Sesotho-language progressive newspaper *Mochochonono*), was dashed when Union officials refused the transfer request.⁷⁶ After three weeks of mass 'desertions,' Maseru sent a circular to nobles observing 'your duty under the law to arrest such lepers and send them back.'⁷⁷ By early November, however, only 36 escapees were back inside Botšabelo, and this group included several inmates who returned on their own after finding themselves unable to make the trek home.⁷⁸

The administration began to get increasingly worried with each passing week. It was clearly impossible that hundreds of individuals could trek across the nation, many with

⁷⁵ BNA CO 417/545, Gov't Sec. (and Asylum Visiting Committee Chair) May to Sloley, 4 Nov. 1914.

⁷⁶ BNA CO 417/545, Buxton to Sloley, 23 Nov. 1914; Rodwell minute, 19 Mar. 1915; Union PM's Office minute, 3 May 1915, This move was frequently used by Cape officials to punish detainees at Emjanyana: Cape Colony 1903, *Reports on Government-aided hospitals and asylums*. Cape Town: Cape Times, 168; see, also, Iliffe, 216. *Mochochono* article quoted from *Leselinyana* [MMA], 27 Oct. 1914.

⁷⁷ LNA S3/16/1/7, Circular to the Chiefs, 26 Oct. 1914.

⁷⁸ BNA CO 417/545, May and Sloley correspondence, 4 Nov. 1914.

conspicuous bodily disfigurement, without being observed.⁷⁹ It dawned on Resident Sloley and High Commissioner Sydney Buxton that while administrative and medical officers had discussed leprosy a great deal with prominent nobles and mission educated elites, much less was known about perceptions of the malady amongst other social groups.⁸⁰ Colonial personnel stationed throughout the territory were directed to conduct informal interviews with headmen and male commoners. These interlocutors expressed significantly more sympathy than fear when asked about escapees, and voiced particular disapproval at the way institutional life broke up families and friendships.⁸¹ Indeed, even ardently leprophobic Basotho men expressed qualms about how segregation trampled on husbands' conjugal rights.

The survey further revealed widespread skepticism about the contagiousness of the malady. The continuing existence of a diverse array of etiological knowledge about leprosy stood as a profound and unexpected obstacle to the success of compulsory segregation.

⁷⁹ BNA CO 417/545, Buxton to Sloley, 23 Nov. 1914: The commissioner was particularly concerned about the prospect 'popular resistance in aid of the lepers.' BNA CO 417/565: Sloley to Buxton, 22 Feb. 1915.

⁸⁰ Ibid. While synopsis of the report remains in the BNA, the actual correspondence has disappeared from the LNA. Owen Kalinga does quote extensively from the primary material in his 1994 seminar paper, "A Prison or a Place for Recovery?: Botsabelo Leper Settlement in Basutoland, 1914-1931," held in the University of Cape Town Library's African Studies Collection: 36n9. For examples of aristocratic responses to asylum escapes, see letters from chiefs Potsane (6 Nov. 1914) Theko (9 Nov. 1914), and between Griffith and Sloley (2 Nov. and 3 Nov. 1914) in LNA S3/17/2/1. Mission educated elites lambasted the deserters in newspaper articles (MMA *Leselinyana*, 3 Nov. 1914, *Lepera*; MMA *Mochochonono*, reprinted in *Leselinyana*, 27 Oct. 1914).

⁸¹ BNA CO417/565: Sloley to Buxton, 22 Feb. 1915. See Kalinga cit. 36, p. 9. The regulations surrounding visitation at Botšabelo were stringent expressly to limit any chance of physical contact between patients and visitors. Guests were only allowed into the facility for a few hours, under the watchful eye of guards, on Mondays and Thursdays. The limited hours, combined with the costs and difficulties of travel, meant that only patients hailing from near the asylum could expect visitation or regular updates on home. Nearby leprosaria in South Africa, save for Robben Island with its extraordinary natural security feature of Table Bay, had far laxer visitation rules. On 'haphazardly enforced segregation' at the premier South African facility, just outside Pretoria, see Horwitz 2006, 276-7. On the lax enforcement of leprosy law in South Africa more broadly see Rogers and Muir 1925, 106-7 and 113-4.

Acceptance of the contagiousness of the malady was essential for the growth of social stigma and personal fear, the motives which Long had counted upon to fuel the entire system of surveillance and reporting. The personal journals of Hermann Dieterlen are rich troves of information on Basotho perspectives on the malady over the early years of the 20th century.⁸² Some sources blamed witchcraft, including one man who attributed his infection to an encounter with a malevolent familiar in the form of a skunk.⁸³ The Alsatian missionary himself gave credence to local suspicions about the exploitation of sexual temptation by already afflicted people seeking to harm others.⁸⁴ One rumor was of a siren's den of leprosy, a household where 'one would find some beautiful women, but leprous ones' who had seduced and infected several men. The missionary withheld his sympathy for individuals who reportedly gave in to their lust, noting a group of herdboys 'all chose

⁸² MMA: Dieterlen diaries [in French], Vol. K. The missionary was fluent in Sesotho and recorded the details of conversations with a wide swath of Basotho society, including lords and commoners, women and men, and people both receptive and dismissive towards Christianity.

⁸³ Ibid, 26 Aug. 1912.

⁸⁴ Ibid. It seems likely that the strong association between leprosy and sexual pollution in Leviticus (see Douglas, 176-80, 184-85) shaped the missionary's thinking. On medieval European associations between leprosy and lust: Allen, P. 2000. *The Wages of Sin: Sex and Disease, Past and Present*. Chicago: University of Chicago, 33-34. While Vaughan's central point focuses on the way that 'the leper' featured in missionaries' imaginations as the symbolic quintessence of the need for the saving grace of not only Christianity but Western biomedicine – i.e. Science and the Word working in tandem to liberate bodies and souls in this life and next – she also hints at how suspicions of sexually promiscuous 'female lepers' might have interfaced with colonial and missionary fantasies about the particular degradation of African women (82). On correlations between the sexual pathologization of leprosy and the contemporary HIV/AIDS crisis: Chace, J. 2019. "Diagnostic Medievalism: The Case of Leprosy's Stigma." *Disability Studies Quarterly* 39/3. <https://doi.org/10.18061/dsq.v39i3.6410>.

the[ir] leprosy by going with Moapesa's girls.' Other interlocutors blamed the wrath of ancestors⁸⁵ or contact with the bodies of deceased balepera.⁸⁶

Long's miscalculations went further still: he presupposed that Basotho would either accept or reject, in toto, the veracity of his biomedical pronouncements. All evidence suggests, however, that Highveld medical practices were predicated on a more inclusive understanding of maladies and healing.⁸⁷ Thus, while few Basotho rejected the idea that colonial doctors had valuable knowledge about leprosy, it was also unreasonable to see these men as the exclusive authorities on the matter.⁸⁸ Colonial politics also played an important role in levels of trust: Dieterlen journaled of several Basotho confidants relating their certainty that medical officers possessed a cure for leprosy but were withholding it because of lobbying or bribery from local healers.⁸⁹ This speculation makes it quite easy to imagine how a rumor of cures being doled out at Botšabelo proliferated: it not only

⁸⁵ Ibid, 3 Jan. 1913: Describing a conversation with a woman married to a *molepera*, and herself wracked by pain likely caused by leprosy: 'Her ills have been caused by her father and mother, who have been dead for a long time and are unhappy because [her husband] didn't pay to marry her, that is to say that he didn't buy all the livestock [for brideprice] that he should have. It is necessary to wash the woman by sacrificing a hen to her parents to calm their anger and persuade them not to torment their daughter.'

⁸⁶ Ibid, 16 Jan. 1913. Following the death of a *molepera* neighbor named Taba Mpe, Dieterlen asked members of his congregation to assist with the burial. While the catechists helped to dig the grave, they refused to come into contact with the corpse, saying, 'We are sad to abandon him as so, but if we bury this leper... our wives... won't want to live with us anymore.' Taba Mpe's widow also refused 'to touch the corpse of her husband with her little finger, because according to their ideas, the lepers pass death on to the members of the family who bury them.' After laying Taba Mpe to rest, Dieterlen and his adopted son Willie engaged in their own purification ritual by scrubbing their bodies and their clothing ('including hats') with carbolic disinfectant. See also, MMA: JME 1913/2, 171-2.

⁸⁷ Olsen, W. and C. Sargent. 'Introduction,' 1-27, in Olsen and Sargent, eds., *African Medical Pluralism*. Bloomington: Indiana University. See also: Janzen, J. *The Quest for Therapy in Lower Zaire*. Berkeley: University of California, 1978; Feerman, S. 1985. 'Struggles for Control: The Social Roots of Health and Healing in Modern Africa.' *African Studies Review* 28, no. 2/3: 73-147; Langwick, S. *Bodies, Politics, and African Healing: The Matter of Maladies in Tanzania*. Bloomington: Indiana University, 2011.

⁸⁸ MMA: Dieterlen diaries, Vol. K, 23 Mar. 1914.

⁸⁹ Ibid, 20 Jan. 1914.

promised what many fervently desired but also confirmed what was widely suspected. The persistence of the idea that there was a cure out there, even after hopes had been dashed at the asylum, influenced sympathy for desertion: Basotho surveyed by colonial officers did not begrudge patients for leaving the establishment in hopes of finding deliverance.

There were some local healers, moreover, who openly professed to have a cure. The Apostolic Faith Mission, southern Africa's first Pentecostal church, gained a foothold in Lesotho as news of the preacher and prophet Edward Lion curing leprosy circulated through the territory.⁹⁰ Lion's practice itself wove together strands of Western biomedical knowledge, Highveld healing practices, and Christianity. The evolving relationship between patients and healers (including both Lion and asylum doctors) is discussed in far more depth in Chapter 4. What is important to note for this chapter's purposes is that the political battle lines envisioned by colonial planners were complicated morally by dint of divergent epistemological frameworks. Long's ask of lords and communities, in the name of public health, took on a more sinister character to the great many people who thought of Botšabelo not only as not providing a cure to patients but potentially denying them one. Indeed, in this light biomedical confinement could be construed as a capital sentence.

After the administration came to appreciate that the experiment in 'breaking' patients was failing, officials stood at a crossroads. No one, of course, continued to buy or sell the fiction that a cure was waiting at the asylum. High Commissioner Sydney Buxton

⁹⁰ MMA: Dieterlen diaries, Vol. K, 20 Aug. 1913 and 10 May 1914; Barry Morton, 'Samuel Mutendi's Biography Cannot Be True,' https://www.academia.edu/26700853/Samuel_Mutendis_Biography_Cannot_Be_True, accessed 21 April 2019, 3nn14-15; Roberts Liardon, ed. (1999), *John G. Lake: The Complete Collection of His Life Teachings* (New Kensington, PA: Whitaker House), 717-18, see also 985. Consortium of Pentecostal Archives, www.pentecostalarchives.org: Fisher, D. 'South Africa/Basutoland' letter, in *Confidence* 9/6, June 1916, 106; Lake, J. 'Lepers Miraculously Healed,' in *The Latter Rain Evangel*, Mar. 1916, 16. Accessed 21 Apr. 2019.

summarized the choice ahead as one ‘between abandoning the scheme and using forcible measures.’⁹¹ While certain nobles who genuinely feared leprosy demonstrated they were willing to use coercion, most traditional authorities simply ignored the increasingly shrill stream of directives flowing from Maseru over late-1914 and 1915.⁹² Some escapees, moreover, ‘retreated to wild and inaccessible portions of the country’ or ‘opposed recapture by the use of fire arms.’⁹³ The question of how to proceed prompted a tense discussion at a special session of the National Council in August 1915.⁹⁴ While the nation’s highest-ranking lords continued to express ‘unanimous support’ for the project, they also implored the administration to take on more of the violence work necessary to combat escapes.⁹⁵ Lord Lekhafola noted how difficult it was to drive the sick to Botšabelo, “‘When we threaten to use force to return them to Botsabelo they invite us to kill them.’”⁹⁶ Lord Sempe echoed this sentiment, noting cudgels often failed to do the job, and calling on the administration to coercively detain asylum residents.⁹⁷

Despite these setbacks, Maseru continued to see leprosy control as a cause which could – and, for the sake of the nation, must – lead to greater coordination in policing and detention between traditional and colonial authorities. The sunk costs of over £37,000 on infrastructure and a yearly recurrent expenditure in excess of £15,000 already weighed

⁹¹ BNA CO 417/545: Buxton to Sloley, 23 Nov. 1914.

⁹² LNA S3/17/2/1: Griffith and Sloley telegraphic correspondence, 2-3 Nov. 1914; Lord Malebanye Potsane to Sloley, 6 Nov. 1914; Lord Makotoko Theko to Sloley, 9 Nov. 1914.

⁹³ BNA CO417/565: Sloley to Buxton, 16 Feb. 1915.

⁹⁴ Although these meeting minutes have disappeared from the LNA, it is possible to know much of what was said because of Kalinga’s extensive use of the document: 12n44-6.

⁹⁵ LNA S3/17/2/5, Acting Resident minute, 30 Sep. 1915.

⁹⁶ Kalinga, 12n46.

⁹⁷ Kalinga, 12n45.

heavily on the administration.⁹⁸ Botšabelo staff introduced more coercive and consent-building initiatives over 1915 and 1916 as stopgaps designed to buy the aristocracy time to diffuse fear of the malady and institutionalize surveillance in the countryside.⁹⁹ In addition to bringing in the seasoned policeman Frank Jenner to serve as superintendent and doubling the number of guards to thirty, the administration built two jails inside the asylum: the matching facilities for women and men were used to punish escape attempts and other infractions.¹⁰⁰ Once in command, however, Jenner, and his medical officer Neil Macfarlane, quickly came to the conclusion that efforts to build inmate consent to detention were likely to be far more useful for reducing escapes than coercive measures.¹⁰¹ In the next chapter I explore the bevy of policies designed to make asylum life more palatable: measures included increased visitation rights, improved diets, beer distribution, more biomedical care, and opportunities for productive work and wages.¹⁰² With these changes in place, desertions declined significantly over 1916: there were 45 escapes over the calendar year, compared with 213 in 1915 and 296 in 1914.¹⁰³ Escapes did continue year after year, nonetheless, as the administration refused to give up its goal of lords acting as biomedical police by fully converting the asylum into a heavily securitized prison. Indeed,

⁹⁸ BNA CO 417/545: Sloley and Gladstone letters, 18 Dec. 1913 and 7 Feb. 1914; *BAR* 1914-15, 4-5; Sloley 1917, 121. On cost overruns: BNA CO 417/528: Minutes, f. 597, 6 Aug. 1913.

⁹⁹ OBL, Garraway Papers, Vol. 7, ff. 329-31.

¹⁰⁰ LNA S3/10/5/30, 'F. Jenner' colonial personnel file; BNA CO417/565, Buxton to Harcourt, 12 Jun. 1915. LNA S3/17/2/5: Acting Resident minute, 30 Sep 1915: Each compound was 'surrounded by a strong corrugated iron fence eleven feet high, will contain a wood and iron building divided into cells in which the leper prisoners will be confined at night. During the day they will be allowed to move about within the compounds each of which will measure one hundred and twenty feet by sixty. The compounds will be close together and an elevated platform will be erected from which the guards will be able to keep under observation the lepers confined in each.'

¹⁰¹ BNA CO 417/545: Macfarlane to Long, 21 Oct. 1914. BNA CO417/565: 'Report on the working of the Basutoland Leper Settlement,' attached to Sloley to Buxton, 16 Feb. 1915; Buxton to Harcourt, 22 Feb. 1915.

¹⁰² Ibid. BNA CO 417/593, 'Report' on Botsabelo, attached to Coryndon to Buxton, 7 Sep. 1917.

¹⁰³ Ibid. MRA: Box 233, Folio 139, 'List of desertions.' *BAR 1915-1916*, 16. *BAR 1916-17*, 12.

dispatching a flurry of correspondence with Matsieng, pushing for the paramountcy to prioritize searching out deserters and new cases, and with district medical officers, encouraging friendly visits to lords to discuss the dangers of leprosy and the necessity of cooperation, emerged as a rite of spring and early summer for Maseru over the late-1910s and 1920s.

3.6 The poverty of obligations: colonial public health claims and subjects' moral claims

By late 1917 the majority of inmates who escaped Botšabelo in 1914 and 1915 were again living in the asylum: some persons returned under pressure from lords or family, others voluntarily in search of medical attention or to gain access to cash wages to support loved ones, and a few individuals were even escorted back in scotch carts under the watchful eye of messengers.¹⁰⁴ The administration was pleased, moreover, with the growing swiftness with which nobles were tracing new escapees. Yet, even with these developments, Long's designs for leprosy control initiatives facilitating closer coordination between lords and the administration appeared more fantastical than ever. Only a handful of nobles were actively surveilling their communities for newly symptomatic people. The disinterest of customary authorities in Botšabelo — and, particularly, of many lords towards their own interned subjects — was quickly emerging, moreover, as a source of profound concern for inmates and a leading cause of desertions.

John Iliffe's work on the history of leprosy in Africa paints a haunting portrait of a vicious cycle of social determinacy and infection on the continent dating to the era of colonial rule — politico-economically subaltern people suffered from disproportionately

¹⁰⁴ BNA CO 417/593, 'Report' on Botšabelo, attached to Coryndon to Buxton, 7 Sep. 1917. LNA S3/17/2/5: Lord Malebanye Mohale to Garraway, 11 Sep 1917, and attached Boyes minute, n.d.

high rates of infection, and people afflicted with the malady consistently faced limited access to economic resources and political power.¹⁰⁵ A great deal of circumstantial evidence suggests that the National Council's strong support for compulsory segregation was influenced by generalized frustration with the material poverty of *balepera* as a social group, rather than stigma rooted in fear. These historical traces linger most suggestively in the subtext of events which perplexed colonial officials at the time. Botšabelo's Board of Inspections did not know what to make of several dozen individuals being sent to the asylum in early 1914 bearing symptoms of acute malnutrition, but no evidence of leprosy. Officers also could not fathom why the same lords who so efficiently delivered people to the asylum gates at this point in time, subsequently appeared so indifferent to re-detaining escapees or ferreting out new cases of infection. These phenomena make a great deal more sense, however, when viewed as questions of labor and socio-political responsibility rather than public health.

The Sesotho aphorism 'a leader is a bag for feces' (*morena ke khetsi ea masepa*), evocatively describes a Highveld social contract in which political leaders were expected to address the thorniest and most enduring problems, notably including intra-communal strife and arranging a baseline of support for destitute people.¹⁰⁶ The opening of Botšabelo promised that the colonial state would take responsibility for housing and feeding a cohort of people who were, by and large, greatly in need of material assistance. The sending of non-symptomatic people to the asylum most likely involved nobles misinterpreting, or seeking to exploit, the opening of the asylum as a chance to divest themselves of obligations to a wider cohort of vulnerable community members than just persons infected

¹⁰⁵ Iliffe, 214-5, 224-7.

¹⁰⁶ L. Phafoli, author interview, 8 Jun. 2017, Maseru.

with leprosy. The work of populating the asylum in early 1914, meanwhile, initially appeared to offer a trade-off for nobles: a large one-time input of energy and resources in exchange for a reduction in future work and material obligations. But the desertion crisis changed the calculus. Lords were asked to act again, opening the vexing possibility that the compulsory segregation scheme might consistently demand high levels of attention and resources. The wave of escapes in 1914 and 1915 thus became a crisis because of a *double protest*: inmates actively against detention, and lords passively against the newly onerous requests of the colonial state. Even after the administration was able to leverage Matsieng's influence to break the aristocratic strike on pursuing escapees, very few lords took on the work of actively policing their jurisdictions for newly symptomatic cases.

Asylum inmates soon discovered that detention changed their social and political status in the eyes of many lords. Indeed, several prominent nobles gave voice to the legal and moral argument that detention in the asylum dissolved the political association and mutual obligations between lords and subjects. This claim was rooted in an innovative interpretation of the Ninth Law of Lerotholi, outlining the tradition of 'turning the door of the house' (*ho reteletsa ntlo monyako*), inscribed at the first session of the National Council in 1903. The statute read: 'It is not lawful for any person to be deprived of his place or fields without good reason... but a person living under one chief, if he turns the door of his house against the chief and looks up to another chief he must be aware that he will be deprived of his place.' The law was designed to stave off conflict between nobles vying for followers, by forcing decisions about precisely to whom each commoner swore fealty.¹⁰⁷

¹⁰⁷ Commoners were effectively barred from shopping around for the chief offering the best terms of communal labor or from defecting from a chief for minor grievances, because the act of turning the door entailed the loss of not just usufruct on a particular plot but also of structures, crops, and improvements like terraces and fruit trees on the land.

What was formulated in an earlier era to stabilize communities and work forces, became a headache for asylum officials and a nightmare for patients and their families. Inmates found that their families were being dispossessed of lands and property in their home communities, and also that many were unable to get so much as a response from their lord to their inquiries, much less to lodge injunctions or compensation claims. When Maseru began asking questions, several nobles stated that their behavior was legal and natural: after all, the asylum superintendent was now ‘chief of the lepers,’ and this meant that inmates had effectively ‘turned the door.’

An irate British Resident, Edward Garraway, lay this matter before the National Council at the 1918 session.¹⁰⁸ Asylum superintendent Frank Jenner was summoned before the body, and his testimony vividly illustrated the precarious situation of the affected patients and their loved ones:

The lepers say that their cases are not settled... These people come and complain that their families are starving and are without blankets and there is only one way in which they can provide for them, and that is when fines are paid. It takes years to get these fines. I have been at Bots’abelo four years and there are four cases which I have been fighting ever since I came there. None of these fines have been disputed but we cannot get them paid. These are complaints brought to me daily.¹⁰⁹

Jenner went on to connect the failure of lords to fulfill their legal duties to the ongoing trickle of patients illegally absenting themselves from the asylum:

A few months ago a leper called Motsemela came... This man was at Bots’abelo about 3 or 4 weeks and...deserted, but a week after he came with his wife and children... I asked this man why he deserted and he said because he received word from his wife that his lands had been taken, and I said, why did you not tell me about it? He said, because time of ploughing was near and that he knew it would take long to wait for replies... There are several other [cases] of the same sort.¹¹⁰

¹⁰⁸ BNA CO646/3, 1918 BNC, 28-40.

¹⁰⁹ BNA CO646/3, 1918 BNC, 34.

¹¹⁰ BNA CO646/3, 1918 BNC, 34-5.

The superintendent's testimony provoked an extended and tense debate over the ethics of noble-commoner relations. Tempers flared as a small group of councilors denounced the conduct of their fellows. Lord Motsone expressed outrage at the dereliction of duty reflected in ignoring legal claims or revoking lands: 'It is not a nickname to say "chief", a chief is one who settles people's complaints.' Lord Moshe maintained, moreover, that nobles should be working to protect *balepera* as a specific class of vulnerable people.¹¹¹

Several nobles pushed back, however, by noting traditional law, as well as the supposedly impudent behavior and unreasonable claims of inmates. After being singled out for non-responsiveness to patients' claims, Lord Masopha II spoke forcefully in defense of his actions. He critiqued patients for routing complaints through the colonial bureaucracy rather using traditional pathways. It galled the great grandson of Moshoeshoe's third house that instead of humble requests from subjects he was receiving curt orders from the district colonial officer. Masopha further contended that the impropriety of the dynamic was even more pronounced with the families of Botšabelo patients, who also felt empowered to speak directly with government officers. 'I know these lepers in the settlement *belong to the Government* but their children and wives are still under me and should report to me their complaints.'¹¹² The discussion closed with Resident Garraway agreeing to instruct Supt. Jenner to route complaints through the

¹¹¹ BNA CO646/3, 1918 BNC, 35.

¹¹² BNA CO646/3, 1918 BNC, 30. Emphasis mine. While stating that non-response to Jenner and Government Officers was unacceptable, the Paramount himself expressed sympathy with the criticisms of patients: 'The lepers are very well looked after but this must be understood that they will cause trouble at their homes, because they are very much conceited... The lepers too must do things in a better way, that is, they should report to the right people' (39-40).

Paramount rather than through government officers.¹¹³ Although implemented, this change had little immediate impact: the issue of neglect of patient's legal cases was raised again in the council in 1919, 1920, and 1921, before the administration simply gave up.¹¹⁴

The institutional setting made it easier for patients to wrest concessions from the administration but harder to do so from lords. A bitter irony hanging over the planning of Lesotho's leprosy control scheme was that despite the focus on the malady's highly visible symptoms, Long and other colonial officials treated the targets of their interventions as if they were invisible. As we have seen, however, people suffering from leprosy were able to force their way into the colonial field of vision by making Botšabelo un-administrable: as a one-time superintendent wrote in a retrospective report on the facility, 'the lepers... found out that if they made a lot of noise and outcry they got most of what they wanted.'¹¹⁵ The spatial separation involved in institutionalization, on the other hand, made it virtually impossible for inmates to secure an audience with nobles. An experiment with a Visiting Committee, including two powerful lords, failed when female residents drove the group from their compound with a torrent of invective over the visitors' failure to redress grievances from earlier inspections.¹¹⁶ Thereafter, despite pleas from colonial officials that

¹¹³ The administration's views were infused with the self-interested hope that 'if there was less delay in cases, which cause much worry, the lepers would be more peaceful:' BNA, CO646/3, 1919 BNC, RC's Opening Address, 2.

¹¹⁴ LNA, S3/17/2/3, Visiting Committee Report, 19 Feb. 1919. BNA, CO646/3, 1921 Session, Day 10, 2.

¹¹⁵ SANA, GG 1237, Folio No. 33/1410, 'Basutoland Leper Asylum, 1914-1922,' 8.

¹¹⁶ BNA CO646/3, 13th Session: pp. 31-2: Letlatsa Thebe and Tšoloane posited that problems had festered because of the lack of an effective visiting committee. In the face of criticism, Government Secretary Boyes admitted there was no functioning committee. Boyes related how he and Chief Mopeli and others had visited a few times but did not have productive conversations with patients, and discontinued visits after the being chased out of the women's compound on the last visit. He identified this as a symptom rather than the cause of patient discontent. The body was discredited over time by the lack of redress to patients' primary complaints of chiefs at home continuously stonewalling the hearing of cases and the execution of judgments in the patients' favor, even after

‘whenever any Chiefs come in the neighbourhood of Maseru or Botsabelo they should go and see these people,’ when polled in 1921, only two of the one hundred persons on the National Council had visited the asylum over the previous half decade. Patients sought to force themselves onto their lords’ agendas by slipping out of the asylum — usually during the day, when inmates were allowed to tend their own fields in the sprawling grounds and only had to contend with a perimeter fence made of a few strands of barbed wired, instead of at night when locked inside a residential compound surrounded in closely-spaced high-tensile fencing and actively surveilled by guards and inmate ‘head(wo)men’ — to appear in *lekhotla la morena* (noble’s court).

By the early 1920s, the growing alienation of inmates from traditional authorities at home bolstered colonial confidence in security at the asylum. Maseru moved to scale back concessions made in the wake of the desertion crisis. Resident Garraway, himself a former medical officer, wanted to turn Botšabelo into an imperial model of excellence which would justify the facility’s high cost, amounting to over ten percent of yearly colonial expenditures. Officials still held out hope, moreover, of using the asylum to facilitate closer bureaucratic entanglement and coordination with the aristocracy.¹¹⁷ New visitation regulations, which went into effect in 1922, required prospective asylum visitors

the grievances were conveyed through Supt. Jenner and the Committee to their Chief via Assistant Commissioners.

¹¹⁷ OBL, Garraway Papers, Vol. 7, ff. 329-31. Macfarlane 1934, 21-2. Superiors in Cape Town and London were quite aware of the eye-popping figures: in a nation of just under half a million people, more funds were utilized to confine some 450 patients than on ‘the whole outlay on the Medical Department.’ In 1920 the government allocated £20,720 to the asylum, including over £2,000 for patient wages, respectively amounting to over 10% and 1% of total annual expenditure. BNA CO646/3: 1921 BNC, RC’s Opening Address; *BAR 1920-1*: 414 patients on 31 Dec.1920, 11. The 1921 Census listed the population at 498,787, while the previous census in 1911 listed the population at 404,507 people. Data from *Union Year Book, No. 4-1921*, 942, in the library at the University of Cape Town.

to secure signed passes from their lord.¹¹⁸ Officially, the move aimed to guard against transmission of infections to guests.¹¹⁹ Administrators wanted to stamp out the practice of ‘natives from all round who had no business in the settlement flock[ing] in to get a feed.’¹²⁰ By subjecting lords to requests for asylum visitor passes, officials also arranged bureaucratic procedure in such a way as to keep the asylum front of mind for nobles. Although lords did carry out the new work, this responsibility did not spur any noticeable growth in aristocratic interest in the asylum or leprosy policing.

3.7 A better way to police: the birth of the leprosy inspectorate

In 1929, exasperated with the continuing lack of cooperation from many nobles in looking for new cases of infection, and nervous that the High Commissioner or Colonial Office might insist Botšabelo be converted into a site of voluntary treatment, Maseru undertook its first experiment in direct policing of leprosy in Lesotho’s countryside. At the beginning of the year, the asylum guards Eliel and Patrick Mojakisane were promoted and trained in the new position of Health and Welfare Inspectors.¹²¹ In April, Eliel and Botšabelo Supt. Peter Strachan rode from the asylum towards the Melikane River Valley in Qachas Nek District, the ostensible epicenter of leprosy infections in the territory. The pair, accompanied by various police and chiefs’ messengers, spent two-weeks traversing the bridle-paths leading along the escarpments and ravines between villages, carrying out

¹¹⁸ Visitors could also technically secure a pass from the Assistant Commissioner of Maseru District.

¹¹⁹ LNA S3/17/2/3: Circular No. 59 of 1922, from GS to all ACs, OICs, and Supt. Macfarlane, 5 Oct. 1922. See also LNA S3/17/2/3: RC Garraway to PC Griffith, 7 Nov. 1922. The regulations scaled back visiting hours and days, and put new limits on the length of visits, which ranged from 1-3 days depending how far the visitor had travelled to get to the facility. See also, *BAR 1922-23*, 15-6.

¹²⁰ SANA, GG 1237, Folio No. 33/1410, ‘Basutoland Leper Asylum, 1914-1922,’ 10.

¹²¹ LNA S3/17/2/11: Strachan to PMO, 13 Feb. 1929; see also the original proposal minute, same folio, PMO Nattle, Supt. Strachan, and Fin. Sec. to RC, 1 Dec 1928.

hundreds of exams. They identified ‘three uncertified lepers, one already certified and two deserters.’¹²² In Strachan’s report on the tour he mused enthusiastically about the potential of an inspectorate. Eliel demonstrated not only a keen eye for symptoms, but was also able to deftly read reactions to the appearance of officials in order to ferret out new cases and deserters. The superintendent recommended outfitting the new hires with equipment and legal authority to commence with aggressive surveillance operations in rural areas.

The creation of the inspectorate was the culmination of the administration’s efforts to preserve the policy of compulsory segregation in Lesotho. Beginning in the mid-1920s, metropolitan expert opinion turned decisively against compulsory segregation as a means of combatting leprosy. The British Empire Leprosy Relief Association (BELRA), founded in 1923, played a central role in reorienting metropolitan opinion, and promoting the standardization of public health policies and treatment regimes within the empire.¹²³ Public health rationales were at the heart of the emerging critiques of medical detention.¹²⁴ Experts began to realize that leprosy sufferers faced with the prospect of indefinite confinement often chose to hide their infection. Concealment at the first onset of symptoms was understood to be particularly problematic, as new cases of infection were believed both to be most contagious and most treatable. Compulsory segregation was also criticized for being far more expensive than voluntary segregation. As Meghan Vaughan observes in

¹²² LNA S3/17/2/12: Strachan’s Report on Qacha’s Nek Inspection, 15.

¹²³ In 1927, BELRA Secretary Dr. Frank Oldrieve visited Lesotho as part of an extended tour through Eastern and Southern Africa. (LNA S3/17/2/5: Dept. Of Health, South Africa to Imperial Secretary Clifford, 26 Nov. 1926). In addition to visiting Botšabelo, the secretary and his wife gave a lecture and screened a film on leprosy in Maseru, making the case for the efficacy of voluntary segregation and new pharmacological approaches. (SANA PM 1/2/174, 49/37: BELRA Annual Report, 1927, 13).

¹²⁴ The League of Nation’s Leprosy Commission compiled a variety of period arguments against compulsory segregation: BL, League of Nations, Health Organisation. 1931. *The Principles of the Prophylaxis of Leprosy: First General Report of the Leprosy Commission*. LON.

Curing Their Ills, ‘by the time colonial medical departments were on firmer footing and were more able to intervene to control the disease [of Leprosy], “expert” opinion was very firmly against compulsory segregation.’ In Lesotho, the prevailing leprosy control scheme predated the paradigm shift.¹²⁵

Maseru-based administrative and medical officials reacted to changing metropolitan opinion with dismay. The idea of reversing course and admitting a mistake to lords was anathema to officials. Over the late-1920s, as criticisms of the inefficiency of compulsory segregation gained strength, local officials experimented aggressively with mechanisms for detecting sick people at large in the countryside. The administration’s aim was to transform the territory into a model of medical detention. The administration set about educating not only lords but also school students to identify symptoms, in hopes of encouraging more reporting. Maseru also criminally prosecuted a handful of individuals for harboring the sick in contravention of the Leprosy Proclamation. When these schemes failed to deliver the desired results, Maseru turned in desperation to an inspectorate, thereby abandoning the project of forging a biomedical policing apparatus which fused together the administration and aristocracy. The administration further bolstered its surveillance efforts with a 10-shilling reward for information leading to the detention of a person suffering from active leprosy.

Colonial doctors had reason to suspect that lords were turning a blind eye to infections in their communities. Over the 1920s a high percentage of new asylum admissions suffered from advanced infections; it was hard to reconcile the appearance of people whose bodies were ravaged by years of disease progression with the idea that nobles

¹²⁵ Vaughan, 78.

were making good faith efforts to monitor their communities for symptoms. After a series of particularly ‘flagrant cases’ over 1927, Maseru looked to send a shot across the bow of the aristocracy by pursuing prosecutions.¹²⁶ While the law vested assistant commissioners with broad powers to sanction individuals for the failure to report any ‘suspected leper,’ only one charge had been pursued since the law was promulgated in 1914.¹²⁷ The primary difficulty in prosecuting nobles was plausible deniability; it was easy for lords to blame subordinates or the families of infected persons for failing to inform them of new infections.¹²⁸ Recognizing that it would ‘be next to impossible to obtain convictions against Chiefs and Headmen if the prosecution is directed against them in the first instance,’ Strachan recommended a strategy of prosecuting families of the sick in order to roll up cooperating witnesses in hopes that ‘evidence against the Chief might come to light.’¹²⁹ This approach failed; commoners and headmen uniformly chose to absorb the fines and jail-time rather than testify against their lords.¹³⁰

Actively investigating case histories also brought colonial personnel into uncomfortable contact with the moral issues faced by traditional authorities when deciding

¹²⁶ LNA S3/17/2/11: LNA S3/17/2/11: PMO to Gov’t Sec., 7 May 1928, and Gov’t Sec. to all ACs, DACs, and OICs, 11 May 1928; Supt. Strachan to PMO, 7 Apr. 1928; Gov’t Sec. to Mafeteng AC, 14 Apr. 1928; Gov’t Sec. to PC Griffith, 18 Apr. 1928.

¹²⁷ In August, 1922, shortly after being appointed as Mafeteng Assistant Commissioner, former Botšabelo Superintendent Frank Jenner had tried and convicted Chief Lesala under the proclamation’s statutes; Lesala opted to pay £10 in lieu of six months of hard labour in prison (LNA S3/17/2/11: Response telegrams from each district; Synopsis in Gov’t. Sec to PMO, 12 June 1928.)

¹²⁸ LNA S3/17/2/11: Gov’t Sec. to ACs of Mafeteng, Leribe, Qacha’s Nek, and Butha-Buthe, 3 Sep. 1928; Chief Lerotholi Mojela to Mafeteng AC, 7 Sep. 1928.

¹²⁹ LNA S3/17/2/11: Supt. Strachan to PMO, 16 Oct. 1928.

¹³⁰ LNA S3/17/2/11: Leribe AC Sims to Gov’t Sec., 2 Aug 1929. Ultimately, two family members and a village headman were sentenced to a £10 fine or 6 months in hard labour. While the punishments each party opted for in this case are not specified, the potential class-biases of the optional fine system of punishments (detailed in Chapter Five) likely drove a bifurcation of punishment for contravention of the Leprosy Proclamation: fines for the chiefs and jail-time for ordinary villagers.

whether to report and hand-over the sick. When Assistant Commissioner Frank Jenner, a former asylum superintendent, set out to investigate and punish family members of advanced-case admits, he was staggered by what he encountered.¹³¹ Each of the three homesteads Jenner visited were not only wracked by hunger and want, but had recently been deprived of their primary caregiver. The leprosy sufferer in each of these cases, now detained at Botšabelo, had been tending to a loved one: a young woman to her grandmother, a young man to his elderly father, and a woman (who had deserted in 1914 and evaded recapture for fifteen years) to her sick husband. It was easier for administrative and medical personnel to rail about saving the nation when the breaking up of families took place out of sight, with the difficult emotional work foisted on Basotho authorities. Faced with these realities Jenner opted to issue warnings rather than proceed with prosecutions.

The drive to coerce greater levels of reporting was paired with a campaign to train the traditional authorities and schoolchildren to spot leprosy symptoms. At the National Council session in October 1928, Dr. Strachan gave the councilors lessons in diagnosis.¹³² In an inauspicious sign for the value of this training, Lord Azariel Theko chose this moment to raise the idea of creating an inspectorate: ‘The Government and Paramount Chief should employ detectives, if they rely on us [the chiefs] only, the state of affairs will be worse.’¹³³ The administration pressed ahead with the education campaign. Maseru printed 2,000 copies of a Sesotho-language booklet detailing how to recognize and report *balepera*, and distributed the materials to lords and schools across the territory.¹³⁴ When, in the months

¹³¹ LNA S3/17/2/12: Mohale’s Hoek AC Jenner to Gov’t Sec., 6 Mar. 1929, and Supt. Strachan to PMO, 8 Feb. 1929.

¹³² BNA DO 92/1: 1928 Session.

¹³³ BNA DO 92/1: 1928 Session, 29-30.

¹³⁴ LNA S3/17/2/11: Strachan to PMO, 14 Nov. 1928. The booklets, entitled Notes on leprosy compiled for Schools & other Educational Centres in Basutoland, were authored by Dr. Slack and

following the 1928 council session, the education campaign failed to yield demonstrable results, officials pursued Azariel's idea.

With the launch of the leprosy inspectorate in early 1929, the administration set about building its own coercive infrastructure for detecting ill people, thereby divesting itself of complete dependence upon the aristocracy. This was a sign of how desperate Maseru was becoming to show results. As metropolitan pressure to pivot towards voluntary segregation throughout the empire was increasing, Maseru was confronting the possibility that it would eventually be forced to abandon compulsory segregation. This possibility was odious to local officials. Part of the utility of pursuing compulsory segregation was the idea that it would boost surveillance cooperation and support for confinement schemes within the aristocracy, and a change in policy might deliver a resounding blow to these goals. While these concerns were subtextual in most missives, buried in descriptions of the sunk financial costs of the asylum and optimistic statements about how the territory was just about to turn a corner, Resident Commissioner Sturrock did level with his superiors in 1930:

Even to hint to the Basuto that the policy adopted 16 years ago in the face of much opposition from the natives and supported by statements glowing with optimism, was wrong and is to be abandoned, would be disastrous both from the point of view of obtaining any [future] sympathy and support from the Chiefs.¹³⁵

For Maseru the stakes involved in defending compulsory segregation was nothing less than the epistemological hierarchy undergirding colonial rule. The administration had chosen leprosy policy as terrain for waging an aggressive campaigns to capture the intellectual and

printed by the Cape Times for a fee of £16:7. There are no indications in the colonial records that members of the general public informed on their neighbors.

¹³⁵ BNA DO35/408/6: Sturrock to Burmester, 23 Dec. 1930.

political support of the aristocracy, and they were keen to hold the line, changing scientific consensus be damned.

The inspectorate quickly looked to be showing quantifiable results. After six months, the two inspectors had detected 45 new cases of leprosy, including 22 persons who had been successfully detained at Botšabelo.¹³⁶ Eliel and Patrick faced cold receptions from many lords, who bristled at unfamiliar commoners showing up unannounced to carry out inspections.¹³⁷ The pair were nevertheless able to carry out their work armed with government uniforms and a copy of the circular letter instructing nobles to assist the inspectors. The inspectors' efforts dovetailed with a new system of informant payouts: ordinary villagers could surreptitiously alert inspectors of their suspicions about infected persons in hopes of securing the half pound reward, which the inspectors would then investigate, without necessarily alerting the lord. After one year, the inspectors were credited with boosting the asylum population by more than 100 patients and with stimulating 'a more lively interest on the part of the Chiefs.'¹³⁸ The administration appointed four additional police at the start of 1930, and also dropped the euphemistic job title 'Health and Welfare Inspector' in favor of 'Leprosy Inspector.'¹³⁹

¹³⁶ LNA S3/17/2/12: Strachan to PMO, 29 Oct. 1929.

¹³⁷ LNA S3/17/2/12: Strachan to PMO, 3 Jan. 1930, and Sturrock to PC Griffith, 11 Jan. 1930.

¹³⁸ *Annual Medical Report for 1929*, p. 10. Over 1929 the number of asylum patients grew from 526 to 629.

¹³⁹ LNA S3/17/2/12: PMO to Gov't Sec., 31 Dec. 1929, and Gov't Sec. to ACs, 3 Jan. 1930. Two of the new hires were based in Qacha's Nek, another in Leribe, and one patrolled both Quthing and Mohale's Hoek districts. Per Strachan's recommendation the new inspectors underwent a six-week training session at Botšabelo before commencing their work.

BELRA was unimpressed, however, with the numbers coming from Lesotho.¹⁴⁰ The association came into direct conflict with Maseru over 1930.¹⁴¹ After Robert Cochrane, the association's secretary, visited Botšabelo in June, he sent the Dominions Office a report detailing why 'leprosy inspectors and methods of tightening up compulsory measures will not succeed,' and recommending an immediate move to voluntary treatment.¹⁴² Lesotho's administration objected vigorously.¹⁴³ When it became clear, however, that supervisory officials in Cape Town and London were no longer receptive to the logic of sunk costs, Resident Commissioner Sturrock changed tack.¹⁴⁴ Instead of framing the epistemic stakes of the debate in local terms, Sturrock situated Lesotho within an empire-wide research agenda: 'It would be a great pity to abandon the experiment... before it has had a fair trial' given that existing policy 'is of general interest to leprologists, for it should demonstrate in a few years to what extent and for what length of time a system of compulsory segregation,

¹⁴⁰ LNA S3/17/2/12: Under-Sec. of State to HC, 13 Nov. 1929; Cochrane to Under-Sec. of State, 26 Sep. 1929.

¹⁴¹ BNA DO35/408/6: Cochrane's 'Report on Visit to Botsabelo Leper Institution, and Notes on Leprosy Situation in Basutoland' forwarded under cover letter to Under-Sec of State, 18 Sep. 1930.

¹⁴² Ibid. Cochrane observed that despite a wave of new admissions effected by the inspectorate, very few of these patients were in the early stage of the disease. He took this as evidence that the inspectorate was not finding the highly contagious and potentially treatable early-stage patients that the Association maintained could only be coaxed out of hiding under a voluntary treatment regime. Cochrane speculated on further problems that might soon beset the new inspectorate: the surveillors would come to be surveilled as spies, leading the sick to take flight before their arrival; the police would also be tempted to take bribes. Cochrane advocated four specific steps: (1) the establishment of voluntary treatment facilities; (2) the replacement of inspectors with Basotho 'health visitors' to treat rural populace and build up goodwill; (3) a leprosy survey; and (4) a propaganda campaign about the hope of a cure for persons who came forward in the early stages of infection.

