

Signs: Journal of Women in Culture and Society

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Title: “A Dangerous Precedent”: Monogamous Marriage as Immigration Infrastructure

Manuscript #: 2024167

Classification: Article

Pages: 55

Tables: 0

Text Figures: 1

Abstract: The British South African colony of Natal (1843–1909) regulated polygamy in efforts to impose its racial capitalist designs onto indigenous communities. In the process, monogamy assumed the imperial ideal. My argument is that the Union of South Africa (1910-1948) repurposed the logics of monogamous marriage in its founding immigration restrictions to meet a twentieth-century racial capitalist goal: the stemming of Indian women’s immigration to South Africa. This novel comparative historical analysis animates how I read South African, Indian, and British archival records on the immigration of “plural wives.” I show that the handful of Muslim men who attempted to bring multiple wives into South Africa in the early twentieth century navigated what were once imperial associations with polygamy. Even as they did so however, those associations were being reconfigured in response to the threats that Asiatics were seen to pose to European control. The effect was on the one hand to expand the sociolegal conceptualization of “polygamy;” Europeans tried to use it to encapsulate and obfuscate a growing range of racialized economic anxieties. The process also refined the category of “monogamous marriage,” which legally came to stand-in for early white ideals. A first contribution of this article is to analytically connect largely distinct areas of South Africa historiography on racial capitalism and marriage. More broadly however, I posit that marriage should be understood as integral to countries’ immigration infrastructures. I draw attention to how marriage, on the one hand, is a product of historic intimate regulations. Once marital regulation is installed in immigration policy however, it becomes a bureaucratic means of asserting emergent national interests. In the case of South Africa, this framework clarifies that monogamy’s role in migration policy echoed its colonial predecessor: it configured gendered citizenship in service of maintaining regional European dominance. Immigration policies that privilege monogamy might in this way be read as an afterlife of imperialism.

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Essack Tooroban Booley was born in Port Louis, Mauritius, in 1875.¹ In 1892, he married his first wife, known to the Western Cape Colonial Archive only as Habiba. She was “aged about 16 or 17 years.” Habiba and Essack were “Mauritian Creole” and married under “Mohammedan rights.” Ten months after their marriage, Essack boarded a ship to South Africa. There, he settled in Cape Town and became a legal translator in “Indian and English languages,” a prestigious job that earned him the respect of regional magistrates, the Supreme Court, and the attorney general’s office. In 1902, while living in the Cape, he married a second wife, Mondia, with whom he had seven children.

In late August 1918, he wrote to the Union of South Africa’s Minister of Interior, Jan Smuts:

I beg most respectfully to apply [for] a permit to get my first wife from Mauritius. . . . I got full consent from my second wife to bring my first wife to Cape Town. . . .

I pray the Honorable Minister to help me, and also the poor woman in her old days [42 years old] . . . she has nobody to look after her now. . .

I also beg to state that I have spent nearly all my life [doing] the duty of the Government . . . Nothing more to say except the Almighty God will help your Honor in return as you are father now of us all, in this world.

I am your Obedient Servant,

E.T. Booley

Many of the connections Essack had made in his judicial work wrote references to the Department of Immigration on his behalf. Furthermore, he reported owning seven houses and one shop in Cape Town, which indicated ample financial means to support his family.

Union officials adjudicated Essack's application under the Immigration Regulation Act (No. 22 of 1913), South Africa's first immigration policy. It authorized entry to migrants who could "read and write in any European language to the satisfaction of an immigration officer."² Like the provincial immigration acts before it,³ the Union's act also mandated a fee and excluded anyone deemed to lack "sufficient means to support himself." The 1913 act allowed men who met these linguistic and financial requirements to bring with them to South Africa a woman "who [proved] . . . to be the wife [of a lawful and monogamous marriage duly celebrated according to the rites of any religious faith outside the Union]."⁴

