

MICHIGAN STATE UNIVERSITY

The African e-Journals Project has digitized full text of articles of eleven social science and humanities journals. This item is from the digital archive maintained by Michigan State University Library. Find more at:

<http://digital.lib.msu.edu/projects/africanjournals/>

Available through a partnership with



Scroll down to read the article.

THE ROLE AND POSITION OF WOMEN IN PRE-COLONIAL AND COLONIAL ZIMBABWE*

ANGELA P. CHEATER

Department of Sociology, University of Zimbabwe

AT THE OUTSET, three problems (one theoretical and two methodological) must be faced concerning the title and content of this article which was requested for a workshop on The Role of Women in National Reconstruction and Development. Firstly, I was asked to speak on 'the role and position' of women — both in the singular. Surely this singularity would never be regarded as appropriate if we were talking about men, who have 'roles' and 'positions' — in the plural? Why, then, are women so limited, conceptually, in the social order? Clearly, women do perform different roles (each of which has its own specific labour tasks) in society — reproductive, occupational, religious, and so on — as do men. Equally clearly, individual women, like individual men, are each a social compound of all their different roles. As Radcliffe-Brown (1952, 193) puts it, an individual, as a social person, has a 'social personality' which encompasses all of his or her social relations with others. But in the case of women, the concept of 'woman' itself seems to provide a 'modal social personality' in a way that the concept of 'man' does not. In this article, then, I shall explore the possibility that the title I was asked to speak on is itself an outcome of our history; that this singular model of women has resulted from the superimposition, on the indigenous cultural models of this country, of a dominantly male, rather Victorian, British view of women and their appropriate place in society.

The second problem is concerned with evidence: most of the evidence concerning the pre-colonial situation in particular is indirect, extrapolated from what is *currently* classified as 'tradition' or 'custom'. It is not at all certain that today's 'custom' existed in the past, as Beach (1980) so often infers. Indeed, sometimes we may wonder whether it exists in the present, for the gap between ideal norm and statistical norm, between what people say should happen and what they actually do, may be so large as to exclude all but a small minority from the practice of a 'custom' that everyone agrees is 'customary'. To take one Shona

*Presented at the Workshop on The Role of Women in National Reconstruction and Development, sponsored and organized by Unesco and the Zimbabwe Ministry of Community Development and Women's Affairs, Harare, November 1985. I am grateful to my colleagues for comments on an earlier draft of this paper, presented at a staff seminar in the Department of Sociology, University of Zimbabwe, and in particular to Rudo Gaidzanwa and Raymond Apthorpe, who read the manuscript itself.

example: the 'cow of motherhood' (*mombe youmai*) is ostensibly an obligatory part of bridewealth, yet only a minority of women with married daughters actually owns one (Holleman, 1952, 352; Cheater, 1983). Clearly, customs as ideal norms are not necessarily binding on individual behaviour and we should, perhaps, ask what exactly 'custom' means in practice.

The third problem is also methodological, and is concerned with cultural perceptions. Most anthropological and historical information that we have about women in pre-colonial and colonial Zimbabwe has been produced by men, often of a different culture, and while their major biases are frequently obvious, the subtleties of different cultural and gender perspectives are, by definition, less easy to identify. On this issue, of course, I am not the best-qualified person to be talking on the traditions of my compatriots into which I have not myself been socialized. Yet perhaps an outsider's view may also have its conceptual advantages based on this social distance.

WOMEN IN PRE-COLONIAL ZIMBABWE

The literature on Zimbabwe's different ethnic groupings is notably uneven with respect to its coverage of women in the pre-colonial era. So while there are some data of interest on Shona women, from the literature in English one might well believe that Ndebele women were only craftswomen, for their other roles are almost totally ignored. However, by comparison with small minorities such as the Tonga, Venda and Lemba, we know much about the Ndebele! Perforce, therefore, I shall have to draw most of my specific examples from Shona sources.