¹⁴³ BNA DO35/408/6: 'Comments on Dr. Cochrane's Report,' forwarded by Sturrock to Burmester, 23 Dec. 1930. Lesotho's administration pushed back to defend both the inspectorate and the principle of compulsory segregation. There were no signs of timidity or corruption influencing detectives' work. Sturrock, moreover, made the case that a 'perfectly efficient system of compulsory segregation would stamp out the disease sooner than any other,' 3.

¹⁴⁴ BNA DO35/408/6: RC Sturrock to HC Burmester, 23 Dec. 1930; see also, same folio, Sturrock to Vice-Admiral HJ Tweedie, 3 Mar. 1931.

enforced as rigorously as local circumstances permit, can succeed in diminishing the incidence of leprosy.’

Helen Tilley details how the early 1930s represented a ‘seminal moment in African imperial history when scientific knowledge and colonial development had begun to assume pride of place in the international arena.’¹⁴⁵ The Colonial Office looked to metropolitan experts to generate standardized policies – ostensibly based on scientific research on a range of issues – which could be implemented across the empire. At the same time, with the launch of the African Research Survey in 1929, ‘colonial states’ research efforts also began to influence inter-territorial and inter-imperial coordination.’¹⁴⁶ Imperial territories, and particularly African territories, were explicitly conceptualized as laboratories which might provide new insights into almost every field of scientific inquiry and, perhaps above all, into disease. The same forces which put Lesotho’s policy of compulsory segregation into doubt thus provided an opening for its preservation; faced with imperial efforts at standardization based on scientific research, the administration leveraged scientific research as legitimate reason for deviation. Although this maneuver was based on parochial political interests, Lesotho became the imperial research station for leprosy policing and compulsory detention.¹⁴⁷ Based upon this rationale, the forced detention of hundreds of people continued to grind on for another quarter century, until the arrival of sulphone drugs

¹⁴⁵ Tilley, 2.

¹⁴⁶ Tilley, 4. Although Lesotho was outside the direct ambit of the survey, as a High Commission Territory, the ‘living laboratory’ view of the mountainous enclave still clearly applied.

¹⁴⁷ Ultimately the local administration found the necessary ally when Herbert Stanley assumed the position of High Commissioner in mid-1931. After having worked closely with Lesotho’s administration while serving as Imperial Secretary from 1918-24, and having just come off a tour as governor of Colonial Sri Lanka in which he had been criticized by metropolitan experts for his policy choices, Stanley was ‘not prepared to dissent’ with the opinions of local officials (BNA DO35/408/6: Clark to JP Thomas, 18 July 1931).

rapidly transformed the malady from a pressing public health concern into a less socially urgent matter of pharmacological treatment.

3.8 Chapter Conclusion

The colonizer versus colonized binary can obscure the extent to which the hardships and injustices of the colonial era impacted various social groups differentially. *Balepera* embodied perhaps the most colonized sub-population in Lesotho during a period spanning from 1914 through the early 1950s. Officials in the colonial headquarters in Maseru viewed people suffering from leprosy, from the first encounter onwards, as little more than objects for larger schemes and experiments in social control. The colonial fixation with this population became more intense over the early years of the 20th century, as a result of both biomedical alarm about the malady and, critically, the administration's growing desire to expand its capacity to surveil and project coercive force into the countryside. Because the administration feared stepping on the toes of local lords by arrogating too many criminal cases too swiftly (and did not want to pay for a sprawling police force), colonial planners fixed their attention on *balepera* as an ideal target for a new model of policing and detention which would require greater collaboration between officials and lords. Indeed, officials imagined a category of 'the leper' could be readily reified – both as a matter of law and, unlike 'the criminal,' popular perception – because of the conspicuousness, and supposed repulsiveness, of leprosy's symptoms. The malady did not require extensive biomedical diagnostic training to identify, seemingly making it readily policeable by lords; at the same time, the threat of leprosy to the public health and the free flow of migrant labor into South Africa, paired with the lack of preexisting agreement or coordination amongst traditional authorities about how to handle cases of infection, left a perceived need for the intervention

of the colonial state. Expressions of support from prominent lords for the construction of an asylum registered in the colonial imagination, moreover, as further evidence of a latent stigma which could be exploited to facilitate cooperation of Basotho nobles and commoners alike.

The trial in collaborative control over leprosy floundered because of the passive indifference of a great many lords, in addition to the active resistance of patients. No more than a handful of lords ever demonstrated fearing the malady as one might viscerally fear fire, notwithstanding statements to the contrary. Maseru nonetheless continued with the scheme, keeping people suffering from leprosy as active experimental subjects, while testing policies aimed to stimulate more responsive participation of nobles in policing. These efforts also failed to yield the desired results. In 1929 the administration assumed direct responsibility for policing leprosy, deploying professional inspectors trained at Botšabelo. This move was catalyzed not simply by frustration in Maseru but alarm: officials worried that London might unilaterally redesign the territory's approach to leprosy mitigation — based on a new metropolitan public health consensus which prioritized consensual segregation and imperial standardization as pillars of sound leprosy management campaigns. The discourse of imperial scientific research, however, ultimately enabled Maseru to maintain its policy heading. The Colonial Office accepted Maseru's proposal that Lesotho be used as an imperial control for testing the comparative efficacy of compulsory segregation, as the rest of the empire embraced a voluntary segregation model. Although Basotho as a nation were technically the object of study, the sick were the people whose actual life possibilities were circumscribed by policies hashed out by British officers in Maseru, Cape Town, and London.

Even as the administration in Maseru looked at Botšabelo inmates as if they were human laboratory animals, officials failed to observe how their social engineering transformed inmates into metaphorical canaries in the mine. The indifference, and later outright abuse of *balepera* by many lords, was an early warning sign of larger socio-political transformations underway in the colony. While much critical attention has been paid over the years to the ‘eating up’ of petty bourgeoisie by nobles — beginning with missionaries and colonial officials perturbed by dispossession of Christian and affluent Basotho — the people least capable of mobilizing community support to shield against aristocratic abuses were also early victims of unscrupulous lords. As discussed in the chapter, leprosy infection and abject poverty have long been mutually reinforcing. While the administration saw nobles abusing the sick as evidence of an emerging stigma towards leprosy, this population also became a target on account of their subaltern social status: frustration and contempt for subjects who made claims, while offering little of value back, certainly shaped the decisions of more than a few lords to send the sick to Botšabelo and repossess institutionalized peoples’ fields. The economic abuses and a lack of legal redress complained about by patients in the 1910s were widely observed across Lesotho’s social strata by the 1920s and 1930s. This deteriorating relationship between lords and subjects eventually led the colonial state to restrict aristocratic powers in the so-called *Khubelu* reforms of 1938, discussed in Chapter 2. The creation of a territorial leprosy inspectorate was a forerunner, moreover, for the expansion and professionalization of the Basutoland Mounted Police in the 1940s: the colonial effort to build a new machinery of surveillance, crime interdiction, and coercion in the countryside, independent of the aristocracy, is examined in Chapter 5.

The leprosy management scheme launched in 1914 clearly failed to facilitate a more integrated policing relationship between colonial and traditional authorities, as envisioned by Maseru-based officials like Dr. Long and Resident Sloley. The initiative ultimately created more new tensions and conflicts than reasons and moments for collaboration. The opening of the asylum also brought lords and ill subjects into opposition in new ways. Ironically, it seems the most vibrant, and at times reciprocal, relationship brought about by new leprosy policy was one which colonial planners had thought very little about beforehand: asylum staff and inmates were forced into daily contact within the (largely) closed world of Botšabelo. In the absence of lords committed to a police role, inmates had leverage to help define and shape the parameters of a patient role. In the next chapter we turn our focus away from the way that Botšabelo fit into security policy in the territory broadly, and focus on the ways that *balepera* – perhaps the most objectified and subjugated members of Lesotho’s population for a half century – managed to seize upon and repurpose colonial discourses to carve out pockets of autonomy and control within a total institution.

Chapter 4

Sickness, morality, and social life in a colonial leprosarium: Botšabelo, 1914-1965

4.1 Introduction

On October 4, 1914, the Mohlala sisters ducked under the wire fence surrounding the asylum and began walking home beneath a waning gibbous moon.¹ The three girls – aged fourteen, thirteen, and ten – were, along with 58 other inmates, part of the first mass desertion from the facility. The destination for the Mohlalas, as well as three other escapees, was Lesiba Posholi, a village over 100-miles to the south. On the night of the Mohlalas' escape, over 600 other patients remained inside the facility. Some, like the girls' father, were on the verge of death, or otherwise too frail to undertake a long journey across the territory's rugged, mountainous terrain. During the next seven months, however, an additional 250 inmates capable of flight would take their chances, fanning out over roads and bridle paths for homes scattered across the territory. The hemorrhaging of patients over the spring and summer of 1914-15 forced colonial officials to reconsider the ways they engaged with inmates at the new, state-of-the-art leprosarium.

After Botšabelo opened in February, 1914, the institution continuously held the largest population of detained people anywhere in Lesotho until the mid-1950s. The medical records of the Mohlalas, and other inmates who passed through the facility over the decades, are today preserved in an outbuilding of the bustling Senkatana Centre, an

¹ The data on the pseudonymously named 'Mohlala' family is from the Senkatana Clinic Archives (SCA), MO's Records, 'Females, 1.1914-8.1914,' case nos. 96-99. Thanks to Dr. Pearl Ntšekhe for allowing me access to the old asylum records. I'm also deeply indebted to Stephen Gill for bringing the records to my attention, and for generously sharing his vast knowledge on the asylum and Lesotho more broadly.

active clinic located on the site of the old asylum. Explaining the existence of these archives, Dr. Pearl Ntšekhe, Senkatana's director, wryly observed 'the place is named Botšabelo after all;² and, indeed, the clinic continues to be 'a refuge' for documents, as well as people. Beneath a thick layer of dust and heavy leather covers, are traces of the lives of over three thousand patients. These pages provide glimpses into the evolving challenges, responses, priorities, and strategies of asylum residents over the decades.

In the previous chapter I examined how the colonial administration's desire to enlist the aristocracy in the work of biomedical policing was a key goal, alongside the obvious drive to combat the spread of leprosy infections, animating the decision to compulsorily detain all Basotho infected with leprosy. A major part of the appeal of traditional authorities serving as biomedical police, for colonial planners, was the assumption that this arrangement elided the need to give any concessions to either patients or nobles. With sick people hounded by their community leaders into the asylum, the administration could dictate terms to their new charges. Nobles, meanwhile, would be compelled by the demands of public health and personal fear to diligently surveil the countryside for leprosy infections. The state would thus bolster its bio-political power, and forge new bureaucratic relationships with traditional authorities, without needing to reward lords for the additional work. Ultimately, colonial expectations proved to be doubly wrong: a *police role* did not preclude the need for a *sick role*, nor were nobles ready to take on additional duties without earning new privileges and prerogatives. After fifteen years of failing to institutionalize a biomedical police role for nobles, the administration quit trying in 1929, and instead created its own 'leprosy inspectorate.' The flaws with the basic premise of non-reciprocity,

² P. Ntšekhe, author interview, Botšabelo, 19 Jul. 2017.

however, had been visible since shortly after the asylum opened. Indeed, the desertion of the Mohlala sisters, and hundreds of other inmates over late-1914 and 1915, set in motion the creation of an institutional sick role at Botšabelo.

In this chapter I shift my focus away from the relationship between the Basotho aristocracy and colonial officials, and turn to the intra-institutional relationship between inmates and the administration. Insofar as planners gave any forethought to the emotional well-being of asylum patients, they were expected to be people who were already socially alienated and close to physical death. And who would, therefore, be content to while away their remaining days in relative comfort at the expense of the state. When confronted with early expressions of patient discontent, including a rebellion by male inmates in May, described in detail in the previous chapter, the administration rejected the legitimacy of patient claims. The wishes of inmates were trumped by a higher moral duty, rooted in the sure biomedical knowledge that without heavy-handed intervention to check the spread of leprosy, the health and fortunes of the territory were liable to decline. Mass desertion changed the moral calculus, however, by making the success of compulsory leprosy segregation – and by extension the health of the territory – contingent upon securing a modicum of buy-in from asylum residents.

How these events played out plainly contradict the meta-narratives of imperial and liberal historiography, on one hand, and complicate the narratives of more radical bodies of scholarship, on the other. Pace propagandistic visions of colonial officials working to transplant more humane and universally-suitable European approaches to sick persons onto African soil, it was Basotho who foregrounded patient living conditions and social entitlements as essential questions in larger political debates about morality and public

health. Anti-colonial polemics, meanwhile, have been tremendously valuable for dispelling heroic narratives of British officials motivated by biomedical necessity, rigorous scientific epistemology, and enlightened humanitarianism. Yet, insofar as these correctives are still largely overdetermined, there remains room for more nuanced understandings of the processual elaboration of obligations and rights.

The one existing piece of scholarship specifically examining Botšabelo, Owen Kalinga's rich but sadly as yet unpublished paper 'Prison or Place of Recovery?', argues that the facility was effectively a biomedical jail, rather than a hospital. Kalinga draws into focus the human tragedy and ineffectiveness of the administration's approach to leprosy control from 1914 through the early 1950s. Although the 'jail versus hospital' binary is useful for demonstrating the continuity of injustice, the framework also serves to occlude real changes at the asylum over the years. The piece predates the scholarly turn towards *agency* and *resistance* during the 1990s, and therefore does not consider the ways that inmates shaped asylum policies and conditions: clearly, however, rebellion, and the 'weapons of the weak' tactic of mass desertion, enabled subaltern persons to collectively *negotiate* with the administration. In the beginning of this chapter, I pick up this thread. By relying on the august body of scholarship which has established negotiation and agency in colonial relationships as givens, I am able to quickly explicate the specific institutional dynamics. This move provides critical scaffolding for later efforts to answer the research question animating the chapter: how did the persistent struggle by *balepera* to have social lives, interface, over time, with an institution – itself situated in a larger colonial bureaucratic political structure and biomedical systems of knowledge production – premised on treating this basic human impulse as radical, dangerous, and unhealthy?

My use of the concept of social life is extrapolated from existing literature on social death. While the latter is a big tent theory within the discipline of sociology, Jana Kralova has identified three elements which span across the varied literature on social death: alienation (loss of purpose and emotional health), corporal degeneration (loss of the sensation of physical health), and isolation (loss of connections with family and friends, or social health).³ From my earliest forays into the archives, these three dynamics leapt from the records as the dominant veins of patient complaint about life at Botšabelo. These three dynamics, moreover, dovetailed with key mistakes made by the colonial administration in its planning for Botšabelo: officials imagined that inmates would be rendered into custody already emotionally and physically broken, and would, therefore, put up little resistance to the effort to impose social isolation. As alluded to above, patients could and did resist colonial designs. In order to staunch the desertion crisis of 1914-15, officials were forced to desist, for a time at least, with efforts to systematically impose social death on inmates, and instead work to manage expressions of extra- and intra-institutional social life.

The reforms which patients wrested from the administration during this time fell into the three buckets of emotional, physical, and social health. To offset lost senses of purpose, patients were granted jobs and the ability to send home cash wages. To address inmate terror at the visible progression of leprosy and its often gruesome impact on bodies, asylum medical personnel rolled out aggressive therapeutic regimes which dangled the

³ Kralova, J. 2015. 'What Is Social Death?' *Contemporary Social Science* 10: 235–48. The big tent theory has been used to explore processes of negating people's value in contexts ranging from slavery to genocide: Patterson, O. 1982. *Slavery and social death*. Cambridge: Harvard University; Card, C. 2010. *Confronting evils: Terrorism, torture, genocide*. Cambridge: Cambridge University; Guenther, L. 2013. *Solitary confinement: Social death and its afterlives*. Minneapolis: University of Minnesota. See also: Agamben, G. 1998. *Homo sacer: Sovereign power and bare life*. Stanford: Stanford University. Goffman, E. 1961. *Asylums: Essays on the social situation of mental patients and other inmates*. London: Penguin.

prospect of preserving the health of patients and, even, of social resurrection through remission of infection. To find some respite from the loneliness of institutional confinement, inmates secured greater visitation rights from outside, and the ability to call upon inmates in the compound of the opposite sex. At the start of the policy recalibration, colonial administrators expressed profoundly cynical motives: Maseru hoped to forestall the collapse of the asylum, and planned to claw back privileges once they shored up internal control of the facility and, especially, secured more sedulous cooperation of nobles with the violence work of tracking down and remitting escapees. Within Botšabelo, however, particular sets of obligations and entitlements were baked into the institutional meaning of the sick role over time.

The patient imprint on institutional policies also shifted over the years, moving beyond tit-for-tat acts of subaltern resistance and colonial response, into the realm of performative cooptation and invention. In a process reminiscent of Derek Peterson's analysis of the logics and behaviors of litigants in church courts in Tanganyika, asylum residents squeezed themselves into, leveraged, and redefined institutional roles.⁴ These social positions provided platforms for making principled demands on the administration. While inmates petitioning asylum brass on moral grounds dates back to the very inception of the facility, these early claims were ineffective. The administration was prepared for residents to invoke familial bonds to call for release or reunification, and responded with its own morally-tinged counter claim that patients comply with segregation measures in order to save lives.

⁴ Derek Peterson 2006. 'Morality Plays: Marriage, Church Courts, and Colonial Agency in Central Tanganyika, ca. 1876–1928.' *American Historical Review* 111/4: 983–1010.

Despite a lack of early success utilizing moral discourse to move asylum policies, residents became increasingly adept at doing so over time. Whereas claims based in pre- and extra-institutional sociality overwhelmingly failed, inmates had greater success as they created new, intra-institutional lives and roles. Botšabelo was institutionally unique in Lesotho in the way that it brought European colonial officials into close and long-term contact with a Basotho social cohort who were both socio-economically subaltern and – as a matter of colonial policy, if not always ideology – morally blameless for their detention. Out of these relationships patients both secured powerful advocates and, especially, versed themselves in the moral language and pretenses of colonial policymaking. Over time Botšabelo residents were able to successfully bend asylum policies and loosen purse strings by voicing claims as dutiful patients, penitent Christians, helpless outcasts, and aspiring citizens of an inchoate nation state.

To be clear, the imprint of patients on policy did not follow a Whiggish trajectory of ever-increasing liberty and inclusion. The depth of moral entanglement between patients and officials, and the rights and privileges flowing from these relationships, instead look, from the vantage of the present, like a wave oscillating over time. The moral claims-making power of inmates was contingent upon several factors, notably including the personality and style of successive superintendents, and how these men responded to pressures from above and below. Asylum superintendents and doctors (referred to as medical officers, or MOs), themselves engaged in contests of moral claims-making with groups of patients, donning hats as negotiators, patient advocates, founts of healing, benevolent patrons, rules enforcers, and biomedical didacts. The discursive footing of patients and officials

interfaced, moreover, with bio-technological innovations, shifts in the demand and accessibility of resources, and the exigencies of local and imperial politics.

The arrival of sulfa drugs in the early 1950s marked the beginning of the end of the morally-entangled relationship between Botšabelo patients and the state. Dapsone transformed leprosy, virtually overnight, from a problem combatted solely with public health interventions into a far simpler pharmacological question. Over the proceeding decades, patients, dragging the asylum administration behind them, had not only institutionalized a cluster of obligations and rights which they were invested in defending collectively, but had also built vibrant social lives on a site that was originally constructed only to usher them towards social death. With the sulfa revolution, however, the old set of sick role obligations, which underwrote a reciprocal set of sick role rights and social entitlements, became bio-medically superfluous. Asylum residents were thus transformed, in the eyes of the colonial state, from individuals who were sacrificing liberties on behalf of the nation into a cohort of loafers living off the largesse of their taxpaying compatriots.

In this time of flux, with the political capital from abiding by the sick role evaporating, as dozens of asylum residents were discharged each month, the community looked inward for strength. Dischargees settled in mass in the environs of Botšabelo, and worked with inmates and asylum staff to preserve old patterns of social life. This chapter traces how and why inmates, over time, leveraged confinement in a grim biomedical institution to build a communal social life that offered meaningful refuge to Basotho suffering from leprosy.

4.2 Masters of the situation: a desertion-crisis and the subaltern resistance paradigm

In October 1914, groups of patients began ‘slipping through the wire fence on the first favourable opportunity and starting for their homes.’⁵ By the end of the month some 250 individuals, out of a population of just over 700 inmates, had escaped.⁶ The growing ‘desertion crisis’ forced Maseru to reconsider several of the basic premises underpinning security and order in the asylum. The administration had neither expected inmates to wish to leave nor be capable of it. In Sloley’s words, the ‘comfort and wellbeing of existence in the asylum’ was surprisingly not, in and of itself, sufficient to ‘compensate for the loss of freedom previously enjoyed.’⁷ Maseru had imagined, moreover, that inmates would be physically half-dead and, therefore, too weak to resist. Hermann Dieterlen, a French-missionary serving as asylum chaplain, pithily captured the government’s perspective on what leprosy diagnoses meant: ‘little by little, the disease will gnaw at them and suck out their few remaining drops of life.’ Sloley was soon forced to concede that this view was also flawed: ‘The task of administering the Settlement has proved greater than was anticipated. The fact that, instead of being helpless cripples, the great majority of the lepers both male and female are strong and to outward appearance health men and women has much to do with this.’⁸

As the number of escapes mounted, Maseru rushed south the medical officer (MO) in the district of Leribe, Dr. Neil Macfarlane, to assume temporary command and

⁵ Sloley, H. 1917. ‘Recent Developments in Basutoland,’ *Journal of the Royal African Society* 16/62: 111–24, 123.

⁶ BNA CO 417/545: May to Sloley, 4 Nov. 1914.

⁷ BNA CO 417/545: RC Sloley to HC Buxton (3 Nov. 1914)

⁸ BNA CO 417/545: RC Sloley to HC Buxton, 3 Nov. 1914.

investigate just what was going on.⁹ His predecessor, Medical Superintendent Orrock Arnott, could not handle the stress engendered by the first few days of desertions, and abruptly took his leave. Macfarlane reported that desertions, paired with the apparent ‘indifference of the chiefs and people,’ was leading patients to understand that they were, at least temporarily, ‘masters of the situation.’¹⁰ He further identified several factors pushing inmates to flee: a lack of ‘medical care and attention which [inmates] thought their disease demanded,’ loss of connections with family (particularly mothers with children), and boredom and lack of purpose.¹¹ Macfarlane’s report and recommendations would lay the groundwork for a new relationship between the administration and patients.

The new superintendent believed Dr. Arnott had blundered by openly disregarding the wishes of inmates for care, busying himself with day-to-day administration rather than interacting with inmates as patients. Macfarlane responded by offering ‘as much medical attention as it was possible for one man to put in in a day.’¹² Unlike Arnott, the new MO saw no ethical problems with deceiving patients about the potential efficacy of his biomedical treatments. Indeed, the good doctor later recounted that ‘much of this treatment was useless, but it tended to inspire confidence and so bring about contentment which, with these primitive people, is everything.’¹³ Macfarlane also discharged eight patients with

⁹ LNA S3/17/2/1: PMO Long to Treasurer, Oct. 9, 1914.

¹⁰ BNA CO 417/545: Macfarlane to PMO Long, 21 Oct. 1914.

¹¹ BNA CO 417/545: Macfarlane to PMO Long, 21 Oct. 1914. These findings reiterated the points made in the investigation into the May rebellion. The administration had discovered, and proceeded to ignore, nobles priming the situation for a clash by sending persons infected by leprosy to the facility with false promises of cures: ‘The lepers’ grievance is mostly against their chiefs and headmen, who, it is stated... led them, both male and female lepers, to believe that they would be only temporarily detained, and that as the result of medical attention... they would be cured and released from detention’ (BNA CO 417/545: Sloley to High Commissioner’s Office, Report on the May 1914 Rebellion).

¹² SANA, GG 1237, Folio No. 33/1410, ‘Basutoland Leper Asylum, 1914-1922,’ p. 7.

¹³ SANA, GG 1237, Folio No. 33/1410, ‘Basutoland Leper Asylum, 1914-1922,’ p. 12.

arrested infections, thereby reinforcing confidence in his medicines and ‘the good intentions of the Government.’¹⁴ In order to ensure that the optics of patient care were given adequate attention going forward Macfarlane further recommended separating the responsibilities of Medical Superintendent into two roles: a Superintendent responsible for operations – preferably someone with a background in policing – and a Medical Officer responsible for dispensing drugs and laying on of hands.¹⁵

Maseru followed Macfarlane’s advice, appointing the policeman and combat veteran Frank Jenner as Superintendent in November 1914.¹⁶ Like Macfarlane, Jenner was keen to imbue life at the asylum with a sense of purpose. While the doctor dangled the prospect of corporal salvation and social resurrection through therapy, the new superintendent held out meaningful work.¹⁷ Within a matter of months Jenner had arranged to purchase cereals and vegetables from over 100 patients, grown on plots at the asylum,

¹⁴ SANA, GG 1237, Folio No. 33/1410, ‘Basutoland Leper Asylum, 1914-1922,’ p. 7.

¹⁵ LNA S3/17/2/5: Treasurer to Long, 8 Jan. 1915. These changes, along with a broader shift in oversight responsibility out of the Medical Department’s portfolio, were codified in January 1915 with Proclamation 1. Dieterlen described how all the intensive biomedical care in the early days was carried out by nurses and supervised by the matron (MMA *JME* 1914/1, Published letter from H. Dieterlen, 11 Apr. 1914, 441). The missionary saluted the nurses for tending to ‘the most frightful ulcers,’ noting that despite wearing rubber gloves and aprons, the unflinching nurses did not have ‘rubber for the stomach, the nose, and the eyes, for the nerves.’

¹⁶ Francis Jenner was an officer in the Basutoland Mounted Police, who was transferred from post as Acting Asst. Commissioner in Leribe (LNA S7/7/69). In 1894, at the age of 16, Jenner joined the Cape Police, and saw combat in both the Bechuanaland (Botswana) Campaign of 1896-97 and South Africa War (LNA S3/10/5/30). Jenner joined the Basutoland Mounted Police in November, 1901, following a short stint in the South African Constabulary. The new superintendent lived up to his reputation for adhering to protocols, but he also moved to relax some of the regulations which were most inflaming tensions. Although residents of the nearby communities are no longer able to relate many specific details about the man, Jenner is firmly ensconced in local collective memory as being ‘fair’ and ‘*motsoalle oa* [a friend of] *Basotho*’ (L. Mothobi and descendants of patients and staff, group interview with author, 12 Aug. 2017, Mokoanyane). Critically, the new superintendent spoke Sesotho well, and sought out dialogue with patients. These conversations seem to have pushed Jenner to recognize a need to give patients new senses of purpose, and to encourage patients to build an intra-institutional social life and maintain extra-institutional social connections.

¹⁷ LNA S3/17/7/11: Treasurer to PMO Long, 5 Sep. 1914; see also Kalinga, p. 7, cit. 25.

and employed several dozen other residents in the asylum hospital, carpentry shop, kitchens, and laundry.¹⁸ The administration continued to purchase inmate labor power and crops even when it became clear it would be cheaper to purchase services and foodstuffs from outside vendors.¹⁹ Officials recognized the multi-dimensional value of patient labor. Indeed, looking at the matter through the lens of social life, work bolstered each the three elements—physical health, social connectedness, and emotional affirmation of purpose. Physical exertion was good for the bodies as well as the spirits of patients. The question of social connectedness interfaced with the question of personal usefulness: through the paying of wages and purchasing of crops, inmates generated wages which could be remitted to kin.²⁰ Inmates thus became breadwinners, providing a lifeline to families which were often eking out a hardscrabble existence in the countryside.²¹ This turn, of course, also invested families in the continued detention of their cash-generating relative.

Steps were also taken to cut through the pall of isolation and loneliness which hung over the facility by promoting intra-institutional social life. The policy of rigidly segregating the sexes was amended to allow for visitation on Wednesdays and Sundays, supposedly resulting in a twice weekly ‘exodus of most of the able bodied men from the Male Compound to the Female.’²² Jenner also listened to patient requests to overhaul the

¹⁸ BNA CO 417/565: RC to HC, 16 Feb. 1915.; BNA CO 417/593: Coryndon to HC, 7 Sep. 1917. The primary employment for both female and male patients was as general laborers, hospital attendants, and sanitary workers; women also labored as seamstresses and laundresses, while men worked as shoemakers mortuary attendants, and gravediggers. Coryndon’s letter details how ‘most of the money earned by these people is sent home to their relatives and families, – very little being spent upon themselves.’ See also Basutoland Gov’t 1924, Annual Report, 16-7. For chart of gendered job allocations in 1922, see SANA, GG 1237, Folio No. 33/1410, ‘Basutoland Leper Asylum, 1914-1922,’ 13.

¹⁹ Basutoland Gov’t, *Annual Report, 1924*, 16-7.

²⁰ CO 417/565: RC to HC, 16 Feb. 1915. See also CO 417/593: RC Coryndon to HC, 7 Sep. 1917.

²¹ Ibid; John Iliffe’s extraordinary work on the correlations between poverty and leprosy suggests the potential the even greater import of cash flow for patients and their families.

²² SANA, GG 1237, Folio No. 33/1410, ‘Basutoland Leper Asylum, 1914-1922,’ p. 9.

regulations surrounding food. The problem was not what the patients were fed, but rather how: inmates resented being herded into dining barracks at preset hours, preferring the liberty to decide when and how to prepare their own rations.²³ The new rationing system further stimulated contacts between patients and boosted the internal economy of the asylum: many male inmates reportedly paid females to cook for them. The addition of a maize ration for brewing beer did the same, as well as allowing for periodic bouts of libation-assisted revelry. The most significant change in policy made in the wake of the desertion crisis was the alteration of rules for visits by outsiders: in late-1915 asylum officials began to allow friends and family of inmates entry into the facility every day for a period up to two weeks.

The reforms of 1915 represent a paradigmatic case of James C. Scott's 'subaltern resistance.'²⁴ The act of fleeing the asylum was a decision made by virtually powerless inmates. The collective impact of hundreds of escapees, however, forced the administration to take notice. In order to staunch desertions, the administration was forced to 'negotiate' with patients, offering up concessions which were previously inconceivable. Indeed, as noted in the previous chapter, Macfarlane noted, in the 1920s, that the desertion crisis drew into high relief for patients 'that if they made a lot of noise...they got most of what they wanted.'²⁵ From the administration's vantage these concessions were not a correction to institutionally unworkable and morally problematic policies, but rather a delaying tactic to prevent the facility from collapsing while nobles learned to track down and remit escapees.

²³ SANA, GG 1237, Folio No. 33/1410, 'Basutoland Leper Asylum, 1914-1922,' 10.

²⁴ Scott, J.C. 1985. *Weapons of the Weak: Everyday Forms of Peasant Resistance*. New Haven: Yale University; 1992. *Domination and the Arts of Resistance Hidden Transcripts*. New Haven: Yale University.

²⁵ SANA, GG 1237, Folio No. 33/1410, 'Basutoland Leper Asylum, 1914-1922,' 8.

Thus, while negotiation-by-desertion must be included in the story of how social life was made at Botšabelo, its impact was largely confined to a set of institutional reforms during the asylum's infancy. By the time that the administration felt secure enough to begin rolling back privileges in the early 1920s, relationships between residents themselves, as well as between inmates and officials, had changed, and new mechanisms of pushing for institutional change had emerged.

4.3 Failed claims: motherly and conjugal love in an age of eugenics

The most contentious debate over asylum policy, and the area where the administration was least willing to concede ground, related to family separation. In the Leprosy Proclamation promulgated in 1913, signed detention orders were required to admit persons into Botšabelo. Absent leprosy symptoms, family members of inmates – including spouses, children, and parents – were not eligible for these papers, and therefore barred from residing inside the facility. Separation was a goal in its own right, not just a side effect of policy. Principle Medical Officer Edward Long had emphasized the need for dividing relatives from the very moment he began pitching prominent Basotho nobles on the idea of building a leprosarium:

You must understand from the beginning...if a father were a leper he would be separated from his wife and children if they were not lepers or a wife suffering from Leprosy from her husband and children if they were healthy... This is a very hard thing to propose, but I assure you that if we want to stamp out Leprosy we must be prepared to harden our hearts.²⁶

Unsurprisingly, persons grappling with leprosy were shocked, horrified, and outraged to learn of the policy. The first person detained at Botšabelo, a young mother, immediately began to beg to be reunited with her children. The asylum chaplain described

²⁶ BNA, CO646/1, BNC 1911, 'Dr. Long's address,' n.p.

how this one woman's pleas transformed into a cacophony of lamentation as new inmates streamed into the facility over the early months of 1914: 'Masesilane was agitated, talkative, anxious, irritated: ... "I want to go back to my children" ... Ah! the cry of women, of mothers: "My children! I cry for my children!" How many times we hear it here! And each time it upsets my heart.'²⁷ When heartsick mothers found asylum administrators unwilling to relent on family reunification, some looked to the local aristocracy for support. A group of over a dozen women, who escaped the same night as the Mohlala sisters, opted not to head directly for homes, instead marching to Matsieng to demand an audience with the paramount.²⁸ Griffith Lerotholi cabled Maseru about the encounter: 'I tried the whole day to return back all the lepers here but failed they will not move themselves from the ground they wish their children be given them to take them to the asylum otherwise they will rather be hanged what must I do please advise.' The mothers were reinterned, alive but without daughters and sons.

The official moral conundrum posed by leprosy segregation in Lesotho was one which historians of public health, and colonial medicine in particular, know well: while colonial officials acknowledged that leprosy policy inflicted real emotional harm on Botšabelo inmates, the supposed benefit of preventing greater levels of death and suffering warranted this cost. Yet, despite these officials repeating this argument to inmates, lords, superiors in Cape Town and London, and amongst themselves, the aggressiveness of the territory's segregation laws were out of step with most leprosy control policies of the day. The Norwegian and Hawaiian schemes were used, in public health circles of the era, as shorthand for differing approaches to segregation: at the former, patients were housed at a

²⁷ MMA, *JME* 1914/1, Published letter from H. Dieterlen, 11 Apr. 1914, 439.

²⁸ LNA S3/17/2/1: Telegrams from Griffith Lerotholi to Residency, 4-8 Oct. 1914.

network of hospices and hospitals – a veritable leprosarial archipelago – which enabled keeping patients close to home and, therefore, well positioned to regularly receive friends and family; in the latter, persons suffering from leprosy were relocated from around the sprawling geographic archipelago to a central settlement on a remote peninsula in Molokai, where patients were cut off from the outside world by seas and a towering cliff.²⁹ For historians, the two systems are further emblematic of the ways that race lore, and the capacity for empathy by planners, influenced leprosy policy during the late 19th and early 20th centuries. Despite dramatic differences between the Norwegian and Hawaiian models, however, both systems allowed spouses and children of patients to reside within leprosarium grounds regardless of their infection status. Meanwhile, in the Union of South Africa, where leprosaria were wrapped up in the political project of dehumanizing and dominating the non-white majority, conjugal separation was on the books but not enforced.³⁰

The stringency of family separation in Lesotho interfaced with the metastasization of eugenicist ideology inside the territory's medical department. Over the 19th century, contagionists and anti-contagionists grappled for intellectual supremacy within the North Atlantic biomedical establishment.³¹ Anti-contagionists like Daniel Danielsen and Carl Wilhem Boeck sought to discredit the perception of leprosy as contagious, and argued that the malady was instead passed hereditarily.³² Their argument cited the clustering of

²⁹ For discussion of this debate and the intellectual historical analysis: Inglis, K. 2014. “‘One’s Molokai Can Be Anywhere:’ Global Influence in the Twentieth-Century History of Hansen’s Disease.’ *Journal of World History* 254/4: 611–27.

³⁰ Rogers and Muir; Horwitz, 277-8.

³¹ Snowden, F. 2010. ‘Lecture 13, Contagionism v. Anticontagionism’ in HIST 234: Epidemics in Western Society Since 1600. Yale University: Open Yale Courses, <http://oyc.yale.edu>. Accessed 10 May 2019.

³² Pandya, S. 1998. ‘Anti-Contagionism in Leprosy, 1844-1897.’ *IJL* 66/3: 374–84.

infections within families and the inconsistent levels of endemicity in nations like Norway. These theories famously suffered a resounding setback after Hansen's discovery of *m. leprae* in 1873. Yet, even after identifying the mycobacterium, it remained unclear just how transmission of the tiny organism occurred. In the late 1890s Rudolf Virchow posited the theory of 'hereditary predisposition.' Although Virchow was a famous anti-racist, the idea of predisposition was quickly seized by metropolitan leprologists for cross-pollination with degeneration theory and newer theories of race science.³³ Predisposition theory does not, on first glance, seem to recommend compulsory segregation. After all, if traits – whether inherited directly, or the product of 'degenerative behaviors,' per neo-Lamarckist theories – are viewed as the key determinant of levels of infection, why quarantine? The equation changes, however, when segregation is not viewed simply as a matter of forcing spatial distancing, a technique with continued purchase in public health circles, but also as an instrument of eugenics.

Slightly different rationales animated Lesotho's policies of separating leprosy-symptomatic individuals from non-symptomatic spouses, on one hand, and other classes of non-symptomatic genetic relatives (e.g. children, parents, and siblings) on the other. The desire to prevent the latter class of patients from living at the asylum was fundamentally rooted in fears of contagion, particularly amongst genetic relatives who were believed to share susceptibility to the malady.³⁴ When it came to conjugal separation, however, Long

³³ On Virchow's antiracism: Efron, J. 1994. *Defenders of the Race: Jewish Doctors and Race Science in Fin-de-Siècle Europe*. New Haven: Yale University; Ackerknecht, E. 1953. *Rudolf Virchow: Doctor, Statesman, Anthropologist*. Madison: University of Wisconsin, 212–15.

³⁴ Long harbored a suspicion that *m. leprae* was spread by bedbugs and, hoping to make a name for himself as a researcher, loaned bug infested blankets to people suffering from leprosy in hopes that the pests would afterwards have the bacterium in their alimentary canals: *Archives of the London School of Hygiene and Tropical Medicine (LSM)*, Long, E. 1912 'A Note on the Transmission of

emphasized the need to prevent *balepera* from having children. In internal correspondence the doctor wrote of his desire to ‘improve the Basuto race,’ by weeding out susceptibility to the ravages of *m. leprae*.³⁵ In the early 1930s, as the administration fought to beat back calls to transition from compulsory to voluntary segregation (a political contest described in the preceding chapter), the asylum superintendent argued that artificially selecting out ‘susceptibles’ promised to condense into a period of a few decades a process which would otherwise take a century or two – marked by far more suffering and death– to play out naturally.³⁶

Although patient claims based on the bonds of parental love, and particularly maternal love, struck colonial policymakers emotionally, the register did not yield political results. The administration had indeed ‘hardened their hearts’ before the asylum opened.

Leprosy,’ in *Report of the Advisory Committee for the Tropical Diseases Research Fund for the Year 1911*. London: Darling & Son. See also BNA, CO 646/2, BNC 1913, Sloley’s remarks, 8-9.

³⁵ The impulse to prevent non-symptomatic relatives of patients from living at the asylum was based on the assumption that relatives of asylum inmates were themselves genetically-predisposed to infection, making it all the more important to prevent exposure to the malady. Isolating persons suffering from leprosy was thus imagined to reduce the chances of a local firestorm of infections both by isolating potential sparks and reducing the amount of combustible tinder. This discourse dovetailed with larger threads of ideology about the worthiness of people belonging to various social groups to bear children: that poor people were overrepresented in the ranks of those battling leprosy, and therefore deemed unfit to reproduce, was quite convenient. The biomedical literature from the era is littered with far more strident eugenicist – borderline genocidal – sentiments. At Long’s alma mater, the Royal College of Physicians in London, for example, John Haycraft was aggressively promoting the idea, ‘The history of leprosy as a disease goes to prove that it attacks those among the fit who have suffered physical degeneration through unhygienic environment as well as the unfit. The disease may be looked upon as a friend to humanity’ (Haycraft, Milroy lecture, cited by Jones, J. 1898. ‘The Influence of Preventive Medicine upon the Evolution of the Race,’ *Public Health* 11: 345–55, 351). The famous German zoologist Ernst Haeckle, meanwhile, called for government to deliver an ‘act of kindness’ by euthanizing people with leprosy using ‘a dose of morphia’ (1905. *The Wonders of Life: A Popular Study of Biological Philosophy*. McCabe, J. trans. New York: Harper, 118-9).

³⁶ BNA: CO646/1, BNC 1911, ‘Dr. Long’s address,’ n.p.; CO646/3, BNC 1921, Day 10, 1-6. A later superintendent (Strachan. P. 1935. ‘The Effect of Compulsory Segregation of Lepers in Basutoland.’ *South African Medical Journal* 9/16: 554–55) concurred with Australian EH Molesworth’s vision of expediting the extinction of ‘lepers:’ ‘The Influence of Natural Selection on the Incidence of Leprosy.’ *IJL* 1/3: 265–82; 1926. ‘The Leprosy Problem.’ *Medical Journal of Australia* 2/1: 365–81; also Bashford 2004, 106.

A truer expression of love, officials maintained, would be to reduce the chances that existing children would be exposed to contagion and, even more so, to forego creating children who would be marked by the psycho-social and physical pain of infection—not to mention the anguish of passing such suffering on to their own children. Interned mothers pleading for their children also did not receive much support from Basotho political and intellectual elites. Just as the National Council supported the leprosy proclamation and Griffith rebuffed the group of escaped mothers, the newspapers of the missions and *bahlalefi* (mission-educated elites) called for inmates to sacrifice for others. In November 1914, as hundreds of escapees were in flight from the asylum to their homes, the Paris Mission paper *Leselinyana* invoked moral parenthood in call for these individuals to turn back: ‘What is of utmost importance is for the good patients to embrace... a great spirit of compromise and courage so that they alone will be infected by this awful illness, not their children.’³⁷

While Maseru convinced most mission-educated elites and a fair number of nobles about the necessity of separating some family members, officials faced significantly more pushback on the question of conjugal separation. Basotho men from across the social spectrum expressed the view that, in marriages where only one partner was found to have leprosy symptoms, the husband should decide whether both spouses or just the sick individual would be detained.³⁸ One of the earliest and most ardent Mosotho supporters of leprosy segregation, the Paris Evangelical Reverend Nicola Mpiti, led spirited opposition against segregation of spouses within the National Council chamber. This campaign led

³⁷ MMA, *Leselinyana*, ‘Lepera,’ 3 Nov. 1914.

³⁸ BNA: CO646/2, BNC 1913, Day 14, 6-13; CO417/565: RC to HC, 22 Feb. 1915. Also see: Kalinga 9n36.

the administration to agree to provide married couples, in cases in which both partners displayed leprosy symptoms, with special huts where they could live together inside the asylum, rather than being fenced off from one another in the two gendered compounds. While this policy obviously supported the ‘contagion control’ mission of the asylum, it also undermined Long’s eugenicist ambitions, because married couples could (and did) continue to have children.