The act was written to recruit educated European men and their wives. Furthermore, Smuts introduced it to Parliament by acknowledging that while the legislation did not name the group explicitly, regional officials and the Central Government of the British Empire "all knew it was the intention of South Africa to exclude Asiatics" (Peberdy 2009, 31), a racial designation that referred to communities who migrated from the Indian subcontinent and China. In protest of these restrictions, the South African-based Natal Indian Association, the British Indian Association, and the Natal Indian Congress organized widespread work stoppages. In this context, activists recognized the act's specificity around monogamous marriage as targeting wealthy Indian men (Mongia 2018, 95). The protests compelled the Union to pass the Indian Relief Act in 1914 (No. 22 of 1914), just one year after the Immigration Act. This allowed eligible Indian men to introduce to the country an "Indian female" with whom "there exists a union recognized as a marriage under the tents of an Indian religion,"⁵ provided they did not

already have wives in South Africa. Relevant to Habiba, an agreement between Smuts and the prominent lawyer Mohandas Karamchand Gandhi resolved that a “very limited” number of Asiatic men might bring into South Africa “plural wives” (Vahed 2003, 28). These concessions quelled the protests and allowed the Union to maintain its self-righteous claims to religious pluralism. But they kept intact significant restrictions on Asiatic immigration. And so despite Essack’s credentials and patriotism, and the possibilities provided by the Smuts-Gandhi agreement, the Union refused Habiba entry.

I put the story of South Africa’s early twentieth century policy on immigration through monogamous marriage into the context of regional marital policies that preceded it. Significant historiographic research on the British South African colony of Natal (1843–1909) demonstrates how marital policies imposed the Empire’s political, economic, and symbolic orders onto indigenous Zulu communities.⁶ Drawing on Ara Wilson’s work (Wilson 2016, 249, 265), I consider dual-sex monogamous marriage as an imperial “infrastructure of intimacy,” that is, it was a bureaucratic means of holding together British parameters for intimate relations. This intimate regulation had embedded within it imperialism’s designs. My argument is that the Union of South Africa repurposed monogamous marriage in its founding immigration restrictions to meet a twentieth-century racial capitalist goal: the stemming of Indian women’s immigration to South Africa. A first contribution of this article is to analytically connect largely distinct areas of historiographic research on racial capitalism and marriage from the British imperial through the early unionization periods, including literatures on the regulation of “Native” and “Asiatic”⁷ marriages, as well as on South Africa’s anti-Indian immigration policies.⁸

This novel comparative historical analysis animates how I read South African, Indian,

and British archival records on the immigration of “plural wives.” I show that the handful of Muslim men who attempted to bring multiple wives into South Africa navigated what were once imperial associations with polygamy. Even as they did so however, those associations were being reconfigured in response to the political, economic, and symbolic threats that Asiatics were seen to pose to European control. The effect was on the one hand to expand the sociolegal conceptualization of “polygamy;” Europeans tried to use it to encapsulate and obfuscate a growing range of racialized economic anxieties. The process also refined the category of “monogamous marriage,” which legally came to stand-in for early “white” ideals.

Marriage is integral to countries’ immigration infrastructures. The article draws attention to how marriage, on the one hand, is a product of historic intimate regulations. Once marital regulation is installed in immigration policy however, it becomes a bureaucratic means of asserting emergent national interests. In the case of South Africa, this framework clarifies that monogamy’s role in migration policy echoed its colonial predecessor: it configured gendered citizenship in service of maintaining regional European dominance. Immigration policies that privilege monogamy might in this way be read as an afterlife of imperialism.

Imperialism and racial capitalism: A marriage

South African scholarship on racial capitalism broadly argues that European settlers invented racial distinctions as a conceptual tool kit for asserting control over non-European land and labor (Levenson and Paret 2023). As such, racial designations implied hierarchical roles in imperialism’s extractive industries (Magubane 1996). They were accordingly shot through with the economic fantasies motivating empire (Magubane 2007). The British colony of Natal

exemplifies the point: The Empire claimed the eastern coast of southern Africa in 1843 with the aim of establishing cotton, tea, and sugar plantations (Tallie 2019). To do so, it planned for European settlers to manage capital production and for indigenous workers to labor on and under the land.