If we look first at the relations of production in pre-colonial Zimbabwe, it seems that women were excluded from access to land in their own right, although they could and did invest in livestock (which of course required land on which to graze), the proceeds of their own skilled labour in non-agricultural pursuits (Beach, 1980). Although women were economically active in agricultural as well as craft production, and had some control over grain stores, they did not control the means of production in agriculture and metallurgy, but instead provided much of the labour required for these occupations (Beach, 1980; Mackenzie, 1975). One of the major reasons for the exclusion of women from direct control of the means of production and the *family* product lay in the payment of bridewealth (*roora*, *lobolo*), which not only transferred rights in a woman's labour and reproductive capacity from her own family to that of her husband, but also indemnified her family for this loss. For these reasons, it is possible to regard women in pre-colonial society as comprising an equivalent to the class of labour in industrial systems of production. This class equivalence helps to explain other features of women's positions in the pre-colonial system.

With reference to all the separate ethnic components of pre-colonial

Zimbabwean society, it is true — with one or two notable exceptions — that the only role from which women were systematically excluded was that of *formal* politico-jural authority which, among other functions, controlled the allocation of land. The headwomen in Manicaland and Makonde, and the Nehoreka (Charewa) chiefship in the Mutoko district, provide the only recorded exceptions to this rule of female exclusion from political authority.¹ *Informally*, however, 'it is probable that women always had more say in Shona society than was formally admitted' (Bourdillon, 1976, 72).

However, Shona women did exercise authority in other roles: as mothers, especially over their daughters; as *vatete*, particularly over the education of their brothers' children; as ancestors, over the reproductive capacity of their female descendants (although the degree to which women were able to control their own fecundity is less certain); as producers or service-workers possessing special skills (in pottery or healing, for example), over the proceeds of their own work; as mothers of married daughters for whom *roora* had been paid, over property. But as property-owners, women experienced more difficulty than men in increasing their authority through accumulating property, for, as Holleman (1952, 352) indicates, with respect to the colonial period, 'more often than not the essential needs of her children and other blood-relatives will force her to dispose of her stock before they have had time to increase'. Men may indeed have conserved their own property holdings as their wives met such needs from their livestock: certainly today mothers will go to extraordinary lengths to keep their children in school, long after their husbands have given up trying to find the necessary cash. Even in this matter of property, however, the distribution of a woman's estate after her death appears to have been justified with reference to her *mystical* capacity, as a spirit, to cause harm, rather than by her natural productive capacity as a worker.

Female authority grew over time, in much the same way as did that of men. While the newly-married wife had almost no authority in her husband's home, by the time she had acquired grandchildren, she had normally become a force to be reckoned with in most if not all matters affecting both her natal family (as *tete*) and her husband's family (as mother-in-law). Commonly, post-menopausal women became a type of 'honorary male' in village society, having lost the mystical influence associated with menstruation, abandoned domestic responsibilities to the work of younger women, and acquired personal property. Nonetheless, their influence tended to remain out of sight, in the private domain: even elderly women did not normally frequent the male world of public decision-making in the *dare*. This expansion of a woman's authority was related not only

¹ But the Lovedu of the north-eastern Transvaal, who may be an early Shona offshoot, have a female monarchy (Krige and Krige, 1943).

to her own life-cycle but also to the cycles of development experienced by both the family into which she had been born and that into which she had married. The most powerful women tended to belong to the most influential families.

Arguably the most interesting and ambiguous role of authority occupied by women in the pre-colonial period was that of spirit mediumship. Those *spirits* who play a prominent part in the public domain, both autochthonous spirits such as Chaminuka and the *mhondoro* spirits of deceased chiefs, are predominantly male. But their *mediums*, who relay the spirits' messages to the living, were and are as likely to be women as men. The most famous example is, of course, Charwe, the medium of Nehanda, who was executed by the colonial administration in 1898 for her role in the death of a Native Commissioner during the first *chimurenga*.

A *svikiro* or spirit medium lived and still lives a life apart from normal people in the 'profane' world. Indeed, some children, both male and female, were and are marked for religious service from a very early age and never lead a 'normal' life: *binga-nyika* were (and are?) dedicated to specific *mhondoro* (Neusu, 1983, 1), while at the central shrines of the Mwari cult the young dancers, both male and female (respectively, *hossanah* and *mbonga*), were (and are) in a similar position, although they might later be married to senior cult officials in outlying districts and become mediums for ancestral spirits (*midzimu*) incorporated into this cult (Daneel, 1970, 49-52). However, many people who later become mediums marry and bear children *before* exhibiting those behavioural symptoms which a diviner will diagnose as being caused by a spirit wanting to 'come out' through possession trance. But after this diagnosis has been made, the medium's life is 'sacralized'. Ideally he or she will then effectively terminate sexual activity in the role of spouse and move into separate living quarters in order better to meet the needs of the spirit. Reproduction should cease (although sometimes 'spirit children' do appear!), and all other 'normal' domestic chores and child care are undertaken by assistants. (This pattern certainly fitted Charwe, who is reported by colonial authorities to have had two children, which Neusu (1983) accepts while rejecting Mutunhu's (1976) attempt to portray her as a normal married woman.) The medium becomes identified with the spirit, even though his or her behaviour while possessed is clearly distinguished from that when not possessed. The authority of the spirit overrides the prior social identity of the medium; and it is possible that a skilled medium may even increase the importance, in the spiritual hierarchy, of his or her spirit (Fry, 1976).