The idea of preventing male married inmates from having children was an even harder sell for the administration. The unions that Long viewed as threatening to poison the genetic well of the nation, looked quite different to observers steeped in divergent cultural, intellectual, and religious sensibilities. Arguing against separation, prominent nobles on the National Council explained that marriage in Sesotho custom was primarily a transaction between families, rather than a personal and religious contract between partners and their God: once *lenaka* (the ‘horns’ of livestock) were transferred from the groom’s family to the bride’s, it was not the place of the state to restrict a husband’s access to the body of his wife, nor to thwart his (and his family’s) lawful expectation that the wife would bear them children.³⁹ Leprosy, especially in cases of an ill husband, did not void this contract. In the weeks following the opening of Botšabelo, a similar debate raged in the pages of the Paris Evangelical newspaper *Leselinyana*. Male Christian elites were divided over whether physical separation should effectively annul marriages: if a wife was incapable of providing children, did it make sense for their union to remain binding in the

³⁹ BNA, CO646/2, BNC 1914, Day 13, 15-9: Lord Motšoene went so far as to suggest non-symptomatic wives should be institutionalized because ‘in some cases leprosy does not show itself on women’ (16-7).

eyes of state and church?⁴⁰ Unlike during the era of Cape Rule, when European male officials gleefully attacked local familial structures and mores, colonial policymakers in the late 1910s and 20s expressed their own moral misgivings about the ways that leprosy laws clashed with the supposedly rightful prerogatives of Basotho husbands. A particularly pithy expression of patriarchal solidarity shows in administrative correspondence relating to a male inmate whose wife wished to move to South Africa to find work:

There is of course no question of compelling the woman to live with her husband as a leper confined at Botsabelo, but [the law] distinctly prohibits native women leaving the Territory without the consent of their husbands... The Resident Commission is not prepared to rule that the advantages of that law should be denied to a Mosuto because he is a leper.⁴¹

Cohabiting spouses were hardly the only inmates who maintained sex lives. Even as the administration held the line on its eugenicist ambitions by preventing non-symptomatic spouses from living at the facility, the shifts in visitation policies over 1915 made it easier for patients to maintain inmate relationships and, even, find new partners at the asylum. By allowing in outsiders, the administration enabled inmates to continue pre-confinement sexual partnerships. By enabling residents to move between the male and female sides of the asylum, there were new opportunities for heterosexual encounters and relationships. The cries of newborns emerging into the world in the asylum hospital reverberated through the facility an average of eight times each year during the period between 1915 and 1921, providing certain evidence for officials that inmates were

⁴⁰ A debate between two African evangelicals, KP Matlanyane and Daniel Masilo, took place on the pages of *Leselinyana* in the months following the opening of Botšabelo. See MMA: *Leselinyana*, 'Motse oa balepera,' 24 Feb. 1914, and 'Karabelo ho KPM tsa Botšabelo,' 18 Aug. 1914.

⁴¹ LNA S3/17/2/7: Gov't Secretary's response to Leribe AC, 13 May 1924. The law in question was Proclamation No. 3 of 1915 (Basutoland Native Women's Restriction Proclamation), which required all Basotho women carry a pass from their husband, father, or other 'natural guardian' when traveling to South Africa. Numerous scholars, notably including the historian Marc Epprecht (2000), have documented how British colonial patriarchal attitudes dovetailed with patriarchal Sesotho attitudes towards a husband's right to control a wife's movement, labor, and body (93-94).

continuing to have sex within the asylum.⁴² By 1917 the presence of a growing cohort of asymptomatic children living at the asylum prompted the High Commissioner to inquire whether it was perhaps time to build a creche on site.⁴³ Maseru rebuffed the idea, stating that such a move would be read as a tacit blessing of illicit sexual relations.

Unable to fully enforce its eugenicist ambitions on inmates, the Medical Dept. in Maseru imposed a harsh approach to the custody of newborn children.⁴⁴ Babies born inside the asylum were weaned at 15-months, and swiftly transferred to the custody of a parent, cousin, uncle, aunt, or grandparent outside the asylum. The official rationale for this policy was that children were more susceptible to infection than adults, and therefore needed to be removed from the facility post haste. In a few cases where no outside family could be located, children – and especially girls, who the administration seemingly was more comfortable living in the women’s compound than it was with boys in the men’s – were permitted to stay at Botšabelo longer. These children were transferred by early adolescence into the custody of some other willing party, including extended kin and, in at least one case, an asylum guard.⁴⁵ Although it is unclear whether inflicting emotional anguish on parents by snatching away their young children was an explicit goal of the policy, it is

⁴² There were 64 births at Botšabelo between January 1914 - July 1921: compiled from BMDARs and BNA CO646/3: 1921 BNC, Day 10, 3. In 1935 Supt. Strachan wrote, ‘The number of illegitimate children born at the Asylum, 15-20 per annum, has always been a serious problem. Both parents being leprous, the chances that the child is susceptible are very high, and if the child is left with its [mother] for 15 months, which is the rule, its chances of becoming infected... still higher’ (*BMDAR 1935*, 45).

⁴³ LNA S3/17/2/5: RC to Supt, 7 Dec. 1917.

⁴⁴ *BMDAR 1931*, Strachan memo, n.p., The supt. describes various approaches to birth, including how the ‘Natal model’ of quickly separating babies and mothers was believed to ‘reduce the illegitimate birth-rate.’

⁴⁵ SCA, MO’s Records, ‘Females, 12.1927-6.1929’ case no. 317.

difficult to imagine a more painful punishment for violating the asylum's prohibition against sex.

As inmates fraternized across the compounds over time, and heterosexual romantic relationships developed, some inmate couples asked for permission to marry. This reality led to a clash between eugenicists in the Medical Dept. and the three powerful mission churches operating in the territory. The former opposed sanctioning any new marriages, certain that such unions would lead to the birth of more children susceptible to infection. While leaders of the Evangelical, Roman Catholic, and Anglican churches were unprepared to argue against the biomedical necessity of separating families based on the status of symptoms, clergy also earnestly believed in the moral necessity of allowing inmates to marry so that they might enjoy sex without sin. The churches carried significant political as well as moral authority in Maseru, not least because of their role as the purveyors of the vast majority of schooling in the territory. The administration also prized the work of the mission churches inside Botšabelo, providing communion, guidance, and absolution to people grappling with a painful, terrifying, and often terminal infection. Indeed, Hermann and Anna Busch Dieterlen were signed on as chaplain and schoolmistress at the facility before construction even began.

Ultimately three inmate marriages took place at the asylum during the era of compulsory segregation. Two of the unions involved inmates who stepped into staff vacancies created when the Dieterlens abruptly took their leave in mid-1914, with Herman haunted by the blows he received during the May 1914 uprising. When the administration struggled to find either an ordained minister or a schoolteacher willing to take up work in the asylum, the Anglican inmate Philip Sebolo began providing religious instruction while

the Evangelical inmate Edward Tsoetse took over duties as schoolmaster.⁴⁶ On account of their professional and moral status within the institution, Sebolo and Tsoetse were allowed to wed fellow inmates (Tebello Mothobi and Elisa Mokoai, respectively, in June 1918 and February 1921).⁴⁷ A third couple, Molelekeng Mele and Jonas Sehleko, were allowed to wed in late-1918 on account of intense lobbying by the Anglican Rector of Maseru, James Cottrell. In his missives to Jenner, the rector explained that the couple were under active church censure for having had a child out of wedlock, despite their desire to ‘to marry & live good lives.’ The rector’s missives went further in critiquing the way that asylum policy put social life and religious duty in conflict: Cottrell warned if patients were forced to choose between companionship and sex, on one hand, and Christian morality, on the other,

⁴⁶ LNA S3/17/2/3, Garraway to HC, 3 July 1920. On Anna Dieterlen’s work see MMA *Leselinyana*, ‘Tsa Botsabelo,’ 2 June 1914. The Dieterlens left because Hermann was traumatized by suffering blows during the May 1914 rebellion (MMA, *JME*, Published Dieterlen letter, 13 Apr. 1915, 273). On the early history of the missions at Botsabelo: LNA S3/17/2/3, especially, Garraway minute, 3 July 1920, and Supt. Macfarlane to GS, 26 Aug. 1922. After Dieterlen left there was no resident chaplain at the asylum until the appointment of Anglican Rev. HJ Edney in 1920. This posting was facilitated by Bishop Chandler of Bloemfontein, whose diocese extended into Lesotho. Edney came to Botšabelo after spending seven years at Emjanyana Asylum in Transkei. After Edney requested a transfer in 1922, he was replaced as Chaplain by Anglican Reverend E.G. Bradbrook in 1924, who served until the post was abolished in 1935 (see *BMDAR 1935*, 47). Beginning in 1914, Catholic Father Philippe visited the facility periodically from his posting at Loretto Mission, located a little over two-miles away in Qoaling, Maseru. A succession of priests served at St. Damien’s after it opened in 1922, including Fathers Lebreton, Thommerel, Chevrier, Cary, Pageau, Brouillet, Lachance, Milot, Lucien Hamel, and Roland Jacques. In 1955 Paul Berchard was appointed the first Catholic Chaplain of the asylum (MMA, Rev. Brutsch Collection, ‘Centenary 1862-1962: Kereke e Katholike,’ 1963). Steve Gill discovered records relating to Joseph (or Josiase) Moleko, a non-patient preacher involved with the Lithabaneng PEMS outstation (founded in 1913), who began holding sanctioned services inside in February 1917, and began being paid by PEMS in November 1917 (MMA: ‘Maseru Accounts,’ 1912-32, 77). While Moleko originally supported himself and his family on £15 annual stipend from the church, the administration began contributing another £15 per year in 1919 (LNA S3/17/2/1: Rev. Edward Motsamai to Supt. Jenner, and Supt. Jenner to RC’s Office, 17 Apr. 1919). Moleko was ultimately forced out of his post at Botšabelo by the Lithabaneng Consistory in June 1928, dogged by repeated accusations of sexual relationships with congregants (MMA Konsistori, 1919-34: see minutes of Dec. 1920, and June 1928).

⁴⁷ In Dec. 1920 Slack stated Edward and Elisa ‘medically fit for marriage’ (LNA S3/17/2/5). Also: MMA, Marriage Register, 1901-24, No. 158. LNA, S3/17/2/1: Cottrell to Jenner, 8 July 1918, and response of GS.

they were liable to choose the former.⁴⁸ Shortly after the third marriage went ahead, an outraged Dr. Macfarlane, soon to take over the role of principal medical officer from his mentor Dr. Long, prevailed on the High Commissioner to formally outlaw all marriages at the asylum.⁴⁹ A state-sanctioned wedding would not take place inside the asylum again until the 1950s.

Immediately upon arriving at Botšabelo inmates began to lodge claims with the administration. Motherhood and other familial roles proved, however, to be largely ineffective registers. The disruption of pre-existing familial and social institutions were not side effects of compulsory segregation but, rather, key policy goals in their own right, bolstered by morally-tinged renderings of eugenicist and public health dynamics. Yet, even as the administration systematically rebuffed inmates' efforts to restore lost social connections and lives, officials proved better disposed to hearing out claims based on new institutional realities over time. Planners had a better idea of what they wanted to prevent than what they were willing to allow, and inmates leveraged this ambiguity and uncertainty to reformulate asylum regulations, relationships, and roles.

4.4 Waiting for deliverance: hope, faith, and epistemology

The dismissive attitude of asylum officials towards the demands of residents for medicine and healing proved an immediate source of tension between the two parties. Many people suffering from leprosy eagerly reported to Botšabelo in 1914, after learning from community leaders that treatment awaited. These individuals subsequently received the

⁴⁸ Ibid. Other documents which explicitly argue this point are cited by Kalinga (LNA S3/17/2/2-4, cit. 58-64), but have disappeared from LNA.

⁴⁹ BNA, CO646/3, 1921 BNC, Day 10, 4. Explaining the changes to the BNC, Macfarlane stated that that patient unions were bound 'only to increase the disease' by leading to a greater number of births

news that no effective therapies existed with a mix of disappointment, bewilderment, and suspicion. Rumors were already rife about colonial doctors withholding leprosy cures at the behest of local doctors concerned about losing business. There were also murmurings about the successes of local Zionist healers curing leprosy and, even, of similar feats being performed over a century earlier by Mohlomi, a healer and philosopher of great renown across the Highveld. What truth could there be to the claims of Dr. Arnott and Chaplain Dieterlen that this sickness was caused by an animal too small to see which found new victims when people shared eating utensils and clothes? Such claims strained the credulity of many inmates, particularly given the existence of more plausible etiological mechanisms, including malevolent sorcery and the ire of ancestors.

The general dismissiveness of colonial medical personnel with the concerns and queries of commoners and sick people, in favor of outreach to powerful Basotho who officials hoped would impose segregation from above, meant that mission presses and personnel emerged as leading public advocates for the necessity of the asylum. Dieterlen mocked the patients he observed in the early days of the asylum: 'For [inmates], after eating and sleeping, there is only one desire: "Give us medicine." Scarcely had they arrived, they would like to be administered drugs which heal, ignorant of the science.' The chaplain wielded fluent Sesotho and an unshakeable confidence in the veracity of his knowledge when proselytizing the gospels of biomedicine and Evangelical Christianity inside Botšabelo. Dieterlen was also fixated on combatting the growing purchase of Zionist, or Apostolic Faith Mission (AFM), teachings amongst *balepera*. Only days after arriving at the asylum in December 1913 – a few weeks before the institution began receiving inmates – the elderly missionary hiked to the nearby home of Edward Lion to publicly denounce

the Zionist prophet's claims to be able to cure leprosy. In Dieterlen's view, Lion was cynically playing on the emotions of desperate people in order to aggrandize himself, and thereby drawing people away from legitimate purveyors of biomedical science and spiritual salvation. Whatever Lion's intentions, it is certainly true that his success winning converts in Lesotho, and the broader story of Zionism as an institution in the territory, cannot be properly told without accounting for the fear, and yearning for a cure, caused by leprosy and compulsory segregation.

Lion spent his childhood in both Lesotho and Natal.⁵⁰ In the years following the South Africa War, Lion learned the healing arts from the pioneering, peripatetic Zionist preacher Edgar Mahon. Lion went to work at Apostolic Faith Mission in Johannesburg in 1910, before returning to Lesotho in 1913. Although chased out of the first community where he sought to ply his trade, the Zionist healer found greater success operating on the slope of Berea mountain, overlooking the plain where a leprosy asylum was being built. Despite an odd, early altercation with an irate, elderly European man sporting a long beard, Lion quickly built up a reputation for performing miraculous feats from this perch.⁵¹ The Zionist proclaimed he could channel God's healing power through his touch, contingent

⁵⁰ Murray, C. 1999. 'The Father, the Son and the Holy Spirit: Resistance and Abuse in the Life of Solomon Lion (1908-1987).' *Journal of Religion in Africa* 29/3: 341-86, 347-51.

⁵¹ In addition to word of mouth, the healer's prestige was boosted by glowing reports in the AFM press in South Africa. John G. Lake, an influential American Pentecostalist and co-founder of the AFM, visited Lesotho to see these feats for himself, and subsequently proclaimed that Lion 'manifested a greater measure of the real healing gift than I believe any man ever has in modern times' (Lake, J. 1999. *John G. Lake: The Complete Collection of His Life Teachings*, ed. Liardon, R. ed., New Kensington: Whitaker House, 718). The healer left the asylum area in 1917 to establish a new headquarters in Kolonyama, Leribe, reportedly after curing one of Jonathan Molapo's wives from a longstanding case of leprosy. The Kolonyama community swelled to some 4,000 Basotho adherents before Lion was permanently ejected from Lesotho in 1927 and his followers brutally scattered by nobles over subsequent years (Murray 1999, 350-1).

on the subject's absolute faith in the divine grace of the medium himself. One man related his experience:

[Lion] told me to convert myself to him... If you believe, you will heal... He put us in a line, on our knees... The members forcefully grasped me, from head to toe, and prayed for my healing... He drove me to the Mohokare River, and there immersed and baptized me: "You will depart partially cured!"⁵²

The emergence of Botšabelo as an early territorial hotbed of Zionist support was not only because of the proximity, persuasiveness, and power of Lion's feats of healing, but also because this church provided an institutional expression for hope.⁵³ Lion insisted that there was something which people faced with leprosy could do to liberate themselves from the physical and emotional anguish of the malady and confinement: 'convert themselves to him.' During the period in which Lion was nearby, neither asylum biomedical personnel nor the mission churches offered patients a comparable plan of action to restore their physical bodies and social relations to health. While a succession of medical officers who succeeded Arnott were all careful to offer heroic looking treatments to inmates, they made no promises about cures.

The Zionist monopoly over claims to a cure for leprosy evaporated over the early 1920s. Asylum biomedical personnel, as well as allies in the mission churches, spread the good news about hydnocarpate drugs. This class of drugs were widely embraced by Western public health experts, particularly within the sprawling British and growing American empires, during the interwar years. While chaulmoogra oil, derived from the hydnocarpus tree, was part of topical leprosy treatments in India, Burma, and China for centuries, biomedical practitioners developed increasing interest in the medicine's leprosy-

⁵² MMA: Dieterlen diaries, Vol. K, 20 Aug. 1913.

⁵³ On the growth of Zionism within the asylum: MMA, *JME 1914* 1, Dieterlen letter, 442-4.

checking properties as they discovered new methods of preparing and administering the substance.⁵⁴ Patients provided with the oil for oral consumption, beginning in the mid-19th century, faced intense nausea and gastric distress. In the early 20th century, doctors began injecting the oil, eliminating the nausea but instead causing prohibitive amounts of pain with heavy gauge syringes. A major breakthrough came in 1916, when the Black American chemist Alice Ball, working at the College of Hawaii, discovered that the oil could be more manageably injected if esterized.⁵⁵ Over the late-1910s and 1920s biomedical doctors at leprosy clinics around the world began preparing and experimenting with their own variations on Ball's method, using different combinations of oils and 'soap salts' (fatty acids).⁵⁶ In 1927 the pharmaceutical company Burroughs Wellcome (the antecedent of GlaxoSmithKlein) began manufacturing and marketing sodium hydnicarpate as Alepol, providing a new standard of treatment within the British Empire.

Hydnicarpates revolutionized therapeutic regimes at leprosy asylums over the 1920s and 1930s. A sense of heroic possibilities washed over many doctors who had previously spent much of their time cutting lesions and appendages, hoping for the malady to 'self-arrest.' Eric Slack served as Botšabelo's medical officer between 1919 and 1932, a period coinciding with particular optimism about the leprostratic efficacy of hydnicarpates. The Cambridge-trained MD followed developments in the research literature and vigorously experimented with an array of treatments. He began preparing

⁵⁴ Dos Santos, et al. 2008, 'Chaulmoogra Oil as Scientific Knowledge: The Construction of a Treatment for Leprosy,' *História, Ciências, Saúde-Manguinhos* 15/1: 29–46; Parascandola, J. 2003. 'Chaulmoogra Oil and the Treatment of Leprosy,' *Pharmacy in History* 45/2: 47–57.

⁵⁵ Ball's contributions to the research were only re-recognized in the 1990s, as her discoveries were claimed and popularized in the 1920s by Arthur Dean, head of the College of Hawaii's chemistry department and later the college's president (Parascandola, 53).

⁵⁶ For various recipes see Muir and Rogers 1925, *Leprosy*, New York: William Wood, 257-262.

ethyl-esters of chaulmoogric acids for intravenous injections in 1921.⁵⁷ After returning from a half year tour of leprosaria in South Asia and the Pacific over 1925-26, Slack procured *hydnocarpus anthelminthica* nuts from colonial Thailand, which he prepared as an emulsion known as Tai Foong Chee.⁵⁸ Although the doctor temporarily desisted dispensing antimony in 1922, after the metalloid induced cardiac arrest in three patients, Slack resumed its use in 1926.⁵⁹ Slack embraced Alepol as soon as it came to market.

The emergence of the new therapeutic regime in the early 1920s interfaced with colonial administrative changes and new investments in asylum religious life. There was mounting pressure on the local colonial regime to produce quantitative data which could help to justify spending more than 10% of their annual budget on the facility.⁶⁰ Maseru hoped that a greater church presence at Botšabelo would provide valuable support for asylum administrators working to roll out new pharmacological technologies and reform asylum policies. Macfarlane was transferred back to the facility in 1921, taking over the superintendency from Jenner, and quickly moved to ban patient marriages, as noted, and

⁵⁷ Basutoland Gov't. 1921-22, *Annual Report*, 12. (mixed with iodine and creosote) following the method of Muir in Calcutta...

⁵⁸ Slack spent over a month observing practices at the Calcutta Centre for Leprosy Research, and paid shorter visits to leprosaria in colonial Sri Lanka, Fiji, and Australia (BNA DO 92/3: Basutoland Gov't 1925, *Medical Dept., Annual Report*, 11; for more details on his trip see records of LNA S3/17/2/4). After returning Slack embraced intravenous injections of hydnocarpus oil, in place of the old standard of intramuscular injection of chaulmoogra. Slack continued to use his leave to enhance his knowledge of cutting edge therapies, including enrolling in a 3-month post-graduate course in Vienna in 1929 (BNA DO 92/3: Basutoland Gov't 1929, *Medical Dept., Annual Report*, 'Nattle Report').

⁵⁹ One of the three patients died: SANA GG1237 33/1388, Macfarlane to Long, 22 Oct. 1922. On the resumption of injections: BNA DO 92/3, *BMDAR 1926*, 'Botsabelo Appendix,' n.p.

⁶⁰ The appointment of Edward Garraway as British Resident in late 1917 catalyzed reforms. Garraway was a former colonial medical officer himself, and pushed to hire and appoint asylum administrators who would implement the best biomedical practices of the day. See: BLO, Garraway Papers, Boxes 5 and 6, Diaries, entries for 20 Dec. 1917, 25 Mar. 1918, 25 Oct. 1920, 13 Jul. 1921, and 7 Mar. 1924.

tighten visitation rules.⁶¹ Peter Strachan, a medical officer in Serowe (colonial Botswana) assumed the superintendency at the end of 1922.⁶² The Reverend HJ Edney took up a post at Botšabelo in 1920, taking over the work of Philip Sebolo leading the asylum's Anglican community and becoming the first official chaplain since Dieterlen's departure.⁶³ Between 1917 and 1928, the charismatic preacher Joseph Moleko, who lived in nearby Lithabaneng, was allowed access to the asylum to provide Evangelical catechism.⁶⁴ Roman Catholic mass and confession, meanwhile, were performed by the parish priests of the Loretto Mission, beginning with Father Philippe in 1914.⁶⁵ Maseru welcomed construction of two large stone churches inside the asylum – the Roman Catholic St. Damien and the Anglican St. Mary's and John – which were completed within months of one another in 1922, and

⁶¹ On visitation rights: LNA S3/17/2/3, and specifically 'Gov't. Circular, No. 59 of 1922.' On larger rollback of patient privileges: *BAR 1922*, 15-6.

⁶² *BAR 1922*, 5; Kalinga, 63-4.

⁶³ On the early history of the missions at Botšabelo: LNA S3/17/2/3, especially, Garraway to Buxton, 3 July 1920, and Supt. Macfarlane minute, 26 Aug. 1922. Edney came to Botšabelo after spending seven years at Emjanyana Asylum in the Eastern Cape. The posting was facilitated by Bishop Chandler of Bloemfontein, whose diocese extended into Lesotho. After Edney requested a transfer in 1922, he was replaced as chaplain in 1924 by the fellow Anglican, Rev. E.G. Bradbrook, who served until post was abolished in 1935 (*BMDAR 1935*, 47).

⁶⁴ Steve Gill kindly shared his discovery of records relating to Joseph (or Josiase) Moleko's work at the asylum, which began in February 1917. While Moleko originally supported himself and his family off of £15 from the church (payments began in November 1917: MMA: Maseru Accounts, 1912-32, p. 77)., the administration began contributing another £15 per year in 1919, specifically as an alternative response to the evangelist's request for land inside the settlement (See LNA S3/17/2/1: Rev. Edward Motsamai to Supt. Jenner, and Supt. Jenner to RC's Office, 17 Apr. 1919). Moleko was ultimately forced out of his post at Botšabelo by the Lithabaneng Consistory in June 1928 (MMA Konsistori, 1919-34, Minutes, Dec. 1920 and June 1928).

⁶⁵ See: MMA, Rev. Brutsch Collection, 'Centenary 1862-1962: Kereke e Katholike,' 1963. Beginning in 1914, Fr. Philippe frequently trundled to the asylum by oxcart from his mission station, located some two-miles away in Qoaling, Maseru. A succession of priests served at St. Damien's after it opened in 1922, including Fathers Lebreton, Thommerel, Chevrier, Cary, Pageau, Brouillet, Lachance, Milot, Lucien Hamel, and Roland Jacques. In 1955 Paul Berchard was appointed as the asylum's first Catholic chaplain.

complemented the more ascetic sheet metal Evangelical church put up during the asylum's initial construction.⁶⁶

The growth of new treatment regimes and mission churches were integral to the shifting social life of the asylum, providing inmates with the opportunity to step into dual, mutually reinforcing roles as faithful congregants and dutiful patients. Although less agonizing than the earlier iterations of hydnicarpates, the ester injections were still far from pleasant – the medical literature of the era is replete with descriptions of 18 or 16 gauge needles being ‘rammed’ into bodies and of ‘suppurating lesions’ developing at injection sites.⁶⁷ Biomedical personnel, and above all the cadre of nurses, who provided inmates with day-to-day care, enjoined patients to lean on their faith to persevere through the physical pain involved in treatment. The ascendent biomedical confidence in hydnicarpate treatments simultaneously enabled mission churches to expand their footprint in the lives of inmates, advising congregants not only on attaining salvation in the next life but also their moral duty to pursue deliverance from temporal woes through biomedical therapy. Although Zionist healers offered *balepera* a better deal in terms of (the lack of) physical pain required for a cure, the AFM lost support at the asylum during the 1920s by insisting that no recovery would come to those who sought out biomedical therapies, at a time in which clergy and asylum personnel were extolling the value of pharmacological breakthroughs.

⁶⁶ *BAR* 1922-23,16; St. Mary's and St. Joseph's Church and St. Damien's Church cornerstones. On construction of Evangelical Church: MMA, *JME* 1914 1, Dieterlen letter, 442-4.

⁶⁷ Dory 1963, *Leper country*, 40, cited by Iliffe, 223; Denney, O.E. 1963. ‘The National Leprosarium of the United States,’ *Leprosy Review* 6/3, 102-8.

4.5 Good and bad patients: politics, pain, and reciprocal obligations

Patients initially responded to growing colonial faith in hydncarpates with shared optimism. One of the few photographs of Botšabelo from the 1920s shows patients queuing outside the dispensary to receive injections. In 1922, 113 patients sat for 20 or more injections, and 219 did so in 1923. The early wave of hopefulness amongst asylum residents surrounding the drugs crested and subsided over the mid-1920s. The majority of physically robust patients discontinued therapy in 1924. By the final quarter of the year, only 125 residents underwent 5 or more injections, down from 206 in the first quarter.⁶⁸ Superintendent Strachan later described the emergence of a cycle of patient disillusionment: those individuals who were cured, ostensibly by hydncarpates, were discharged, and therefore unable to extol the virtues of the therapy; the persons who had undergone dozens of injections in vain, on the other hand, remained at the facility ‘poison[ing] the minds of the newcomers against the treatment.’⁶⁹ By the early 1930s, a medical officer observed ‘there are so few lepers receiving antileprotic treatment, that it must be frankly admitted that this Institution has ceased to be a treatment centre.’⁷⁰

The colonial expectation that residents would show up for injections created a rubric for morally grading patients. Officials described the difference between dutiful therapy-seekers, who deserved deliverance from infection and institutional discharge, and therapy-shirkers, who, at least in the colonial imagination, prioritized pain-aversion and cushy asylum living over the prospect of personal liberty and the social good of stamping out leprosy. As inmate participation in injections bottomed out over the early 1930s zealous

⁶⁸ Eunice, for her part, had continued to receive shots until her death in 1928.

⁶⁹ Strachan 1933, ‘Chaulmoogra Oil in the Treatment of Leprosy.’ *South African Medical Journal* 7/7: 210–14, 211.

⁷⁰ *BMDAR* 1933, ‘Appendix - Germond’s Report,’ n.p.

proponents of biomedical epistemology in the administration and mission churches took to not only broadly blaming inmates for continuing to be ill, but for the continuing presence of leprosy in the territory. An emblematic 1933 article in *Leselinyana* read, ‘There are countries in which the lepers living there heal quickly and in large numbers. In Lesotho that is not the case, and the blame...lies with the patients, because they are too lazy to come for injections.’⁷¹ Asylum staff, meanwhile, sought to use an archetype of the bad patient to shame residents into undergoing treatment. But moral hectoring did not prove to be an effective means of boosting dispensary visits. Inmates faced little social or material cost to foregoing therapy. Within the bureaucratic institutional framework of the asylum – governed by standardized regulations on rations, visitors, and allocation of employment – no material differences in privileges were based on statuses as ostensibly dutiful or derelict patients.⁷²

This reality was underscored by a tacit, if inconsistent, institutional recognition that therapies produced differing somatic experiences of pain in individual patients. Asylum staff were keenly aware of the ways that the suffering caused by therapies, interfacing with disillusionment, led their charges to cease showing up for treatment. Doctors and nurses confronted visceral evidence of the ways that their work induced suffering on a daily basis. Slack himself withheld hydnocarpates from some inmates after witnessing their reactions to the drugs. The doctor repeatedly sent away a ‘brave woman’ who continued to seek therapy despite responding to both injections and emulsions with violent rigors and a

⁷¹ *Leselinyana* (MMA): 1933.1.11 p. 2 *Lefu la Baroa* (2)

⁷² This approach was quite different from the one taken by mission churches in Lesotho – and leprosaria run by missions elsewhere in Africa during the era of high colonialism – where authorities extended privileges to members of good standing and censured the wayward. At Botšabelo, moreover, past behavior did not influence access to future treatment; the prodigal therapy-seeker was forever welcome.

temperature in excess of 102°F. Slack's discomfort in this case was seemingly stirred by the visibility and quantifiability of the inmate's pain. In other instances, officials expected that patients simply stiffen their upper lips. A particularly extreme example involved the institutional posture towards the illicit, but evidently widespread, smoking of *dagga* or *matekoane* (cannabis, in Afrikaans and Sesotho) by patients.⁷³ Slack was well aware of the anti-emetic, orexigenic, and analgesic properties of the drug, having sought to procure dried *cannabis indica* when preparing the recipe for Tai Foong Chee in his laboratory.⁷⁴ Unable to purchase 'Indian hemp' from abroad, because of a League of Nations sponsored embargo,' the medical officer continued to push the therapy minus this ingredient. Even while noting that violent nausea and loss of appetite resulting from the emulsion led patients to cease visiting his dispensary, Slack supported punishments for inmates who self-medicated with *dagga*. The potential recreational use of an intoxicant was framed in the institutional imagination as a greater potential harm than inmate pain and, even, the discontinuation of therapy. Moral patienthood required enduring any side effects of therapy without looking to take the edge off.

In the patient records from the early 1920s, there is conspicuous difference between the case histories covered in notes, for patients who regularly received hydnocarpates, and cases with lots of white space: the former more frequently list a date of medical discharge

⁷³ Over the 1920s, guards searched out and destroyed cannabis plants and smoking paraphernalia: Annual Medical Report, 1927, 'Slack Memo.' On measures taken to combat smoking: LNA Nos. 536I, II, & III: Botšabelo Crime and Trial Records, 1933 Quarter I.

⁷⁴ BNA DO 92/3, Basutoland Gov't. 1926(b), 29-30. For background on the relationship between cannabis prohibition, involving League of Nations and London, see Mills 2003, Cannabis Britannica, 152-87. On Tai Foong Chee recipes: Travers, E. 1926. 'The Treatment of Leprosy at Kuala Lumpur.' *Proceedings of the Royal Society of Medicine* 19: 1-9, 2.

in red (now brown) ink.⁷⁵ While patients who eschewed treatment were still examined on a yearly basis, discharges amongst this population were far less frequent. This trend did not raise any concerns at the time: of course there would be a correlation between consistent therapy and discharge. It meant that the patients willing to consistently endure the pain and uncertainty of treatment had a better chance of release than their ostensibly more fickle and faint-hearted counterparts. By the early 1930s, however, the precise relationship between therapy and discharge, as well as the moral meaning of decisions to seek out or avoid asylum doctors, was becoming increasingly muddled to adherents of biomedical knowledge. In the 1980s, looking back on Western optimism with hydnocarpates during the interwar period, the historian John Iliffe suggested that the entire affair had been ‘an enormous, unintentional, and brilliantly successful confidence trick.’⁷⁶

Various diagnostic biases certainly played a role in the higher rates of discharge amongst Botšabelo inmates who regularly sat for hydnocarpate therapy in the 1920s. Slack exhibited some obvious ego and affective biases in his work, looking harder for evidence of remission on the bodies of the patients who he was more professionally and personally invested in having good outcomes. Physicians who prided themselves on their heroic and dutiful applications of healing understandably wanted the best for the patients they viewed as most heroic and dutiful. Indeed, despite their rationalist training, asylum doctors maintained faith in the ultimate deliverance of patients who diligently visited the

⁷⁵ SCA, author’s qualitative assessment of Botšabelo Patient Record Books. For a discussion of this phenomenon: LNA S3/17/2/2 Garraway to HC, 4 Aug 22; OBL, Garraway Papers, Box 6, 7 Mar. 1924; SANA GG1240: No. 33/1519.

⁷⁶ Iliffe, 225. The root of this mistake, identified by Iliffe in building upon the critiques of epidemiologists and public health experts, was the failure of boosters of hydnocarpates to account for improvements in nutrition and hygiene available to people suffering from leprosy when at the facilities where they also received shots: bolstered immune systems suppressed the infection but the drugs spuriously got the credit.

biomedical temple, and endured the trials therein.⁷⁷ Selection bias also played a role. Slack and Strachan specially pressured inmates suffering from ‘tuberculoid’ and ‘neural’ leprosy to undergo treatment, suggesting that they were likely candidates for discharge. These forms of leprosy were well-established to have higher rates of ‘self-arrest’ or ‘burn-out’ than lepromatous cases. But in the cases where patients undergoing therapy for neural and tuberculoid infections were deemed ‘cured,’ hydnocarpus was cited as the reason.⁷⁸ While important to identify these biases, it is also vital to maintain a sense of humility about the limits of contemporary knowledge about healing: the psycho-somatic impact of Alepol flowing through veins, for example, or the reassuring power of Lion’s firm grasp and stentorian voice, very well may have played an important role in the trajectory of inmates’ infections.

In the early 1930s, asylum administrators were forced to revisit their earlier assumptions about what constituted moral conduct by inmates and doctors. The correlation between treatment and discharge had vanished, simply because only a dozen or so patients were continuing to regularly sit for injections. In 1932, Supt. Strachan sought to quantify the efficacy of hydnocarpates, motivated by a growing sense of puzzlement over why discharges had continued even as therapies had waned over the previous half-decade.⁷⁹ Dr.

⁷⁷ Vaughan 1991, 77-99, examines how Judeo-Christian ideology infused colonial interactions with people infected with leprosy. European officials came from religious and cultural traditions steeped in ideas of ‘the leper’ as wicked and/or piteous. While the administration officially advanced a rationalist line – leprosy was purely a biomedical matter of bacterial infection – the notion that the malady was evidence of backwardness and immoral behavior on the part of the afflicted is scattered throughout asylum correspondence. An offshoot of this ideological construct, which took root at Botšabelo during the era of high confidence in hydnocarpates, was that patients had a chance for redemption through biomedicine.

⁷⁸ LNA, S3/17/2/2. Macfarlane to Long, 10 Oct 22.

⁷⁹ Strachan, P. 1933. ‘Chaulmoogra Oil in the Treatment of Leprosy.’ *South African Medical Journal* 7/7: 210–14. The supt. noted that the discharge board had begun taking a harder look for cases of ‘self-arrest’ over recent years. Yet, Strachan justified this move on the grounds that it took longer for the passive improvements in living conditions (the institution’s diet and hygiene) to cure

Robert C. Germond arrived at Botšabelo in 1932, and officially replaced Slack as medical officer the following year.⁸⁰ The son of Paris Evangelical missionaries, Germond brought to his work both a knowledge of Sesotho amassed since childhood, and an energetic and warm-hearted disposition guided by a powerful sense of Christian duty. After seeking out patient opinions on therapies, the University of Lausanne trained MD replaced the longstanding practice of administering Alepol intravenously with intradermal injections.⁸¹ Faced with less noxious side-effects, patient visits to the dispensary shot up.⁸² This phenomenon belied the explanation previously offered for declining numbers of therapy-seekers: patients were keener to maintain access to asylum rations and housing than recover. Germond's experiments with burning and cutting lesions using dry ice and electricity (surgical diathermy) further refuted the criticism that patients were faint of heart: indeed, Strachan expressed amazement at the procedure's 'demand despite its painfulness.'⁸³ Unlike with hydnicarpate therapy, patients purchased something tangible for their agony: the sight, smell, and sensation of burning tissue were all evidence of hated lesions under attack.

patients than the more active therapies (hydnicarpates) which had driven discharges in the early 1920s.

⁸⁰ When Slack fell ill early in 1932, Germond stepped in at the asylum on an interim basis. After the former's unexpected death in August 1933, while convalescing in England, the latter was immediately appointed Botšabelo's MO: BNA, DO 92/3, *BMDAR 1932-4*.

⁸¹ BNA DO 92/3: *BMDAR 1933*, 'Appendix – Leper Settlement,' n.p.

⁸² Strachan 1933, 211. *BMDAR 1935*, Strachan report: Between 1934 and 1935, Germond boosted the number of patient visits in his clinic from 3,357 to 6,948. In mid-1833, just before the intravenous injections were discontinued, only 20 patients regularly accepting injections, by the close of 1935 over 400 individuals were accepting the intradermal injections. Pim's report recommended voluntary treatment of all cases classified as neural (or tuberculoid, closest to paucibacillary) – which caused few skin lesions and were understood to be barely contagious (as opposed to lepromatous or multibacillary forms, or indeterminate cases). Germond responded by instead stepping up discharge for patients displaying only neural symptoms.

⁸³ LNA Nos. 536I, II, & III: Quarterly Reports – Botšabelo, 'Third Quarter, 1932;' Strachan 1933, 212.

The archetypes of bad and good patients had meaningful moral careers at Botšabelo. While neither was ever inscribed in the territory's laws or institutional policies, these constructs nonetheless deeply shaped the terms of life and work at the facility. Skepticism about the true blamelessness of people infected with leprosy was an unfortunate part of the ideology and rhetoric propping up compulsory segregation: Botšabelo inmates seeking to escape or eschew painful biomedical procedures confirmed widespread and deeply rooted colonial prejudices about people suffering from leprosy as selfish and lazy. As we have seen, these tropes were an enduring facet of the way colonial officials (and, often, the mission press) publicly described people detained in the asylum. The policy implication was that inmates were not merely sick with a bacterial infection, but also afflicted by some pathological deviance which made them incapable of handling the responsibilities of liberty and personal autonomy without undue risk to everyone else. While the notion of bad patients was useful for public facing refutations of questions about the legitimacy and morality of compulsory segregation outside the asylum, it was less useful inside the fence.

Asylum officials and staff were confronted with the fallaciousness of the administration's rhetoric on a daily basis, in the form of inmates demonstrably keen to heal and eager to work. Botšabelo residents who embraced the institutional mandate of trying to get better by complying with biomedical instructions created a particular moral problem for administrators. These individuals represented living obstructions to the functioning of the colonial regime's ideological matrix of 'leper pathology,' militating against the classification of inmates, as a population, as tacitly blamable for their affliction. Moreover, while some colonial recognition of inmates' 'right to be taken care of' as an offset to stolen

liberty was baked into Botšabelo from the start, the parameters of this entitlement were perpetually subject to contestation. Inmates classed as good patients were consistently at the vanguard of successful efforts to expand and defend maximal definitions of institutional rights, just as colonial officials periodically sought to leverage tropes of indolent, spoiled, and ignorant inmates to deny or claw back entitlements.

4.6 Laying claim to entitlements: the politics of rations and self-government

In 1928 a discharged former inmate, ‘Anna,’ appeared at the asylum gates, wasting with hunger and pleading to be readmitted.⁸⁴ She was unable to perform agricultural work, having lost the ends of fingers and toes, and informed Strachan that her family would not accept her into their home. Despite no sign of a reoccurrence of active symptoms, the superintendent nevertheless accepted the legitimacy of Anna’s moral claim on asylum resources. She was allowed to resume residence inside the facility and collect government rations. It did not hurt Anna’s claim that she had actively participated in the hydnocarpate therapy regime over preceding years, personally undergoing more than twenty injections. Over the next three years, thirty-some discharged patients – some of whom had discontinued therapy after only a handful of shots – leveraged the loophole in the bureaucratic institutional regulations, pioneered by Anna, to be readmitted, not on account of recrudescence of symptoms but for sheer want.

⁸⁴ SCA, Patient Case Histories, No. 414. Anna’s situation was also discussed in LNA S3/17/2/11, Strachan to Nattle, 21 June 1928. A similar case came up months later, see notes on ‘readmission from starvation’ of Patient No. 407. There was also an earlier instance of a man – who was discharged in May 1924, readmitted in Sep. 1926, and lived at the asylum until his death in Apr. 1951 – without a discussion of the potential moral hazard: ‘this poor unfortunate boy [who was in his 40s] was born deaf and dumb, and his parents are both dead’ (Patient No. 556).

In 1932 a number of stone houses, labelled a ‘pauper village,’ were built in a far corner of the asylum.⁸⁵ This community, maintained by Basotho taxpayers, was the first state-funded welfare program in the territory. It was a direct result of the emotional and moral claims-making power exerted by patients, and institutionalized into the bureaucratic fabric of the facility over time. The formation of an officially-sanctioned community of settled inhabitants, in addition to the larger population whose political status was officially as long-term convalescents, marked a turning point in the asylum’s social and political environment. The moral entanglement of patients and the administration involved both powerful emotional and political dynamics.

The leprosarium was an atypical colonial institution in the way that it served as a site where European personnel were in sustained contact with Basotho individuals who were both socially subaltern and, unlike in other custodial facilities, legally – if not ideologically – blameless for their own detention.⁸⁶ Inmates and staff developed relationships built upon treatment and conversations carried out day after day, month after month, year after year. Inmates themselves, moreover, learned to leverage their power, both collectively and as individuals to secure concessions from officials. The politics of government rations is illustrative of these dynamics.

⁸⁵ On the construction of stone houses for some 50 recognized paupers, see Pim, 122. On the growth of the community see, *BMDAR 1938*, 12-3.

⁸⁶ Unlike the missionaries who lived in Basotho communities and schooled children from a broad swathe of social classes, colonial administrative officers’ relationships with Basotho were overwhelmingly confined to strata of noble lords and the mission-educated elites who staffed the civil service. Colonial judges, doctors, and police officers, meanwhile, did not have the sort of sustained encounters with socially subaltern individuals which might serve as the basis of mutual understanding. And gaolers in the large penal facilities in Maseru and Leribe, insofar as they had any prolonged contact with prisoners, were tasked with disciplining and punishing their charges.

Officially, readmission of non-contagious former patients was reserved for individuals who were both unable to support themselves ‘on account of permanent disabilities due to the effects of leprosy in the past’ and lacked close relatives to rely upon for food and care.⁸⁷ The reality was more complex, as many of the former patients simply had families who were unable or unwilling to support the discharged patient. The *de facto* criterion for readmission – complete with rations and housing – was demonstrable need or, in Strachan’s words, persons returning to the facility after a home visit in ‘an obviously starved condition.’⁸⁸ Readmissions were absolved of blame for their indigence, on account of physical disabilities limiting their capacity for labor. Moral blame was displaced instead onto the relatives of returnees. In Macfarlane’s words:

Discharged patients, especially the more helpless ones, are not well taken care of at their homes, in most cases being left to fend for themselves, with the result that indifferent feeding and neglect drive them back to the Asylum. The people make much of the lepers when they are in the institution—they are a source of revenue to many of them through wages received for work performed, but when they are discharged and no more money comes in, they are treated with callous indifference.⁸⁹

While the Principal Medical Officer’s vision was maximally unsympathetic, it is certain that the discharge of inmates did place profound strain on some households’ financial resources – presenting the double burden of another mouth to feed and the loss of remittances.

