

The Black Races of the Transvaal and the Orange River Colony

NOTES FOR A REPRESENTATION TO GOVERNMENT

BY

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1. That the native black population of the Orange River Colony and the Transvaal (lately known as the Orange Free State and the South African Republic respectively) including Swaziland, in South Africa, is estimated to amount to nearly 1,000,000 persons.
2. That such population is chiefly of Bantu stock, belonging to various Bechuana and Zulu tribes, but it comprises also some tribes of Bushman-Hottentot stock, and a considerable number of individuals of mixed African and European descent.
3. That this native black population (hereinafter called "the natives") does not tend to die out in consequence of contact with Europeans; on the contrary the natives are prolific, and hence are likely to remain a permanent element of the population.
4. That the natives are, for savages, in a somewhat advanced social stage, having a tribal organisation, religious institutions and a morality of their own; that contact with civilisation tends to break up their organisation, to destroy their customs and to set them free from many of the old moral restraints without imposing new ones, and generally to render them difficult of management by a European Government; and that this tendency is greatly accelerated where, as too frequently happens, the Government does not take special pains to ascertain the customs and institutions of the natives, and to make regulations for them carefully considered in the light of such information.
5. That the difficulties of administration of native affairs in the Transvaal and the Orange River Colony are greatly increased by the large numbers of European settlers, the oppression to which the natives have been subjected by the Boer Government in the Transvaal, and especially by the existence of gold and diamond mines in the working of which native labour is claimed to be essential.
6. That many of the difficulties between Europeans and natives arise not from wilful disregard; but simply from ignorance, by the former, of the customs and superstitions of the latter; that such ignorant disregard of native customs and superstitions and the consequent difficulties are common wherever Europeans have come into contact with savages, and it is notorious that disastrous results (including much bloodshed and suffering to both races) have often followed.
7. That an accurate knowledge of the customs, institutions and superstitions of the natives is therefore important to the administration; that such knowledge is also in itself of high scientific interest; that it is true that something is already known on the subject from the reports of missionaries and travellers, but the knowledge is fragmentary and wanting in accuracy, and the same may be said of the knowledge doubtless possessed by many persons already on the spot; that such last-mentioned knowledge, even if sufficient for ordinary purposes, not being recorded, has to be picked up in piecemeal fashion by everyone who is appointed to administrative office, and cannot be studied systematically, is liable to be lost, and introduces an element of uncertainty in the administration of justice and various departments of government.
8. That while some of such customs and institutions are of a character not to be tolerated by a civilised government, careful enquiry is necessary before deciding on any legislation, so as to ascertain the precise meaning and consequences of the customs which it may be proposed to abolish or to modify, and how to deal with them so as to cause the least disturbance of tribal conditions; that if legislation be contemplated it will not be enough to legislate on the relations between Europeans and natives, it will be necessary to consider also the relations of the natives between themselves; that a native marriage-law will, for example, be required, because until a short time ago the Government of the Transvaal refused to recognise the marriages of natives, thereby causing much inconvenience and suffering; even now the law of the Transvaal requires for the validity of a native marriage conditions which the natives cannot ordinarily fulfil; and this law will have to be repealed or amended, since status and inheritance depend upon marriage, and questions on these points are likely to come before the courts for some kind of judicial decision.

9. That in the year 1880 the Government of Cape Colony, recognising the need for the purposes of administration and legislation of ascertaining accurately the customs and institutions of the native populations within the Colony, appointed a Commission of Enquiry; that such Commission took a considerable amount of evidence, and made in the year 1883 a most valuable report; that a quarter of a century earlier the Government of British Kaffraria found it necessary to obtain trustworthy information on the Kaffir Laws and Customs, and accordingly compiled and published in the year 1858 under the direction of Col. Maclean, C.B., the Chief Commissioner, a Compendium of such laws and customs.

10. That, though the customs and institutions of the natives of South Africa possess a general similarity, they differ from tribe to tribe in many and often important details, theft, for instance, in certain circumstances entailing punishment among some tribes and not among others, certain marriages being deemed incestuous among some tribes and perfectly correct among others, the law of inheritance varying, and so forth; and that the results of the enquiries of the Cape Commission and the Compendium of Kaffir Laws and Customs just referred to are, therefore, not to be relied on for the tribes of the Transvaal and the Orange River Colony.

11. That native customs are not always understood by Europeans, even when long resident among the natives and familiar with their customs; thus, when, in the evidence taken by the Cape Commission already referred to the practice of *lobola* (by which a bridegroom hands over to the father of his bride a certain number of cattle or other goods) came under discussion, one of the Resident Magistrates who gave evidence, and who had had many years' experience, considered the practice a sale, and immoral, and recommended that it should be ignored, and it was stated that other magistrates refused to entertain in their courts questions referring to it; several missionaries and others also gave evidence to the effect that the practice was simply a sale of the bride, and recommended its abolition; while other Resident Magistrates and Missionaries (among the latter the venerable Dr Callaway, Bishop of St. John's, whose name is never to be mentioned without respect), spoke of it in very different terms, showing that it was "the only stringent certification" of marriage among the tribes referred to, and that it was suitable to the conditions of life of those tribes; natives themselves also gave evidence to the same effect; and it is now well settled among practical administrators, as well as anthropologists, that *lobola* is not a sale, but rather in the nature of a guarantee of good treatment of the woman by her husband and his family, and a pledge of her future maintenance by her own relations in case of need, and as such it is, in the interest of the woman, not to be abolished or ignored by the courts. This desirable result must be attributed chiefly, if not entirely, to the labours of the Cape Commission.

12. That the advantages of obtaining a complete and trustworthy record once for all of the customs and institutions of the natives may be summed up as follows:

- (1.) It will enable the Government to ascertain what customs may be recognised, and what customs must be forbidden or modified, and how to effect this object with the least disturbance to tribal conditions and native prejudices.
- (2.) It will save time and ensure certainty in the administration of justice, and obviate many difficulties in other departments of government.
- (3.) It will afford the Government authoritative materials for legislation adjusting the arrangements for native labour in the mines, and generally dealing with the relations between the natives and European settlers.
- (4.) The scientific value of such a record is difficult to over-estimate; it will preserve for all time an account of the culture of the natives at the moment when they came under British Rule; it will assist in solving scientific problems of importance; and it will be a monument of the interest of the British Government and people in the welfare of the native races, and in the science of anthropology for which so much has been done in recent years by the Governments of the United States, France, Germany, and the Netherlands.

It is therefore proposed to suggest, that as soon as the condition of the Transvaal and the Orange River Colony permits, and prior to any legislation affecting the natives, a Commission should be appointed to enquire (a) into the customs and institutions of the natives of those States, and (b) into the relations between the natives and the European settlers, with power to make recommendations for the purposes above referred to; such Commission to consist, so far as possible, of persons familiar with native life in South Africa, and, in addition, of at least one person, unconnected with South Africa, of recognised eminence in the study of savage customs and superstitions in general.