In the role of spirit medium, then, the fact of being female was and continues to be irrelevant to the exercise of *spiritual* authority. At least in part, this is because the demands of the male spirit are by definition legitimate, even when these interfere with the 'modal social personality' of 'woman'. In other parts of Africa, women are reported to use — and, in terms of their 'normal' roles, perhaps abuse

—their possession by male spirits to escape their standardized female identity, or to make demands on their husbands for material goods and special treatment that are not part of their normal expectations (Lewis, 1971). Religious roles in traditional belief systems therefore afforded and continue to afford exceptional women, who refuse to conform to the standard female 'social personality', an escape route into individualized positions of power as well as authority, based on traditional religion. A particularly intriguing example in Zimbabwe of women's influence on societal matters from a position of religious authority is given by an early colonial (male) administrator:

As already mentioned, a woman named Wanawo is the present *Tswikiro* or *Wamvura*. In about the year 1914 a male native named Kativu spread the news around the district that he was the proper medium or *Newana* for the ancestral spirit. *Charewa* [the female chief with whose position Wanawo was associated as medium] complained to me. I had Kativu brought up and ordered him to cease his fraudulent representations. He complied without demur. . . . Wanawo had behaved herself. She had wielded her power with discretion and in the interests of the tribe. She was popular and respected by all, and I was not prepared to allow Kativu to interfere and spoil the present satisfactory arrangement. Naturally the *Tswikiro* has an all-powerful influence on the people, and that influence may be exercised for good or evil. That the present *Wamvura* (female medium) has a beneficial influence on her people there is little doubt. The *Wabuja* are one of the most law-abiding and amenable tribes in Mashonaland, and this is in a great measure due to the influence of this woman. The *Mondoro* has declared through her that the laws of the Government must be obeyed, and it is pleasing to note that the immediate followers . . . set the example by promptly paying in full the whole amount of annual tax due by them on the day it is demanded. Also all crimes committed in that section are immediately reported to the proper authority and delinquents are arrested and brought to justice with the least possible delay. There is much I could write about this interesting character . . . (Morkel, 1930, 13).

As this example shows, the defenders of religious tradition, whether female or male mediums, were paradoxically in a position to define and, therefore, to change that tradition, not least because religious authority overrode and to some extent determined the secular political authority normally wielded by men. However, in this particular case of the Nehoreka chiefship, secular political authority was also vested in a woman, and it is interesting that she complained to the colonial authorities about what could be interpreted as a male attempt to control *herself* rather than the female incumbent of the mediumship.² In Shona societies, it was and is the *svikiro* of the *mhondoro* (in both cases, in this instance, usually male) who chooses, in accordance as much with public opinion as ancestral validation, a deceased chief's successor; and who continues to exercise

² Berlyn's (1972) account of the Nehoreka chiefship and its incumbent suggests that some of the religious aspects previously vested in the medium had fifty years later become part of the *Charewa* (chiefship) role.

ultimate authority, through his or her communication with the chiefly ancestors, over the living chief. Clearly, there was at least one context in traditional society in which women could wield essentially political authority, precisely because it was not so labelled.

One might also note that women's power, as female *spirits* rather than mediums, was often associated with rain, including among the Tonga as *mpande* spirits (Weinrich, 1977). Among the Shona, male spirits also bring rain, but it is interesting that Karuva's rain-making capacity causes him to be regarded, in parts of the northeast, as the 'wife' of Dzivaguru (Bourdillon, 1978, 242). Of many examples of female rain-making spirits, I shall use only one, the legend of Mureri. The daughter of a chief who spotted stray cattle, Mureri was angered by her brother's appropriation of those cattle and insulted by his action in offering her a small fragment of the cooked meat from one of them because she was 'only a woman' (Barr, 1946, 60). In retaliation, the legend says, Mureri hanged both her brother's child and herself, but mitigated her action by promising to bring rain to her father's people when requested. Rain is, of course, critical to dryland agriculture, and rain-making is therefore a source of significant power in society. Where female spirits control rain, they contradict the generally powerless position of ordinary women and provide an alternative model of female capabilities.