Maseru’s primary concern about the pauper village was moral hazard. In 1928, the administration looked to make an example of the family of a man who came back to the asylum in a particularly ‘piteous condition.’ All the police investigation turned up,

⁸⁷ Basutoland Gov’t. 1926(a), Annual Report, 18. Basutoland Gov’t. 1927, Annual Report, X; LNA S3/17/2/11, RC to HC, 7 Dec. 1928.

⁸⁸ LNA S3/17/2/11: Strachan to PMO, 16 Oct. 1928; Strachan’s memos of 29 May 1928, and 21 June 1928.

⁸⁹ BNA DO 92/3: *BMDAR 1926*, 12.

however, was an entire homestead teetering on the brink of starvation.⁹⁰ Maseru responded by looking to the aristocracy, inquiring ‘is there any reason why...chief[s] should not arrange for...support in accordance with Sesuto custom.’⁹¹ Paramount Griffith rejected the customariness of this vision, however, arguing, ‘The only thing the chief can do is to supply a land.’ Obviously, agricultural plots were of little value to patients in no condition for physical labor. With families and the aristocracy standing as dead ends, Maseru accepted that the pauper community was likely to have a longstanding presence at the asylum. But officials also stressed the need to keep it as quiet as possible, arguing ‘once it was known among the relatives of arrested cases it would be sadly abused and only lead to the Government maintaining more and more lepers.’⁹²

Cases like the one above, involving the police investigation into why a discharged man was starving, offer traces of a special sense of colonial obligation towards *balepera*: faced with a story of horrific familial poverty rather than neglect, the administration responded by seizing responsibility for the former patient while turning away from the deeper well of need. While the debate over supporting ‘discharged paupers’ played out in a register of generalized morality, the administration intervening to ensure the welfare of a subject was a rare occurrence, to put it mildly. A more specific question of moral responsibility roiled beneath the surface: what was owed to the people who the colonial state had swept up and involuntarily detained for years, despite having committed no

⁹⁰ LNA S3/17/2/11: PMO to Acting Gov’t Sec., 1 June 1928; Supt. Strachan to PMO, 16 Oct. 1928; RC to PC, 24 Oct 1928; PC to RC, 30 Oct. 1928; PC to RC, 2 Nov. 1928; AC Ashton to Gov’t. Secretary, 9 Nov. 1928.

⁹¹ LNA S3/17/2/11: AC Ashton to Gov’t. Secretary, 9 Nov. 1928; PC to RC, 13 Nov. 1928.

⁹² LNA S3/17/2/11: PMO to Gov’t Secretary, 23 Jan. 1929. The underlining replicates that done in pencil on the original minute by RC Sturrock, with the note, ‘I think so too.’

criminal act? This question, as we shall see, became all the more urgent over time because of the incremental success of the administration's campaign to stigmatize the malady.

Efforts to prevent ostensibly undeserving outsiders from gaining access to asylum resources emerged as a perennial concern for colonial officials beginning in the 1920s. This impulse clashed, however, with inmates' wish to host families and friends as frequently and generously as possible. The lax visitation rules put in place during the Jenner superintendency represented a means for inmates to maintain connections with the outside world, and a major status distinction from criminal prisoners. Under orders to reduce asylum costs and involve lords in the bureaucratic work of issuing asylum passes, Supt. Macfarlane tightened visitor regulations in 1922. Characteristically, he also took the opportunity to impugn the morality of Basotho involved: 'the lepers' exploited administrative generosity so 'that natives from all round who had no business within the Settlement flocked in to get a feed.'⁹³ In the early 1930s, faced with some local lords who liberally provided subjects with passes to visit the asylum, as well as fear that frequent visits and sharing of food might lead to some guests being infected with leprosy, Strachan moved to impose new restrictions. Patients loudly protested, insisting that cooking for their guests was not only a cultural but practical and moral obligation, given that reaching the facility often required an arduous, multi-day trip.⁹⁴ In February 1932, with representatives of the paramount present to ensure no repeat of May 1914, Strachan informed patients that visitors would receive asylum rations for up to three days each quarter.⁹⁵

⁹³ SANA, GG 1237, Folio No. 33/1410, 'Basutoland Leper Asylum, 1914-1922,' p. 10.

⁹⁴ Basutoland Gov't. 1930, *Annual Report*, 19.

⁹⁵ LNA No. 113, Strachan to PMO, 18 Feb. 1932. All outside guests were required to stay in a 'visitors hut,' where they were surveilled by guards during the entirety of their stay. The asylum hired cooks for the hut, and barred patients from cooking or sharing food with guests. The maximum duration of a visit was determined by how far the guest had travelled to reach the asylum,

The implementation of these new rules immediately proceeded a tremendous rush on asylum resources. As described in Chapter 2, the drought known as *Lerole* (the Dust) destroyed both the 1932 and 1933 harvests, and led to thousands of deaths.⁹⁶ The asylum was thronged by outsiders, seeking help from family and contacts interned at the facility and, therefore, entitled to government rations.⁹⁷ For this window of time Botšabelo lived up to its name, providing a refuge for inmates from the horrors unfolding outside. The polarity of desires to be inside versus outside the asylum, as well as the perceived directionality of quarantine, were temporarily reversed. The asylum population grew to its apex of 736 inmates in 1933.⁹⁸ As tens of thousands of people in the countryside were reduced to eating seed crops, *thepe* grass, and, eventually, nothing at all, and opportunistic infections gained pace, Strachan worried about the impact on the asylum: ‘The public health at the Leper Asylum has never been better than it is at present, but it would be a disaster of the first magnitude if typhus fever were introduced among the inmates.’⁹⁹ Patients pooled their political capital, imploring officials to preserve visitation rights.¹⁰⁰ When the superintendent went on leave in early 1934, patients took further steps to aid those in need. Strachan returned to find,

Bagfuls of bread being taken home by visitors for their families... Patients were in the habit of parting with their bread in groups of ten for one visitor... I found that no fewer

with visitors from the eastern Highlands allowed to stay three days, from other locales two, and Maseru visitors only one.

⁹⁶ L. Leuta, author interview, Thaba Tseka, 23 June 2008. For extended description of the drought see Gov’t Secretary Franco Foord’s opening speech for the Oct. 1933 Basutoland National Council (BNA DO35/346/6); Basutoland Gov’t. 1933, *Annual Report*, 34-7. For precipitation figures see Pim, 187-9.

⁹⁷ LNA No 113 Leper settlement: RC to PC, 29 Mar. 1933.

⁹⁸ *BMDAR 1933*, ‘Appendix - Nattle Memo,’ n.p.

⁹⁹ LNA No 113 Leper settlement: Strachan to PMO, 18 Mar. 1933. On the desperation in the villages see LNA Mochochono, article by Jan Qethoha, ‘Basutoland Famine Relief,’ 20 Dec. 1933.

¹⁰⁰ Basutoland Gov’t. 1933, Medical Dept., *Annual Report*, ‘Strachan Memo.’ LNA No 113 Leper: Supt. Strachan to PMO, 18 Mar. 1933; PMO to GS, 18 Mar. 1933.

than 417 patients had parted with their half-loaves... I explained to the patients that they are entitled to feed their visitors only while they are here and for their journey home... The generosity of the patients is much to be admired, and I told them so, but... I also said that the Government, if it was found that they gave all their bread away...might cease to send it.¹⁰¹

In subsequent weeks, asylum personnel struggled with how to behave responsibly and morally in the face of extreme suffering:

The starvation conditions are unprecedented. What is complained about now is that most of the illnesses of the visitors' children are associated with starvation, in consequence of which the mere giving of medicine is useless; what the patients require is adequate n[on]urishment for a prolonged period exceeding the normal maximum period of residence at the visitors' hut, viz three days... Do you advise me to send these children away after the normal period of residence has expired, or to send them to Maseru Dispensary for further treatment on admission to Hospital?... Dr Germond does not complain about the little extra work associated with the treatment of visitors, what he fears is that he is acting irregularly in ordering milk from the farm for visitors' sick children. This practice I have sanctioned as a temporary emergency measure.¹⁰²

Strachan's superiors ordered, however, that 'regulations be observed, the people at the end of three days be told to go,' and certainly not with the suggestion that help might be forthcoming in Maseru.¹⁰³ While returnees were successfully able to leverage their relationships inside the institution and status as blameless invalids to re/claim an entitlement to asylum rations, Maseru insisted asylum staff hold the line on their obligations: *balepera* were their only concern.

In the years following the famine, discharges of inmates by the asylum's review board picked up.¹⁰⁴ At a time in which colonial administrative and medical officials were

¹⁰¹ LNA No 113 Leper settlement: Strachan to PMO, 17 Feb. 1934.

¹⁰² LNA No 113 Leper settlement: Strachan to PMO, 27 Mar. 1934

¹⁰³ LNA No 113 Leper settlement: PMO minute, 28 Mar. 1934; Sturrock minute, 18 Apr. 1934.

¹⁰⁴ Beginning in 1935, patients with neural symptoms only required short periods of observation at the asylum. In 1939 discharges spiked (see chart below), largely on account of a new policy of releasing inmates with tuberculoid (paucibacillary) infections that had not changed for a period of months. The laxer discharge standards were driven by the colonial bureaucracy's longstanding desire to reduce the financial footprint of the asylum coupled with shifts in the imperial public health landscape of the late 1930s, including metropolitan expert opinion returning to a view of leprosy as only mildly contagious, and less pressure from BELRA for the territory to adopt a

becoming less concerned about the public health dangers of leprosy, public opinion in Lesotho trended the other way.¹⁰⁵ The persistent promotion of the idea of the malady as highly contagious, notably in mission schools and through outreach by leprosy inspectors, fueled growing antipathy towards persons showing past or present evidence of infection on their bodies. A stamped ‘certificate of discharge’ proved to be a flimsy shield for former inmates. Discharged persons were subject to aggressive surveillance, and sometimes harassment and outright violence, by fearful neighbors and community leaders.¹⁰⁶ The growing hostility towards ex-patients, as well as the family members who took them in, contributed to the marked growth of Botšabelo’s ‘pauper village.’¹⁰⁷ Communities just beyond the asylum grounds also became increasingly popular places for able-bodied discharged inmates to settle, on account of the presence of more sympathetic neighbors (including ex-patients and staff, as well as lords versed in discharge protocols), ready

voluntary segregation model, thereby reducing Maseru’s sense of urgency to show results. On the shifting guidelines and causes: *BMDAR 1935*, 11-3 and 43-7 (partially a response to Pim, 125-5, and citing *Int. J. Lepr.* editorial. 1935, ‘The infectiousness of neural leprosy,’ in *IJL* 3/4: 485-8); *BAR 1936*, 9; LNA, F281, *BAR 1939*, 17-9; BNA DO 35/923/9: Richards to Fforde, 9 Jun. 1936, and Muir, ‘Report on visit to Botsabelo,’ 1939.

¹⁰⁵ Letters from discharged persons and their families, reporting abuses from neighbors and lords in Leribe, offer a striking, if anecdotal, account of *leprophobia* in the late 1930s and 40s: LC Box 26/6: Hlahlane, 10 Aug. 1939; S. Jafeta, 22 Jul. 1942; M. Kholabolokoe, 8 Sep. 1944, 5 Oct. 1944, Filimone, 2 Nov. 1944; M. Phatla, 6 Nov. 1945. See also: *BAR 1938*, ‘Appendix I,’ 64-5; LNA, 1948 BNC Session, 385-88.

¹⁰⁶ Theko Makhaola, Paramount Griffith’s nephew, was a particularly zealous proponent of control measures for ‘the Botsabelo sickness’ (LNA f. 113, ‘Leper Settlement Regulations,’ Makhaola letters, especially 20 Jun. 1938; *BMDAR 1936*, ‘Appendix 5,’ 50-1). After becoming lord of Qachas Nek district in 1932, Theko pressed subordinates to search out new infections, and called on the administration to invest in new leprosy control measures. The death of Lord Boshokane Peete –who frustrated the search for Hlajoane, discussed in Chapter 2 – marked a watershed moment for leprosy policing in Leribe: inspectors were directed to several previously undetected cases, and reported that village-level authorities seemed far more cooperative (BNA, DO 35/1183: Johnson and Whitworth report, 1943; Kennan minute, 22 Mar. 1943). Although Boshokane said little about leprosy during BNC meetings, the late noble apparently spent decades sheltering the sick from detection within his ward.

¹⁰⁷ In 1936 Strachan reported 285 ‘incurable derelicts’ at Botšabelo and argued ‘it would be inhuman to send them to their homes to become pitiful mendicants’ (*BMDAR 1936*, 12-3).

access to biomedical care for old wounds, and opportunities for intermittent wage labor at the asylum.¹⁰⁸

Over the late 1930s and early 1940s, Botšabelo underwent significant reforms aimed to improve the quality of life for patients. Walter Johnson took over asylum administration in 1937.¹⁰⁹ As with his predecessors, the new superintendent quickly left his mark on the facility: while the Jenner period was characterized by an effort to keep the peace while building up institutional protocols, the brief Macfarlane superintendency by the clawing back of earlier concessions, and the Strachan era by scaling-up hydnocarpate therapies and defending compulsory segregation, Johnson's tenure was animated by an impulse to build inmates' sense of collective investment and control in the institution. This mission, however, did not spring fully-formed from the mind of the English officer. A woman born in the asylum hospital in 1935 recounted the view, 'Sir Walter and Miss Mary [Johnson, the Supt.'s sister] liked to speak with patients, to learn how they were living. Mary was an angel for the sick people.'¹¹⁰ Indeed, the Johnsons worked from the basic premise that inmates had unique insights on, and were invested in, facilitating institutional harmony. Inmates themselves stressed they had more to offer than simply obedience, and pushed for greater powers of self-administration and representation where they could fill roles as the architects of rules and guardians of order.

¹⁰⁸ L. Mothobi, author interview, Lithabaneng, 12 Aug. 2017.

¹⁰⁹ *BMDAR* 1937, 4. Johnson took the role after retiring as the Director of Medical Services in Nigeria.

¹¹⁰ 'Rose,' author interview, Maseru, 20 Aug. 2017. Rose's mother was detained at Botšabelo from 1923 until her discharge in 1943, and then settled nearby. Although Rose remembered little of her early childhood, spent inside the facility, she held on to stories and perspectives gleaned from her mother and other inmates. Her exact words for Mary were '*e ne e le motho ea ratoang ke bakuli.*'

An asylum court, with patient ‘headmen’ and ‘headwomen’ elected by their peers acting as magistrates, was created in August 1937.¹¹¹ Originally experimental, the body tried offenses previously subject to administrative discipline by the superintendent – e.g. petty thievery, drunkenness, *dagga* use.¹¹² The court was credited with dramatically reducing petty offenses and, after one year, made permanent and empowered to impose fines up to £1.¹¹³ Johnson collected these fines in a ‘recreation fund,’ used to buy gramophone records, a 16mm ‘talkie’ projector, and party supplies. Despite BELRA’s longstanding opposition to Lesotho’s system of compulsory segregation, the organization’s Secretary Ernest Muir gushed, after a 1939 visit, that ‘concealment... the chief disadvantage of compulsion’ was ‘being overcome by making the settlement...attractive socially,’¹¹⁴ and heaped additional praise on the way a long-serving asylum nurse had finally, successfully created a ‘creche for the untainted infants of leper mothers’ the year before.¹¹⁵ Patients won another small political victory soon after, securing ‘a mouth which

¹¹¹ LNA F.113, Johnson to Dyke, 27 Aug. 1937, and Gov’t Sec to Dyke, 6 Sep. 1937; *BMDAR 1937*, 45.

¹¹² LNA Nos. 536I, II, & III, ‘Quarterly reports.’ The paramount’s court adjudicated civil disputes at the asylum, and the Maseru district commissioner’s court continued to try desertions. Since Botšabelo opened in 1914, a handful of cases also involved the Resident’s court, including the uprising, a 1919 murder, and two rape attempts in the 1930s: LNA S3/17/2/9, *R. v Lefejane*; LNA f. 113, Strachan minute, 10 Nov. 1934.

¹¹³ LNA F113: Johnson memo, 10 Aug.1938; How to Griffith, 19 Aug.1938; Griffith to How, 30 Aug. 1938.

¹¹⁴ BNA DO 35/923/9, ‘Report on visit to Botsabelo by Dr. E. Muir,’ 1939.

¹¹⁵ *Ibid*; *BMDAR 1937*, 4, 53, and 55; BNA DO 35/1183: ff. 4-7; Mary Martin – an asylum nurse who worked under Matron MI Wildon between Feb. 1914 and Jun. 1937, and then briefly assumed the matronship herself – was the driving force behind the project. With Strachan out of the way, she prevailed on Mary and Walter Johnson to please think of the children. After securing Maseru’s support in late 1937, Martin worked to establish the home, located adjacent to and largely funded by the Seventh-day Adventist Emmanuel Mission in Hlotse (some 50 miles from the asylum). The creche took its first twelve toddlers in 1939. By 1945 it housed 28 children. While the creche did guarantee good care for its charges – a concern for some inmates whose children were shipped off to distant or unreliable family members – it also meant earlier and more systematic removal of toddlers from institutionalized mothers. The Africanization of the asylum nursing corps began in 1938, when two Basotho nurses were hired to replace Martin (*BAR 1938*, 65). In the early 1950s,

expresses their words in [the National] Council' in 1942 (and lasting until the body became a legislative council in 1960), in the person of Tsiamé Motsoso.¹¹⁶

4.7 Sulfa amnesia and the persistence of communal social life

Although a select group of inmates began taking Avlosulphone tablets in 1950, in the waning months of Dr. Robert Nixon's superintendency, Dr. Auguste Jaques' tenure, spanning from 1951 until 1956, witnessed Botšabelo's sulfa revolution.¹¹⁷ The advent of cheap, effective, and plentiful antibiotics fundamentally reoriented the administration's view on leprosy as a biomedical and social issue. A floundering decades long campaign to root out the foothold of *m. leprae* in the body politic gave way to a pharmacological blitz targeting infections in individual bodies. The way that the drugs delivered people from agony, terror, disfigurement, and premature death was, quite obviously, a godsend. Sulfas also answered the prayers of many Botšabelo inmates who longed for lost liberties, not least the chance to reunite with family. Yet, notwithstanding these glorious developments, sulfas were not without a double-edge. For inmates whose social universe and livelihood had been wrapped up in the asylum for years or decades, an abrupt discharge often tasted more bitter than sweet.

as sulfones made leprosy curable and asylum discharges gained pace, the creche was converted to care for orphans more generally (*BMDAR 1956*).

¹¹⁶ MRA, Box 249, Minutes of BNC Proceedings 1943, 149-51; LNA, 1948 BNC Session minutes, 385-88. Tsiamé acted as the paramount's court representative at Botšabelo, and first attended the council in 1942. He successfully lobbied on behalf of asylum residents for a permanent seat on the body the following year (the quote is from Councilor Bolokoe Malebanye, supporting the measure).

¹¹⁷ *BMDAR 1950*, 6. Asylum doctors found Avlosulphone for effective than Sulphetrone (LC 26/2, *Gov't. Newsletter*, 26 Sep. 1952). For the history of sulfones and dapsone to treat leprosy and other ailments see: Wozel, G. 1989. 'The Story of Sulfones in Tropical Medicine and Dermatology,' *IJD* 28/1:17-21; Zhu, Y. and M. Stiller. 2001. 'Dapsone and sulfones in dermatology: overview and update.' *JAAD* 45/3: 420-34. When Johnson was promoted to Director of Medical Services for the HCTs in 1937, Dr. Nixon transferred in from colonial Tanzania: *BMDAR 1937*, 6

From a biomedical and public health perspective, Dr. Jaques was an ideal emissary for the new therapeutic regime. The son of missionaries possessed both deep understanding of the new drugs at his disposal and the ability to speak Sesotho. Yet, notwithstanding his piety, erudition, and ability to communicate directly with patients, the superintendent displayed little sympathy for the way that sulfas threw the formerly stable lives of inmates into disarray. For Jaques, delivering a cure neatly concluded his therapeutic and moral entanglement with a patient. In 1953, after returning from a tour of leprosaria in colonial Nigeria, the superintendent called for establishing a voluntary and decentralized model for treating leprosy in Lesotho.¹¹⁸ He argued this system would improve cost efficiency and, especially, promote the accountability of inmates and society:

Patients are unwilling to assist themselves nor are their families inclined to help them. Segregated patients easily lose touch with their homes and when everything is provided for them, they have nothing to do and seek entertainment in drink... Finally they may have difficulty in resuming normal life on discharge.

Jaques also called for ‘cripples with arrested leprosy to be discharged.’ He did not care, or was oblivious to, the ways that institutional stability had long been underwritten by a tacit agreement that detention at Botšabelo meant a person would never have to go without food or shelter.

During the first four decades of the asylum’s existence, inmates forced the administration to acknowledge their collective and personal sacrifices, which amounted to

¹¹⁸ In 1953, Eric Pridie, the Chief Medical Officer in the Colonial Office, arranged for Jaques to spend five weeks touring leprosaria in Nigeria (BNA, DO35/4426, Routegal minute and attachments, 9 Aug. 1954; LNA, ‘1954 BNC Session’, Appendix D, Jaques, ‘Report on Leprosy Work in Nigeria,’ 52-7). Unlike Lesotho, the system in place in the West African colony had long been established and run by Christian Missions: see Shankar, 78-97. The colonial state only took over the work in 1945, using 54 outpatient clinics to facilitate voluntary treatment. When Jaques returned to Lesotho, he filed a report calling for establish a decentralized network of clinics where sick people could either care for themselves or be the responsibility of family while receiving antibiotics closer to home.

‘little less than imprisonment for life’ on behalf of the physical and economic health of the territory.¹¹⁹ A cordial facade of reciprocal moral obligations was undergirded by mutual recognition of the latent political power of asylum residents: inmates were collectively capable of making Maseru’s prestige project ungovernable and, even, in the colonial imagination, of sewing mass infection in the countryside by deserting in mass. The demise of the idea of leprosy as a significant public health threat in the early 1950s nullified the longstanding politico-moral contract between the administration and inmates: grumblings inside the asylum were drained of political urgency and mass departure might well be met with sighs of relief in Maseru. Rubrics for morally grading patienthood also shifted: the standard of staying and persisting with treatment despite its painfulness and unclear efficacy was replaced by the expectation for inmates to quickly get better and then get out.

Maseru demurred at Jaques’ 1953 proposal for voluntary segregation, offering a pair of bizarre claims about the need to hold course because of South African and local popular opinions.¹²⁰ The Director of Medical Services, Dr. Reuben Jacobson, warned superiors that abandoning compulsory segregation might upset the National Party government in Pretoria, and thereby risk the livelihoods of the tens of thousands of Basotho who crossed the Mohokare for work each year. This was a curious suggestion in several ways, not least because other major labor reserves, such as Mozambique and Malawi, both contained regions where leprosy was endemic and – as Maseru was well aware – had never used anything more than rudimentary voluntary treatment regimes.¹²¹ Why the Union

¹¹⁹ LNA S3/16/1/7: Buxton memo, 9 Dec. 1916. Sloley expounded on the loss of liberty and family in ‘Recent Developments in Basutoland,’ 122-3.

¹²⁰ BNA, DO35/4426, Routegal to Swinton, including DMS report and Jaques report, 9 Aug. 1954.

¹²¹ Leaving aside the morality of reflexively mimicking an avowedly white supremacist regime, this argument also elided widespread period discussion of the lax enforcement of compulsory segregation legislation in the Union, and retrospective analysis of how leprosy control was yet

would specially object to a Basotho labor force faced with only a voluntary system of treatment was unclear. The second point was still more unsound:

Basuto, too, would be adverse [sic] to any immediate or too rapid move in this direction [of voluntary treatment] because of their long established prejudice against the disease; only by gradual education and propaganda would they come to understand that leprosy should not be considered a loathsome disease, but that it should be regarded merely as an unfortunate affliction.

This description turned the history of stigmatization in the territory on its head: the decades old diachronic narrative of colonial officers toiling to build up a rational fear of leprosy amongst Basotho was replaced with a synchronic portrait of an administration working to mitigate irrational local lepraphobia.¹²²

Despite significant flaws and omissions, the director's arguments carried the day: compulsory segregation remained the law of the land. The High Commissioner also accepted Jacobson's recommendation that no action be taken against 'cripples with arrested leprosy' on the grounds that 'many have no home to go to and are unable to fend for themselves and so are permitted through humanitarian not medical reasons to remain

another pretext for the state to police and dominate the Black majority: Horwitz, 279-87. For account of coordination between Lesotho's administration and the Union government on leprosy control: *BMDAR 1937*, 5 and 10-1; *BMDAR 1938*, 55. On leprosy in other labor reserves: Zamparoni (Mozambique); Hokkanen, M. 2015. 'The Government Medical Service and British Missions in Colonial Malawi, c. 1891-1940: Crucial Collaboration, Hidden Conflicts,' in *Beyond the State: The Colonial Medical Service in British A.* Greenwood, ed., 39-63. Manchester: Manchester University; Hearsey, H. 1909. 'Leprosy in the Nyasaland Protectorate.' *Br Med J* 2/25481314-15. McCoy, W. 2015 'Healing the Leper? Mission Christianity, Medicine, and Social Dependence in 20th Century Swaziland.' PhD Dissertation, Boston University.

¹²² When Dr. Long first began calling for the colonial state to get involved in fighting leprosy in Lesotho, it was because of 'Basuto...have not yet fully realized the true nature and danger of the disease' (BNA DO 119/194, Long memo, 1895). Forty years later a central strand of Maseru's opposition to implementing BELRA's scheme of voluntary segregation, was that Basotho remained unconvinced about the necessity of distancing themselves from infected persons (BNA DO 35/923/9, Dyke minute, 24. Jan. 1936). The specific pair of arguments Director of Medical Services Jacobson used to rebuff Jaques' call for reforms were so patently flawed as to raise some question, today, of good faith. And if one was looking for an argument to scare the Dominions or High Commissioner's offices away from voluntary segregation, it would be hard to outdo the dual threats of declining revenues and atavistic persecution of longtime charges of the state.

indefinitely.’ Yet while the director’s arguments spared residents of the pauper village from eviction, he also effaced the more complex story which had infused administrative support for the community from the 1920s. The moral force sustaining the village was reframed as colonial largesse without any inkling of accrued debt. The notion of timeless local hostility to leprosy represented a particularly insidious stroke of revisionism: internal recognition of the administration’s role in ginning up stigma, and the fact that this manufactured hostility blew back on discharged inmates in households and communities, had previously made the pauper village an obligation. In Lesotho, it seems, the arrival of sulfas not only facilitated a broadside against *m. leprae* but also colonial administrative memory.

Although the population of Botšabelo plummeted over the 1950s, the facility remained open. With compulsory segregation still on the books, a handful of people suffering from lepromatous (paucibacillary) infections reported each year for in-patient treatment. Despite the hostility of Jaques and his successor, Dr. Frank Mead, superintendent between 1956 and 1959, the pauper village also remained.¹²³ The impact of the decreasing number of patients on the sense of community inside the asylum was also moderated by a high percentage of discharged patients simply relocating to adjacent areas: any withering of asylum social life was thus accompanied by the concurrent blossoming of social life just outside. These shoots, moreover, grew over and through the asylum fence: slackening institutional security measures meant former inmates and their descendants became the majority of congregants for the asylum churches and guards did nothing to

¹²³ *BMDAR 1956*, 8; LNA No. 126/3, ‘Gov’t Bulletin, No. 24,’ 7 Nov. 1956; BNA DO 35/923/9, Sykes to Chaplin, 21 Apr. 1960, forwarding Mead’s ‘Notes for Record.’

discourage children from neighboring communities from playing football with young inmates on Botšabelo's enviably large and flat pitch.¹²⁴

New institutional dynamics took shape as independence came into view. After decades of vague statements from the British about preparing Basotho to one day take over and run state institutions, a landmark event in the Africanization of top posts took place at Botšabelo in 1959: Mahao Matete was appointed superintendent, becoming the first Mosotho to run a major biomedical facility.¹²⁵ Later in the year, British pronouncements about equipping Lesotho with the infrastructural wherewithal to run a putatively modern state contributed to the start of construction on a different sort of large, heavily securitized biomedical facility in a corner of the asylum grounds: Mohlomi Mental Hospital opened in 1965, providing in-patient treatment for psychiatric disorders, and coercive detention of 'Her/His Majesty's pleasure prisoners,' serving indefinite sentences for acts of criminal insanity.¹²⁶ The site was selected in part because of the nearby pool of current and former staff of the shrinking asylum, who were eager for employment and already familiar working inside a totalized biomedical facility with an ostensibly stigmatized population. As the finishing touches went into Mohlomi, Botšabelo patients received visits from representatives of the three large political parties, campaigning for legislative seats in the 1965 parliamentary elections, which would determine control of government at

¹²⁴ Group interview by author, Mokoanyane, 12 Aug. 2017.

¹²⁵ Matete was a political appointee, having previously been Regent 'Mantsebo's personal secretary: see Murray and Sanders, 39-51. BNA, DO 35/7268, Tergos, Feb 1956: In an odd twist, Ntsu Mokhehle – the leader of the first and, then, largest political party in Lesotho, and a champion of Africanization – opposed Matete's promotion, seeing the appointment to the difficult task as a colonial 'scheme to get African management to fail and so justify a slow-down in general Africanisation.' Matete did not fail, and Basotho promotions to top posts continued.

¹²⁶ TML, Prison Dept., 'Annual Report for 1965,' 4; *BAR 1965*, 47; BNA FCO 141/706.

independence.¹²⁷ These politicians addressed inmates as fellow citizens whose participation would be required for building the nation, through healing, voting, and more. Under the Basotho National Party, which won the pre-independence elections and refused to cede power after losing the next ones (in 1970), a small but steady stream of resources from government and international organizations continued to flow into Botšabelo well into the post-colonial era.¹²⁸

4.8 Chapter Conclusion

The structural remnants of Botšabelo are today scattered across a large elevated plain overlooking a corridor of urban sprawl that snakes along the main highway southwards from Maseru center. The asylum's institutional legacy is embodied in the way that this particular corner of the nation, in the shadow of Berea mountain, remains a biomedical hub. Standing amidst the headstones and an even greater number of unmarked graves near the old asylum gate, one can today see three active hospitals.¹²⁹ Proceeding deeper into the heart of the old facility, the three large churches remain: the social legacy of the asylum resounds in the joyous harmonies and thunderous voices emanating from structures on Sundays, with congregations largely comprised of former patients and their descendants. Tucked beside a few remaining sheet metal barracks from the women's compound, and across a road from a cluster of large sandstone houses where asylum officials once lived, is Senkatana Centre. The clinic serves thousands of patients annually. Most are grappling with HIV/AIDS and tuberculosis, but a handful of individuals each year receive help

¹²⁷ TML, Motšabi, C. 'Ba botsabelo ba khotsofalitse ke Neshenale,' *Moeletsi oa Basotho*, 13 Hlakola 1965 [Sesotho].

¹²⁸ SCA: Leprosy Mission. 1977. *Leprosy can be cured*. Maseru: Ministry of Health, 10.

¹²⁹ Queen Mamohato Hospital, Mohlomi Mental Hospital, and Makoanyane Military Hospital.

fighting leprosy. As noted in the introduction, the clinic also serves as a repository for old records, which continue to provide a glimpse into the lives of patients and the institutional life of the asylum.

The records of the three Mohlala daughters provide poignant snapshots of the ways that leprosy laws inflected life trajectories in Lesotho over the first half of the 20th century. Each of the sisters ultimately departed the asylum barracks in one of the three ways possible to do so. The eldest, named 'Grace,' escaped for good on that night in October 1914. The middle daughter, 'Eunice,' had a more advanced infection than her sisters, and was sent back to the asylum by her village lord in 1917. While Eunice proved to be a dutiful, therapy-seeking patient, who was swept up in the biomedical optimism engendered by hydnicarpates in the early 1920s, her symptoms continued to worsen. She died in the asylum hospital in 1926. The youngest sister, 'Jane,' seems to have sacrificed her own freedom to accompany her ailing sister Eunice back to the asylum. Jane later entered into a romantic relationship with another patient, and gave birth to a daughter in 1927. After eleven years together, the child was removed from her mother's care and sent to St. Agnes orphanage in Leribe. Despite this profound loss, Jane continued to work as a laundress and participate in the communal life of the asylum, including as a practicing Catholic. She remained in good physical health when the sulfa revolution touched down at Botšabelo. Jane was discharged in August 1955, after over four decades in the facility. The 51-year-old opted to settle just outside the asylum fence, rather than returning to a natal home she had not known since adolescence.

For Jane and many of the other inmates discharged as part of the sulfa revolution, the passage of time clearly transformed the facility from a grim jail, which she and

hundreds of others had once endeavored to escape, into a home they did not wish to lose. While this phenomenon might be negatively glossed as institutionalization, there was certainly more to the tale than fear of change. These inmates had pushed and pulled the administration to recognize a cluster of obligations and rights, and forged a sense of community: residents thus transformed a place originally designed only to usher them towards social death into a site overflowing with social life.

**Part III. The Lesotho Prison Service and the Politics of
Reform, 1938-1970**

Chapter 5

A tale of two rebellions: the scandalous elaboration of penal reform, 1938-58

5.1 Introduction

Inmates briefly wrested control of colonial Lesotho's flagship penal institution away from their warders twice in a period of a little over six years. In July 1949, inmates at Maseru Gaol rebelled to liberate two prominent lords awaiting execution after being convicted of medicine murder. The sole reason the escape failed was because the nobles themselves refused to leave. This violence stands, in hindsight, as a powerful illustration of the excesses, failures, and unforeseen consequences of the high colonial system of social control in the territory. In addition to the crowded, unsanitary, and abusive conditions faced by inmates on a daily basis, rebels sprang into action because the impending hangings of two lords symbolized, for many, the deathly injustice baked into the colonial criminal legal system. To period observers inside the administration, the same actions represented little more than the last spasm of an antiquated and abusive order in the process of being dealt a mortal blow. In November 1955, a much larger uprising took place at the new Central Prison in Maseru, killing five people and seriously wounding fifteen. This action was led by a man who was repeatedly tortured as part of the facility's draconian disciplinary regime. The resulting investigation revealed to metropolitan officials that eight years of ostensible penal reforms were largely a mirage. Hoping to forestall a political scandal, London stepped up the pressure and funding to backfill and expand upon earlier promised reforms.

In liberal narratives, the late 1940s was a time of sweeping improvements in Lesotho's penal system. At the end of 1947, the High Commissioner issued a new Prison Proclamation, retrofitting the regulations governing incarceration in the territory for the first time since 1917.¹ This law carved out a new Prisons Department from its older status as a sub-department of the BMP, and created a newly independent and professionally distinct Basutoland Prison Service (BPS). In late 1946, prior to introduction of the new laws, the commissioner arranged for the secondment of an officer in the English Prison Service to serve as the organization's first superintendent: Arthur Penter was expected to bring to bear his training and experience to build a new sort of penal system, designed to discipline and train offenders to be productive members of society, rather than aiming to facilitate deterrence through fear of brutalization in jail. The new proclamation established the legal framework to, one day, route different classes of offenders into a broader array of institutional settings. Colonial officers argued that facilities designed to impose individualized corrective measures on offenders would be both a more productive and a more humane means of responding to criminal offenses. Before this work could commence, however, the state needed to build the corresponding array of specialized penal facilities. As a first step, Penter worked with a draftsman from the public works department to draw up blueprints for a large prison in Maseru, explicitly designed to facilitate classification and segregation of inmates.

¹ Prior to this proclamation (No. 77 of 1947), there were, however, meaningful alterations to the 1917 law implemented under a series of 'Prison (Amendment) Proclamations' over time: §8 under Proc. 19 of 1921; §16 under Proc. 48 of 1936; §§1, 3, 6, 7, and 14 under Proc. 63 of 1937; and §§14 and 16 under Proc. 12 of 1939 (TML: *Basutoland Proclamations and Notices* for 1921, 1936, 1938, and 1939).

The shift in Lesotho during the 1940s and 1950s to a system officially predicated on correcting rather than simply deterring crime, bore some similarities to the path blazed during a period of penal reform in England in the 1890s and 1900s. For one, the penological turns in England and Lesotho both emerged from popular disillusionment and public crises surrounding the failings of the existing system of social control.² In the former, the 1895 report of a commission on the prison system, headed by William Gladstone, gave voice to the idea that prisons were not only failing to deter crime and prevent recidivism, but exacerbating these phenomena. A second similarity lies in the rapid construction of new legal and institutional infrastructure. The Gladstone commission argued that the English government should abandon its decades-long ‘fetish for uniformity’ in prison conditions, and instead aim to confront various pathologies in individuals with more specialized institutional settings capable of imposing varied levels of coercion. The nineteen-year period between publication of the commission’s report and the outbreak of World War I in 1914 witnessed the construction of an institutional ‘disciplinary continuum’ in England, comprised not only of more securitized prisons, but also the proliferation of reformatories,

² The English central government seized administration for all penal facilities under the Prisons Act of 1877, on account of the growing belief that differential conditions and rules across locally-administered jails and prisons stymied the work of deterrence and rehabilitation. English politicians, penologists, and social reformers were confident, at the time, that using trained professional warders to create a uniformly austere experience of incarceration – with all inmates facing precisely the same meagre diet, cramped cell size, complete solitude, and forms of drudgery – would stamp out crime and recidivism in short order. In the landmark text *Punishment and Welfare*, David Garland describes a historical rupture in the orientation of English disciplinary institutions over a short period spanning from 1895 through 1914: the system became far more geared towards individuating and classifying deviants than before, ostensibly as a way of correcting various forms of poor behavior and engineering a better society. Garland’s narrative challenged convention historical representations of the past, which saw continuity in penal rationales dating back to the late 18th century, spurred by Enlightenment ideals and/or the political economic demands of the dawning industrial age, while much scholarship on welfare focused on the post-World War II moment as a watershed in which the state sought to address crime by providing new social provisions and protections for citizens.

borstal schools, mental asylums, and inebriate institutions, as well as sprawling systems of parole, supervised release, and suspended sentences.³ A third notable area of overlap involves shifts in rationales and ideologies of punishment. Nineteenth-century metropolitan penalty was predicated on the conceit that criminals and non-criminals differed ‘only in the contingent and non-essential fact of their law breaking.’⁴ The intellectual projects informing the new, turn of the century criminology, however, shared a commitment to the capacity of ‘human sciences’ to categorize and address various forms of deviance and, thereby, engineer a better society.⁵

At the space moment England was undergoing its penological turn, the fledgling imperial administration in Lesotho was working to forge a system of social control. Yet, even as Maseru built up and expanded upon its network of jails during the 1890s and 1900s, the new metropolitan tactics had minimal impact on the design or structure of the colony’s

³ Foucault presents the prison as the capstone of a ‘carceral continuum’ (Foucault 1975, 296-303) with ‘assistance associations, residential apprenticeships, penal colonies, disciplinary battalions, prisons, hospitals, almshouses... already well mapped out at the beginning of the nineteenth century’ (300). He further maintains that the system exists to manufacture criminality: ‘the delinquent is an institutional product’ (301). Scholars, notably including Garland, take issue with both the periodization (which emerged a century after Foucault suggests: Garland 1985, 4 and 31-2), as well as the fact that all the evidence suggests that reformers were genuinely trying to combat criminality and promote behavioral reform (even if they failed in practice: Garland 1985: 59-64). Also see: O’Brien, P. 1978. ‘Crime and Punishment as Historical Problem.’ *Journal of Social History* 11/4: 508–20; Rothman, D. 1990. *The Discovery of the Asylum: Social Order and Disorder in the New Republic*. Boston: Little, Brown, xv; Alford, F. 2000. ‘What Would It Matter If Everything Foucault Said about Prison Were Wrong? Discipline and Punish after Twenty Years.’ *Theory and Society* 29/1: 125–46.

⁴ Garland 1985, 14. These notions were rooted in the writings of Cesare Beccaria, John Howard, William Blackstone, Jeremy Bentham and other 19th-century legal and moral philosophers.

⁵ While sharing this faith, reformers offered varying opinions on whether maladjustment was a product of nurture, remediable with reformative incarceration and schooling, or nature, necessitating harsher interventions and, even, sterilization and segregation so as to prevent reproduction: Searle, G. R. 1976. *Eugenics and Politics in Britain, 1900-1914*. Leyden: Noordhoff; Bland, L. and L. Hall. 2010. ‘Eugenics in Britain: The View from the Metropole.’ In *The Oxford Handbook of the History of Eugenics*, Bashford, A. and P. Levine, ed. <https://doi.org/10.1093/oxfordhb/9780195373141.013.0012>.

emerging penal system.⁶ Ideology infused this policy divergence. Period administrative imaginings of criminality centered on the question of whether offenders remained steeped in Sesotho values or had instead become alienated from their cultural moorings: criminal and non-criminal Basotho differed on the *contingent fact* of continuing ‘tribalization.’ Viewed through this conceptual framework, the aristocracy certainly appeared to represent the best instrument for effecting social control: not only did a system reliant on lords offer slight administrative labor demands and low financial costs, but it also promised to use supposedly traditional means for re/socializing persons to follow the specific society’s traditional norms. Use of Western modes of punishment for crimes were framed, on the other hand, as risking further alienation of people who were held to already be socio-culturally maladjusted. Unsurprisingly, the prison system which emerged in Lesotho over the first half century of colonial rule was framed as little more than a coercive backstop, demanded for punishing – and thereby, perhaps, deterring – certain grave or politically-sensitive crimes, and *not* as an instrument for rehabilitating offenders.

Maseru’s frustrations with the way the aristocracy was performing the work of social control in the 1930s fundamentally underpinned the colonial drive to remake Lesotho’s police and prison systems during the 1940s and 1950s, notwithstanding much period rhetoric about the longstanding intent to build up universal institutions with time. Similar to how the notion of uniform penal misery was widely held up as a means of

⁶ The impact was indirect and limited. As noted in Chapter 2, Lesotho’s 1917 Prison Proclamation used the South Africa law, which was inspired by metropolitan changes, as a model. For this reason, the law refers to Borstal schools, despite the fact that none existed. The administration largely used a special wing of a prison for juvenile boys, while juvenile girls were detained with women. Mentally ill people were largely detained in solitary in prisons, although the administration did pay the maintenance for a few Basotho individuals to be detained in South African mental institutions. See also: Thabane, M. 2021. ‘Public Mental Health Care in Colonial Lesotho: Themes Emerging from Archival Material, 1918–35.’ *History of Psychiatry* 32/2:146–61.

confronting putatively rampant criminality in England during the 1870s and 1880s only to later be viewed as a driver of lawbreaking in the 1890s, it became increasingly clear in Lesotho over the late-1920s into the 1930s that the colonial regime's reliance on the aristocracy and so-called traditional law was itself contributing to crime. A great many lords saw themselves as above the law, and engaged in practices of personal enrichment and exploitation of subjects in ways that fueled offenses against persons and property. A handful of nobles were even suspected of running smuggling rings for stolen cattle and other large criminal operations. When the *Khubelu* reforms were imposed in 1938, reducing the legal powers of lords and making 'chieftainships' contingent upon the approval of Maseru, the administration was also considering changes to scale up the work of the state in policing and punishment. Indeed, within weeks of these measures going into effect, the Resident and High Commissioner were already at work discussing the elaboration of a new prison proclamation.⁷ The introduction of these reforms would likely have come much sooner if not for World War II. In 1944, as an eventual Allied victory in Europe looked increasingly assured, experts were sent to investigate potential reforms to the system of social control in Lesotho. These planners waxed on about the need to build a local version of the universal disciplinary continuum, thereby enabling the colonial state to deploy the insights of penological science to build a better society by classifying, segregating, and coercively correcting various forms of deviance.