But settlers struggle to establish symbolic influence amongst the populations they seek to colonize (Loveman 2005). Why, after all, would indigenous communities pay any mind to settlers' "racial projects" (Omi and Winant 2014) – let alone participate in them? A well-documented answer lies in empire's drive for territorial expansion and propensity for indigenous genocide (Gqola 2015). Alongside and in-between colonial wars however, settler governments compete with indigenous communities over the capacity to regulate intimate ties.⁹ This is because marriage, for one, structures community allegiances and religious affiliations (Cott 2000; Scott and Theron 2019); access to territory, women, and capital (Rubin 1981); as well as population reproduction (Woźny 2025). Settler regimes seek out the capacity to authorize marriages because in so doing they wrest significant control over the administration of social, cultural, economic, political, and biological life.

I think of colonial marital laws as an "infrastructure of intimacy" (Wilson 2016). Through marital law, colonial states define sanctioned parameters for intimate relations. In the process, they assert the metropole's sociocultural and political economic order (Connell 2014). Then, as colonial governments establish regional influence, they condition local resource distribution on compliance with the strictures of their laws (Cott 2000). Like many modern sexual regulations however (Foucault 1981), marriage is a cunning institution. It traffics in moralizing language (Anderson 1982). As such, its particular regulatory capacities lie in omissions, equivocations, allusions, metonyms, and implications (Stoler 2009). This evasive quality can distract or diffuse

critical attention from the process and effects of intimate regulation (Canaday et al. 2021). And it is why colonial governments use marital laws to establish and maintain symbolic control – that is, the near monopoly on the legitimate capacity to define interpersonal relationships, to consecrate racial and gender identities and to demarcate groups (Shah 2012; Kim 2018) and territories (Torpey 1998), and to subsequently rationalize distributing resources. Developing symbolic control is integral to imperial processes of shoring up political and economic dominance (Steinmetz 2022). Marital regulation is a key site of establishing symbolic control precisely because it can obfuscate as it regulates.

Monogamous marriage consolidated Victorian-era British settler ideals: it was the foundation of a dream involving European men who mobilized enough racialized laborers to expand extractive industries, build European governance, and support a European wife, who would, in turn, reproduce the settler class (Martens 2002). For European settler men, having a wife was at once a successful performance of settler capitalist ideals and of Protestant masculinity (McClintock 1995). Indeed, as Nancy Cott (2000, 10) describes in the U.S. colonial context, monogamous marriage reflected settlers' hopes for a distinctly modern political project. Marriage established a contract between mutually consenting parties, a process that reflected the ideal relationship between citizens and the state. And it was at the same time a religious covenant between a man and his wife, one that legitimated the dissolution of women's legal identities into that of her husband's (Freedman 2013). Indeed, for their part, European women depended on colonial governments recognizing ties to European men as a condition for accessing regional resources. Notably for my purposes, this included authorized entry into the colonies (Peberdy 2008).

In this context—as in many colonial settings (Stoler 1995; Morgan 1997; Nagel 2003; Epprecht 2013)—European ideals coalesced through frequent contrast with gendered racial others.¹⁰ British colonial travel writings, newspapers, and missionary records brim with exoticized depictions of indigenous women – from Southern and Western Africa to the Caribbean, the Americas, the Indian subcontinent, and across Central Asia.¹¹ Western European masculinity was also defined through the constant reiteration of narratives about indigenous men’s perversion and backwardness (Epprecht 2013; Morrell 1998; Morrell et al. 2013). Over time, settlers’ obsessive attempts to rationalize their denigration of the Other proliferate binaries: white/Black (Magubane 1996), settler/native (Clarno 2017), manager/worker (DuBois 1947), man/woman (Connell 2014; McClintock 1995; Oyěwùmí 1997), and citizen/subject (Mamdani 1996).