In a small minority of areas, however, women also wielded political authority as such. Bazeley (1940, 3) notes that the authority of headwomen in the Mutasa area was legitimated by the spirit medium of Nyamandota (possibly, but not explicitly noted in the legends to be, a woman?). He notes further, with explicit disapproval, the 'irregular marriage customs' and 'loose morals' of these women, all of whom were the daughters of chiefs, which he saw as 'extremely bad examples to all the Manyika women' (1940, 4). This view was fairly common among White settlers generally and, as Gaidzanwa (1985) shows, now also informs Black stereotypes about women who do not fit the 'modal social personality'. Ranger (1985) has noted how early White administrators were horrified by the extent of female independence among the Ndebele in the 1890s, and set about making divorce more difficult by insisting on high bridewealth payments. Sloan (1923, 61) remarked on the fact that it was the 'morally weak amongst the native women who are, for the present, forced by their economic situation to be the leaders of women's thought'.

But, as Bazeley (1940, 4) noted, 'if their morals were weak, their capacity for government was exceptionally strong'. He examined nine headwomen in the Umtali and Inyanga (now Mutare and Nyanga) districts as specific examples, showing that two were not replaced after death primarily because their land had been taken by Whites; three were simply not replaced after death; two were replaced by men; and two were then still alive. The tradition of female authority was, as Bazeley (1940, 3) put it, 'an institution which is rapidly disappearing'.

In summary, then, it would appear that — in at least some situations in pre-colonial Zimbabwe, which extended into colonial times — women's roles were not only differentiated but included those of religious and political authority, notwithstanding their general exclusion from areas of secular decision-making reserved for men. So what has happened to interrupt this story and to superimpose on women the modal female 'social personality' which appears to be characteristic today? I shall argue that the main cause has been ideological, notwithstanding important material changes which have affected women in Zimbabwean society during the colonial period.

WOMEN IN COLONIAL ZIMBABWE

Two important strands of history must be separated during the period 1890–1980: on the one hand, what happened to indigenous women; and on the other, the impact on the colonial system of immigrant women from many diverse cultures. The latter issue I shall ignore here.

Many factors external to traditional society influenced indigenous women during the colonial period. Education, migration to the towns, urbanization and religious conversion all affected women's roles in their families, larger kin groupings, and the economy (Holleman, 1958). We should note that both policy (e.g. in the provision of predominantly bachelor housing on mines and in towns) and family attitudes (e.g. concerning the relative benefits to be gained from educating boys as opposed to girls) combined to lessen female exposure to these forces of change, although, as van Onselen (1980) indicates, a minority of women responded to these changes from their inception. However, in keeping with my basically Marxist interests, for the purposes of this paper I have chosen to examine in detail two interconnected influences different from these well-worn themes: women's access to the means of production and subsistence, on the one hand; and on the other, the laws governing their property relations. For it seems to me that the ideological development of the modal female 'social personality' during the colonial period must be related to the ways in which women were rendered more economically dependent upon men.

Here I shall not dwell on the mechanisms among Zimbabwe's peasantry whereby male rights to land were upheld against those of women in legislation such as the Native Land Husbandry Act of 1951. Gaidzanwa (1981) has shown very clearly how rights to land among peasant wives married polygynously, as well as those of widows and divorcees with dependants, were curtailed by this Act. At best, women's landholdings were one-third the size of those of men, and in the case of seventh or subsequent wives, they simply did not exist. The holdings of all wives, whether monogamously or polygynously married, were confirmed as secondary: for even though the wives entered into the *calculation* of the size of

holding, the holding itself was registered in the name of the husband. In similar fashion, by the practice of issuing only one dipping card for each 'family' or household, the livestock holdings of subordinate members of the family were (and still are) regarded as falling under the jurisdiction of the household head. The ideological legacy of these practices, as well as the practices themselves, constitute part of today's 'problems' of women.