Promulgation of new prison laws on December 31, 1947, presents both an easy, ready-made date for periodizing the birth of reform-oriented penalty in Lesotho, and also a deeply specious one. Notwithstanding their similar origins in crises, shared ideological

⁷ LNA, 1334 I, High Commissioner's Office to Maseru Residency, 6 Nov. 1938.

commitment to the capacity of states to improve societies, and similar legal frameworks, the penal reforms which emerged in Lesotho over the decade following the 1947 proclamation were hollow shells of their metropolitan cousins of a half century earlier. The latter system emerged in lock-step with a number of welfarist interventions, which merged the political project of reforming deviants with an impulse to ensure that state resources were allocated according to moral deservingness⁸. There was no discursive specter of the undeserving poor living off state largesse or swamping society with their genetically wicked and/or feeble offspring in Lesotho.

The one significant financial investment connected with the new legislation was the construction of Maseru Central Prison. But the impulse for this construction, in point of fact, lies not in the promise of segregation and classification, but rather simply that the old Maseru jail, built in the 1880s, was literally crumbling and overflowing with bodies. With plans in hand for a new prison, masses of male inmates were moved out of the jail to tents on the site of the new facility, where they toiled to build the new institution surrounded by barbed wire and men with guns. In the early 1950s, once building progress had reached the point where all adult male prisoners in Maseru could be housed inside, construction of the prison wings designed to facilitate segregation slowed to a crawl: classification and segregation thus remained a pretense. The prospect of building specialized facilities to take

⁸ Garland 1985, 115, 122-7, 130-55. The two earliest forms of social insurance provision in England were mandatory pensions, so as to spare persons who had lived unstintingly productive lives from the indignity of the workhouse in old age, and contributory social security 'designed... to preserve a conception of individual thrift and a distinction between earned and unearned benefit' (Garland 1985, 137). The Eugenicist fervor of the era meant policymakers were never willing to extend non-punitive social protections to the poorest members of society, lest it encourage the so-called 'feeble-minded' and 'degenerate' to out-breed the productive classes (Garland 1985, 140-55). See also: Jones, G.S. 1984 *Outcast London: A Study in the Relationship between Classes in Victorian Society*. New York: Pantheon.

custody and productively treat other classes of law-breakers, including mentally ill offenders and juveniles, were also not priorities for the regime. Prison life, meanwhile, was marked not by counseling and job training, as in England, but by forced labor and draconian discipline.

The problematic allure of the date is exacerbated by the way it dovetails with liberal historical narratives which treat WWII as ushering in a complete paradigm shift in colonial rationale and practice.⁹ This story holds that the metropolitan Labour government led by Prime Minister Clement Attlee, which came to power in July 1945, was not only fixated on building a welfare state at home, but also eager to promote universal techniques and share resources across the empire: this shift in policy was supposedly evinced by a marked shift in language framing metropolitan relationships with overseas territories (as colonies were rebranded) as those of senior and junior partners in commonwealth. The liberal narrative falsely presents financial investments and new political rights in colonies as metropolitan gifts, thereby eliding just how contentious and prolonged the struggles to wrest these concessions from the metropole were at the time. Attlee's government was indeed committed to rebuilding a war-ravaged English society with a bevy of new entitlements – full employment, universal health care, social insurance, and so on – for citizens at home, but it also intended to accomplish these things by drawing upon resources extracted overseas. To shore up an empire which lost its 'jewel' with Indian independence

⁹ Hopkins, A. G. 2008. 'Rethinking Decolonization.' *Past & Present* 200: 211–47, especially 216-7; Louis, W.R. and R. Robinson. 1994. 'The Imperialism of Decolonization,' *Journal of Imperial and Commonwealth History*, 22/3: 462–511; Thomas, M. 2014. *Fight or Flight: Britain, France and their Roads from Empire*. Oxford: Oxford University, 2014. On Malaya: Stockwell, A.J. 1993. "'A Widespread and Long-Concocted Plot to Overthrow Government in Malaya'": The Origins of the Malayan Emergency,' *Journal of Imperial and Commonwealth History*, 21/3: 66-88. For more on the English welfare state: P. Thane, P. 2000. 'Labour and Welfare', 80-118, in D. Tanner, et al., eds., *Labour's First Century*. Cambridge: Cambridge University.

in 1947, and faced further humiliating setbacks in Mandate Palestine and Burma, the Labour administration dangled both the carrot of development assistance, in the form of technical knowledge and capital funding, and the stick of brutal counterinsurgency in places like Malaya. After the Conservative Government of Winston Churchill came back into power in 1951, moreover, a more stridently imperialist tone reemerged in foreign policy.

Instead of gifts, delivery of the promised reforms had to be wrested from the colonial state. As multiple scholars have observed, resistance has different scopes spanning from simply blunting or blocking the imposition of power, to the outright creation of power.¹⁰ While the two rebellions described at the outset were both aimed to block the unjust use of power, they ended up, over time, contributing to the creation and implementation of new penal regulations. This process was not, however, a straightforward story of using the existing legal system to lay claim to rights. The new regulations came about as the colonial regime sought to hide and deflect from the rampant illegality of the way its prisons were run. The events threatened to give rise to a political scandal, mobilizing moral offense and discrediting the legitimacy of British rule in ways which mobilized demands for reforming, or even outright ending, colonial rule.¹¹

¹⁰ Buntman, F. 2019. 'Prison and Law, Repression and Resistance: Colonialism and Beyond.' *Journal of Imperial and Commonwealth History* 47/2: 213–46, 230, and Buntman, F. 2003. *Robben Island and Prisoner Resistance to Apartheid*. New York: Cambridge University, 265; McEvoy, K. 2001. *Paramilitary Imprisonment in Northern Ireland: Resistance, Management, and Release*. New York: Oxford University, 33-6; Zinoman, 59; See also Hollander, J. and R. Einwohner. 2004. 'Conceptualizing Resistance.' *Sociological Forum* 19/4: 533–54, 33-4, as cited by Buntman 2019, 240n96.

¹¹ My profound thanks to Dr. Stacey Hynd for her insights on the meanings and import of scandal within the British Empire. See also: Dirks, N. 2006. *The Scandal of Empire : India and the Creation of Imperial Britain*. Cambridge: Belknap, 33-5; Thomas, M. and R. Toye. 2017. *Arguing about Empire : Imperial Rhetoric in Britain and France, 1882-1956*. Oxford: Oxford University, 9.

Word of poor conditions and illegal conduct would likely have remained confined to the internal world of the prison if not for the two rebellions described at the outset of this chapter. The colonial interpretation of the 1949 incident and aftermath decisively marking the end of the old order of social control reliant on lords proved to be accurate, but not entirely in the way officials expected: the outrage over medicine murder executions, which boiled over in rebellion, catalyzed the formation of new transnational links between activists. These connections, enabling Basotho to swiftly spread word of colonial malfeasances to metropolitan and world publics, lent far more urgency to reports of abuses in Lesotho amongst officials in London. The 1955 uprising, meanwhile, emerged because the administration had failed to deliver the reforms in penal practices which were promised when the old order was destroyed. Recognition of this oversight, as well as fear of a political scandal emerging should the truth of events come to light, pushed the colonial establishment to plan and actually carry out another wave of reforms over the late-1950s which oriented Lesotho's prison system firmly towards a model designed to rehabilitate inmates. The violence and destruction of rebellion by incarcerated people served, ultimately, as a vital catalyst towards making prisons safer spaces to live and work.

5.2 The 1947 Prison Proclamation and the birth of the Prison Service

The question of penal reform became an item of significant interest in the Colonial Office during the 1930s. In 1937 a commission chaired by George Tomlinson recommended the creation of a Colonial Prison Service.¹² Such a force, the report suggested, would facilitate

¹² BNA, CO 885/71, Tomlinson, G., Report (Colonial Office, No. 476) on 'Unification and Staffing of the Colonial Prisons Services,' 18 Dec. 1936. This Tomlinson Report should not be confused with the more (in)famous South African report of the same name (named for economics professor Frederick Tomlinson), which surveyed the economic viability of African Homelands (later

standardization within prisons across the empire, as officers from the Home Prison Service (of England and Wales) cycled through posts disseminating knowledge of best penological practices and identifying problematic aberrations within particular colonies. Although colonial Lesotho, Botswana, and Swaziland fell outside the mandate of the recommendations, as High Commission Territories, Tomlinson did still solicit information from these colonies all the same.¹³ Maseru conveyed growing administrative frustration with the existing system of relying on the BMP. The administration forwarded an internal study of potential changes to the police system: the High Commissioner was aware of the need for reforms to both prisons and the police, and British Resident Edmund Richards was confident that a large-scale study of these issues would be forthcoming, as a prelude to substantial reforms.

The impulse for studies and reforms related to the coercive spine of the state were placed on hiatus when war broke out in Europe in September 1939. During the early years of WWII, when England was very much on its backfoot, the local administration was profoundly short-staffed, and marked by acute paranoia about enemies within and at the gates. Maseru therefore looked to lords to ensure security in the territory and, especially, lead recruitment for the African Pioneer Corps. Nobles were instrumental in delivering over 25,000 Basotho men to risk their lives defending England from Hitler.¹⁴ The question

‘Bantustans’) in 1950 and was cynically deployed as a foundational document for Hendrik Verwoerd’s vision of Grand Apartheid.

¹³ Ibid, paragraph 23. See also: CO 850/130/16, Tomlinson, ‘Summary of replies to circular despatch,’ 5; BNA, DO 35/921/4, Huggard to MacDonald, 26 Apr. 1939.

¹⁴ Thompson, R. 1980. *Reminiscences*, as recorded and transcribed by D. Ambrose, 40-6. With the outbreak of war, the administration was racked by fear of external and internal enemies. This paranoia spiked after a pro-German Afrikaner militia, known as the Ossewabrandwag, cut the telegraph wires all along the border. Josiel Lefela was detained in prison in Leribe for several years during the war, ostensibly for convincing three Basotho men to refuse to fight for the empire. A handful of people in the territory who expressed pro-German sentiment or were of German descent

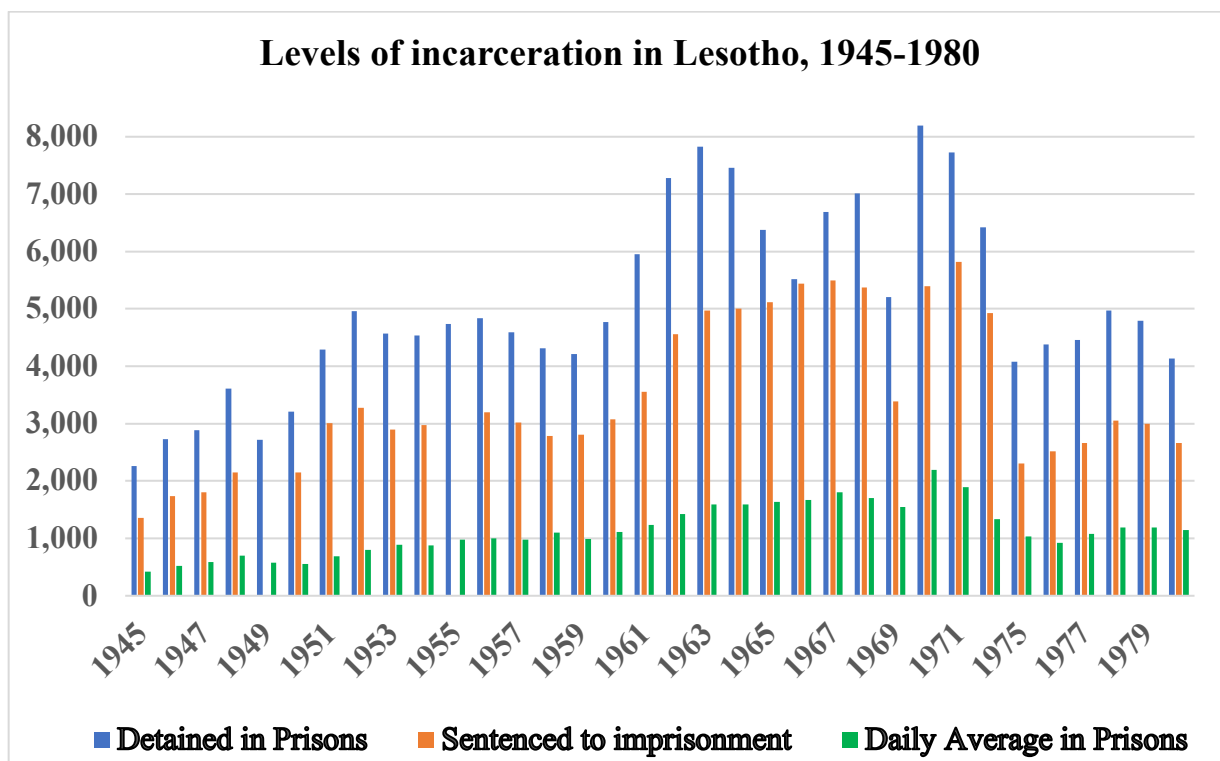
of institutions of state coercion reemerged in 1944, once victory in Europe appeared to be in hand. In June 1944, the High Commissioner handed down a new Police Proclamation (No. 22 of 1946), based on the recommendations drawn up in 1936. At the time officials noted: 'It is proposed to separate the Police and Prisons Departments as far as possible though for the time being they will have to remain under one head. Detailed proposals for the Prisons Department will be submitted separately.' A study of policing in each of the HCTs was carried out in June 1946 by a former police commissioner of Mandate Palestine, Nigeria, and Trinidad: Arthur Mavrogordato emphasized the need to move away from the old way of thinking about police as merely security personnel (or, in the language of chapter two, as 'violence workers') and instead focus on the specialized training and skills of investigating crimes and imposing punishments.¹⁵ This reorientation was all the more important as the colonial state assumed more of the work of social control formerly performed by lords.¹⁶ The official aim of the reforms, in the case of prisons and warders, was to 'give emphasis to the reforming aspect of prison life as well as the punitive.'¹⁷ Numbers of incarcerated people trended upwards.

were also detained, including a German Jew who had sought to flee persecution first in his homeland and then in South Africa. Rivers Thompson was the district commissioner in Berea during the war, and described the manner in which Gabashane Masupha 'foxed' his people: the ward lord called a public meeting (*pitso*), but instead of speaking the assembled men were mustered into service. At least one recruit died from injuries sustained when leaping from the truck carrying him away from the Berea gathering. Less than a decade before he was hung by the British, Lord Gabashane was heaped with colonial praise for delivering some 4,000 sons of Berea district to ship out for the North Africa, the Levant, and Europe to beat back the Axis onslaught. On coercive recruitment of soldiers by lords: Ntabeni M. 2008. 'Military Labour Mobilisation in Colonial Lesotho during World War II, 1940-1943.' *Scientia Militaria* 36/2: 36-59, especially 49-53.

¹⁵ BNA DO 35/1174: f. Police Staff-BBS, 'Confidential report on the police forces.' See, especially, 24-5 on Lesotho's prisons. The divorce of the two forces had been contemplated since the 1930s (see BNA DO35/921/4, Richards to Clark, 31 Jan 1938).

¹⁶ BNA DO 35/1174: Arden Clarke to Lord Harlach, 15 Nov. 1943.

¹⁷ Annual Report 1948, 10; Annual Report 1947, 7-8.



Corporal and capital punishment were particularly sensitive political issues. After some years of London gently nudging local colonial administrations to begin to scale back the use of judicial corporal punishment,¹⁸ the abolition of the practice at home as part of the Criminal Justice Act of 1948 led the Dominion’s Office to use more forceful language in a 1950 circular:

The time has now come for Colonial Governments to adopt the policy that [corporal] punishment should be abolished at the earliest possible date... the greater part of the civilised world has found other methods of treating its offenders, whether adults or

¹⁸ A metropolitan committee formed in 1938 to examine the question of capital punishment, chaired by Edward Cadogan, argued that the continuation of whipping in Britain and the empire was an ineffective, inhumane, and anachronistic policy (Great Britain Home Office. ‘Departmental Committee on Corporal Punishment Report [Cadogan Report].’ London: HMSO, 1938). The following year, London solicited opinions on the prospect of abolishing corporal punishment from local colonial administrations (BNA, DO 35/922/6, Circular No. 28, 17 Jan. 1939). The matter was dropped in the HCTs in response to uniform opposition from Maseru, Mbabane, and Mafikeng (ibid, HC’s Office to Inskip, with attached memos, 21 Aug. 1939). Discussion continued following subsequent circulars from Secretaries of State George Lloyd (BNA DO 35/4103, 2 Jul. 1940) and Arthur Creech Jones (ibid, 15 Oct. 1946).

juveniles, and that the British Commonwealth is one of the few remaining groups which make extensive use of a system of punishment... I shall find it increasingly difficult to defend our record either in Parliament or before the United Nations unless it can be shown that governments accept complete abolition as an aim of policy and are working progressively towards it... I think it would be generally accepted that on account of its degrading features corporal punishment of men is a matter of graver concern than the whipping of boys. For this reason I hope that attention may first be concentrated on this aspect of the problem.¹⁹

Corporal punishment of adult men did decline in Lesotho over the early 1950s, but the practice was not abolished: colonial judges continued to make particularly heavy use of caning of men for stock theft after the first conviction.²⁰ London's announcement that abolition of the death penalty in British colonies was 'a matter for consideration by local Executives' did not find a receptive audience in the HCTs: not only did Maseru want to keep hangings as a means of crushing medicine murder (discussed in the next section) but the Smuts government in South Africa warned that talk of abolition in the territories might necessitate preemptive annexation.²¹

¹⁹ BNA, DO 35/4103, Circular No. 12755/50, 1 Aug. 1950.

²⁰ BNA, DO 35/4103: Rougetel to Ismay, 28 Feb. 1952; CRO to Rougetel, 9 Aug. 1952. On the statutes enabling the continued imposition of lashes, see: BNA CO 859/241/6, King and Webber correspondence, 26 Mar. 1952, 28 Mar. 1952, and 7 Apr. 1952, including clippings from gazettes. The letters also note the inefficacy of whipping for curtailing stock theft, echoing the Cadogan report and 1950 imperial circular.

²¹ BNA, FCO 141/885: Baring to Forsyth Thompson, with attachments, 12 May 1948; Baring to Creech Jones, 29 Apr. 1948. The issue came up again in the late 1950s as London fretted over the potential scandal arising out of racialized discrepancies for punishments for rape in its colonies (invariably allowing for the execution of a black or brown colonial subject for rape of European, but not the reverse). Although the Deputy High Commissioner Thomas Scrivenor advocated removing raced-based sentencing in the name of justice and fairness, commissioners and administrators in the HCTs pushed back by noting three factors: first, the South African government was invested in the HCTs maintaining the law as written; second, no death sentence had been handed down for rape in a HCT; third, the commissioner could and would immediately commute any such death sentence should the political need arise (BNA, FCO 141/885: Fowler to Scrivenor, 19 Mar. 1956; Arrowsmith to Scrivenor, 11 Apr. 1956; Scrivenor to Lennox-Boyd, 8 Aug. 1958 and 24 Jan. 1956; CRO to HC's Office, 24 Sep. 1958; HC's Office to Lennox-Boyd, 31 Jan. 1959).

Table 3. Judicial hangings in Lesotho, 1939-70

Year	Hangings		
1939	2	1955	12
1940	0	1956	7
1941	1	1957	0
1942	7	1958	13
1943	2	1959	11
1944	2	1960	15
1945	13	1961	0
1946	4	1962	0
1947	11	1963	4
1948	19	1964	0
1949	13	1965	0
1950	3	1966	4
1951	11	1967	0
1952	11	1968	1
1953	14	1969	4
1954	24	1970	0

**Data compiled for both tables from annual reports of central administration, health department, and prison department.*

To help plan and implement penal reforms, the High Commissioner requested an officer on secondment from the Home Prison Service. Arthur Penter arrived in November 1946 to fill the new position of Prison Superintendent.²² He took command of a proto-prison service administering nine jails: the two largest, in Maseru and Leribe, were administered by European Senior Gaolers, while the 7 smaller district jails were managed by African Gaolers.²³ The rank and file was comprised of 55 African warders, including 3

²² LNA 1334 II: f. 139, Chief of Police to Gov't Secretary, 9 Dec. 1946.

²³ *BAR 1947*, 60-1. LNA 1334 II: f. 139, Chief of Police to Gov't Secretary, 9 Dec. 1946. For records of European prison personnel during the 1930s and 40s: LNA 1334 I, f. 128. The Senior Jailer in Maseru, Vivian Farquharson, arrived in Lesotho from the English Prison Service in 1939, and after a short tour back in English facilities after the arrival of Penter, returned to serve as Lesotho's Superintendent of Prisons throughout the 1950s (LNA 1334 I, f. 128; *ibid*, F281, f. 117).

women who worked in the Female Annex at Maseru Gaol. The new superintendent's tenure got off to a rocky start, when a handful of prisoners not eligible for remission were mistakenly given discharge papers to celebrate the royal visit of 1947.²⁴ When the Secretariate investigated the matter, officials discovered that there were also several incarcerated persons who had been held weeks or months too long. These debacles were indicative of things to come: the Penter superintendency was marked by a series of errors and lost opportunities for Lesotho's prison system.

The specific tasks the administration had sought assistance from London were two-fold: reviewing impending prison legislation to ensure it met muster from a penological standpoint, and working with a draftsman from the Public Works Dept. to produce blueprints for a new prison in the colonial capital.²⁵ The 1947 proclamation, and accompanying notice of regulations drew heavily on language borrowed from metropolitan laws.²⁶ It signaled aspirations to one day classify and segregate inmates, provide job training, and be able to detain juveniles and mentally ill people in securitized schools and hospitals rather than penal facilities, but not making these things legal requirements. In addition to drawing upon inspiration from British laws, the administration created a 'licensing board' modeled on a program in colonial Tanzania, with greater discretionary power to parole ('license') incarcerated people. To help relieve overcrowding in district

²⁴ LNA, No. 219, F877: Penter minute, 18 Apr. 1947, peppered in handwritten memos of frustration from secretariat. See also: How minute, 'Release at Coronation,' n.d.; Kennan to Priestman, 22 Jan. 1947.

²⁵ LNA No. 1334 I. Chaplin minute, 16 Nov. 1946; Commissioner of Police and Prisons minute, 6 Dec. 1946.

²⁶ *Basutoland Proclamations and Notices 1947*, Proc. 77. For discussion of law's aims: *BAR 1947*, 6-8, and internal correspondence (LNA, 1334 II). Chunks of legal text also came from a book, which remains in the colonial file, by a Liverpool University sociologist: Simey, T. 1944. *Principles of Prison Reform*. Bridgetown, Barbados: Colonial Office Social Welfare Advisory Committee (LNA, 1334 II).

jails, the law also expanded judges and administrators capacity to impose ‘extramural imprisonment’ on offenders: persons under judicial sanction carried out unremunerated road work and other forms of hard labor in the countryside, while eating rations and sleeping in tents provided by the administration.²⁷

The urgency of Penter’s second task was underpinned by the ‘dangerously overcrowded state’ of Maseru Gaol.²⁸ Medical officers were particularly dire in their warnings about the facility: cramped cooking and eating facilities, teeming with flies from adjacent pit latrines, represented a poliomyelitis outbreak waiting to happen. Penter used the confidence placed in him to draw up plans modeled on Pentonville Prison: a central administrative block would serve as the single access point to five spoke-like wings, each reserved for a different class of inmate. The superintendent did deviate from the 1840 design of the English prison with one unique addition: the conical top of the central tower emulated the roofs of the rondavels dotting the territory’s landscape. Regrettably, the administration did not vet Penter’s plans with any outside experts before commencing with construction. As we shall see, in the wake of the 1955 rebellion, several metropolitan authorities versed in prison design expressed utter astonishment that Pentonville was used as a model for a new prison in the 1940s, given that the shortcomings of the facility had

²⁷ The introduction of extra-mural penal labor had been debated since the beginning of the 1940s. See BNA: CO 859/73/3, ‘Summary of responses to circular dated 30 Dec. 1939,’ n.d.; Gov’t Secretary minute, 3 Aug. 1940, including extract of correspondence from paramount; CO 859/73/4, ‘Report on the working of extramural system in [HCTs],’ 1943.

²⁸ BNA FCO 141/689: Supt. Penter to Gov’t. Secretary, 28 Apr. 1948; GS Circular, 10 May 1948: over 1947 and early 1948 the number of prisoners swelled, some 250 persons were crammed into a facility designed for 150 people. For earlier assessments of Maseru Gaol conditions, see, for example, BNA DO35/921/4, Dr. Dyke to Gov’t. Secretary, 14 Feb. 1938. A key aim of transferring men out was to repurpose the facility for female prisoners and, later, juvenile males (BNA, CO 417/545). The first female jailer (supervising female ‘wardresses’) was hired in 1948 (*BAR* 1948, 90).

been widely commented on for decades.²⁹ The architectural core of the facility, which was antiquated when built over the late-1940s and 1950s, remains the flagship of Lesotho's prison system today.

Over 1948 hundreds of inmates at Maseru Gaol were marched a half mile south to a four-acre field surrounded in barbed wire and littered with canvas tents³⁰: the site for the new Maseru Central Prison. At the outset the administration announced, 'It will be some years before the new prison is completed, but as each section becomes habitable it will be occupied.'³¹ And, indeed, while inmates were out of the tents into the first wing by the end of 1949, it would take over a decade for the design in the blueprints to be completed. Financing for the construction came from Colonial Welfare and Development funds. The inmates themselves provided all the construction labor: they worked under technical instructors hired to teach stone dressing, carpentry for framing and doors and cabinetry, and a blacksmith for sharpening and repairing the tools. These workshops served as germs for the prison's trades program that would grow dramatically over the late-1950s and 1960s. During the period between 1948 and 1952, over one hundred men continued to be detained in what was now called Old (Maseru) Gaol: this number included both individuals still awaiting trial as well as those under sentence of death.

²⁹ C. Notsi, author interview, 2 May 2017, Maseru; see also BNA DO35/4555: f. 19c. On the flaws of the design: Alford, R.G. *Notes on the building of English prisons*, Vol. I, Parkhurst: HM Prisons, 1-9; BNA, PCOM 7/29, 'Pentonville Prison, proposals to dispense with prison,' 1926.

³⁰ BNA, FCO 141/689: Penter to Gov't. Secretary, 28 Apr. 1948; Forsyth-Thompson minute, 11 June 1948.

³¹ *BAR 1948*, 10.

5.3 Medicine murder and the growth of new transnational activist networks

Both Bereng Griffith and Gabashane Masupha could have escaped Maseru Gaol.³² On the afternoon of July 28, 1949, a group of dozens of prisoners launched a rebellion inside the crowded and dilapidated facility in order to liberate the two lords. Using pipes torn from the bathroom walls and other improvised weapons, the rebels overpowered and disarmed the warders in the jail yard. The group then hauled the two nobles from their holding area to a yawning front gate. Gabashane reportedly dawdled, repeatedly walking to the threshold and then back into the facility. Bereng, meanwhile, quietly but decisively walked back to his cell and closed the door. A few minutes later police reinforcements stormed through the front gate and the chance for escape disappeared. Although their appeals of last resort had already been rejected, Bereng and Gabashane simply did not believe that the British administration would follow through with executing, respectively, the second and fourth highest ranking members of the aristocracy. Six days later, at 6:30 in the morning, the catch on the gallows trapdoor was activated and the two nobles, and five other men standing abreast, plunged to their abrupt deaths.³³

The execution of two of Moshoeshoe's great grandsons had roots in a pair of succession crises flowing from the death of Paramount Griffith Lerotholi in 1939.³⁴ An

³² BNA, DO 119/1374, Clark report, 'Attempted release from custody of condemned chiefs: Bereng Lerotholi and Gabashane Masupha,' 16 Aug. 1949. TML: *Moeletsi*, 'Polao ea marena a mabeli a lihloho a Lesotho,' 16 Aug. 1949; *Basutoland News*, 'Big Chiefs Executed,' 9 Aug. 1949, and 'Rule of fear removed,' 23 Aug. 1949; BNA, DO 119/1374: f. 10.1. Clark minute, 16 Aug 1949; Thompson 1980, 35; LNA, No. 144, F404, Covering minute for 'Annual Return of death sentences, 1949.'

³³ LNA, No. 144, f.404ii: Makione Mphiko and Moloji Ntai were convicted in the same case as the lords, and Khetisa Molapo, Setenane Mothebesoane, and Kooko Molaba for a separate medicine murder in Mokhotlong (see Jones, G.I. 1951. *Basutoland Medicine Murder: A Report on the Recent Outbreak of "Diretlo" Murders in Basutoland*. London: H.M.S.O. 98, Case 74).

³⁴ Jones 1951, 33-4; Murray, C. and P. Sanders. 2006. *Medicine Murder in Colonial Lesotho: The Anatomy of a Moral Crisis*. Edinburgh: Edinburgh University, 30-5; P. Bereng, author interview, 14 July 2017, Maseru (for background, despite his rejection of medicine murder as a phenomenon).

agnatic council, called the Sons of Letsie, passed over the late monarch's preferred heir, Bereng, to give the throne to Griffith's senior son, Seeiso (featured for his stringent punishments in Chapter 2). Before the acrimony caused by this dispute could ease, the aristocracy was again cast into turmoil: Seeiso unexpectedly died in 1940, leaving behind an heir who was less than three years old. Urged on by the late Seeiso's chief councilor and interim paramount, Gabashane Masupha, the Sons passed over Bereng as regent, fearing he might opt 'to sit on the throne with both buttocks,' and instead appointed Seeiso's senior widow, 'Mantsebo.'³⁵ This move did little to pour oil on troubled waters, however, as the new regent clashed with many lords by seeking to exercise her office to wield real power. A handful of alienated lords, including Gabashane, joined with Bereng in seeking to oppose and undermine the regent.

In the story told by the Crown prosecutor, 'Meleke Ntai was set upon by a dozen men as he returned to his home in 'Mamathe, Berea on the evening of March 4, 1948.³⁶ After knocking 'Meleke from his horse, the party seized and pinned down the stunned man, and one attacker sliced off the victim's lips. The bloody tissue was brought to Gabashane and Bereng, observing the ambush from a motorcar parked a short distance away. 'Meleke's body was discovered the following morning, face down in a shallow pool of water. The motive for the *liretlo* (ritual murder), the prosecution maintained, was the procurement of human medicine to charge up the medicine horns (*manaka*, sing. *lenaka*) of the prominent

³⁵ This turn of phrase was actually the announced intent of Bereng and Seeiso's father, Griffith, when he assumed the paramountcy in 1914. Griffith became monarch after refusing to produce an heir for his late brother Letsie II by levirate marriage: see BNA, CO 417/501, Gladstone to Harcourt, cited by Machobane 1990, 107.

³⁶ BNA, DO 119/1374; Murray and Sanders, 107-11; Jones, 97; see also *ibid* 93-4 on the supposed involvement of Bereng and Gabashane in the dissection and murder of Paramente Khotatso in late 1946; Eldredge 2007, 168-76.

lords as they vied for power with 'Mantsebo'.³⁷ The lords and eleven other men were arrested, implicated by four men who claimed to have been present for the planning and commission of the murder. Nine of the defendants were convicted and sentenced to death in the High Court of Basutoland, but the High Commissioner commuted five of the sentences to imprisonment. The Privy Council in London heard the final appeal – rooted in objections to a Crown case built entirely on accomplice testimony, which the defense further argued was coerced – but declined to intervene in the heavily publicized and politically charged case.³⁸

Word of two African lords involved in a gruesome form of occult created a sensation in the Western press. A moral panic about an uptick in medicine murders was already simmering in colonial circles in Maseru, Cape Town, and London, and boiled over after the arrest of Gabashane and Bereng.³⁹ The Foreign and Commonwealth Office commissioned the Cambridge University anthropologist Gwilym Jones to investigate. Jones found a trove of writings on Sesotho culture and medicine murder waiting for him in the country, produced by E. Hugh Ashton, a colonial official who grew up in the territory and held an anthropology doctorate from the University of Cape Town.⁴⁰ Ashton's emphasis on the historical and political economic context of the putative crisis deeply

³⁷ On 'Mantsebo's alleged involvement in medicine murder: Murray and Sanders, 39-50.

³⁸ BNA, DO 119/1374, 'King's order,' 18 Aug. 1949.

³⁹ *Basutoland News*, the English language paper of record (archived at TML), was full of graphic descriptions of the murders throughout the late 1940s: 'Maseru murmurings,' 1 Jul 1947; Ramafole, C., 'Deterioration of Basuto,' 29 Jun. 1949; 'Ritual Murder Allegation,' 3 Aug. 1948; 'Ritual Murder Trials,' 24 Aug. 1948; and, especially, 'Ritual Murder' and 'Horrible Acts,' 6 May 1947, which describe the flaying and disembowelment of a 9 year old girl while 'the child was still alive.' For a sampling of sensationalized coverage abroad: Gunther, J. 1954, 'Murder most foul in Basutoland,' in *Reader's Digest*, March, 6–8; Mopeli-Paulus, A. S. and M. Basner. 1956. *Turn to the Dark*. London: Jonathan Cape; Packer, J. 1953. *Apes and Ivory*, London: Eyre & Spottiswoode.

⁴⁰ Ambrose, D. Author interview, 21 Apr. 2017, Ladybrand; Jones, 1-2; UCT, Ashton papers (BC859), Box 5, 'Murder trials of 1899, 1944, and 1949.'

informed Jones' *Basutoland Medicine Murder*. This 1951 report argued that the taking of human medicine was an old Highveld practice, but one which had changed with time: as the end of intermittent raiding and warfare between communities and polities made it impossible to procure *litlo* (flesh from fallen enemy combatants), people and lords yearning for more power, wealth, or success with a military or romantic conquest, began to eye neighbors and subjects as alternative sources of medicine.⁴¹ The squabbles and deployment of dueling medicine horns by the royal family represented, in this telling, only the most visible exterior blemish on an aristocratic apple which was teeming with worms beneath the skin.⁴² The *Khubelu* reforms of 1938 and the creation of a National Treasury in 1946 had not reined in aristocratic excesses, as anticipated by Maseru, but rather given rise to a significant uptick in medicine murders: the sharp paring back of the number of traditional authorities, and prohibitions on lords pocketing court fines, fomented intense competition for the paid official positions, and even pushed some desperate nobles and communities to turn to human medicines for an edge. The Jones investigation turned up 23 likely cases of medicine murder in the period between 1895 and 1938, and 70 between 1939 and 1949.⁴³

Despite the growing consensus amongst Basotho over the 1940s had 'there had been an unusually large number of cases of [medicine] murder,' to the extent 'that people were increasing nervous about being out late, answering remote calls, and so on,' the

⁴¹ Jones, 12-4. See, also, Eldredge 2007, 176-81, on the 'invention' of medicine murder in Lesotho, including the alleged involvement of Edward Lion, after the preacher left the Botšabelo area for Leribe.

⁴² Jones, 37-117.

⁴³ Jones, 79-104, especially Appendix B on 104. These numbers are problematic, however, on account of the profoundly limited visibility of colonial police and officials into the territory's interior for the first several decades of colonial rule—as discussed in chapter two, *passim*.

execution of Bereng and Gabashane was widely seen as tragic and outrageous.⁴⁴ In a testament to the grief engendered by the executions, some 5,000 people attended Bereng's funeral in Matsieng, nearly one percent of the territory's population.⁴⁵ While the hangings proved to be a stark inflection point for the nation, it was not as a strong deterrent as envisioned by the administration. The executions instead poured fuel on long smoldering grievances, catalyzing popular suspicion of a colonial conspiracy. Many people were horrified at how common executions were becoming over the late-1940s (see chart above). The apprehensiveness of the colonial regime to use the judicial system to aggressively attack the aristocracy and lords themselves, informed by recognition that such an approach had fueled the collapse of the Cape administration in the 1880s, was gone. At the center of the growing public anger about the handling of the murders was *Lekhotla la Bafo* (LLB): after initially denouncing the murders as an appalling side effect of the *Khubelu* reforms, Josiel Lefela pivoted to cast the whole affair as a case of European officials propagating racist fantasies about African brutality and black magic.⁴⁶ In so doing, Lefela argued, the British were seeking to delegitimize the chieftainship, the bedrock institution of society, in order to weaken the nation and facilitate a transfer of the territory to South Africa.⁴⁷

⁴⁴ Scott, 196-7. Scott's confidant on the matter was identified merely as a Mosotho graduate student at SOAS in the late 1940s, but that description narrows the field to a very short list indeed: ZK Matthews.

⁴⁵ Murray and Sanders, 115.

⁴⁶ Murray and Sanders, 92 and 95-6; LNA, *44th Session Council*, Vol. I, Lefela speech, 21 Sep. 1948, cited by Murray and Sanders, 87; BNA, FCO, 141/663, Lefela minute, 28 Apr. 1958, and 'Petition,' 13 Feb. 1958; LC, Leribe DC to Gov't Secretary, 20 May 1957. In private correspondence to Scott, Lefela confided that medicine murders were a problem but that he believed that the colonial state approached the cases not intent on pursuing the actual culprits but rather with pinning blame on political enemies (Scott, 193). On BAC's similar position: TML, *Basutoland News*, 'Basutoland African Congress,' 16 Jun. 1953; BLO, MSS.Afr.s.1681, Box 219, Folder 4, BAC's 'Annual Report for 1954,' 5.

⁴⁷ Jones, 163-8; Scott, 193-4; Murray and Sanders, 92-6.

The colonial regime responded to this challenge brutally, mobilizing the police and judiciary to punish political critics. The Deputy High Commissioner sardonically reported to superiors in London that LLB ‘enjoys some official recognition only in that it is under constant police surveillance.’⁴⁸ In late 1948, as LLB loudly denounced the administration’s conduct in detaining dozens of people suspected of involvement in murders, the Lefela brothers and two other members of the organization’s executive board were arrested. They were charged with orchestrating the burning of a dormitory at Pope Pius XII College in Roma (later the National University) in August 1947, resulting in the death of four students.⁴⁹ Subsequent events suggest that the case was baseless. Maseru’s cynical attempt to leverage the tragedy of the fire – initially thought to have been caused by an electrical short – to destroy LLB also backfired: not only did the accusations further antagonize savvy and dogged critics, but the case linked Josiel Lefela with a network of leftist activists who helped to project LLB’s messages beyond the borders of Lesotho and, even, Southern Africa.

Michael Guthrie Scott’s temper was piqued by the demand that he immediately read the sheaf of soiled papers, shoved into his hands one evening by a strange visitor to his office at St. Alban’s Coloured Mission in Johannesburg, but he nonetheless complied.⁵⁰ The assistant priest had gained some subcontinental fame as a founder of the Campaign for Right and Justice in 1944, including the work of reforming the criminal-legal and penal

⁴⁸ SANA, NTS 7246, 201/326, Scrivenor to Reading, 27 Feb. 1954.

⁴⁹ TML, *Basutoland News*: ‘Fire at Roma,’ 9 Sep. 1947; ‘The Roma Fire,’ 10 Feb. 1948; ‘Echo of Roma Fire,’ 25 Jan. 1949. Also: *Inkululeko*, ‘A new “Reichstag Fire” plot behind Basutoland arrests,’ August 1948, in Edgar 1987, 192-3; Scott, M. 1958. *A Time to Speak*. Garden City: Double Day, 200-1. One man, Harold Velaphe – who implicated the Lefela brothers and two other LLB executives under questioning (and, Velaphe later maintained, torture) by police – was sentenced to 4 years in hard labor for arson in 1949.

⁵⁰ Scott, 191-2.

systems, and therefore found himself inundated with pleas to help various causes.⁵¹ As the Anglican pastor read the tightly scrawled handwriting of a man named Josiel Lefela, evidently smuggled out of a Lesotho jail (in Teyateyaneng), his personal irritation gave way to real concern. An hour later Scott had borrowed a car from a friend and was driving, with his new acquaintance, southwards towards the Mohokare. After the pastor spoke with Lefela in jail, he immediately helped to secure the activists a South African attorney. The arson charges against LLB's four executives were dropped a few days later. The priest then lingered in the territory, conducting an *ad hoc* independent investigation of 'ritual murder.' Not only did Scott listen to the protestations of innocence from Bereng and Gabashane in Maseru Gaol, but he also collected numerous statements on ways that the police used bribes and coercion to secure the testimony of accomplice witnesses in medicine murder cases.⁵²

One of the men charged alongside Bereng and Gabashane reported:

It was suggested to me that I should say that the chief offered me money to kill the deceased. For four and a half months the police hammered this into me... I was told that if I accepted...I should not be charged with murder. My feet suffered from the cold which was in the cell. I had only one blanket... I was also mentally tortured by being told lands were being seized, cattle killed, wife had gone to hospital.

Scott went to England to report his findings shortly after leaving Lesotho.⁵³ He hand delivered a letter to the Secretary of State Philip Noel-Baker, and spoke with individuals and organizations on the British left, including the Fabian Society. After Scott returned to South Africa, Labour Party MPs Frederick Skinnard, Richard Acland, John Parker, and others, kept up the pressure on their colleague Noel-Baker, by repeatedly raising the question of police abuses on the floor of the House of Commons. They also

⁵¹ Ibid, 99 and 113-39.

⁵² Ibid, 192 and 197-9.

⁵³ Ibid, 202.

called on the Secretary to investigate ‘complaints about the treatment of prisoners and people held in prison as potential witnesses,’ provide a conduit for lords to lay grievances before the United Nations, and postpone death sentences pending the release of Jone’s report.⁵⁴ Although these actions failed to save already condemned persons from the gallows, the campaign was hardly ineffectual. Reports of coerced testimony declined, the judiciary felt pressure to expedite its work so that remanded persons would not languish for months on end awaiting trial, and, making use of the 1947 prison proclamation, judges also began to more systematically use suspended sentences for first time offenders.⁵⁵ The medicine murder affair also, critically, created links between Basotho activists and the British Left which continued to strengthen and grow into the 1950s. When word of fresh custodial abuses in Lesotho reached the Commonwealth Relations Office in late 1955, fear of Basotho activists and Labour MPs airing the dirty laundry to the world pushed colonial officials to preemptively launch ambitious and expensive penal reforms, in addition to burying the story.

⁵⁴ British Parliamentary Debate (Hansard): HC Deb 25 November 1948 vol 458 cc1379-80; HC Deb 03 March 1949 vol 462 c522; HC Deb 10 March 1949 vol 462 c130W; HC Deb 21 July 1949 vol 467 c73W.

⁵⁵ The pressure from England impacted High Court Judge Walter Hanafin, who issued a scathing circular letter to colleagues two days before the 1949 rebellion stating, ‘The delays in the administration of justice in Basutoland are becoming little short of scandal’(LC, Box 3/4, Judge Hanafin, Judicial Circular, 27 Jul. 1949). The judge specifically advocated for more liberal and expeditious use of suspended sentences for first-time offenders as a means of unclogging the judicial system, reducing overcrowding in jails, and sparing first-time offenders from the criminogenic properties of prolonged incarceration. The administration proudly described the success of the increasing use of suspended sentences by its year-end report (*BAR 1949*, 57).

5.4 The Maseru Central Prison uprising of 1955 and its aftermath

On November 19, 1955, Leuta Mahao initiated an insurrection at Maseru Central Prison.⁵⁶ As Warder Masilo Makatse watched a group of inmates play a Saturday afternoon game of soccer near the front gate, Leuta walked up and clubbed the unsuspecting guard with a stone. Horrified onlookers watched as Leuta wordlessly seized Masilo's service revolver and fired a single shot into the stunned man's head. Pandemonium erupted in the yard: most inmates scurried for safety, either in their cells or by climbing the prison fence, but around thirty moved to join Leuta. The attackers swarmed a guard named Kolobe, fracturing his skull with blows and leaving him for dead. The other armed staff member, Warder Resethuntsa, rushed to the yard to fire on the rebels with his service shotgun but could not figure out how to operate the weapon's safety and, overcome with adrenaline and fear, joined eleven colleagues and over one hundred inmates fleeing the facility via the perimeter fence. Leuta's party then attacked the staff offices, containing the prison switchboard, armory, and file cabinets. Warder Albert Matsiea opened the office door to surrender, and met a hail of blows. He was saved by an inmate, Mohale Masupha, who carried the bleeding guard out of the fray and hid him in an empty cell. As the rebels smashed open the weapons locker and commenced burning prison records, they failed to notice another guard in the office, Warder Hlalele, who had secreted himself inside the telephone switchboard cabinet. The insurrectionists proceeded to liberate the solitary cells

⁵⁶ BNA, DO 35/4555, 'Riot and Gaolbreak at Maseru Gaol' folder, containing reports and interviews; C. Notsi, author interviews, 28 Apr. 2017 and 2 May 2017, Maseru; MMA, *Leselinyana*, 'Moferefere Teronkong e Kholo ea Maseru' [Sesotho], 28 Nov. 1955; TML, *Moeletsi*, 'Moferefere teronkong e kholo Maseru ka Moqebelo 19 Pulungoana' [Sesotho], 5 Dec. 1955. Also, FSD, *The Friend*: 'Jail Rebellion,' 21 Nov. 1955; 'Search for escapees,' 22 Nov. 1955; 'Tracking escapees,' 23 Nov. 1955; 'Two convicts recaptured,' 26 Nov. 1955; 'Eight still at large,' 29 Nov. 1955; 'Five still free,' 1 Dec. 1955. *Prison Report 1955*, in D. Ambrose personal archives.

and opened the front gate. Leuta exhorted the remaining prisoners to take up defensive positions for an impending counterattack. Witnesses later told investigators that rebels killed inmate Mapupu Mosotho, with a revolver round through the heart, for denouncing the violence.

The destructiveness of the rebellion involved a combination of luck and planning. The uprising was staged when both the *de facto* and *de jure* commanders of the facility, Chief Gaoler Khomari and Asst. Supt. Cornish, were on leave, and the jailer on duty, Seosane, was out of the facility on lunch. Although guards energetically cranked the alarm siren for a few minutes prior to the rebels seizing the staff office, it was largely inaudible in central Maseru as an intense northeasterly wind carried the blare towards the border. Word of the rebellion instead reached the police barracks via a civilian horseman, who galloped the mile from the prison after encountering a fleeing warder. Around this time the smoke from a bonfire of prison records was also becoming visible. The police sounded their own siren and set about telephoning reinforcements. Police Inspector Nkherepe Molefe armed himself with a Lee Enfield rifle, and zoomed towards the facility with eight privates in a police truck. As they arrived at the facility, the police encountered Maseru District Commissioner Hughes, staggering about and bleeding profusely: having heard the first siren, the commissioner drove over to investigate, but was forced to retreat after being struck squarely in the mouth with hurled stone.

Molefe and his troop proceeded towards the gate in tactical formation. As the group entered the wire enclosure, inmates apparently charged. The inspector opened fire. One of the two inmates killed was young man named Liphareng, who was still awaiting trial. David Masupha, an off-duty prison guard, borrowed Warder Resethuntsa's shotgun (after

encountering his colleague outside the facility) and dashed inside: he single-handedly drove inmates out of Cell Block D. As Molefe's men secured the rest of the prison, Hughes' secretary, Vivian Gillett, assumed command of the operation to retake Cell Block A, where Leuta and other committed rebels were holed up. After exchanging gunfire down a hallway, and a period of tense negotiations during which Gillett warned that the next step would be flooding the wing with tear gas, the insurrectionists surrendered. Meanwhile, outside the gate, a large crowd of African civilians who had come to investigate the commotion, as well as a handful of warders, many of whom were just learning of Masilo's death, took to assaulting inmates who emerged from hiding places in the Mohokare River Valley. Maphohola Moshobi was clubbed and stomped to death by the crowd as he sought to reenter the prison. After the situation calmed, inmates were assembled under armed guard in the prison yard. Warders proceeded to put out fires and thoroughly search the prison. The nation took stock of the three hour rebellion over the next several weeks: five people killed; fifteen individuals hospitalized, four with grave wounds; and 22 inmates escaped into South Africa. The operation of prisons in Lesotho would never be the same.

In the hours after the uprising the government promised a swift and public commission of inquiry into how such a disaster could come to be.⁵⁷ Preliminary investigations, however, turned up the makings of a scandal.⁵⁸ One prisoner after another reported the draconian disciplinary regime presided over by Senior Gaoler Khomari, and how they had been systematically thwarted from lodging complaints. Likely the most incendiary piece of information was that Leuta Mahao had, on the very morning of his attack, been released after a week straight in solitary confinement imposed *ultra vires* by

⁵⁷ BNA, DO 35/4555, Tergos report, no. 11, Nov. 1955.

⁵⁸ BNA, DO 35/4555, O'Leary minute, 'Disturbance at Central Prison. 19.11.55,' 30 Nov. 1955.

the jailer. In internal correspondence, British officials fretted about how Basotho activists would seek to cast the events as a ‘political demonstration,’ rather than accepting a preferred narrative of an irrational explosion of violence initiated by one madman.⁵⁹ Of particular concern was when and to what extent questions would be asked in parliament. As a result of these concerns, the FCO decided to roll back earlier promises of a public commission.⁶⁰ The High Commissioner announced that because an inquiry was urgently needed, but also risked prejudicing the upcoming trials of 25 inmates potentially facing charges of ‘public violence’ for their role in the rebellion, the hearings would be held *in camera*.⁶¹ In the words of the FCO’s legal secretary, the secret commission provided ‘a satisfactory escape from an awkward situation... & we are lucky that the matter has not been raised in Parliament (so far!).’ Although the colonial establishment sought to blunt criticism of this reversal with promises to publish the commission’s findings, these assurances were also lies: the report never saw the light of day in Lesotho, and only recently was made available to researchers as part of a tranche of secret archives migrated from Hanslope Park to the British National Archives.⁶²

Over the 1950s, the center of nationalist and anti-colonial organizing passed from LLB into the hands of a younger generation of activists. Indeed, at the time of the uprising, the 60-year-old Josiel Lefela was serving out a year of incarceration with hard labor for the

⁵⁹ BNA, DO 35/4555, Hone, Handwritten memo, 22 Nov. 1955. This distinction mirrors Peter Zinoman’s discussion of ‘political events’ versus ‘local events’ in the aftermath of the enormous Thai Nguyen uprising in French colonial Vietnam in 1917: 2001. *The Colonial Bastille: A History of Imprisonment in Vietnam, 1862-1940*. Berkeley: University of California, 168-70.

⁶⁰ BNA, DO 35/4555, HC telegram 23 Jan. 1956; Hone to Hart, 24 Jan. 1955; HC Office, confidential telegram, 18 Feb. 1956.

⁶¹ BNA, DO 35/4555: BBS to CRO, 18 Feb. 1955; Tergos No. 1 for 1956

⁶² BNA, DO 35/4555: Introductory note on secret file BBS 402/11/1, officially ‘closed until 1988’ but only opened to the public two decades later.

‘sedition’ of continuing to publicly rail about the state murder of not only Bereng and Gabashane by hanging, but also Seeiso, who the activist suggested had been poisoned by colonial medical officers.⁶³ Ntsu Mokhehle – a long time disciple of Lefela and, since his time at Fort Hare University in the 1940s, an active member of the African National Congress Youth League – had, by this point, already eclipsed his mentor at the forefront of nationalist political agitation: in 1952, the young teacher and trained biologist founded the first political party in Lesotho’s history, the Basutoland African Congress (BAC). In 1957, Lefela and Mokhehle organized a ceremony on top of Night Mountain to symbolically pass the mantle of champion of the Basotho commoner from the former to the latter.⁶⁴

In the wake of the Maseru Central uprising, with Lefela in jail, colonial officials were explicitly worried about the BAC. Mokhehle had not only inherited contacts in the British parliament from Lefela but also made new ones through his own involvement in the ANC. While the growing stink of British imperial atrocities of the era – notably including massacres and mass executions in counterinsurgency campaigns in Malaya and Kenya – placed additional pressure on colonial officials to head off any scandal in the Maloti, the immediate seriousness with which London took this threat was a direct product of previous experiences with Lesotho politics. The medicine murder crisis had seeded networks which enabled Basotho activists to quickly and loudly broadcast their complaints and allegations, both in the metropole and internationally. Internal conjecture within the FCO pegged the socialist, pacifist, and anti-imperialist parliamentarian Fenner Brockway

⁶³ He was sentenced in June 1955 (BNA, DO 35/4467: Tergos reports, Mar. 1955 - Aug. 1955; HC Office telegram, 30 Jun. 1955).

⁶⁴ Haliburton, G. 1975. ‘Walter Matitta and Josiel Lefela: A Prophet and a Politician in Lesotho.’ *Journal of Religion in Africa* 7/2: 111–31, 130.

– who was friends with Michael Scott, and had himself done time in Pentonville and Walton prisons for campaigning against the First World and, later, refusing conscription⁶⁵
– as the most likely local mouthpiece.

The secret commission of inquiry submitted a scathing report, criticizing both prison design and administration.⁶⁶ It was not lost on the investigators that there had been never been such a deadly or destructive rebellion in an English prison.⁶⁷ The experts interviewed by the committee were appalled that Pentonville was used to draw up prison blueprints in 1948, despite the ‘obsolete’ English facility’s architectural deficiencies having been a matter of penological commonsense for decades.⁶⁸ Nonetheless, the report continued, ‘Unfortunately, the building is too far advanced to permit of a change in the plan and all that can be done is to decide on alterations and additions which will, as much

⁶⁵ Eckel, J. 2019. *Ambivalence of Good: Human Rights in International Politics since the 1940s*. New York: Oxford University, 127 (also talks about Scott, 127n48); Howe, S. 1993. *Anticolonialism in British Politics: The Left and the End of Empire 1918-1964*. New York: Oxford; Brockway, F. 1977. *Towards Tomorrow: The Autobiography of Fenner Brockway*. London: Hart-Davis.

⁶⁶ Commission report, 9 Mar. 1956.

⁶⁷ BNA, DO 35/4555, Hart to Emery attached to Hone to Hart, 24 Jan. 1956. The memo noted that there were two instances in which prison administrator’s lost effective control of facilities in England, at Chatham Prison in 1861 and at Dartmoor Prison in 1932. Neither instance resulted in fatalities. See: Brown, A. 2008. ‘Challenging Discipline and Control: A Comparative Analysis of Prison Riots at Chatham (1861) and Dartmoor (1932).’ In *Punishment and Control in Historical Perspective*, Johnston, H., ed. 199–214. London: Palgrave Macmillan; ——. 2007. ‘The Amazing Mutiny at the Dartmoor Convict Prison.’ *The British Journal of Criminology* 47/2: 276–92. ——. 2013. *Inter-War Penal Policy and Crime in England: The Dartmoor Convict Prison Riot, 1932*. Basingstoke: Palgrave Macmillan. Peter Zinoman trenchantly notes the similar dynamic within the French penal system absent major rebellions, even as there were constant uprisings in the colonies (136-137). On the prevalence of rebellions and mass jail breaks in 19th-century India: Anderson, C. 2007. *The Indian Uprising of 1857-8 Prisons, Prisoners and Rebellion*. New York: Anthem, 27 and 59-62. See also Adams, R. 1994. *Prison Riots in Britain and the USA*. , Basingstoke: Macmillan.

⁶⁸ BNA DO 35/4555, Hilton memo, 3 Dec. 1956: A key reason why the design was ‘condemned as unsuitable for the detention of large numbers of long-term prisoners’ was that ‘the “Star” plan gives prisoners considerable strategic advantages and deprives the prison staff of a secure concentration point from which to act.’

as possible, correct the more undesirable features of the present structure.' The design flaws were exacerbated by a number of additional oversights: the wings were not self-contained, providing inmates unimpeded access to the entire facility, including the staff office; the single high fence was only useful for slowing but not deterring escapes; a lack of nearby housing for administrators and warders impeded prison staff's ability to detect and respond to unrest; and, especially, the fact that parts of the facility was still under construction, by inmates themselves, provided potential rebels with detailed knowledge of the prison layout, as well as ready access to weapons and cover. By the time the report arrived in London, installation of a double wall of razor wire, grates separating wings, and the expedited construction of Wing D, were underway to the tune of £5,400.⁶⁹ Indeed, a month after the uprising, Secretary of State Alec Douglas-Hone read the preliminary investigation report and approved funds, noting, 'I agree that it seems urgent to complete the building.'⁷⁰ The report also criticized lack of a specialized facilities for detaining juveniles and, especially, mentally ill people in Lesotho, which led to 'the lodging of criminal and other lunatics in the prison.'⁷¹ As we shall see in the next section, the report cleared the way for rapid and significant investment in penal infrastructure over subsequent years.

Prison personnel were also singled out for blame. Asst. Supt. Cornish came off the worst in the report, first for having run a lax facility until 1951, and then, subsequently, for passing off his official responsibilities for prison administration, training, discipline, and grievances, to his subordinate, Ernest Khomari. The senior jailer, who the findings noted

⁶⁹ BNA, DO 35/4556, 'Maseru Central Riot-Add'l Expenditure' folder, especially Liesching to Hone, 2 Nov. 1956.

⁷⁰ BNA, DO 35/4555, Hone minute, 19 Dec. 1955.

⁷¹ BNA, DO 35/4555, HC and CRO correspondence, 16 Nov. 1956, 20 Nov. 1956, 21 Nov. 1956; Home to Liesching, 11 Dec. 1956.

was ‘an ex-soldier, with considerable experience in the administration of military prisons’ (and whose story features heavily in Chapter 6), was subject to more qualified criticism: ‘Before the arrival of Khomari the warders were largely untrained, knew little of their duties, and lived in fear of their charges.’ The report continued, ‘having regard to the untrained staff which Gaoler Khomari had at his disposal,’ measures like ‘beatings and forcible incarceration in the solitary confinement cells without trial... in the course of the re-establishment of discipline.... was almost inevitable.’ Cornish was also faulted for establishing a grievance process whereby inmates were instructed to complain directly to warders, who were then required to pass anything they did not deem ‘frivolous’ up the chain of command.⁷²

When criticism relating to the circumstances surrounding the uprising did come, it was not as expected. In February 1957, Fenner Brockway wrote to the FCO about irregularities reported to him by the ANCYL activist Elias Monare and Michael Scott:

I am informed that Mr. Leuta Mahao... was a prisoner in Nasiro Central Prison [sic]. During his term of imprisonment there was a strike in the prison of which he was regarded as the ring-leader. An enquiry was instituted but I am informed that even before the Committee submitted its report he was placed on trial and sentenced to death. Subsequently the sentence was commuted to imprisonment... I am told that in January Mr. Leuta Mahao was transferred to Barberton Prison [in South Africa]. Could you inform me the reasons for this transfer and whether the Basutoland Government has legal authority to transfer prisoners in this way?⁷³

Internally, the High Commissioner’s decision to commute Leuta’s death sentence to 12 years imprisonment, despite the vigorous objections of Maseru, was based on the ‘strong

⁷² In an example of bureaucratic understatement, the report reads, ‘The term frivolous is open to a number of interpretations and it may in the opinion of the African staff quite easily have included awkward or improper complaints against those officers themselves.’

⁷³ BNA, DO 35/4555, Brockway to Home, 21 Feb. 1957; HC’s Office to Hunt, 1 Apr. 1957, with attached *World*, ‘Monare may visit U.K. to meet British M.P. 9 Mar. 1957.

indication' that 'illegally inflicted' solitary confinement 'had influenced Mahao's mind.'⁷⁴ The decision to make Leuta the sole Lesotho national incarcerated in South Africa, meanwhile, was motivated by the commissioner's desire to forestall rather than impose additional suffering: continuing to detain the erstwhile rebel leader at Maseru Central invited violent reprisals, either by Leuta against inmates who testified against him at trial or by prison staff against the man who had so viciously killed a colleague.⁷⁵ Because 'the report of the Commission of Enquiry reveal[ed] some disturbing facts about the way the prison had been run' which the FCO was 'not at all anxious to have...brought to light,' officials decided 'the less said the better' in response to Brockway's 'very tendentious' characterization of events, lest their response provoke 'a demand for publication of the Commission's Report.'⁷⁶ Although the irregular treatment of Leuta did continue to be a talking point for the BAC, and ultimately come up in the House of Commons in 1961, the colonial regime successfully deflected inquiry and digging into the makings of a deeper potential scandal buried beneath.⁷⁷

⁷⁴ BNA, DO 35/4555, Hunt to Shannon, 11 Mar. 1957. BNA, FCO 141/663: Arrowsmith and Liesching correspondence, 28 July 1956 and 25 Aug. 1956. On the political tensions between colonial impulses to exercise sovereign power to effect control, on one hand, and cultural and ideological commitments to legalism and 'British justice,' on the other: Hynd, S. 2012. 'Murder and Mercy: Capital Punishment in Colonial Kenya, ca. 1909-1956.' *The International Journal of African Historical Studies* 45/1: 81-101; Luongo, 110-39; Pierce, 190-193.

⁷⁵ Although highly irregular and popularly illegitimate, the transfer was technically legal under Section 5(1) of the Basutoland Reformatories and Prisons and Juvenile Offenders Removal Proclamation of 1920: BNA, DO 35/4555, Hone to Emery, 7 Mar. 1957. On the history of transfers: BNA, FCO 141/663: RC to HC, 26 Jun. 1961 and 5 Sep. 1961. On Mahao's time in South African prisons: Barberton Quarterly reports, and was classed as a 'good conduct prisoner' during his time at Barberton Prison and, after 1962, at Groenpunt Prison (BNA, FCO 141/663, SA Director of Prisons, 30 Jun 1962, and 30 Oct. 1963) .

⁷⁶ BNA, DO 35/4555, Hunt to Shannon, 14 Mar. 1957; Hunt to Shannon, 11 Mar. 1957; Emery to Stewart, 27 Feb. 1957; Hunt to Shannon, 14 Mar. 1957.

⁷⁷ BNA, FCO 141/663: Monokoa (Sec.-Gen. of the BAC) to Gov't Sec., 8 Mar. 1957; Editor of *The Friend* to Gov't Sec., 11 Mar. 1957; Editor of *The Bantu World* to Director of Prisons, 15 Mar. 1957; HC to RC, 2 Mar. 1961; UK Parliament 1961. HC Debate: Leuta Mahao, Pub. L. No. HC Deb 27 July 1961 vol 645 c83W.

The attention and publicity surrounding the colonial response to medicine murders and the 1949 Maseru Gaol rebellion conditioned the colonial regime to expect political criticism from Lesotho. In an illuminating study on British counterinsurgency in the face of anti-colonial movements and rising human rights discourse, historian Brian Drohan argues the Colonial Office was ‘most concerned with avoiding public scandal,’ leading officials to prioritize the construction of ‘new ways to hide their methods from scrutiny,’ rather than focusing on ‘stopping their abuses.’⁷⁸ And, indeed, as news of events which ‘would bring considerable discredit on the Basutoland Administration’ trickled in, the colonial bureaucracy first moved to conceal information about the rebellion from public view. But, in the case of Lesotho’s prisons, if not in political policing in the territory and counterinsurgency elsewhere in empire, the British also took real steps to improve the facilities and practices of incarceration in the territory. In the late 1940s the local administration had updated the official orientation of the prison system, but this was largely a hollow shell of what was internationally considered best penological practices. With the bloody consequences of feigned penology made evident internally, and seemingly on the verge of being made public, London decided to make good (or, ‘make better,’ at least) on the previous pretenses of territorial penal administration. The declassification of long hidden imperial records has shined new light on the tremendous impact of anti-colonial organizing on metropolitan investment in Lesotho. Although indirect and not planned, the activism of Lefela and Mokhehle shaped prison reform and helped ‘deliver the goods’ in terms of infrastructure, training, and jobs.

⁷⁸ Drohan, B. 2017. *Brutality in an Age of Human Rights: Activism and Counterinsurgency at the End of the British Empire*. Ithaca: Cornell University, 4.

5.5 The 1957 Prison Proclamation and the emergence of a welfarist penal regime

In late 1957, the high commissioner introduced yet another new prison proclamation.⁷⁹

This time, the laws were not derivative of those in place in the British metropole or empire, but instead a recently emerging international consensus on best penological practices. A former director of Lesotho's prisons emphasized precisely this point:

I disagree when people tell me these laws are no good because they are old... or that these words are from the colonial rulers... In actual fact, the proclamation is an extract. When you take a copy of the Prison Proclamation of 1957 and hold it up against the United Nations Standard Minimum Rules of 1957, you will see something [*holds up hands, and looks back and forth*]... [*laughs*]... The words are the same... And this law, it was so democratic, it was channeling the prison officers to apply a human rights framework well before we were using this language in the Prison Staff Training School.⁸⁰

Perhaps more significant than the legal changes on their face, was the demonstrable commitment of the imperial establishment spanning from London down to Maseru to see the laws were diligently implemented. The uprising was largely driven by the inconsistent application and outright contravention of the 1947 laws. With the report on events of November 1955 still fresh in mind amongst policymakers in the Foreign and Commonwealth Office, and lingering concern about a potential scandal, a tide of financial and technical resources flowed into the nation which would have been out of the question prior to the uprising. The changes focused on four principle areas of concern: first, staffing and training of penal facilities; second, institutionalizing processes for inmates to file grievances beyond the jail fence; third, facilitating specialized treatment of vulnerable populations, and particularly the hospitalization and reformatory schooling of mentally ill persons and juveniles, respectively, as an alternative to penal incarceration; and, fourth, reducing practices most liable to give rise to scandals, such as the flogging of adult men.

⁷⁹ TML, *Basutoland Proclamations and Notices of 1957*: Proclamation 30 of 1957, issued on 14 Oct. 1957, and Government Notice No. 27 of 1957.

⁸⁰ Thulo, M., author interview, 19 May 2017, Ha Abia.

The conduct of the staff prior to and during the rebellion was a major focus of criticism in the confidential report on the 1955 uprising. The inability of a warder to operate his firearm and the general decision of the guards on duty to flee at the outset of violence demonstrated, rather incontrovertibly, a lack of training and morale.⁸¹ The inquiry focused on four key problems with staffing at the time of rebellion: first, jails across the country were understaffed; second, the physical and educational requirements for warders to join the service were too lax; third, officers lacked training; and, fourth, Maseru warders' largely lived in Maseru village, rather than close to the facilities, militating against a quick response in case of emergency.

The report loosened imperial purse strings to address these issues. Funds were allocated for hiring an additional 30 permanent staff, explicitly with the notion that this move 'released more warders for training courses.'⁸² In early 1957, Edward Dove, a jailer with 23 years of experience in Kenya was brought in to replace Cornish. Serving beneath the newly created position of Director of Prisons, the superintendent was responsible both for overseeing Maseru facilities, and for the training and recruitment of new staff.⁸³ In 1958, recruitment ceased being on an ad hoc basis and instead was carried out in cadet troops of eight people.⁸⁴ Efforts were made to standardize the requirements, requiring

⁸¹ BNA, FCO 141/689: The report also seconded the High Commissioner's recommendation (ibid. HC telegrams, 22 Jun. 1955 and 25 Jun. 1956; Home to Liesching, 11 Dec. 1956) of three citations for valor, particularly because the prison staff 'as a whole do not come well out of the enquiry:' Molefe and Masupha were awarded the British Empire Medal (BEM), and Gillett the Order of the British Empire (OBE).

⁸² *Prisons Report 1957*, 1.

⁸³ BNA, FCO 141/689, Scrivenor to Chaplin, 18 Dec. 1956, and response by telegram, n.d.; Penter to Secretariate, 6 Mar. 1957; LNA, No. 126/3, *Basutoland Government News Bulletin* 30, 12 June 1957, 1; BNA, DO 35/4555, 'Extract from Mr. Hunt's Diary, Oct. 1957.

⁸⁴ Notsi, 28 Apr. 2017.

completion of primary schooling (Standard 6), and meet height and weight guidelines.⁸⁵ Some £18,000 in Colonial Welfare and Development (CWD) funds were used to build dozens of houses for warders adjacent to Maseru Central over 1958 and 1959.⁸⁶ The new housing arrangement also increased staff morale and a sense of tightly knit community: recalling his childhood in the settlement in the 1960s, a former professional footballer and high-ranking government official, Tseliso Khomari, described his appreciation about how officers and their families officers ‘helped raised me and train me.’⁸⁷

A second key element of the commission of the report was the way that prisoners at Central Prison were denied access to an institutional grievance process. This problem emerged from a failure to implement the laws as written, rather than an oversight in the statutes: under the 1947 proclamation and notice of regulations inmates were supposed to be able to express concerns and complaints to the district commissioner, either orally during a mandated weekly inspection or in writing. Based on the limited number of written complaints still extant in archives – all in the Leribe collection, and therefore limited in scope to the jail in Hlotse or to the concerns of the district’s residents incarcerated in Maseru – it appears that inmate letters were more diligently passed upwards by prison staff in the wake of the uprising: a handful of complaints date back to 1950, but the archive has nearly one hundred letters of complaint beginning with a seeming wave in March 1956, and continuing into the early 1960s. Notably, one Leribe prisoner began his letter by reminding the Leribe DC of his words at a recent prison assembly: ‘you told us... that if

⁸⁵ *Prison Report 1959*, 2.

⁸⁶ BNA, FCO 141/689, HC and CRO correspondence, 16 Nov. 1956, 20 Nov. 1956, 21 Nov. 1956; *ibid.*, Home to Liesching, 11 Dec. 1956; *Prison Report 1958*, 2. Also: BNA, DO 35/4556, ‘Maseru Central Riot–Add’l Expenditure’ folder, especially Liesching to Hone, 2 Nov. 1956.

⁸⁷ T. Khomari, author interview, 2 Aug. 2017, Maseru.

we have complaints we should report them to you and you are going to assist us.’⁸⁸ Grievances spanned all manner of subjects: asking for colonial intercession in conflicts with lords, arranging inheritances, and, critically, complaining about the conduct of prison personnel.⁸⁹ Internal correspondence suggests that the administration took complaints seriously: each letter contained notes about what steps had been taken to investigate and address the issue, and to communicate these actions to the complainant. Maseru was well aware that another incident of serious prison unrest would outrage superiors. Under the 1957 prison proclamation, following from the Standard Minimums, visiting committees were formed, which included Basotho civilians, to inspect each carceral facility monthly and speak with inmates, explicitly to provide ‘a guarantee to the public that no abuses take place in the prisons.’⁹⁰

A third central area of concern in the report on the uprising was the problem of housing mentally ill people in jails. Replicating the 1957 Standard Minimum guidelines, the 1957 proclamation and regulations were obliged to provide specialized facilities, capable of providing treatment, for mentally ill persons who had committed crimes against others.⁹¹ The question of where to house persons considered had become a deeply problematic issue over the preceding decades. Up until 1942, the administration,

By arrangement with the Union Government, sends lunatics, who are danger to others and themselves, for treatment in Union Mental Institutions: milder cases are detained for indefinite periods in local gaols. There are in addition a large number of mentally deranged

⁸⁸ LC, 27/2, Ncheme Masupha to Elliot, 25 Mar. 1956.

⁸⁹ LC, 27/2: For a sampling: Nkisi to Elliot, 23 Oct. 1956, Khethang to Elliot, 1 Apr. 1956; Thulo Lesuoia to Howard, 14 Jun. 1956; Lekhoakhoa to Hughes, Dec. 1956, Kutete Moholi to Dove, 12 Aug. 1957. See also Elliot to Hughes, 20 Dec. 1956, for discussion of transfer of Lekhoakhoa from Maseru to Leribe so the local commissioner could more effectively ‘deal with his complaints.’

⁹⁰ *Prisons Report 1957*, 1; *Prisons Report 1959*, 3.

⁹¹ TML, *Basutoland Proclamations and Notices of 1957*: Division 5 of Part B (Rule 117) of Government Notice No. 27 of 1957; modeled on UN Economic and Social Council (Res.663c XXIV, 31 Jul. 1957, Rules 22.1 and 82.1-82.4).

people, imbeciles and feeble-minded, in the Territory, who are generally left to the care of relatives and friends.⁹²

The following year, however, the South African government ‘informed the administration it simply no longer had the room to accept any new patients,’ and the old approach ‘had to be suspended.’⁹³ Scrambling for an alternative, the administration threw together an ad hoc ‘Mental Detention Centre’ in Mohale’s Hoek camptown as an ‘emergency measure,’ noting, ‘admittedly this is not a satisfactory scheme, but it is a reasonable expedient to obviate the only other and objectionable alternative of detaining lunatics in gaols.’ The facility continued to operate for the next 23-years, swelling from an original patient body of 32 past the 70-person maximum occupancy to 130 patients in 1959, even as more persons were routed in jails and, eventually, the solitary cells of Maseru Central.⁹⁴ Conditions in the Mohale’s Hoek facility were nothing short of horrific. Members of the National Council queried the administration about seeing inmates standing about naked in the cold along the perimeter fence, as well as unceremonious pauper burials in which patient corpses were dumped into unmarked graves.⁹⁵ While attending the Council as a representative of a Leribe lord in 1952, Josiel Lefela declared, ‘it is a hospital which is required and not a prison, we like these mental patients, we do not want them to go there and be put in prison.’⁹⁶ A story about the conditions faced by one young man who had a psychotic break, was detained in Mohale’s Hoek, and died in a matter of days, featured in

⁹² *BMDAR 1942*.

⁹³ *BMDAR 1943*.

⁹⁴ *BMDAR 1959*, 27. An additional ‘289 persons’ classified as ‘mental patients,’ were detained ‘in the Basutoland prisons during 1960’ compared ‘against 204 in 1959:’ *BMDAR 1960*, 37. For daily averages of mentally ill persons held in solitary confinement in jails, see Prison Report 1960, 7.

⁹⁵ LNA, 1952 BNC session minutes, vol. II, 546: remarks of Kenneth Moeletsi and Petlane Petlane; 1955 BNC session minutes, vol. III, 425-6.

⁹⁶ LNA, 1952 BNC session minutes, vol. II, 546, Lefela remarks.

the Catholic and largely administration-friendly newspaper *Moeletsi*: ‘he told me how cold it is in that asylum, and that the blankets were so infested with lice it was hard to believe... He was there with his two feet tied, and his hands were also tied so that he could not escape or even make an attempt to fight.’ Further complicating matters was a steady increase in the number of cases of psychoses coming to government attention. Later, in 1959, the administration would confront evidence that the structural poverty of Lesotho was, in fact, driving an increasing number of people mad.⁹⁷

By the early 1950s there was extensive discussion about the need for a psychiatric hospital for the HCTs. Lesotho represented ‘the obvious choice... since it is centrally situated and provides the largest number of patients in need of treatment.’⁹⁸ The Chief Medical Officer in the Colonial Office, Sir Eric Pridie, pushed forward this conversation after a visit to Lesotho: ‘The detention centre at Mohales Hoek is appalling and must be replaced at once. It is one of the worst institutions of its kind I have ever visited and cannot be improved because the accommodation is so bad.’⁹⁹ Pridie has been as impressed by the Holmwood Hospital in Zanzibar as he was disgusted by the MDC, and arranged for a 1954 visit of Lesotho’s Director of Medical Services, Reuben Jacobson, who was equally

⁹⁷ I spent a great deal of time trying to track down a World Health Organisation study rumored to have been carried out at the facility, leery about the ethics of using inmates as experimental subjects. When I finally acquired the documents, I was indeed horrified, but not in the way I expected. WHO researchers discovered that a significant percentage of the diagnosed schizophrenia at the MDC was psychosis caused by pellagra, a niacin deficiency disorder. WCL: Munoz, J.A., and M.M. Anderson. 1962. *Report on a Nutrition Survey Conducted in Basutoland*. Geneva: WHO, 33: ‘In June 1959, pellagra was found to be a primary cause or a contributory factor in the mental conditions of 73% of the males and 71% of the females. The general physical and mental condition of the patients improved to such an extent that within the following three months, 16 of the male and 9 of the female patients were discharged.’ On the ravages of pellagra in the territory and Basotho responses: Conz, C. 2020. ‘(Un)Cultivating the Disease of Maize: Pellagra, Policy and Nutrition Practice in Lesotho, c.1933–1963.’ *Journal of Southern African Studies* 46/3: 509-526.

⁹⁸ BNA, FCO 141/706, Secretary of State minute, 20 Mar. 1953.

⁹⁹ BNA, FCO 141/706, ‘Extract from Report by Sir Eric Pridie,’ 1953.

impressed and took home schematics of the facility.¹⁰⁰ Despite the agreement from all three HTC's and London about the need for the facility, and the existence of blueprints for the facility, the hang up remained the cost of a 220-bed hospital estimated to cost £131,000, and only £75,000 that amount on offer from a CWD grant.¹⁰¹ After the rebellion and 1957 legislation, CWD funds for the hospital materialized finally in 1959 and construction began the following year.¹⁰² Mohlomi Mental Hospital, modeled on the Holmwood design, opened in 1965. Its first medical officer was Victor Ntsekhe, a Mosotho psychiatrist trained in England.¹⁰³

A second urgent question over the late 1950s and early 60s was how the colonial state might most productively respond to crimes committed by youth.¹⁰⁴ During this period Lesotho underwent dramatic demographic shifts, with the population rapidly becoming younger and more urban. In rural village communities, young people were subject to the constant surveillance and corrective interventions of parents, neighbors, and lords. Itumeleng Kimane, a noted Mosotho scholar on childhood and juvenile justice, noted, 'in Sesotho we have the maxim, "thupa e otlolloa e sale metsi," which describes children, and

¹⁰⁰ BLO, Charles Baty papers: f. 108. Pridie's notes, 4 Dec. 1952; ff. 110-11, Jacobson to Baty, 10 Feb. 1954. BNA, FCO 141/706, 'Visit to Zanzibar by the Director of Medical Services, Basutoland.' Holmwood was designed based on the design principles outlined in Board of Control. 1941. See: BL, *Lunacy and Mental Treatment Acts, 1890-1930. Suggestions and Instructions for the Arrangement, Planning and Construction of Mental Hospitals*, London: HMSO.

¹⁰¹ BNA, FCO 141/706: Acting resident to HC's Office, 7 Oct. 1954, including attached 'Memorandum on projects for American financial assistance under section 206 of the Mutual Security Act;' Finance committee minutes, 18 Jan. 1956.

¹⁰² *BMDAR 1959*, 27.

¹⁰³ LNA, No. 126/3, *Basutoland Government News Bulletin* 3, 17 Aug. 1955, 1.

¹⁰⁴ BNA, CO 859/580, Willan to Scrivenor, 24 Jan. 1955; MRA, Box 347, 'Discussion on Juvenile Delinquency,' 7 Aug. 1963, 3-5. See also: Aerni-Flessner, J. 2011. "'If We Govern Ourselves, Whose Son Is to Govern Us?': Youth, Independence and the 1960s in Lesotho.' Washington University, 255-7.

well-adjusted children, as the concern and responsibility of everyone.’¹⁰⁵ In urban spaces, however, the tasks of policing and disciplining young people fell to the colonial employees in the BMP and judiciary.¹⁰⁶ The punitive repertoire for colonial courts was incredibly thin when it came to young people. Faced with the options of sending young people to penal incarceration, many judges opted to deploy corporal punishment instead when it came to punishing young men between the ages of 15 and 18. Indeed, rates of judicial canings soared over the late 1950s and 1960s, even as the practice was outlawed as a punishment for adults (except for crimes of violence committed while incarcerated).¹⁰⁷

Juvenile corporal punishment was carried out by a trained prison officer, wielding a quarter inch thick rattan cane to inflict cuts on the target individual’s buttocks. One officer who was tasked with carrying out many such canings in the 1950s and 60s noted that if done ‘correctly,’ the medical officer required to be on hand would intervene after ‘only one or two strokes,’ because of the sight of blood.¹⁰⁸ The same officer argued that this punishment was highly effective, as ‘we very rarely saw the same boys twice.’ The administration justified the practice by invoking the old language of tradition: ‘Basuto opinion is generally still in favour of the retention of corporal punishment for juveniles. It is not regarded as a humiliation... [but] as a salutary corrective.’¹⁰⁹

¹⁰⁵ I. Kimane, author interview, 5 May 2017, Roma. Roughly translated, the proverb means ‘a tree should be straightened when still a sapling/growing.’ See also: Kimane, I. 1984. ‘Youth, Delinquency and Justice in Lesotho.’ Staff Research Paper. Roma: NUL, 4, in TML.

¹⁰⁶ BNA, CO 859/74/1, Kennan minute, 24 Aug. 1943.

¹⁰⁷ BNA, FCO 141/837.

¹⁰⁸ C. Notsi, author interview, 28 Apr. 2017, Maseru. To carry out the punishment, the individual enduring the caning was forced to lean over a table and lower his trousers. To protect the young man from organ damage or other grave injury, his back was wrapped with wool blankets and a medical officer was on hand: *ibid*, M. Mokete, author interview, 26 Jul. 2017, Maseru.

¹⁰⁹ BNA, FCO 141/837, British Gov’t Rep to Poynton, 17 June 1965. See, also, discussion by National Council in 1951 on when Basotho males should be held ‘criminally liable’ as men: Cr. EN Tlale argued 7 years, Cr. Habafaone Masupha 12; Cr. Marakabei Thabo to 10; Cr. Maama

**Judicial Corporal Punishment by Caning of Adult Men and Juveniles (Age 16-21),
1946-70**

Year	Juveniles	Adults	Total
1946	10	21	31
1947	17	11	28
1948	22	3	25
1949	17	3	20
1950	30	29	59
1951	89	8	97
1952	85	2	87
1953	88	11	99
1954			81
1955	202	16	218
1956			306
1957	255	3	258
1958	144	10	154
1959	154	3	157
1960	180	3	183
1961	191	4	195
1962	306	8	314
1963	564	7	571
1964	559	4	563
1965	534	0	560
1966	428	0	428
1967	306	0	306
1968	548	0	548
1969	522	0	522
1970	566	0	566

**Data compiled from annual reports and annual reports of prison service*

The lack of a reformatory in the territory was a perennial concern, which became all the more sensitive in the wake of the 1955 rebellion. Only weeks after Mahao launched his rebellion, the colonial office began to ask questions about what damage to individual young men and society as a whole was emerging from subjecting younger and more morally-salvageable juveniles to ‘contamination’ by older and more criminally ‘hardened’

Lechese to 7; Molapo Nto to 10; Kaiser Rafalatsane 18 (BLO, MSS.Afr.s.1681: Box 219, f. 3. Minutes of BNC Special Session, 1951).

peers.¹¹⁰ London sent WGM Lugton, the Director of Welfare and Probation services in Colonial Zambia, to conduct the inquiry and issue findings on how best to handle the juvenile question in Lesotho. Lugton's 1956 report conveyed alarm at the colony's reliance on caning boys, as well as the 'the high number of recorded first offenders who are committed to prison.'¹¹¹ He further recommended the speedy construction of a Juvenile Training Centre (JTC) in Maseru, which could help to address juvenile delinquency in all three High Commission Territories by offering a curriculum centered around the 'cultivation and handcrafts plus an active programme of sport and group activities.' While accepting the proposal in principle, the administration also did not immediately take steps to build the facility. They argued that notions about the sanctity of childhood and reduced moral culpability of young people for criminal acts were out of place in Lesotho. At the same time, the colonial state scaled up efforts to promote the welfare of urban youth outside the criminal justice system.¹¹²

After passage of the new 1957 Prison Proclamation mandated that juvenile boys under judicial sanction be detained in reformatories rather than jails, the administration responded by moving young men from around the territory to a portion of Old Maseru Gaol recently vacated by the last of the male prisoners transferred to Central Prison; to give the

¹¹⁰ BNA, CO 859/580: Chinn to Scrivenor, 22 Dec. 1955; for pre-rebellion discussion of project see, Thompson to Fowler, 17 Nov. 1955.

¹¹¹ BNA, CO 859/580, Lugton's 'Juvenile Delinquency in the High Commission Territories,' 8 Jun. 1956.

¹¹² MRA, Box 347, 'Discussion on Juvenile Delinquency,' 7 Aug. 1963, 3 and 5: In addition to playing an increasingly important role in primary and secondary education over the late-1950s, the administration also worked with churches and schools to promote religious and sporting clubs, and scouting for boys and girls. Officials described the clubs as a form of social prophylaxis against delinquency, both by offering training in productive forms of sociality and by offering an outlet for youthful energies that otherwise might be directed in unhealthy ways. See also: Aerni-Flessner, J. 2018 *Dreams for Lesotho: Independence, Foreign Assistance, and Development*. Notre Dame: University of Notre Dame, 132-40.

facility an educative sheen, Maseru hired three ‘special warders’ to work at Old Gaol, instructing young men and women in the facility on remedial reading and arithmetic, as well as market gardening.¹¹³ Unrest at the schools in 1960 and anti-colonial protests in the streets over 1961 finally convinced the administration it needed to equip itself with new infrastructure and strategies to handle the changing political landscape.¹¹⁴ Designs for a reformatory were drawn up in 1961 and construction began in 1962.¹¹⁵ Anticipating the move of juvenile males out of Old Gaol, and seeing the opportunity to phase-out and eventually demolish the dilapidated facility, the administration also undertook the planning and building of a Women’s Prison, which was completed in 1965 and occupied by inmates, and a staff of 2 female jailers and 6 wardresses, in 1966.¹¹⁶ The opening of the 72-bed JTC in June 1965 did not trigger a dramatic reduction in the use of judicial corporal punishment on juveniles, as metropolitan officials had hoped.¹¹⁷ The completion of the facility did, however, mean a new cycle of life for the young men who were marched the quarter mile under guard to a new temporary home: instead of confinement in tight and squalid conditions, the inmates had access to proper classrooms and better sanitation facilities. The

¹¹³ *Prison Report 1957*, 10.

¹¹⁴ Concern about youth political radicalism spiked after May 2, 1960, when students at two prominent Maseru educational institutions, Basutoland High School (BHS) and Lerotholi Technical School (LTS), launched violent strikes, leading to the shuttering of schools in the capitol for a period of weeks (NUL: Harragin Report, 10-11; the report was named for its chair, Chief Justice for the High Court of the High Commission Territories Walter Harragin). See also: Aerni-Flessner 2011, 257-8. Just as the political scandal and fears caused by the 1955 uprising at Maseru Central catalyzed broad penal reform, the scandal and fears caused by the 1960 student actions played an important role in pushing the administration to finally build a juvenile reformatory.

¹¹⁵ *Prison Report 1962*, 1.

¹¹⁶ *Prison Report 1966*, 4 and 10.

¹¹⁷ FCO 141/837: British Gov’t Rep to Poynton, 17 June 1965; *BAR 1965*, 60-3. Political change had outpaced the construction of the reformatory: when the JTC opened, in June 1965, it was a little over a month after the implementation of the new constitution, and new judges and the prison bureaucracy (now within the Justice Department) were appointed by locally-elected officials, rather than colonial officers.

young men also had increased access to organized games and athletics, and the JTC soccer squad regularly played matches against Maseru high schools.

5.6 The ghost of Leuta Mahao: Concluding remarks on repression, morality, and reform

Fran Buntman notes that prisons and colonialism share an inherent repressiveness. Both aim, by definition, to negate or diminish ‘a person’s or group’s power, control, autonomy, [and] liberty.’¹¹⁸ Yet, prisons and colonial spaces have also been subject, over time, to much legal regulation. For reasons both practical and principled, British penal planners and colonial bureaucrats sought to legitimize the exercise of repressive power with laws and regulations, thereby dangling to the people subject to repressive authority the promise of certain rights and means for claiming these rights.¹¹⁹ A continuing problem in both prisons and neo/colonial situations, however, has been inconsistent access to legal protections and courts by people subject to repressive authority.¹²⁰ Unwritten regulations and those laws broken as a matter of practice have, therefore, been a particularly major part of the meaning of the law in prisons and colonies.