Instead of concentrating on 'traditional' relations of production in peasant areas, here I wish to look at new forms of property, including freehold land, which were in pre-colonial times foreign to Zimbabwe's traditional cultures; and at new laws. These forms of property and the laws governing them were both introduced during the colonial period and might, therefore, have been expected to escape classification as 'customary', as did Christian marriages; but they did not.

There is, of course, a close connection between property relations and the law, and Bourdillon (1975) has shown how, during the colonial period, Shona 'customary' law was generally rigidified and manipulated by the Administration such that it could not adjust to changing societal circumstances in the ways that all legal systems normally do. This induced rigidity is foreign to Shona custom, as Holleman (1952, x) testifies in noting that general principles of customary law were in their application extremely flexible. In the remainder of this paper, I shall examine one particularly important example of how this manipulation of 'custom' was achieved within the framework of *statutory* law, with significant consequences for the property relations of Black women in Zimbabwe.

Let me start by noting that particularly educated Black women who married by Christian rites under statute law (the African Marriages Act) and who contributed to building up family property with their husbands have often felt that they, rather than their husband's patrikin, should have a legal (as well as a moral) claim to his estate after his death. Colonial legislators did recognize, when the 1930 Land Apportionment Act created freehold land title specifically for Blacks, that such an important change in property relations would require legal adjustment with respect to inheritance, which is why the Native Wills Act was passed in 1933. But this Act merely permitted property to be devolved by will: it did not change customary inheritance. In the absence of a will, property and the guardianship of children would still devolve according to customary law. This remains the case today, but these issues of inheritance rights to property are currently under review in our (predominantly male) legislature.

Of many cases of disputed inheritance, one in particular illuminates colonial attitudes to African women with exceptional clarity. *Dokotera v. The Master of the High Court & Others*, 1957 R. & N. 697, also established — as the colonial administration intended it to — an important precedent in the case law of this country. If we examine this case in detail, we shall see precisely how colonial

attitudes subordinated women even when the law could, as it stood, have permitted their further emancipation.

In 1955, a policeman died in hospital, following an emergency appendectomy. Twelve years earlier, in 1943, he and his second wife had jointly bought a freehold farm, registered in his name because only one owner was permitted in law, but managed by his wife while he continued in urban employment. His second marriage had been contracted in church, following the dissolution of his first civil marriage by divorce. He had three daughters, two from his first marriage and one from the second, but no sons, and he died intestate, without leaving a will. The Native Commissioner as administrator of his estate therefore awarded the farm to the deceased man's younger brother, as the customary heir to property. In turn, because he already owned a farm himself, this man ceded the farm to his eldest son. The widow, who received a cash gratuity and the movable property in her husband's estate, appealed against the distribution of the immovable property. This appeal occurred in three phases, firstly to the Native Commissioner, then to the Master of the High Court, and finally to the Appeal Court against the Master's distribution.

The first appeal, to the Native Commissioner, took the form of a memorandum signed by the widow's father, submitted on her behalf before she and her relatives sought professional legal advice.³ This memorandum, which I reproduce verbatim below, attempted to initiate a rational discourse with the colonial administration but, as the Native Commissioner's comments show,⁴ failed to achieve change on the basis of legal rationality:

It was reported at this meeting that the estate was lodged with the Master of the High Court for distribution and explained that any estate over the value of £200 is not administered by Native Law only but comes in European Law also. At this meeting the Native Commissioner Hartley was appointed Executor Dative of the Estate. I understand M or his son was declared heir over the estate where it was believed the Native Law took place. My representatives and I have now come to the conclusion that there is no Native Law and Custom could be administered [*sic*] in the estate of the late Dokotera as the following facts will prove. Dokotera had deserted the following of Native Law and Custom. It will be interesting to discuss seriatim:

1. Dokotera married H's daughter and promised a number of head of cattle as demanded by the father of the girl as lobola. Dokotera did not pay these head of cattle until his death. This does not constitute the validity of Native Law and Custom (I take strong exception).

The Native Commissioner replied: 'Lobola is not an essential requirement to a

³ I am grateful to the former Ministry of Internal Affairs for permitting me access to farm files, one of which contained this memorandum.