Even in these situations where authorities displayed little deference to official regulations and actively worked to stymie rights-based claims from below, colonized and

¹¹⁸ Buntman, F. 2019. ‘Prison and Law, Repression and Resistance: Colonialism and Beyond.’ *Journal of Imperial and Commonwealth History* 47/2: 213–46, 229; see also Nichols, R. 2014. ‘The Colonialism of Incarceration.’ *Radical Philosophy Review* 17/2: 435–55.

¹¹⁹ Fitzpatrick, P. *The Mythology of Modern Law*. London: Routledge, 107-11; Merry, S.E. 2004. ‘Colonial and Postcolonial Law.’ In *The Blackwell Companion to Law and Society*, Sarat, A., ed. 569–88. Malden : Blackwell, 575-6; Ibhawoh, B. 2013. *Imperial Justice: Africans in Empire’s Court*. London: Oxford University.

¹²⁰ On limited access to courts and appeals by colonized and incarcerated people: Ibhawoh 2013, 30-1, 176-7; Merry 2004, 576; Mann, K, and R. Roberts, eds. 1991. *Law in Colonial Africa*. Portsmouth: Heinemann, 23-24; Kolsky, E. 2010. *Colonial Justice in British India: White Violence and the Rule of Law*. Cambridge: Cambridge University; Zinoman 2004, 41-2; Milovanovic, D. and J. Thomas. 1989. ‘Overcoming the Absurd: Prisoner Litigation as Primitive Rebellion.’ *Social Problems* 36/1, 48–60.

incarcerated people still found ways to summon external politico-legal scrutiny. The reason that uprisings worked so effectively in Lesotho was that they called into question the imperial pretense of legality. London's desire to maintain this facade proved to be a meaningful substitute in the absence of a principled respect for the law in its own right. But for objections of illegal practices to endanger the pretense of legality with scandal, prisoners often needed to clear two bars: first, to convey word of abuses beyond the prison fence and, second, beyond the boundaries of the colony. These tasks were particularly challenging because of subcultural dynamics of prison and colonial personnel: in both spaces, the authorities tasked with enforcing and maintaining the law were positioned as gatekeepers equipped to suppress complaints of illegality within their own ranks; this power, compounded by sensations of needing to maintain internal unity against a more numerous group of antagonistic charges, contributed to the formation and institutionalization of professional omertas.¹²¹ Even when incarcerated persons could pull off the first step independently, alerting local colonial supervisory authorities to abuses inside prisons, whether by formal institutional challenges or by transgressive resistance, they remained largely dependent on help from political activists beyond the prison walls to

¹²¹ Lombardo, L. 1981. *Guards Imprisoned: Correctional Officers at Work*. New York: Elsevier, 1981, 23-4; Dennehy, K. and K. Nantel, 2006. 'Improving Prison Safety: Breaking the Code of Silence.' *Washington University Journal of Law & Policy* 22/1: 175-85; Heiner, B. 2007'. *The American Archipelago: The Global Circuit of Carcerality and Torture.* In Backhaus, G. and J. Murungi, eds. 84-117. *Imperial Hegemonies and Democratizing Resistances*, Newcastle, Cambridge Scholars Publishing; Winerip, M. et al., 'The State That Is Taking on the Prison Guards Union.' *The Marshall Project*, April 11, 2016. <https://www.themarshallproject.org/2016/04/11/the-state-that-is-taking-on-the-prison-guards-union>. On the codes of silence amongst colonial officers: Heussler, R. 1963. *Yesterday's Rulers: The Making of the British Colonial Service*. Syracuse: Syracuse University, 83; Kirk-Greene, A. H. M. 2000. *Britain's Imperial Administrators, 1858-1966*. New York: St. Martin's, 12; Misra, M. 2008. 'Colonial Officers and Gentlemen: The British Empire and the Globalization of "Tradition."' *Journal of Global History* 3/2: 135-61, 157-8. For a different take, analyzing competition and infighting within the colonial service, see Prior, C. 2013. 'A Brotherhood of Britons? Public Schooling, 'Esprit de Corps' and Colonial Officials in Africa, c.1900-1939.' *History* 98/2:174-90.

help clear the second hurdle. These relationships took time to build, but once established they proved enduring, and extended legal protections beyond the scope of incarcerated people and those caught up in the so-called criminal justice system to cover society more broadly.

Theorists of prisoner resistance — like Buntman and Kieran McEvoy— note different scopes of actions, ranging from efforts to blunt or block the imposition of power to efforts to shape or seize control of power.¹²² Such actions, moreover, are often infused with appeals to morality and justice, and their relationships with laws as written or not, and as implemented or not. Claims to rights and assertions of il/legality using court systems clearly encompass both scopes. This chapter demonstrates how the most institutionally transgressive and illegitimate form of prison misconduct – violent mutiny – involved similar questions of blocking and creating power. With the 1949 rebellion, and the refusal of Gabashane and Bereng to leave, the relationship between law and justice was popularly inverted: for many Basotho, jail rebellion was a righteous response to unjust laws and prosecutorial mis/conduct, and the adherence of the lords to the law, even in the shadow of the gallows, made these men into martyrs. Even if this bid to challenge colonial laws failed to block the hangings – or deliver more than cursory improvements in the judicial system over the short-term – the deeper impacts of the rebellion would come to light in the wake

¹²² Buntman, F. 2019. ‘Prison and Law, Repression and Resistance: Colonialism and Beyond.’ *Journal of Imperial and Commonwealth History* 47/2: 213–46, 230, and Buntman, F. 2003. *Robben Island and Prisoner Resistance to Apartheid*. New York: Cambridge University, 265; McEvoy, K. 2001. *Paramilitary Imprisonment in Northern Ireland: Resistance, Management, and Release*. New York: Oxford University, 33–6; Zinoman, 59; See also Hollander, J. and R. Einwohner. 2004. ‘Conceptualizing Resistance.’ *Sociological Forum* 19/4: 533–54, 33–4, as cited by Buntman 2019, 240n96.

of 1955 rebellion. What began as a protest of illegal abuses inside Maseru Central catalyzed the wholesale reformation of the territory's penal system.

The unintended effects of illegal violence far outlasted the more immediate designs of cowering protest or protesting injustice. This reality deeply complicates any narrative involving binaries of right or wrong and good or evil when it comes to acts of illegality by guards and prisoners.¹²³ The colonial state itself endorsed this idea when it came to its own officers: while acknowledging that Khomari's use of disciplinary violence was illegal, it was also framed as being for the greater good of establishing the order necessary to protect innocent warders and society at large from violent criminals. Activists like Lefela, Mokhehle, and the 1949 rebels glossed over butchery of ordinary fellow citizens by lords, but in so doing pushed imperial policymakers to be more sensitive to reports of vicious abuses by local officials, priming the political landscape for later judicial and penal reforms which ameliorated colonial and penal affronts to human dignity. Perhaps the greatest irony in the history of Lesotho's prisons remains the fact that the system's most notoriously rebellious and anti-social inmate likely did more to catalyze progressive and pro-social reform, and institutionalize a culture of abiding by written statutes, than any other individual: Leuta Mahao set out to violently harm people and destroy structures to lodge his anger with the abuses he had suffered, giving rise to architecture improvements and sweeping policy reforms. As we will continue to examine in the next chapter, these shifts bettered the conditions of life and work for warders and inmates alike.

¹²³ Buntman 2019, 219 and 226-7; Gregory, D. 2006. 'The Black Flag: Guantánamo Bay and the Space of Exception.' *Geografiska Annaler* 88/4: 405–27, cited by Buntman 2019, 238n30.

Chapter 6

Anti-politics on guard: professionalism, partisanship, and the prison service, 1959-1971

6.1 Introduction

Leabua Jonathan informed the nation of his coup over state radio on the afternoon of January 30, 1970.¹ The sitting Prime Minister denounced vote tabulations which seemed to show that the rival Basutoland Congress Party (BCP) defeated his Basotho National Party (BNP) in the election held three days before. Jonathan claimed that these polls, the first in an independent Lesotho, had been irredeemably tarnished by voter intimidation and fraud perpetrated by the BCP. The Prime Minister declared that these ostensible shenanigans left him with no choice but to annul the results, suspend the constitution, and institute *Qomatsi* (a state of emergency). In the days and weeks following this address, Special Branch police rounded up the leadership of the BCP and its youth league (BCPYL), as well as prominent royalists and communists, for detention in Maseru Central Prison. Ironically, the rapid arrest of opposition figures meant that many of the most high profile and militant critics of the regime were protected by the prison fence over subsequent months, as Nationalist repression escalated. Government opponents on the outside were

¹ OBL, Africa Bureau, Box 220 f.10, 'Lesotho, post-election prisoners, correspondence, 1970.' Bennett Khaketla's (1971) *Lesotho, 1970: An African coup under the microscope* (London: C. Hurst) provides the most detailed account of the escalating violence. Motlatsi Thabane and Neville Pule explore the particularly extreme violence meted out against independent diamond miners and the rogue police commander Clement Leepa (see, respectively: Thabane, M. 2000. 'Liphokojoe of Kao: A Study of Diamond Digger Rebel Group in the Lesotho Highlands.' *Journal of Southern African Studies* 26/1: 105–21, and Pule, N. and M. Thabane, 2010. 'Mooki Leepa's Rebellion of February to March 1970: A Preliminary Examination of Motives.' *Journal for Contemporary History* 35/1: 19–38.

fired, harassed, assaulted, and even gunned down by members of the security forces and BNP youth organizations.

Although the political detainees suffered from a deprivation of liberty, and great frustration at being sidelined while the BNP brutally consolidated power, they also found that corrections officers treated them with respect. Over time, moreover, the prison administration allowed detainees increased privileges, eventually including the opportunity to run a school amongst themselves. Recent high school and college graduates in the BCPYL spearheaded the initiative, taking turns serving as instructors for a wide array of subjects, including remedial literacy, Afrikaans, radio repair, and economics.² The detainees were also allowed to partake in a regimen of physical exercise each morning. The goals of the school participants were straightforward: they sought to help pass time and maintain morale, and also to develop the minds and bodies of individuals who might one day lead the nation into a more prosperous and free future. The official aims of the Prisons Department, meanwhile, were similarly transparent: personnel sought to professionally implement the welfarist-oriented penal policies of the nation. Unofficially, however, many LPS personnel had a more expansive set of motives.

This chapter examines the relationship between national politics and the Lesotho Prison Service (LPS) in the years spanning from 1959-1971. The political historical narrative begins with the formation of a number of political parties in the late-1950s. The rise in party politics and nationalism, particularly in the lead-up to the nation's first parliamentary elections in 1960, interfaced with the penological orientation of the colonial

² M. Putsoa interview, 28 July 2017, Maseru; See also Mphanya, N. 2010. *My Life in the Basutoland Congress Party*, N. Pule and M. Thabane, eds. Maseru: Motjoli Publishers, 88-89, and Mokitimi, M. 2016. *A Life Live in Love, Meshu Mokitimi: How I Remember My First 90 Years as Told to Gerard Mathot*. Maseru: Epic Printers, 61-64.

state. With independence coming into view, the colonial administration pivoted away from a controllist, or retributive- or deterrence-oriented, model of criminal justice towards a welfarist, or rehabilitation-oriented, model.³ The colonial state launched a program of building and retrofitting penal infrastructure, and increased efforts to professionalize Basotho prison officers, who were now asked to facilitate the personal growth and reform of incarcerated persons, in addition to coercively maintaining institutional order.

Even as partisanship became more acrimonious over the early 1960s, inflamed both by ideological disagreements and by the marriage of parties with social groups, there was a drive to transform the LPS into an institution more governed by strict rules and routine. This operation ran parallel to the colonial government's belated push to reify bureaucratic norms – à la Max Weber's ideal type of impersonal, rules-obsessed government institutions – in Lesotho's police and military over the late 1950s and early 1960s, as recently detailed by historian Motlatsi Thabane.⁴ While Thabane shows that the outgoing administration fell far short of re-forging institutional cultures so that police, ministry workers, warders, and other government employees were obsessed with regulations and disinterested in party politics, it is also safe to say the late colonial state did nevertheless successfully burnish a bureaucratic mystique. The idea of building up a technically proficient and modern prison service appealed to politicians across parties. Penal welfarism too had broad appeal; the notion of rehabilitating individuals with checkered pasts resonated with independence-era

³ For more on penal welfarism and controllism see Garland 2001, particularly Chapter 1. See also Bruce-Lockhart, K. 2017. 'Imagining Modernity in the Uganda Prisons Service, 1945-1979.' PhD Diss, University of Cambridge. As nationalist organizing strengthened and the prospect of independence took shape, metropolitan officials pressured the local administration to contest the nation's first elections in 1960.

⁴ Thabane, M. 2017. 'Creation and Entrenchment of a Culture of Party-Politicising Lesotho's Public Service, 1966-1985,' in *Towards an Anatomy of Persistent Political Instability in Lesotho, 1966-2016*, Thabane, M., ed., 285-314. Roma: National University of Lesotho.

optimism about the opportunity for the nation to start fresh and improve living conditions in the wake of colonial rule.⁵

Although the National Party won the 1965 elections, held to determine which party would usher the nation into independence the following year, the new government faced stiff political opposition. Unable to advance legislation and resentful of the high percentage of supporters of the Africanist-oriented BCP and progressive royalists of Marematlou Freedom Party (MFP) in the security forces and civil service, the BNP government responded by ousting a handful of high-profile government employees known to support the opposition, including within LPS. This move both installed BNP allies in key positions of leadership and sent a message to public servants that a new professional expectation was to eschew involvement in party politics if one did not back the BNP. At the same time, Prime Minister Jonathan wanted to progressively improve the conditions of life and work in Lesotho, including within prisons, and was wary about sacrificing technical expertise for party loyalty in low-level government staffing.⁶

The events of the coup created an atmosphere of uncertainty within the LPS. As dozens of opposition figures were detained and a wave of political firings washed across government departments, the leadership and rank-and-file of the service were confronted

⁵ Morija Royal Archives [MRA]: Box 353, *Basutoland Times*, 'Two select committees called for,' and Box 354, f. 'Voluntary societies,' 1963.

⁶ The imperative to modernize and develop the nation dominated much political debate during the early post-colonial era. The 1965 and 1970 campaigns were dominated by questions of which party was best positioned to diversify and expand the domestic economy so that more of the tens of thousands of Basotho constantly engaged in labor migration to South Africa might find opportunities at home: Aerni-Flessner, J. 2018. *Dreams for Lesotho: Independence, Foreign Assistance, and Development*. Notre Dame: University of Notre Dame; Richard F. Weisfelder, R. 1999. *Political Contention in Lesotho: 1952-1965*. Morija: Morija Printing Works, 51-77; Gill, S. 1993. *A Short History of Lesotho from the Late Stone Age until the 1993 Elections* Morija: Morija Printing Works, 214-15.

with the question of how the treatment and management of detainees would impact their professional and personal security. In the weeks and months following the coup, even as new political detainees were deposited in Maseru Central, LPS returned to the language of bureaucratic professionalism and penal welfarism to recuperate institutional control over penal facilities. Prison administrators argued for the need to watch over and rehabilitate all inmates, including detainees, without fear or favor. Safeguarding the LPS' status as an organization governed by regulations, of the sort vaunted by the erstwhile colonial regime and international penological experts, was described as essential for protecting the services' long-term capacity to facilitate rehabilitation and, indeed, promote penological and national progress.⁷

While these developments look, at first glance, like an effort to defend the apoliticalness of a bureaucracy, I argue that the events should instead be seen as an instantiation of anti-politics. A specific, negative type of anti-politics has become deeply associated with Lesotho amongst scholars since the publication of James Ferguson's classic work the *Anti-Politics Machine*. Ferguson demonstrates how foreign donor agencies abetted BNP-authoritarianism in the 1970s and 80s by obfuscating (or being oblivious to) local political dynamics; development discourse served as an 'anti-politics machine' which framed dam projects and agricultural schemes as straightforward moral imperatives, whisking away consideration of the winners and losers accompanying these projects.⁸ The groundbreaking work has inspired a robust scholarship, compounding Ferguson's use of

⁷ L. Monyobi interview, 22 May 2017, Lithabaneng. Lesotho Prison Department 1971, *Annual Report, 1970*. Maseru: Lesotho Government, 1. Hereafter all reports of the prisons department cited as 'Department of Prisons [Year].'

⁸ Ferguson, J. 1994. *Anti-Politics Machine: Development, Depoliticization, and Bureaucratic Power in Lesotho*, Minneapolis: University of Minnesota.

the concept. John Aerni-Flessner's 2018 *Dreams of Lesotho* offers, for example, a rich analysis of the processual creation and internalization of modernization narratives by Basotho over the 1950s and 60s.⁹ I argue, however, that the case of LPS officers invoking their professional obligation to treat political detainees as they would any other prisoners – warranting both physical protection and the opportunity for reformatory enrichment – represents a different sort of anti-politics.

Instead of anti-politics being foisted upon Basotho by foreign donors or seeping into local political discourse and ideology, LPS employees leveraged the moral imperatives saturating development discourse as a means of offering protection to government opponents and simultaneously protecting themselves from dismissal or other reprisals. What makes the actions of LPS personnel anti-political, rather than apolitical in the classical Weberian sense, was the degree to which the protection of detainees in 1970 was *tentative and instrumental*, rather than *automatic and procedural*.¹⁰ Over the late colonial period, professionalism and welfarism emerged as commonsense priorities for a modern, effective prison service. Later, in the lead up to independence, Jonathan disciplined government employees that he would brook no overt partisan opposition from within state institutions. Drawing from these institutional precedents, LPS administrators and staff responded to the 1970 the emergency by cleaving to regulations and promoting an ethos of penal welfarism. This approach proved to be an effective, if limited means of pursuing the

⁹ These texts fueled this chapter's focus on what struggles were playing out in the anti-political penumbra of official efforts to modernize penological practice in Lesotho.

¹⁰ This usage is consistent with the conception of the 'low-active' or Konradian form of anti-politics explored in the broader political science and philosophy literature: Mete, V. 2010. 'Four Types of Anti-Politics: Insights from the Italian Case,' *Modern Italy* 15/1, 37–61; Konrad, G. 1984. *Antipolitics: An Essay*, trans. R. Allen, New York: Harcourt Brace Jovanovich, 92; see also Simone Chambers, S. and J. Kopstein 2008, 'Civil Society and the State,' in *Oxford Handbook of Political Theory*, ed. J. Dryzek, et al., 363-81, New York: Oxford University.

moral end of protecting some regime opponents and, for some guards, a means of quietly supporting Congress and/or King Moshoeshoe II.

6.2 The political and penal landscape in the lead up to independence, 1959-1965

Clement Notsi was hired by the prison service in 1957.¹¹ He had strong educational credentials, having graduated the year before from St. Agnes High School in Teyateyaneng. As an athlete with a tall, wiry frame, Notsi was also physically well suited for the work.¹² Yet, the nervousness the day before reporting for duty at Maseru Central went well beyond the jitters one might expect when starting any new job. Less than two years before, Notsi's uncle had related the tale of an ill-timed visit and narrow escape from the facility at the outset of an uprising in November 1955 which left one warder and four prisoners dead, and scores of people gravely wounded.¹³ The first person Notsi met upon reporting for work at the facility was Chief Gaoler Ernest Khomari, the top Mosotho official in the Service. Confronted with a senior officer Notsi snapped his lanky frame to attention and began to fire off his credentials, but Khomari simply laughed and said, 'calm yourself man, you're already hired.' While technically correct, it was also true that to be a full member of the warder corps at Maseru Central, one had to continuously pass muster with Khomari. Over the next two years Notsi served day to day under the Senior Gaoler. Khomari's particularly stringent standards for protocol, and professional and physical training, would serve Notsi throughout the course of a distinguished 29-year career. Notsi was part of a generation of

¹¹ The information in this paragraph is drawn from four 2017 interviews conducted with the late Notsi at his Maseru Home on April 28, May 2, May 19, and August 11.

¹² Notsi was an accomplished tennis player, who stood well over 6 feet in height.

¹³ British National Archives (BNA) DO 35/4555: 'Telegram to Commonwealth Relations Office,' 21 Nov. 1955; MMA, *Leselinyana*, 28 Nov. 1955, 'Moferefere Teronkong e Kholo' [Sesotho].

recruits who lived through a late colonial drive to professionalize the Prison Service and an architect of independent Lesotho's penal system.

At the time Notsi enlisted, both the prison system and the nation's political landscape as a whole were in a state of transition. The laws governing incarceration had been retrofitted only weeks before the new recruit's first encounter with Khomari, both in response to the scandal caused by the violence of the 1955 Maseru Central uprising and growing international support for the United Nations' guidelines for prison conditions.¹⁴ The founding of the Basutoland African Congress (BAC) by Ntsu Mokhehle a few years earlier, in 1952, had revolutionized the territory's politics by providing an institutional home for nationalist organizing and activism.¹⁵ Over the mid-1950s the BAC enjoyed the support of a broad social coalition (including both Catholics and Protestants, nobles and commoners, urban workers and rural agriculturalists) and prized significant reforms from the colonial administration, notably including the creation of a Legislative Council and acceleration of the Africanization of the civil service.¹⁶ By the late 1950s, however, the broad Congress coalition was splintering.

The fragmentation of the BAC was driven both by ideological disagreements and by the very success of the party in opening the door to democratic reforms. As self-rule

¹⁴ The most recent updating of prison regulations took place in 1957, and were modeled on the English Act 1952, English Prison Rules of 1949, and English Code of Discipline for Prison Officers 1952; see Basutoland Gov't 1958, 14. Standard Minimum Rules (SMRs) represented (and still represent) an international effort to establish a floor for prison conditions. The rules cover a range of issues, including housing, exercise, punishment, work, and outside communication (UN, *Standard Minimum Rules for the Treatment of Prisoners*, 30 August 1955, www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf, accessed 5 June 2018).

¹⁵ The BAC continued to build on the critiques of older Basotho activist organizations, including *Lekhotla la Bafo* and the Basutoland Progressive Association (see Gill, 203-4).

¹⁶ *Ibid.* The number of Basotho ranking as at least officers in public service grew to 201 out of 476 in 1962, and to 423 out of 642 in 1966 (Thabane 2017, 296).

came into view, different sectors of society formed new parties to look out for more narrowly defined sets of collective interest. The lead-up to the nation's first elections, which were ultimately held in early 1960, witnessed the founding of the royalist Marema Tlou Party (MTP) in 1957 and the Basotho National Party in 1959, as well as the renaming of the BAC to the Basutoland Congress Party (BCP). The social divisions underlying the formation of new parties were reinforced through electoral campaigning: the MTP drew on higher-ranking lords for support; the BNP courted Catholics, lower-ranking nobles, and rural agriculturalists; and the BCP particularly appealed to commoners and city dwellers, as well as a growing number of Protestants. Although Congress won a majority of seats in the polls, the party soon found its ability to legislate stymied by BNP representatives aligned with the unelected 'ex officio' lords and colonial officials on the council.¹⁷

Following the monumental events of 1960 across the continent, in the region, and at home, it became clear to both the Maseru administration and to the Basotho political classes that independence for Lesotho was likely coming sooner rather than later.¹⁸ The riven state of domestic politics, however, presented a significant obstacle to any negotiated exit from empire.¹⁹ The BCP, despite holding a narrow margin in seats, was boxed in within the Legislative Council. The party was also ripping itself apart from within as Mokhehle battled for control with South African activist exiles belonging to the African National Congress (ANC). The nation's king, who had returned home from studies at Oxford to be

¹⁷ Weisfelder, 18-23.

¹⁸ See Harms, R. 2018. *Africa in Global History*. New York: Norton, 575. Ralph Bunche referred to 1960 as 'the year of Africa,' as 17 colonies became independent nations. British PM Harold MacMillan orated about the 'winds of change' ushering colonialism to its end. Lesotho swore in the first elected members of the new Legislative Council in early March. Only weeks later, however, the white minority ruled South African state launched a brutal defense of its apartheid laws, beginning with a massacre of 69 protestors in Sharpeville.

¹⁹ Gill, 210-6.

sworn in as Moshoeshoe II in March 1960, was also deeply frustrated with a political system that denied him executive powers or access to a National Treasury. In 1961, the young and politically inexperienced king launched a constitutional review commission. The findings of the commission, published in 1963, recommended the creation of Westminster style government with an elected lower assembly holding legislative powers. Elections were announced for 1965, and intense campaigning began in 1964.

As the constitutional commission was carrying out its work in the early 1960s, the colonial administration began to dramatically scale up training and promotions of Basotho in the civil service and security forces. Officials in London and Maseru played up the British commitment to ensuring Lesotho had the infrastructure and local technical expertise to thrive under self-government.²⁰ The administration scaled up work on infrastructure, both refurbishing old jails in the countryside and building new specialized facilities for juveniles and women in Maseru. While officers seconded from British prison bureaucracies had directed the service since its founding in 1947, the early 1960s witnessed the arrival of more British penological experts in advisory and training roles.²¹

Basotho employees in the LPS and across government, many having endured years of vague discussion about potential future promotions, were pleased to see previously

²⁰ When pressed these same officials expressed more pessimism about the economic prospects of a nation that relied on South Africa for some 100,000 jobs (OBL, MSS.Afr.s.1681, f. 9, Africa Bureau, confidential memo, 14 June 1966); see also the British House of Commons debate on leaving Lesotho in a state of 'satrapy' to South Africa (British Library: UK Parliament, 'Lesotho Independence Bill,' Pub. L. No. HC Deb, vol. 732, 26 July 1966, cc 1581-633).

²¹ O.V. Garratt, an advisor to the Home Prisons Service, was sent by the FCO's Department of Technical Cooperation to help establish a five-month training course for the LPS over 1963 (Monyobi interview, 22 May 2017; see also Prisons Dept. 1963, 2, and BNA CO 1048/164, Campbell and Steward correspondence, 6 Nov. 1962 and 28 Nov. 1962). Two of the first cohort to complete this course (one of whom was Monyobi) were appointed as Training Officers, and took over running the school.

blocked paths to leadership positions opening before their eyes.²² Shoring up and filling the employee rolls, or ‘establishment,’ as well as securing a pay increase for warders, had been a priority for the prison brass since the 1955 rebellion. When the uprising began the majority of the undertrained and underpaid warder corps had fled, scrambling over the prison fence.²³ Prison administrators believed that in addition to training warders as professionals, paying warders as professionals was critical not only for morale but security. Being a member of LPS became a career, offering wages and a pension that would ensure a comfortably middle-class life.²⁴ The hiring process was also revamped, with eight officers enlisted in a single class rather than one by one on an *ad hoc* basis.²⁵ London also assisted in arranging and securing funding for prison officers (as well professionals in other fields) to visit England, or other locales within the empire and Commonwealth, for specialized training.²⁶ In 1965, as construction on a Women’s Prison entered the final stretch, all official disparities in pay between male and female officers were abolished.²⁷ The move recognized women officers as genuine breadwinners and professional employees of the LPS.

²² Notsi interview, 2 May 2017 and 9 May 2017; Monyobi interview, 22 May 2017; R. Mokoma interview, 22 February 2017, Roma; M. Mokete, 26 July 2017, Maseru.

²³ Notsi interview, 2 May 2017. BNA DO35/4555: f. 19b, ‘Report of commission...to enquire into a disturbance at the Central Prison, Maseru.’

²⁴ Monyobi interview, 22 May 2017.

²⁵ Notsi interview, 28 April 2017; the recruiting class was later increased to 15 (Prisons Dept. 1963, 1).

²⁶ Basutoland Gov’t Annual Reports 1961-66.

²⁷ In 1963, the pay scale was £540-942 and £450-785, for male and female Chief Officers, respectively, and £138-246 and £96-162 for Prison Officers (Prisons Dept. 1963, 3). The gendered pay disparity across rank-and-file officers was abolished in 1964, but still impacted the Chief Officer of the women’s prison in Maseru, Bernadette Molefe, whose pay scale was 900-1570 rand, compared to R1080-1884 for her male counterparts (Prisons Dept. 1964, 3). Molefe – Notsi’s former high school math teacher – agitated until this imbalance was corrected. The pay equity, however only existed in Maseru at the time. Women on trial in District Courts were housed in ‘closed annexes’ of the local prison during trial, and guarded by temporary female wardresses making far less than establishment counterparts (Notsi interview, 28 April 2017 and 19 May 2017).

6.3 The service during the era of national liberation, 1965-1969

Over the course of his life Ernest Khomari was never afraid of a fight. As a lone herdboyc armed with only a *molamu* (shepherd's stick) he chased off a group of men trying to steal the family livestock.²⁸ When the Second World War began, he answered the call for volunteers from the British colonies to fight Nazi tyranny. Khomari guarded detainees in the British prison camp in Alexandria, and commanded an anti-aircraft gun in the desert during the second battle of El Alamein. When his transport ship was blown wide open by an air attack in the Mediterranean, he clambered over the panicked crowd in the stairwells to escape, and defended a piece of driftwood from other desperate, drowning men.²⁹ When he returned to Lesotho, he lobbied to get himself hired as a warder in the newly created colonial Prisons Department. By 1957 he was promoted to Chief Gaoler, becoming the only Mosotho to hold the rank.³⁰ In this capacity he worked, sometimes brutally, to impose his vision of discipline on inmates, doling out and suffering numerous blows (and a few stab wounds) in the process.³¹ He also endured the criticism of subordinates as he introduced and enforced new standards amongst the warder corps.³² He prevailed upon the colonial apparatus to provide greater professional training for Basotho prison officers, and

²⁸ T. Khomari, 18 July 2017 and 2 August 2017, Maseru. E. Khomari, 'Interview with Christopher Somerville (1995),' archived by the Imperial War Museum, London. Cat. No. 18401.

²⁹ For more: Gray, B. 1953. *Basuto Soldiers in Hitler's War*. Maseru: Gov't Printer), 26-29. The British troopship *Erinpura* was sunk in the Mediterranean by a German air attack on May 1, 1943. Of the 1,300 men onboard, 943 men lost their lives, including 633 Basotho. The day after the attack, the survivors pulled from the water during the night, including Khomari, landed in Benghazi.

³⁰ Basutoland Gov't 1957, 15.

³¹ Particularly early in his career, Khomari was quick to use harsh measures against inmates for prison offenses, including extra-judicial beatings and extended solitary confinement. As detailed in Chapter 5, the suppressed internal report of the Foreign and Commonwealth Relations Office on the 1955 rebellion at Maseru Central cited a culture of warders terrorizing inmates as the underlying cause of the violent unrest. It singled out Khomari as a key architect and participant of this terror (BNA DO35/4555: f. 19b, 'Report of commission').

³² Monyobi interview, 22 May 2017; Notsi interview, 2 May 2017.

was selected for and completed an officer training course with the British Home Prisons Service at the Wakefield facility in 1961. He smashed further glass ceilings by being promoted up the ranks, and was ultimately appointed as Acting Director of Prisons, the top job in the service, at the start of 1966. Around this time he also protested, with his fists, his exclusion from the Maseru Club because of the color of his skin. One battle Khomari did not win, however, was his bid to shepherd his homeland's prison system through the moment of national liberation.³³

The commitment of Basotho politicians to the continued existence of an independent and professional prison administration faced its first real test over 1966. The outcome of the 1965 election was a surprise to most observers. The BNP won a majority, securing 31 seats in parliament, compared to 25 for the BCP and four for the MFP. Bitterly disappointed with the election results, the opposition leadership appealed to the British to delay independence. At a June 1966 constitutional conference in London, the Colonial Office announced their intent to move ahead with independence in October.³⁴ The BCP and MFP responded with an effort to systematically obstruct BNP legislation.³⁵ Unlike during the preceding half decade, however, when the BCP held the edge in legislative seats, the new BNP government had command over more ministerial portfolios, and more power to hire and fire members of the security forces, judiciary, and civil service. Faced with concerted political opposition, the BNP leadership was torn on the question of whether government jobs should remain in the hands of the most experienced and technically

³³ T. Khomari, 2 August 2017.

³⁴ The Colonial Office was actually relieved that the Nationalists had won; a BNP-government was deemed the least likely to embarrass the British by being swiftly toppled by the South Africans (OBL, MSS.Afr.s.1681, f. 9, Africa Bureau, confidential memo, 14 June 1966).

³⁵ Weisfelder, 107-9. For a BCP perspective see Mphanya, 56-7, and Leeman, B. 1984 [Revised 2015]. 'Lesotho and the Struggle for Azania.' PhD Dissertation, Bremen University, 393-4.

qualified individuals, who overwhelmingly supported the BCP or MFP, or instead be doled out to party loyalists.³⁶

During the June constitutional conference, Khomari was hard at work in the top role in the LPS. He had been appointed Acting Director of Prisons on the recommendation of the outgoing director Vivian Farquharson, who was retiring after more than fifteen years in the position. During his training at Wakefield, Khomari had learned and participated in the operation of distinctly welfarist penological operations. As Acting Director, he dove into his work, hoping to make the prison system both a site and instrument for the development of a soon to be independent nation.³⁷ He scaled up the work of prisoners, deploying ‘convict labor gangs’ away from their usual stations in gardens, fields, and quarries.³⁸ Within the Prison Service, Khomari oversaw further institutionalization of a rigorous training program, which included ‘riot squad drill’ and a course on ‘inmate control.’ Officers were also temporarily attached to other government institutions to learn skills like accounting, farming demonstration, and field medicine, and enrolled in training courses at both the local University and abroad.

In early September 1966, a month before independence, the English Prison Service officer Robert Forman, seconded to Lesotho the year before under the Special Commonwealth African Assistance Programme,³⁹ was plucked from his post as a Training

³⁶ My thanks to Prof. Tefetso Mothibe for clarifying these issues.

³⁷ Notsi interview, 2 May 2017 and 19 May 2017; T. Khomari, 2 August 2017. The training officer Garratt returned for a two-week inspection in February 1966, and offered up both praise and advice on how Khomari might proceed with reforms (Prisons Dept. 1966, 2).

³⁸ Fifty prisoners were transferred from Central Prison to tents on the Berea Plateau, where the men labored under guard to construct the nation’s traffic artery to the northern districts. Moreover, in anticipation of the impending independence ceremonies, there was a ‘big demand on prison labour for some months prior to the occasion in order to give the townships a “face-lift”’ (Prisons Dept. 1966, 2).

³⁹ Prisons Dept. 1965, 2.

Officer and appointed Director of Prisons. Khomari had been passed over. The reason for this snub was almost certainly Khomari's vocal support for more powers for the king and his association with the prominent MFP politician Herbert Taka.⁴⁰ A bitter irony was that when Jonathan - a man who had advocated for Africanization of government jobs since becoming a politician - explained the promotion of Forman, he used the pretext long used by the colonial regime to keep Basotho from positions of power in government: it was necessary to employ an expatriate because there was no Mosotho qualified for the job.⁴¹ Rather than accept a demotion and transfer out of the capital to an outlying district, Khomari opted to retire at the age of 44.⁴²

Khomari was one of a handful of high-ranking officials in government service that the new BNP government was able to punish professionally for supporting their opponents. While a Public Service Commission offered government employees some protection from politically vindictive dismissals, over the late-1960s the BNP government was successful in positioning allies in key roles in ministries, the security forces, and the judiciary.⁴³ Jonathan was particularly partial to Afrikaans-speaking white South Africans, who could be counted upon to work against the Africanist-oriented BCP and whose presence,

⁴⁰ T. Khomari, 18 July 2017 and 2 August 2017. Taka, like Khomari, had served as a prison guard in Alexandria during the war (BNA FCO 141/469: f. 29, 'Parties and Leaders in Basutoland').

⁴¹ NUL: *Nketu oa Mara*, 14 Apr. 1967, 'Africanization in Lesotho.' *Nketu oa Mara*, 12 May 1967, 'Chief Leabua addresses Lesotho Parliament:' 'Of 4,000 civil service posts, less than 5% [are] now held by expatriates, the remainder by Basotho.' Jonathan told parliament caution was needed to 'ensure high standards' and that he was unwilling to score easy political points if doing so would undermine the functioning of institutions.

⁴² A couple of high profile officials opted instead to accept their more limited roles. One prominent example was the former Deputy Commissioner of Police, Nkherepe Molefe. A relative of the king and a recipient of the Colonial Police Medal for Gallantry for having risked his own life to negotiate an end to the 1955 rebellion in Maseru Central Prison, Molefe was demoted and deployed to Qacha's Nek, on the far side of the nation from the capital, in late 1965 (Khaketla, 269; see also Mphanya, 88).

⁴³ Bardill, J. and J. Cobbe 1985, *Lesotho: Dilemmas of Dependence in Southern Africa*. Boulder: Westview Pres, 128; see also Khaketla, 264.

Jonathan hoped, would solidify relations with Lesotho's powerful neighbor (and lubricate the flow of aid). Select acts of passing over and demoting prominent Basotho officials further served to discipline all government employees.⁴⁴ The LPS rank-and-file understood that a professional expectation was to either support the Nationalists or to keep opposition sympathies close to the vest.⁴⁵

On 30 September 1966, over half of Lesotho's prison population was amnestied.⁴⁶ Some of the individuals released early were on hand when, six days later, the Union Jack was ceremonially lowered for a final time and sovereign Lesotho's flag, with a white *mokorotlo* (traditional straw hat) backed by blue, green, and red, was hoisted into the Maseru sky. The mass remission of sentences symbolized a break with the wrongs of the colonial past, and gestured to the idea that the work of bettering Lesotho required new forms of conduct from citizens of the nation. While the amnesty did indeed occasion a profound change in the lives of 1,096 liberated men and women, the institutional approach of the state to crime and punishment was also marked by deep continuities: extant prison regulations remained, drawing from the English Penal Code and seeking to meet United Nations Standard Minimums; Basotho officers still occupied all but the top job in the prison service; the judiciary persisted in looking to prisons as the rightful place to punish and

⁴⁴ Over subsequent years Jonathan proved particularly keen to promote Afrikaans-speaking white South Africans to positions in ministries, the police command, and the judiciary; not only could he be sure these appointees weren't closeted supporters of a Congress Party which was Africanist and socialist in orientation, but he hoped to endear the BNP-government to the neighboring power in hopes of getting financial aid and technical assistance. For a list of positions doled out to South Africans see Leeman, 391.

⁴⁵ 'Thomas,' author interview Maseru, 3 August 2017.

⁴⁶ NUL: *Lesotho News*, 11 Oct. 1966, 'Independence Remission and Release of Prisoners.' See also Prisons Dept., *Annual Report for 1966*, 1.

rehabilitate Basotho who transgressed the law; and hundreds of individuals continued to serve out their sentences in the nation's 11 penal facilities.

Any possibility of post-independence detente between the BNP and the opposition parties evaporated in short order. There was a confrontation between the Police Mobile Unit (PMU) and supporters of the king in December 1966 at Thaba Bosiu, which left 10 people dead.⁴⁷ In the wake of this incident, Jonathan seized the initiative to go after threats to his power.⁴⁸ In a speech to parliament on February 16, 1967, Jonathan stated that although his foremost goal was to raise living standards and create new jobs so that fewer Basotho would need to migrate to the mines and farms of South Africa, it was first necessary to protect Lesotho's constitution from ambitious BCP politicians and their spies who had infiltrated government under the British administration.⁴⁹ The BNP newspaper, *Nketu oa Mara*, adopted an even more strident tone: 'All such disloyal elements must be weeded out ruthlessly and without mercy from the civil service.'⁵⁰ A number of measures to increase the power of the state to police and suppress dissent were rushed through Parliament while the leaderships of BCP and MFP were being prosecuted on charges stemming from the Thaba Bosiu incident.⁵¹

⁴⁷ Machobane, LBBJ. 2001. *King's Knights: Military Governance in the Kingdom of Lesotho, 1986-1993*. Roma: ISAS, 12-21.

⁴⁸ The king was sidelined, and opposition leaders put on trial for public violence in early February (NUL: *Nketu oa Mara*, 7 Apr. 1967). Mokhehle was convicted and given a suspended sentence of 12 months hard labor (NUL: *Nketu oa Mara*, 14 July 1967, and *Lesotho News*, 25 July 1967).

⁴⁹ NUL: *Nketu oa Mara*, 24 Feb. 1967.

⁵⁰ Ibid.

⁵¹ The legislation included the Emergency Powers Act, the Public Meeting and Procession Act, the Societies Act, and the Printing and Publishing Act. One BCP official lamented, 'All these legislative measures are...constitution a serious threat to the fundamental human rights as entrenched in the country's constitution: these being freedom of assembly, movement, association, speech and even the basic right to live' ('Press Statement by KS Chakela,' OBL, MSS.Afr.s.1681, Box 219, f. 10.). Police also conducted a campaign against vagrancy and tax-defaulters in Maseru and other large cities like Mafeteng, as Jonathan castigated the BCP for supposedly encouraging youth to loaf, gamble, and drink in the streets. (NUL: *Makatolle*, 23 Sep. 1967; *Nketu oa Mara*, 29

While Jonathan's incipient authoritarianism did intrude into the penal system in select cases like Khomari's – and when officers were called upon to guard political prisoners in the aftermath of Thaba Bosiu – the late-1960s embodied something of a golden age for the majority of correctional officers. Jonathan trusted the judgment of Director of Prisons Forman, and after his secondment was up, Thomas Hinett, also from the English Prison Service.⁵² While both men worked with the regime to implement new security and classification measures in prisons, neither showed interest in the intricacies of local politics, or cleansing their commands of secret royalists or socialists.⁵³ Any potential effort to ferret out opposition sympathizers, moreover, would likely have crippled the higher ranks of the service, as most Basotho secondary school graduates gravitated towards the king or Congress. MFP and BCP supporters who kept mum on the subject of politics were thus able to continue to enjoy good pay, job security, a close-knit social community, room for professional advancement, and the opportunity to travel both domestically and internationally.

The late-1960s through the mid-1970s were also, sadly, a high-water mark for living conditions inside of the nation's custodial facilities.⁵⁴ While the number of people incarcerated in the three Maseru facilities (Central Prison, Women's Prison, and the

Sep. 1967; *Lesotho News*, 3 Oct. 1967 and 7 Nov. 1967).

⁵² Notsi interview, 19 May 2017.

⁵³ *Ibid.*

⁵⁴ It is important to emphasize that this statement is less a testament to how good prison conditions were in the late-1960s and 1970s than of how bad things have become since. Beginning in the late 1970s Lesotho's penal system began to buckle under the weight of overcrowding, crumbling infrastructure, budget shortfalls, and understaffing (Monyobi interview, 22 May 2017). The system also has also had to contend with the serious challenges posed by HIV/AIDS (and an explosion in related opportunistic infections like tuberculosis) since the 1980s and the growth of South African affiliated gangs beginning in the 1990s. On more recent conditions, see NUL: Mafisa, S. 2003. *Inspection of Government Prisons and Hospitals in Lesotho*. Maseru: Office of the Ombudsman; Mafisa, S. 2007. *Quthing Correctional Institution Inquiry*. Maseru: Office of the Ombudsman.

Juvenile Training Centre), and seven out of eight district prisons, already exceeded the recommended population, the overcrowding was light compared with what has come to exist over subsequent decades. Guards at Maseru facilities and in the districts were still able to take inmates outside the cellblocks for productive labor, and the prisons made an earnest effort at training long sentence inmates with skills that would facilitate employment after release.⁵⁵ The availability of Commonwealth funds also meant a higher ratio of guards to inmates and a greater capacity to maintain and improve buildings.⁵⁶ Jonathan, for his part, had shown previous interest in ensuring humane prison conditions, including by heading an inquiry into the issue in 1963 while serving in the Legislative Council.⁵⁷ Aspirations to conform to international consensus on how ‘modern’ states treated prisoners, outlined in the United Nations Standard Minimums, also likely weighed on the BNP government. Up through the late 1970s Nationalist propaganda continued to tout the party’s ‘progressive attitude’ towards penal administration, ‘highlighted by its emphasis on the rehabilitation of prisoners.’⁵⁸

6.4 Responses to political detention in Maseru Central Prison, 1970-71

Matsobane Putsoa was arrested at his place of work in a government printing office on July 3, 1970. He was one of the final BCP youth leaguers to be swept up by Special Branch and deposited in Maseru Central in the wake of the late-January coup. Inside the prison Putsoa

⁵⁵ Interview with ‘Benjamin,’ who became a professional cobbler after learning the trade while incarcerated in Maseru Central during late-1970s (Hlotse, 6 March 2017). Putsoa valued the skills he gained in brickmaking and tailoring while incarcerated a second time (Interview, 28 July 2017). For a similar anecdote from colonial Ghana see S. E. Hutchings, 1987. *Life in the Colonial Prison Service*. Ilfracombe: Stockwell, 15.