⁴ Memorandum, confidential farm file, Chegutu District Office.

marriage by Christian rites. Lobola was finally paid at the date of death. Dokotera is the owner of the farm — if his wife and offspring were taken away from him on grounds of non-payment of lobola, the farm would still evolve [*sic*] to D's younger brother M and his offspring.'

2. In 1943 Dokotera buys a farm in conjunction with his wife, both contribute money for buying of the farm. This is not in conformity with Native Law and Custom.

On this point the Native Commissioner's response shows legal irresponsibility: 'Dokotera is "appointed" owner and M [his widow] might have trouble proving that she paid in money — *but this is not a material point to the issue*' (emphasis added).

3. Dokotera appointed his wife to manage the farm while he himself was working. His wife attended many agricultural courses in Government Experimental Farm as good as many farm managers. This is against Native Law and Custom.

Here the Native Commissioner's answer is hardly endearing: 'It is good native custom for a wife to work in the fields doing light agricultural work and to be appointed manager is a natural evolution.'

4. On the farm Dokotera supplies only implements. The wife supplies all cattle on the farm, they do ploughing, milking, practical [*sic*] whole farm maintenance. This is against Native Law and Custom.

'Correct,' noted the Native Commissioner, 'no cattle on the farm — but again not material.'

5. The two parties were married by Christian rites.

'Whether the present parties are living according to native custom or not, is immaterial, law says'. This response by the Native Commissioner, invoking section 14 of the Native Marriages Act of 1952, appears to ignore section 4(i) of the earlier Native Law and Courts Act (No. 33 of 1937), which envisaged the possibility that customary law might be inapplicable in cases where traditional culture had been abandoned.

6. Buying of land does not come under Native Law.

To this simple truth, there is offered no answer, for there can be none.

Therefore in the light of these facts it becomes marriage by communal [*sic*] of property, partnership, etc. We deny that there is existence of the Native Law or Custom in this case. All these facts are repugnant to Native Law.

There is no reason why Dokotera's wife should not succeed to husband's property while she has been managing the farm for the 14 years.

As shown above, this first appeal fell on deaf ears, so the widow and her kin took the case to a firm of solicitors, who entered into dispute with the Master of the High Court, who had to approve the Native Commissioner's distribution of the estate. They argued that, since customary law did not cover the ownership and transmission of land, distribution of the land should be effected in terms of statute rather than customary law. The Master of the High Court concurred with this legal opinion, but the widow did not inherit the farm because section 7 of the Native Wills Act of 1933 specified that, in cases of intestacy, the heir at customary law should succeed in his individual capacity to immovable property. In other words, custom had been extended in a very specific way *by statute* to cover a previously unknown circumstance.

The widow's solicitors then argued that, in accordance with the normal precedence of statutes, the Native Wills Act of 1933 had in effect been amended by the later passage of the Deceased Estates Succession Amendment Act of 1954. The Master's reply is instructive:

It is contended by you that this provision in the Native Wills Act has been modified by the Deceased Estates Succession Amendment Act, but a study of the provisions of this Act indicates that it was meant to apply only to people subject to the Roman-Dutch Law on intestacy, i.e. Europeans, and in this connection I point out that the whole of its provisions are designed to amend the common law relating to intestacy, and not intended to codify the law generally. I am of the view that it was not intended to affect the native law of intestacy . . .⁵

There was, in fact, absolutely no reference to race in the Deceased Estates Succession Amendment Act. As the appeal judge later noted: 'it is not possible to say that the language of [the Deceased Estates Succession Amendment Act] in itself shews that the Act was not conceived by the legislature to apply to native spouses' (*Dokotera v. The Master*, 1957 R. & N. 703-4). For this reason, as well as those discussed previously, the widow's solicitors decided to take the Master's decision on appeal to the High Court. This appeal was to become a *cause célèbre* for those who did not wish to see custom modified too greatly. As the Master pointed out in a letter to the Native Commissioner concerned:

Bearing in mind the value of the assets in the estate and also that the point raised is one of considerable legal importance to the Native Department and also to this office, now that Africans are being permitted to own land individually, I feel that we should perhaps regard it as a test case . . .⁶

When this dispute entered its third and final phase of appeal, to the High

⁵ Letter, confidential farm file, Chegutu District Office, 11 April 1957.

⁶ Letter, confidential farm file, Chegutu District Office, 11 May 1957.

Court, the appeal judge's reasoning in his decision to uphold the lower decision was even more instructive than the original decision itself. The argument laid out by the widow's lawyers, the appeal judge said,

loses most of its force when it is appreciated that the provisions of [the Deceased Estates Succession Amendment Act], favouring a surviving spouse as an heir *ab intestato*, are really a re-enactment with variations of similar provisions which existed in [the 1929 Deceased Estates Succession Act] and therefore [the Native Wills Act], which took effect in 1933, is essentially the later statute. . . .

A perusal of [the Deceased Estates Succession Amendment Act] creates a *prima facie* doubt as to whether the legislature could have intended that statute to apply to native spouses. It is not clear whether 'a child's portion' is a term appropriate to marriages between natives, in view of the well-known inferior status of women in native life (*Dokotera v. The Master*, 1957 R. & N. 703).

The appeal judge finally decided that the 1929 Act made *general* provision for the rights of surviving spouses, which were overridden by the *specific* provisions of the 1933 Native Wills Act when applied to Blacks and that since the 1954 legislation made no specific mention of race, the 1933 Act would continue to apply to Blacks.

Here, I think, we have incontrovertible evidence of precisely how colonial law mummified 'custom' — indeed, how it *created* previously non-existent 'custom' concerning immovable property — against the wishes of Blacks, especially Black women. Three White men, two in executive posts and one in the judiciary, not only shared a certain view of 'the role and position' of Black women, as the tone of their comments reveals, but also colluded to entrench their perceptions in law and administrative practice. Two decades later, the legislature dominated by the Rhodesian Front reconfirmed this distortion of the process of socio-cultural change, when the 1976 Parliamentary Select Committee on Testate and Intestate Succession noted that:

Your committee is aware that there is nowadays an increasing number of Africans who find family and tribal ties irksome and restrictive, particularly professional African women . . . [but] the Tribal authorities do not want to see a wholesale severance of these ties by legislative action . . . [Therefore] none of the recommendations contained in this Report should apply to African customary law, and we recommend that customary law should not be changed by legislative direction merely to make it conform to 'western' practices (Rhodesia, 1976, 22, 23, paras. 57, 59).

This manipulation and creation of 'custom' was integrally connected with the perpetuation of racial differences by the colonial administration, but, as a very important side-effect, it also increased the subordination of women to men in African society by restricting women's independent capacity to control productive resources. In turn, this subordination has become, during the past century,

part of the contemporary ideology which sees women as somehow being all the same, having the same undifferentiated social personality of 'female'.

CONCLUSION

This article has attempted to do several things: to show the relationship, as it affected women, between property and its political control in both pre-colonial and colonial contexts; to identify some of the fallacies concerning 'custom', both in their present form and with reference to a different past reality; and to indicate the connections between the material and ideological aspects of women's roles and positions in society.

I hope I have shown the inaccuracy — whether as false consciousness or as outright lies — of official colonial representations of the *traditional* social status of Black women. Certainly there were many situations in which women ranked lower than men, but when Child (1958, 69) alleged that 'the emancipation of African women is an evolutionary process which law cannot control', he was either being singularly naïve or he did not perceive the contradiction between this statement and the policy and practices of his superiors, which were reflected very explicitly by W.H.H. Nicolle, Secretary for Internal Affairs, in his foreword to Child's own later book. The Royal Charter which 'legitimized' the occupation of Southern Rhodesia, Nicolle said, specified that

'careful regard shall always be had to the customs and laws of the class or tribe or nation to which the [disputing] parties respectively belong . . .'

This wise provision gave a lead to subsequent legislation which always sought to preserve, and not interfere with, African tribal law and custom . . .

We therefore have the African laws and customs of the various tribes in the country showing little basic change; yet reflecting those changes normally expected in any society that is subject to the influences of modern civilization which cause customs and laws to evolve or change (Child, 1965, i).

In showing how White male attitudes and colonial legislation distorted customary flexibility, I hope I have shown how the modal Black female 'social personality' was constructed during the colonial period. This construct was reinforced by the writings of those male anthropologists (see Gelfand, 1973, as a classic example) who averred a basic acceptance of and satisfaction with their status in society on the part of Black women, at least in areas 'unaffected' by Western influence. It had some basis in the pre-colonial situation, and by strengthening their rights against those of potential female competitors, this particular ideological construct was also in the interests of Black men. Their acceptance of this construct — and indeed its acceptance by many women — has been graphically demonstrated by Gaidzanwa (1985), if literature does indeed reflect society's values. It therefore remains for this ideological construction,

together with its legal and material underpinnings, to be dismantled in order that women can participate fully in national reconstruction in the new Zimbabwe.