⁵⁶ Monyobi interview, 22 May 2017.

⁵⁷ Morija Royal Archives, Box 353, *Basutoland Times*, ‘Two select committees called for,’ 19.

⁵⁸ Basotho National Party 1979, *Portrait of a Party, 20 Years of the B.N.P.*, Maseru: s.n., n.p.

was reunited with comrades who had gone missing over preceding months, including others who had also just graduated from the university in Roma that year.⁵⁹ The young accountant also encountered political refugees from South Africa, the majority of the BCP candidates for parliament (regardless whether they had won or lost their seat), and supporters of smaller parties like the MFP and Communists. The detainees were held in a newly completed, and not yet inhabited, Maximum Security wing of the facility, and wore ordinary clothes rather than prison uniforms. Putsoa learned that Mokhehle and other members of the BCP Executive Committee were confined elsewhere in the facility. Amongst the Congress detainees, party and youth league committees sought to exert rigid control over the lives of party members. Putsoa, however, bucked the leadership on one thing: he refused to give up public discussions with communists on the merits of different economic systems.⁶⁰ The formalization of these debates served as a germ of the school described in the opening anecdote of this paper.

Upon arriving at Maseru Central, Putsoa related to his cellmates news on incidents and rumors of the different sorts of violence unfolding around the nation. Over the days following the start of *Qomatsi*, as the first round of opposition politicians and activists were rounded up for detention, other prominent citizens – including Ernest Khomari – were

⁵⁹ At that point the university served the three former High Commission Territories and was known as the University of Botswana, Lesotho, and Swaziland (UBLS). According to Machobane there were 37 UBLS students confined over the period from 1970-71, 26.

⁶⁰ While Putsoa advocated for a mixed economy, the BCP hierarchy instructed him not to be seen associating with communists, out of concern of adding fuel to incessant Nationalist charges that the BCP took orders from Beijing and/or Moscow (Interview, 28 July 2017, Maseru). While chatting informally, another former detainee related the story of a detainee named Ntsasa, who started keeping a prison diary. The party executive committee had the diary seized and destroyed, and ordered Ntsasa to stop taking notes, lest this information be ‘captured’ by the enemy (Conversation, 28 July 2017, Maseru).

given orders of home detention.⁶¹ Two armed rebellions emerged and were violently suppressed.⁶² Mooki Leepa, the former Deputy Commissioner of Police, and a small group of supporters fought the PMU from February into March; and independent diamond diggers who dubbed themselves *liphokojoe* (jackals or foxes) over early April.⁶³ Meanwhile, BNP controlled youth organizations and the PMU harassed and attacked ordinary opposition supporters. When the government did not take concerted action to stop this violence – which was largely organized by Deputy Prime Minister Sekhonyana Maseribane and PMU Commander (and later Commissioner of Police) Fred Roach – groups of people banded together to organize defense committees and, sometimes, launch reprisals against BNP supporters and officials.⁶⁴ MFP politician Bennett Khaketla suggests, in his authoritative study of the coup, that such acts played into the BNP's hands: 'When people began to resist, the stage was set for enacting a Reign of Terror,' as Jonathan could 'claim that it was calculated violence, perpetrated by the Opposition, which had compelled

⁶¹ Under Section 8 of the Emergency Powers Act, Khaketla, 274.

⁶² The PMU was the precursor to the Lesotho Defense Force. It was created by the administration in 1963 in response to fears of political unrest (British Library: Basutoland Police Department, *Annual Report, 1965*, Maseru: Government Printer, 126-9). The BNP government dramatically scaled up by the force in 1967, ostensibly to pursue and fight well armed groups of stock thieves. At the time of the coup the PMU force was under the command of Fred Roach, an English former policeman who was widely rumored to be an employee of the South African Bureau of State Security (Leeman, 332). Roach and Sekhonyana Maseribane, Minister of the Interior and Deputy Prime Minister, were the principle architects of the coup. Roach was ejected from Lesotho in 1972 after trying to convince the most zealously anti-communist wing of the BNP to overthrow Jonathan.

⁶³ Like Khomari, Leepa seemed the heir apparent to take full command of a government department before being sidelined, ostensibly for being a supporter of the King. On February 10, 1970 Leepa and a handful of supporters engaged in the first of a series of bloody gun battles with the PMU. After Leepa was killed in early March, his mutilated corpse was displayed in front of the Central Charge Office in Maseru (BNA FCO/45/834, 'Lesotho Review, 1970,' 5; Khaketla, 267-71; Pule and Thabane 2010). The most significant loss of life took place in rural, mountainous Mokhotlong in early April: independent diamond diggers, who had been promised a recognized cooperative movement by the BCP, protested violently, took on the PMU, and were, ultimately, crushed (Machobane, 27-28; Thabane 2000).

⁶⁴ OBL, Papers of Africa Bureau–MSS.Afr.s.1681, Box 220, f. 10.

him to seize power.’⁶⁵ A growing number of people were snatched from their homes and off the street, and tortured to confess to electoral fraud and name ‘co-conspirators.’⁶⁶

In early February 1970, the BNP government issued a circular letter calling for the immediate resignation of all employees who ‘showed themselves by word and deed to be Opposition supporters.’⁶⁷ The regime quickly followed up on the letter by sacking some 600-800 government employees, between 15 to 20% of its workforce.⁶⁸ The dismissed public servants –ranging from hospital attendants to civil engineers, from magistrates to office custodians – were also blacklisted, expelled from government housing, and lost pensions.⁶⁹ Although precise reasons for each of 22 firings of LPS staff over 1970 are not recorded, certainly some of the dismissals were a result of names being on lists of opposition ‘spies.’⁷⁰ Even if all these firings were politically motivated, a sack-rate of 7%, on an LPS establishment of 304 persons, was less than the national average. One former warder who was working in a Maseru facility in 1970, and wished to remain anonymous, recalled the mood in the LPS:

The loudest *ma-Congress* [BCP supporters] were gone [fast]... There were one or two [officers] sent away for no cause: personal rows, not politics... Many of us [who supported opposition parties] thought we were finished... Many [bosses] were opposition, and they knew us and we knew them, but we stood in the jobs and continued to work.⁷¹

As the violence of the emergency intensified, and Maseru Central was buffeted by waves of extra-judicial detainees, the penal system was in the hands of a new director,

⁶⁵ Khaketla, 267. Sometimes communities drove off the attackers, for example, the case of the Maseru neighborhood of Matsoatlareng (NUL: *Lesotho Times*, 3 Mar. 1970).

⁶⁶ Khaketla describes the violence in graphic detail, 262-91.

⁶⁷ Excerpt of letter printed in *Rand Daily Mail*, 6 Feb. 1970, quoted by Khaketla, 263.

⁶⁸ Bardill and Cobbe, 134.

⁶⁹ Machobane, 26 and 28; see also Khaketla, 264.

⁷⁰ Prisons Dept. 1970, 2.

⁷¹ ‘Thomas’ interview, 3 August 2017.

Clifford Hurst. Like directors Forman and Hinett before him, Hurst was serving in Lesotho on a secondment from the British Ministry of Overseas Development. The new director inherited a series of projects to enhance the welfarist orientation of the Prisons Department, notably including efforts to more rigorously classify and segregate inmates for different courses of rehabilitation.⁷² Although eager to press on with this work, many rehabilitative measures and programs were deprioritized to grapple with overcrowding. The most extreme case occurred in Mokhotlong, the epicenter of the *liphokojo* uprising, where the number of prisoners detained in the small district prison (with an official capacity of 40 persons) rose from 43 in January to 213 in December.⁷³

Amongst the officers below Hurst, the presence of detainees in Maseru Central posed ethical and professional problems. From the start some officers risked more than just their jobs by conveying messages between detainees held in different parts of the prison as well as with the outside world.⁷⁴ For most LPS supervisors and officers, however, the presence of political detainees was bewildering and stressful.⁷⁵ The desire to show empathy to detainees clashed with the drive for self-preservation. Complicating matters was the wave of public servant firings. After having been disciplined in one set of rules governing professional behavior during the BNP's period of legitimate tenure in office, the purge of civil servants forced prison staff to rapidly recalculate the rules of the job. How to engage

⁷² Forman wanted to emulate the English open prison model in order to facilitate rehabilitation and reduce overcrowding in prisons. During his tenure open prisons were started in Maseru (Thetsane), Berea, and Leribe (in Tsikoane and Setene). Hinett maintained the camps and worked to build a maximum security unit in Maseru Central whose first residents turned out to be political detainees. Notsi interview, 2 May 2017; see also the annual reports of the prisons department for 1967 and 1968/69.

⁷³ Prison Department 1970, appendix 7 and 11-12.

⁷⁴ Mokitimi, 61-62; Putsoa interview, 28 July 2017.

⁷⁵ 'Thomas' interview, 3 August 2017; Mokitimi, 61-2.

and control the detainees was largely unclear. The prison administration reverted to a defensive crouch, providing basics like food, water, and physical security for their new charges but also strictly limiting access to the yard and contact between the prisoners clustered in different cells, and wholly barring communication with the outside world.

The newly incarcerated individuals, meanwhile, had little to do but let their minds wander.⁷⁶ They had no news on their families save for what tidbits could be patched together from sympathetic guards and from any new detainees deposited in their cell. The political prisoners were racked with loneliness, boredom, uncertainty, and even guilt at being sidelined while threats loomed over loved ones, compatriots, and the nation. At the end of February detainees launched a hunger strike in a bid to secure visitation rights. After three days, Hurst and the government backed down. Family members were allowed to have short visits with detainees through the chain link of the prison fence. The government capitulated because of concern that bodily harm to detainees – and particularly the BCP leadership – threatened the prospects of a speedy resumption of British government aid payments, which had been shut down following the coup and represented a major threat to the regime's hold on power.⁷⁷ Shortly thereafter a prominent government spokesman, Desmond Sixishe, toured the facility with the Red Cross.⁷⁸

The hunger strike proved to be an inflection point not only for the detainees, but also for officers at Maseru Central. The government's response to the strike clarified the status of prisoners as subjects warranting humane conditions. This data point allowed the

⁷⁶ Putsoa interview, 28 July 2017; Monyobi interview, 22 May 2017; Mphanya, 89.

⁷⁷ BNA FCO 45/487: Financial position of government of Lesotho, March 1970, also cited by Aerni-Flessner, 162-163. Without further aid the government would exhaust all its funds before the end of the year. On the British demand that BCP leaders not harmed see Sixishe, D. 1984. *'Give Him an Army Too:'* *Leabua Jonathan, a Biography*. Maseru: Mokorotlo, 71.

⁷⁸ Mokitimi, 62; Mphanya, 88-89.

bureaucratic machinery of the LPS to begin to churn. Over the subsequent months the staff incrementally introduced – or allowed detainees to take – new privileges. After waiting for the changes to harden into institutional routine, the LPS could take or allow further measures. In this way the LPS effectively worked with the detainees not only to improve conditions for the political prisoners but also to slowly reassert its bureaucratic authority and status as the purveyor of penological expertise. The prison school represents a clear example of how this phenomenon played out.⁷⁹ When the detainees launched their school in 1970, the administration of Maseru Central did not quash it. After the passage of some weeks, and after having observed the students struggling to keep their course schedule on track by observing the sun, a senior officer instructed guards to provide timekeeping to the detainees. After more time had passed, the prison administration accepted a donation of stationery and textbooks, both to replace the rudimentary notebooks crafted by detainees out of food wrapping and toilet paper, and to supplement the knowledge of the detainee-instructors.

LPS took care to ensure that new rules governing detainees were penologically sound. The prison school resonated with rehabilitationist ideas. Inmates themselves were offering one another valuable sets of knowledge and skills. These tools might theoretically allow the detainees to ‘mend their ways’ upon release, shifting their priorities from party politics to remunerative labor. Some of the detainees did indeed leverage their skills to change professions once they left the facility, but few gave up activism.⁸⁰ Moreover, for Putsoa and many of his comrades, the education was about biding time and preparing for the struggle to come. Hurst provided valuable support for the school in his role as liaison

⁷⁹ Putsoa interview, 28 July 2017.

⁸⁰ Ibid.

between the LPS and the regime. It stands to wonder, however, if he might have felt differently if he could have understood the Sesotho language diatribes against the regime that punctuated many of the lectures.⁸¹ The lingering bureaucratic mystique of the prison service, the presence of a rehabilitation minded English director who enjoyed the full trust of Jonathan, and the incrementalist approach to reforms meant that regime allowed the LPS to manage political detention without constant regime oversight.

Max Weber writes, 'Bureaucratization offers above all the optimum possibility for carrying through... a discharge of business according to calculable rules and "without regard for persons."' ⁸² By these standards, the LPS was missing essential elements of a bureaucracy when it came to dealing with detainees. Even after the rules became more calculable for staff, a regard for persons continued to permeate the work. Observing the conduct of LPS personnel first hand, Putsoa came to believe that LPS personnel were overwhelmingly kind to detainees not just out of a sense of duty but a sense of solidarity. Most officers did not behave as apolitical bureaucrats but as women and men uninterested in stringently imposing regulations on detainees. The good will of the majority, moreover, was drawn into high relief by the animus of a handful of ardent Nationalists on staff. Capricious use of regulations, notably the late night *fotho* (contraband search, plur. *lifotho*), presented bureaucratically sanctioned methods for harassing and intimidating detainees. The fact that the prisons had emerged as a safe harbor for prominent opponents vexed some of the more pugnacious elements of the regime. In June 1970 the PMU commander Fred Roach spent an entire day burning BCP party materials, and the books and writings of

⁸¹ Although the *mohobelo* is a revered cultural form in its own right, Hurst might also have felt discomfort knowing the detainee exercise routine included a war dance; see Mokitimi, 63.

⁸² Max Weber, 'VIII. Bureaucracy,' pp. 196-240, in Weber 1946, *From Max Weber: Essays in Sociology*, H.H. Gerth and C. Wright Mills, eds. New York: Oxford University, 215.

detainees, just outside Maseru Central.⁸³ LPS officers were ordered to march Mokhehle out of his solitary holding cell to the gate to witness the destruction, and a group of BNP-supporting officers made a point of directing the attention of the detainees to the smoke.

As winter frosts hardened over Lesotho in June 1970, the acute political violence in Lesotho tapered off with Jonathan firmly in control of the country. Over the preceding two months, the BNP had hosted a series of seven official talks with jailed opposition leaders. In hopes of release from detention and fresh elections, Mokhehle agreed in May to set aside the results of the January poll, but Jonathan continued to delay.⁸⁴ The BNP's hope that the British would resume aid without first demanding democratic concessions was strengthened by an ongoing drought and poor fall harvests. A week before British Parliamentary elections on June 19, the Labour government opted to resume aid, feeling that withholding aid from a government grappling with famine was a bad look.⁸⁵ In October, with his most vocal opponents still detained, Jonathan used the nation's fourth independence anniversary to announce a five-year 'political holiday' during which the nation could focus on facilitating development without the distraction and disunity caused by elections. The holiday would ultimately last for 23 years.⁸⁶ The release of detainees was

⁸³ D. Ambrose interview, 21 April 2017, Ladybrand, SA; Machobane, 30; Mokitimi, 63.

⁸⁴ Lesotho Gov't. 1970. *Lesotho's Political Talks*. Maseru: Gov't. Printer; Bardill and Cobbe, 132-33.

⁸⁵ Aerni-Flessner, 162-63; Sixishe, 70-77. Labour went on to be defeated by the Tories. Bardill and Cobbe, 132-33, explore how the US and West Germany quickly followed the UK by resuming aid.

⁸⁶ NUL: *Nketu oa Mara*, 'Active politics in Lesotho given 5 years holiday,' 9 Oct. 1970, 2-4. Mokhehle finally became PM following the 1993 elections, taking over from a military council that had ruled since toppling Jonathan in 1986.

a drawn-out affair lasting over much of 1971.⁸⁷ Putsoa walked free from Maseru Central in late-November. He would be incarcerated in the facility again less than 3 years later.⁸⁸

6.5 Chapter Conclusion

Over 1970 prison administrators and staff worked to establish their dominion over penal space and policies. In the unofficial arrangement which emerged with the BNP-regime, LPS had much say on matters concerning the ‘inside world of prisons’ and no say when it came to the ‘outside political world.’ While this territorial distinction was useful over the short term in allowing the service to determine the conditions of detention for political prisoners, it also came with significant costs. Since the first groups of detainees were deposited at Maseru Central in 1970, the role of LPS as caretaker of government political opponents has been repeated and even normalized. Partisan hiring practices have also become more problematic over time, hollowing out the ranks of well-qualified and well-trained staff.⁸⁹ These two developments, moreover, have been part and parcel of a broader ideological shift by government away from valuing welfare-oriented programs and institutions in prisons and society as a whole.

⁸⁷ Mokhehle was relocated from a cell to a LPS staff house just outside the facility on May 6, 1970 (BNA FCO 45/834: *Lesotho: Annual Review for 1970*, 5), and freed a year later (BNA FCO 45/1104: *Lesotho: Annual Review for 1971*, 5). On release of other prisoners see also Amnesty International 1971. *Annual Report 1970-1971*. London: Amnesty International, 35-6.

⁸⁸ Over the course of his young life Putsoa became what his wife called a ‘political jailbird’ (Putsoa interview, 28 July 2017). He was sentenced to six years for High Treason in 1974, and served four. This time mixed into the general prison population. After being released he was repeatedly detained and tortured by the secret police for running weapons and planning sabotage efforts to fight the regime. After the restoration of democracy in 1993, Putsoa thrived as an accountant and lecturer, and ultimately rose to the rank of bursar at the National University of Lesotho.

⁸⁹ Over the 1970s BNP Youth League *liphephechana* (membership cards) became prerequisites for government employment: Aerni-Flessner, 149 and 172; Thabane 2017, 307-10; Bardill and Cobbe, 134-5. When the remaining LPS stalwarts hired in the late-1950s and 60s retired in the 1980s and early 90s, the service was largely staffed by BNP loyalists (as were all ministries). After the restoration of democratic elections in 1993, Prime Minister Mokhehle further institutionalized partisan government staffing by sacking BNP-era hires to bring in Congress loyalists.

During the late-1970s and 80s, as independence-era optimism about revolutionizing Lesotho's economy and society faded, and the government was racked with declining foreign aid, reduced migrant remittances, and structural adjustment, the interest and capacity of the state to invest in social programs declined. Government austerity meant the LPS had fewer resources to spread across a growing population of incarcerated Basotho. At the same time the penal welfarist model came under attack as ineffective by politicians calling for the service to begin imposing harsher conditions on inmates, ostensibly as means of punishment and deterrence.⁹⁰ Even as rehabilitation has remained the *de jure* focus of the service over subsequent decades, continued government underfunding, overcrowding, and the presence of unqualified but politically connected staff means controllism is the *de facto* model.

What politicians hostile to the idea of rehabilitation conveniently neglect to consider is that the penal welfarism of the 1960s was never meant to function independently: rehabilitation of incarcerated persons was intended to serve as the coercive extreme in an array of social interventions and programs aimed to address the causes of crime and societal disharmony. When populists heap blame for criminal re/offending on the prison system and its employees for not being tough enough, these rhetoricians elide the simple truth that there is no way to effectively punish away a lack of jobs, a dearth of mental health care, a shortage of hope, or other underlying drivers of crime. Tackling these social problems will require government and policymakers, not prisons and correctional officers. Faced with this reality, it may soon be time for prison officers and administrators

⁹⁰ Two noteworthy examples include Jonathan's critique of the supposedly overly comfortable prison conditions and advocacy of corporal punishment in the 1980s (Free State Archives, SA: *Die Vriende*, 7 Nov. 1984), and PM Thomas Thabane's comments on his first day in parliament after returning to power in 2017 (Lesotho Gov't., *Hansard*, 24 July 2017, 20-4 [Sesotho]).

to reconsider the old calculation that the best way to guard the conditions of life and work inside Lesotho's correctional facilities lies with eschewing discussion of public policies. This approach worked only so long as politicians saw the penal institution as a vital *piece* of maintaining social order and valued the technical expertise of officers. In a scenario in which more responsibility is being heaped on prisons, even as the knowledge of prison personnel is increasingly belittled, officers may soon have no choice to speak up on behalf of themselves, their charges, and the nation as a whole.

Epilogue

Lesotho in an era of Southern African freedom: fortress or jail?

In July 1995, Nelson Mandela, the first democratically elected president of South Africa and likely the most famous political prisoner of the 20th century, gave a speech before tens of thousands of joyous Basotho at Setsoto National Stadium in Maseru.¹ Mandela's visit coincided with the joint flowering of democracy in both nations. A military junta had ruled Lesotho from the toppling of Leabua Jonathan in 1986 until allowing for new elections in 1993: Ntsu Mokhehle was sworn in as Prime Minister in March after the BCP won nearly 75% of the votes and secured all 65 seats in the National Assembly. Just over a year later, on 27 April 1994, South Africa celebrated Freedom Day: polls carried out with universal suffrage swept Mandela and his African National Congress (ANC) into power.²

The charismatic South African president wove a gripping narrative of Lesotho's history: battered back into a defensive crouch by white settlers and creeping British imperialism, Basotho kept their nation intact. In so doing, the polity served not only as a potent symbol of African resilience and determination, but also ultimately as an actual refuge and fortress for freedom-fighters challenging apartheid: 'Because of your sacrifices and your understanding, South Africa is today free.' The speech circled, but did not directly address, an urgent issue for Basotho in the democratizing subcontinent: should Lesotho

¹ Mandela, N. 1995. 'Speech at a Pitso.' Maseru, Lesotho, July 13. http://db.nelsonmandela.org/speeches/pub_view.asp?pg=item&ItemID=NMS284

² Matlosa, K. 1997. 'The 1993 Elections in Lesotho and The Nature of the BCP Victory.' *African Journal of Political Science* 2/1: 140–51; Petlane, T. and R. Southall. 1995. *Democratisation and Demilitarisation in Lesotho: The General Election of 1995 and Its Aftermath*. Pretoria: AISA; Southall, R. 1994 'The 1993 Lesotho Election.' *Review of African Political Economy* 21/59: 110–18.

surrender its national sovereignty and become a province of South Africa?³ The militant South African National Union of Mineworkers (NUM), with a strong Basotho cohort in its rank and file, had recently adopted a resolution calling for precisely such a move.⁴ Prime Minister Mokhehle, meanwhile, had himself previously argued that ‘when South Africa is Liberated, there will no longer be a need for an independent Lesotho.’⁵ After all, there was a far greater population of Sesotho-speakers in South Africa than Lesotho. Mandela’s narrative, moreover, spoke to the shared political economy of the two nations: unification would mean that Basotho would have access to a share of the enormous wealth of South Africa, which the daughters and sons of Lesotho had long contributed to building with their sweat and blood.

But unification was not to be. After a quarter-century of fighting with ballots and bullets to take the reins of Lesotho’s state, Congress Party officials were unwilling to discuss the idea of surrendering their hard-won powers to higher political authorities in Pretoria and Cape Town. In rebuffing any suggestion of union, these politicians invoked the same arguments which were used during colonialism and apartheid: they were custodians of the culture of the nation and could not risk any political changes which might dilute or threaten traditional institutions and, above all, the monarchy. In so doing, these leaders refused to acknowledge that the geopolitical and economic situation in the subcontinent was dramatically different than in the numerous previous battles by Basotho

³ Lemon, A. 1996. ‘Lesotho and the New South Africa: The Question of Incorporation.’ *The Geographical Journal* 162/3 (1996): 263–72; Southall, R. 1990. ‘Lesotho and the Reintegration of South Africa.’ *Africa Insight* 20/4: 247–54, and Southall, R. 1998. ‘Is Lesotho South Africa’s Tenth Province?’ *Indicator South Africa* 15/4: 83–89.

⁴ Lemon, 263; Philip, K. 1990. ‘The Future of the Migrant Labour System – a N.U.M. Perspective,’ in *Southern Africa after Apartheid: Prospects for the Inner Periphery in the 1990s*, Santho, S. and M. Sejanamane, eds., 83–90. Harare: SAPES Trust.

⁵ Lemon, 264.

to prevent incorporation, dating back to reconstruction from the South African War. As an experiment in multi-ethnic democracy flowered in the regional hegemon, supplanting a long and brutal campaign for domination by the white minority, the tiny nation of Lesotho clung to the idea of the ethnic enclave. Indeed, local politicians preferred to publicly muse about irredentism – calling for the return to Lesotho of *the conquered territory*, or swathes of rich farmland in the Free State seized by commandoes in the 1850s and 60s – in place of talking about how joining South Africa provided a more realistic prospect for Sesotho-speaking people to become compatriots.⁶

Mandela was certainly correct that Lesotho came into being, and has endured, as a fortress. The high sandstone cliffs of Night Mountain acted as a physical keep for Moshoeshoe's people first during the troubles of *lifaqane* and, later, from Free State commandoes. The protectorate status of 1868 offered a different sort of barrier, a political one: while British imperialism came with its own high costs, Basotho lords, commoners, and mission-educated elites worked jointly to prevent the colonial government from dissolving the border and handing direct political control over the territory to white settlers and industrial capitol in South Africa. The official separateness of Lesotho from South Africa was instrumental in the accumulation of shared national identity, even as tens of thousands of Africans traversed the border each year: on the east bank of the Mohokare, Africans should, in theory, be free of the grinding indignities and violence of race

⁶ 'Lesotho Parliament Debates Return of "Conquered Territory."' 1997. *The Mail & Guardian*, May 2. <https://mg.co.za/article/1997-05-02-lesotho-parliament-debates-return-of-conquered-territory/>. While this position made no political headway, it did dispel any notion that Congress politicians opposed unification because of a commitment to the 1964 resolution by the Organization of African Unity, pledging to respect the political boundaries carved out by colonial powers: Foucher, M. 2020. 'African Borders: Putting Paid to a Myth.' *Journal of Borderlands Studies* 35/2: 287–306. The United Nations had also notably opted to recognize the independence of Eritrea from Ethiopia one year earlier (1993), and the unification in 1990 of both Germany and Yemen.

discrimination enshrined as law in *Makhoeng* (the place of the whites). As Pretoria further demonstrated its viciousness in the months and years following Sharpeville – including by militarizing Lesotho’s border in 1963 and launching a series of raids and assassinations across the river during the 1970s and 80s – fortress Lesotho continued to keep its doors open to Africans of myriad national origins, offering a penumbral space for people and families seeking to build lives in a so-called ‘front-line state,’ just beyond the creeping shadow of white supremacist domination and violence.⁷ The absorptive quality of the popular political culture, which had enabled Moshoeshoe to forge a kingdom in the first place, continued to prevail in Basotho communities which welcomed and acculturated new arrivals decade after decade. But when the evil which the political fortress was designed to hold at bay vanished in 1994, what was the purpose of keeping the old bulwarks in place? The national borders continued to compound the artificial and arbitrary distinction between Sesotho-speaking people on the two sides of the border. It seems that – swept up in a combination of fast-moving events, collective conservatism, and elite self-interest – it was easy to forget that prisons, like fortresses, are made of walls.

⁷ Hanlon, J. 1986a. *Beggar Your Neighbours: Apartheid Power in Southern Africa*. Bloomington: Indiana University. 107-29; Hanlon, J. 1986b. *Apartheid’s Second Front: South Africa’s War against Its Neighbours*. New York: Penguin, 6-12; South Africa Truth and Reconciliation Commission. 1993. *Report*. Vol. 3. Cape Town: TRC, 72-3; Ellis, S. and T. Sechaba. 1992. *Comrades against Apartheid: The ANC and the South African Communist Party in Exile*. Bloomington: Indiana University, 165-72; Houston, G, and B Magubane. 2007. ‘The ANC Political Underground,’ in *The Road to Democracy in South Africa: Volume 2 (1970-1980)*, 371–451. Pretoria: UNISA, especially 420-25; Rwelamira, M. 1990. *Refugees in a Chess Game: Reflections on Botswana, Lesotho, and Swaziland Refugee Policies*. Uppsala: SIAS, 27-35; Aerni-Flessner 2018, 157-9 and 182-9; Bardille and Cobbe, 138-45 and 166-73; Sixishe, 89-114; Pherudi, M. 2001. ‘The Lesotho Liberation Army (LLA): Formation, Mission and Schisms.’ *South African Historical Journal* 45/1: 266–77. On the matter of Basotho having to flee from their own government: Makgala, J. 2012. ‘The Basutoland Congress Party in Exile: 1974–1986.’ *African Historical Review* 44/2 : 78–97.

Yet, even as politicians in Lesotho shut down any conversation about unification in the early 1990s, tens of thousands of nationals of Lesotho sought out the benefits of South African identity documents and citizenship. In 1995 and 1996 the ANC government passed amnesty legislation to grant permanent residency and pathways to citizenship for all miners living in South Africa as of 1994.⁸ Approximately two-thirds of the amnesty applicants hailed from Lesotho.⁹ The nation's professional classes embarked on a similar exodus. Under apartheid-era Bantu Education legislation, South Africans classed as *nie-blankes* (non-whites) faced tightly restricted access to schools, as well as a wider host of policies aimed to stymie any chance of thriving in academia, medicine, law, and other professional fields. As such, many educated and politically-active black and brown people, and particularly individuals seeking asylum after being 'banned' in South Africa, sought out the vibrant intellectual community in Roma, Lesotho – home to the University of Botswana, Lesotho, and Swaziland (UBLS) and, later, the National University of Lesotho (NUL). After the end of apartheid, however, African intellectuals and professionals understandably sought out the better wages and higher living standards on offer in South Africa, and had more of the political, educational, and financial capital necessary to navigate the bureaucracy involved in immigration. The 1990s thus witnessed a tremendous

⁸ Grimwood, Z. 2016. 'An Analysis of the Interdependence within the Bilateral Relationship between South Africa and Lesotho.' MA Thesis, University of Cape Town, 24-5; Cornelissen, S. 2007. 'Migrant Movement, Sovereignty and Authority in Contemporary Southern Africa,' in *African Alternatives*, Chabal, P. et al., eds., 118–43. Leiden: Brill.

⁹ with the next highest proportion of applicants, hailing from Eswatini, Botswana, and Mozambique each accounting for approximately 8% each...De Vletter, F. 1998. *Sons of Mozambique: Mozambican Miners and post-apartheid South Africa*. Cape Town: Southern African Migration Project, 24, cited by Oucho, J. 2006. 'Cross-Border Migration and Regional Initiatives in Managing Migration in Southern Africa,' in *Migration in South and Southern Africa: Dynamics and Determinants*, edited by Kok, P. et al., eds., 47–70. Cape Town: HSRC, 2006, 56 (also cited by Grimwood, 25).

downturn both in remittances from mine labor, the territory's economic lifeblood, and a so-called brain drain.

The lack of resources did not prevent less-privileged and connected Basotho from also seeking a better life across the border, but these individuals have faced a growing number of obstacles. After a brief honeymoon in the mid-1990s, the xenophobic discourses of the apartheid era surged back to the forefront of South African politics. In an effort to quell violence in Kwazulu-Natal and coopt a serious threat to the democratic transition, the ANC leadership decided to bring the founder of Inkatha Freedom Party, Mangosuthu Buthelezi, into their governing coalition from 1996 through 2003. The notorious AmaZulu ethnonationalist was handed the Home Affairs portfolio.¹⁰ In his new role, Buthelezi riffed on longstanding segregationist discourses: the minister extended ownership and belonging of the nation to a few additional ethnicities beyond whites, while leaning into the idea of the state as machinery for protecting the finite resources of insiders from pilfering by outsiders. The historical relationship between the formation of tribal and national divisions with the arrival of foreign conquest and segregation was effaced in Buthelezi's blend of ethnic chauvinism and pugnacious nationalism. Undocumented people from Lesotho occupied a strange position in the emerging ethnopolitics of South Africa: insiders by ethnicity and outsiders by nationality.

In a haunting 2015 article in the *New York Times*, scholars Daniel Magaziner and Sean Jacobs note how out of sync ANC governance has become with 'one of the most celebrated chapters of its history,' the 1955 outlining of principles in a Freedom Charter,

¹⁰ Crush, J. 1999. 'Fortress South Africa and the Deconstruction of Apartheid's Migration Regime.' *Geoforum* 30/1: 1-11.

notably including the pronouncement that, ““South Africa belongs to all who live in it.””¹¹ The fact that bureaucratic processes for acquiring South African work visas and legal residency have become increasingly onerous over time has not reduced migration so much as pushed a growing number of Lesotho nationals into the shadow economy. In trying to prosper and contribute to the wealth of the new South Africa, these undocumented individuals face systematic exploitation by employers and extortion and abuses from police.¹² Sadly, *the mountain kingdom’s* status as an open air and porous custodial institution inside another nation, manufacturing legal and social difference even as it fails to deter movement, continues to appeal to entrenched political interests in both Lesotho and South Africa: for the former, gatekeeping over state resources continues to take place in Maseru; for the latter, the failure to materially improve the lives of domestic constituents can be blamed on foreign migrants, redirecting anger away from leaders’ waste, graft, and failure to adequately address structural iniquities.

Although the failure of Lesotho’s political classes to claim a full seat at the table of democratic South Africa deeply inflected the opportunities and resources available across society, the trajectory of certain communities and sectors were impacted more than others. Viewed counterfactually, the people living and working in Lesotho’s prisons were amongst the communities most harmed by the continued separation of the two nations. As the ‘tough on crime’ policies of right-wing politicians in the United States and England of the 1970s

¹¹ Magaziner, D. and S. Jacobs. 2015. ‘Opinion | South Africa Turns on Its Immigrants.’ *The New York Times*, April 24. <https://www.nytimes.com/2015/04/25/opinion/south-africa-turns-on-its-immigrants.html>.

¹² Lesotho nationals have, however, largely been spared from the pogroms which have ravaged emigrants and economic refugees from places such as Zimbabwe, Mozambique, Malawi, Nigeria, and Somalia, because these Basotho are not immediately differentiable from Sesotho-speaking South Africans.

and 1980s were embraced by center-left parties in the 1990s, nations around the world pivoted from the common sense of welfarist penology towards a more controllist approach, based on the idea of deterring crime with penal discipline and suffering.¹³ While the prison populations of both South Africa and Lesotho continued to balloon after the restoration of democracy, putting pressure on infrastructure and budgets, policymakers in the former embraced the idea that slashing prison budgets made good politics. First, prisoners – the people most adversely impacted by austerity – had little political voice and even less clout. Second, cuts to the Corrections Department’s budget could be framed not as hard choices necessitated by economic circumstance, but rather as productive policy moves in their own right: harsher prison conditions, politicians repeatedly claimed, served to deter crime and recidivism. The prison system was not only asked to make do with less every few years, but also faced significant new challenges over the 1990s into the 2000s, including the emergence of South African number gangs in Lesotho’s prisons and, especially, of HIV/AIDS infections and the attendant opportunistic infections like tuberculosis. Crime and levels of imprisonment in Lesotho have soared over recent years, refuting controllist arguments. In a vicious cycle, overcrowding and underfunding in prisons has made it increasingly difficult to provide the classification and job-training, and aftercare services, which became a matter of course in Lesotho’s penal facilities over the late-1960s into the 1970s. The Corrections Service as an institution has pressed on, admirably, in trying to

¹³ Garland 2001; Steinberg 2016; Dilulio, J. 1987. *Governing Prisons: A Comparative Study of Correctional Management*. New York: The Free Press. Steinberg, J. 2005. *Prison Overcrowding and the Constitutional Right to Adequate Accommodation in South Africa*. Johannesburg: Centre for the Study of Violence and Reconciliation; Van Zyl Smit, D. 2004. ‘Swimming against the tide: controlling the size of the prison population in the new South Africa,’ in Dixon, B. and E. Van Der Spuy, eds. *Justice Gained? Crime and Crime Control in South Africa’s Transition*. Portland: Willan; Mafisa, S.S. 2003. ‘Collection of Ombudsman’s Reports on the Inspection of Government Prisons and Hospitals in Lesotho.’ Maseru: Office of the Ombudsman (Monamoli).

protect and rehabilitate inmates as best as it can in the face of endemic shortages in space, staff, training, and basic supplies for prisoners such as rations and detergent.

These acute shortages were highlighted in a 2020 episode of the Netflix docuseries *Inside the World's Toughest Prisons*.¹⁴ The subject of the installment, beyond the supposedly 'primitive' conditions, is the prevalence of sexual violence in Maseru Central Prison and Lesotho. The central argument is that subcultural animosity towards sexual offenders is normative in prisons around the world, and that the apparent failure of Maseru Central inmates to meet the rapists in their midst with violence illustrates the permissibility of rape in Sesotho cultural traditions as a whole. A vital question that the episode rushes past in making this sweeping claim, however, is the role of institutional structures in generating stigma.

The production of moral alterity emerged as a key function of carceral institutions as the social technology was engineered in the West over the last two and a half centuries. This aim was also at the heart of Lesotho's carceral project since the Cape built the first lock-ups in the territory in the 1870s. Over the course of this dissertation, however, we have examined several reasons why incarceration consistently failed to generate the types and degrees of otherness that political authorities desired. While the first cause can be glossed as an enduring culture of inclusivity in Lesotho, it is not the hard and timeless *culture as thing* of the docuseries, but rather a process. In the 19th century, an integrationist ethos – paired with institutions for facilitating acculturation such as initiation, patronage, and public forums – produced the social cohesion which gave rise to the creation and reproduction of Highveld societies and solidarities. Although legally sanctioned violence

¹⁴ 'Lesotho.' *Inside the World's Toughest Prisons*. Netflix, 2020. <https://www.netflix.com/title/80116922>.

existed in the Mohokare Valley during the formation of Lesotho, it was used with an eye towards inculcating social discipline rather than retributively. Punishment was deeply instrumental, and transgressing laws did not confer a status of moral otherness on offenders. A far more prevalent system of fines, meanwhile, provided pathways for individuals to heal social breaches. The colonial regime established in Maseru in the 1880s, looked at the ways that Cape predecessors had ginned up local resistance by impetuously attempting to use the criminal legal system and carceral institutions to manufacture new moral statuses in the colony, and opted to prioritize effective control.

Progress and tradition became key discourses for Basotho social groups and foreign officials to try to advance, check, and defend institutions for re/producing order. As we have seen, what was claimed as Western, universal, progressive, Sesotho, particular, and traditional shifted a great deal, over time, and depending on who was making claims about what an institution *should* do, morally and instrumentally. Yet, even as Maseru gradually built up its carceral infrastructure and abrogated punitive powers from lords for a greater array of offenses over the early decades of the colonial era, the administration struggled to impute deviance and alterity onto either individuals or entire social groups, whether as criminal deviants or contagious people. A popular political ethos of re/integrationism largely prevailed, even as a few of the noxious weeds of moral otherization began to sprout from and exacerbate the social fissures wrought by grinding structural poverty, escalating levels of crime, and reverberations of decades of colonial and missionary fear-mongering about criminal deviance and contagion. In the waning years of colonial rule, the administration moved towards a largely re/integrationist criminal legal framework, predicated on the logic of welfarism (while also continuing to persecute and prosecute

Basotho nationalists). As local elites battled in the independence era over the reins of state power, they uniformly avowed a commitment to welfarist penalty, but also began to use a language of moral wickedness when speaking of political opponents and their constituencies. Officials in the prison service were able to use their professional commitment to welfarist penology to blunt the tip of the Jonathan administration's coercive spear inside of penal institutions, if not outside: political prisoners were not only *not moral others* but, for many guards, moral exemplars. Sadly, the inability of the government to pay for upkeep in prisons, or support much in the way of social investment or services, particularly from the 1990s onwards, has interfaced with demagoguery by politicians wielding promises to redirect (meagre) funds away from prisons so as to better reward deserving citizens and better punish the wicked. For the time being, at least, the Prisons Service (rebranded as Corrections) has held firm in its commitment to rehabilitationism, even as this task has become increasingly impossible on account of overcrowding and understaffing.

Any potential window for Lesotho to join South Africa has likely closed for the time being. Even as political will in the former increases, the latter is very much in the throes of the populist ethnonationalism sweeping our globe, exacerbated by worsening economic inequality.¹⁵ In a South Africa where a few people have so much and so many people have so little, blaming of ethnic and national others for poverty sadly strikes a chord in many of the communities left on the outside looking in. In this political environment any discussion of absorbing Lesotho would almost certainly be framed as a matter of outsiders

¹⁵ A slim majority of 52% of Basotho nationals polled in a recent study favor unification: Nkuebe, M. et al. 2018., 'AD205. Afrobarometer | Basotho Increasingly Favour Legalizing Dual Citizenship, Unifying with South Africa.' <https://afrobarometer.org/publications/ad205-basotho-increasingly-favour-legalizing-dual-citizenship-unifying-south-africa>. Accessed 16 Aug. 2019.

cutting ahead of those already waiting for state assistance to help fulfill their dreams and potential, rather than as a matter of welcoming in kin bearing troves of knowledge, creativity, and labor. The more extreme South African voices in these conversations are reminiscent of the discourse of South African President Henrik Verwoerd when he sought to securitize the border in the early 1960s, effectively approaching the territory as yet another island in a carceral archipelago of homelands (of course, Lesotho was never officially a Bantustan). While there has recently been some discussion of providing for freer movement between the two nations, Lesotho shall likely remain a boat anchored in the sea of its turbulent neighbor for the foreseeable future.¹⁶

But even with their economic and political subordination, Basotho nonetheless have choices about how to weather the populist hurricane raging in the subcontinent and corners of globe, inflecting the way that national communities are thinking about the problems of crime and belonging. Prisons and other custodial institutions will certainly be important sites in these conversations, as front-line institutions in the manufacturing of moral alterity inside of nations. Will a deluge of otherization and controllism douse the torch of social re/integrationism, which the earliest Basotho lit during the dark days of *lifaqane*, and kept alive through border wars, colonialism, the independence struggle, and being at the very vanguard of ‘front-line states’ during the struggle to defeat apartheid? Basotho will likely draw strength and inspiration if they look to an august past – including the legends of moral reform and profound forgiveness modeled by Moshoeshoe, the resilience of Botšabelo inmates, the doggedness and prescience of organic intellectuals like

¹⁶ Monyake, M. and J. Aerni-Flessner. 2021. ‘Border Wars.’ *Africa Is a Country*, March 25, <https://africasacountry.com/2021/03/border-wars>.

the Lefela brothers, and the cunning solidarity of LPS officers in 1970 – while crafting strategies for the present.

Archives

Lesotho

Lesotho National Archives
Leribe Collection at the National University of Lesotho
Thomas Mofolo Library
Morija Museum and Archives
Matsieng Royal Archives
Senkatana Clinic Archives

South Africa

Free State Provincial Archives
Free State Archives Depot
South Africa National Library, Cape Town
South Africa National Library, Pretoria
Western Cape Provincial Archives
University of Cape Town
South African National Archives
Library of the University of the Witwatersrand

England

British National Archives
British Library
Wellcome Library
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United States

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Columbia University libraries
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M. Thulo, Ha Abia, 26 May 2017.
L. Phafoli, Maseru, 8 Jun. 2017.
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T. Mosenye, Mazenod, 20 Jul. 2017.
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