References

- BARR, Fr. 1946 'Mureri, the rain goddess', *NADA*, XXIII, 60-2.
- BAZELEY, W. S. 1940 'Manyika headwomen', *NADA*, XVII, 3-5.
- BEACH, D. N. 1980 *The Shona and Zimbabwe, 900-1850* (Gwelo, Mambo Press).
- BERLYN, P. 1972 'The spirit of the keeper of Nehoreka', *NADA*, X, iv, 55-9.
- BOURDILLON, M. F. C. 1975 'Is "customary" law customary?', *NADA*, XI, ii, 140-9.
- 1976 *The Shona Peoples* (Gwelo, Mambo Press).
- 1978 'The cults of Dzivaguru and Karuva amongst the north-eastern Shona peoples', in J.M. Schoffeleers (ed.), *Guardians of the Land* (Gwelo, Mambo Press), 235-55.
- CHEATER, A. P. 1983 'Cattle and class? Rights to grazing land, family organization and class formation in Msengezi', *Africa*, LIII, iv, 59-74.
- CHILD, H. C. 1958 'Family and tribal structure: Status of women', *NADA*, XXXV, 65-70.
- 1965 *The History and Extent of Recognition of Tribal Law in Rhodesia* (Salisbury, Govt. Printer).
- DANEEL, M. L. 1970 *The God of the Matopo Hills* (The Hague, Mouton).
- FRY, P. 1976 *Spirits of Protest: Spirit Mediums and the Articulation of Consensus among the Zezuru of Southern Rhodesia (Zimbabwe)* (Cambridge, Cambridge Univ. Press).
- GAIDZANWA, R. B. 1981 'Promised Land: Towards a Land Policy for Zimbabwe' (The Hague, Institute of Social Studies, unpubl. M.Dev.Stud. thesis).
- 1985 *Images of Women in Zimbabwean Literature* (Harare, College Press).
- GELFAND, M. 1973 'The Shona woman', *NADA*, X, v, 41-50.
- HOLLEMAN, J. F. 1952 *Shona Customary Law* (Manchester, Manchester Univ. Press).
- 1958 'The changing roles of African women', in P. Smith (ed.), *Africa in Transition: Some BBC Talks on Changing Conditions in the Union and the Rhodesias* (London, Max Reinhardt).
- KRIGE, E. J. and KRIGE, J. D. 1943 *The Realm of a Rain Queen* (London, Oxford Univ. Press for the International African Institute).
- LEWIS, I. M. 1971 *Ecstatic Religion* (Harmondsworth, Penguin).
- MACKENZIE, J. M. 1975 'A pre-colonial industry: The Njanja and the iron trade', *NADA*, XI, ii, 200-20.
- MORKELE, E. R. 1930 'The *Mondoro* or ancestral spirit of the Wajuba, Mtoko', *NADA*, VII, 11-14.
- MUTUNHU, T. 1976 'Nehanda of Zimbabwe: The story of a woman liberation leader', *Ufahamu*, VII, i, 59-70.

- NEUSU, K. 1983 'Nehanda: The History of the Mhondoro and Svikiros' (Harare, Univ. of Zimbabwe, Dep. of History, BA Hons. diss.)
- RADCLIFFE-BROWN, A. R. 1952 *Structure and Function in Primitive Society* (London, Cohen and West).
- RANGER, T. O. 1985 *The Invention of Tribalism in Zimbabwe* (Gweru, Mambo Press, Mambo Occasional Papers, Socio-Economic Series 19).
- RHODESIA. 1976 *Report of the Select Committee on Testate and Intestate Succession* (Salisbury, Govt. Printer, Sessional Papers, S.C. 6, 1976)
- SLOAN, A. 1923 'The black woman', *NADA*, I, 60-9.
- VAN ONSELEN, C. 1980 *Chibaro: African Mine Labour in Southern Rhodesia, 1900-1933* (Johannesburg, Ravan Press [first published London, Pluto Press, 1976]).
- WEINRICH, A. K. H. 1977 *The Tonga People on the Southern Shore of Lake Kariba* (Gwelo, Mambo Press).