Marital regulations give such gendered racial fictions what Pierre Bourdieu (1987) would call the “force of law.” Imperial South Africa, for one, designed civil and customary law to differentially govern settler and indigenous populations (Mamdani 1996). As we shall see, in Natal, civil marriage was designed in part to disincentivize European men from engaging in indigenous Zulu modes of economic exchange, which included polygynous marriage.¹² And the colony regulated “Native” marriages as part of an effort to incentivize indigenous men to work for European settlers (Tallie 2019). Marital regulation purported simple distinctions (customary/civil, worker/manager, black/white). Afterall, if “Europeans” married only under civil law and “Natives” married only under customary law, marriage between people the regime understood as different “races” was a legal impossibility (Hoad 2013). But this purported simplicity belied the imperial regime’s symbolic acrobatics. The regime was constantly working to explain away similarities between European and non-European marital practices (Sheik 2017),

to sanction European men who deviated from Protestant sexual scripts (Tallie 2012), and to discredit acts of indigenous resistance to their gendered and moral orders (Tallie 2019).

Nonetheless, marital regulation legitimated British symbolic orders and designed a rational mechanism for providing or denying state resources accordingly.

I examine the invention and repurposing of the British imperial sociolegal binary between polygamy and monogamy. Recalling Melanie Heath's (2023) work on the French empire, this binary form of imperial regulation attempted to map a racial boundary between settlers and indigenous populations. Both empires baked into their marital regulation assumptions about the supremacy of European settlers' prevailing gender relations and economic desires (Cott 2000; Tallie forthcoming). As we shall see, Natal's efforts to regulate indigenous Zulu intimacies economically and politically subordinated racialized men and routinely resulted in the legal exclusion and exploitation of indigenous women. And through the repetition of European's distinction from indigenous polygamy, Natal legally affirmed monogamous marriage as at once moral, gender appropriate, economically productive, and characteristic of British subjecthood.

But imperialism is seldom a project involving only European settlers and indigenous workers. Indeed, between 1860–1902, the British facilitated the migration of over 150,000 indentured laborers from India to work in Natal (Bhana 1991; Vahed 2003, 3-4). A vast majority of the indentured were Hindu men between eighteen and thirty (Vahed 2005, 240).¹³ Workers left ports in Madras and Calcutta to fill labor shortages, primarily on sugar and tea plantations as well as railways and coal mining (Bhana 1991). These migrants were part of enormous trans-imperial networks, including to elsewhere in Africa, including Mauritius, and also to the Caribbean, Australia and New Zealand, and the North American West.¹⁴ In generations that

followed these indentured labor migrations, Indian populations settled across the British colonies. By 1904, they comprised 10 percent (110,000) of Natal's population (1.1 million) (Vahed 2003, 3)—which, crucially for my purposes, rivaled Europeans' representation at that time (Tallie 2019, 2). My point is this: It is not incidental that, as it had done with the indigenous population over the half-century prior, at the dawn of the twentieth century, the imperial regime in Natal began struggling to regulate “Asiatic polygamy.”

How does this non-European migratory community fit into the story of marital regulation as an intimate infrastructure of racial capitalism? Afterall, Asiatics occupied an ambivalent racial and economic position in South Africa (Vahed 2003; Jha 2009; Mondia 2018). They defied colonial binaries (Vahed 2005). They were neither Native nor European. They were settlers and economically successful – but not white. Drawing on historiographic research, I offer a novel comparative historical account (Lange 2013) of early South African marital regulation, with a focus on the sociolegal evolution of monogamy and polygamy in Natal. I argue that the country installed monogamy into migration restrictions as part of its efforts to politically and economically subjugate a competing settler community (Asiatics). In the process, as polygamy moved from customary to civil law, from the colonial interior to the national border, it was reconfigured to address a distinct racial myth, the so-called “Asiatic menace.” Hence, I find that the Muslim men who attempted to introduce multiple wives to South Africa struggled against new iterations of what were once imperial-era associations with polygamy, including the notions that it was threatening to European economic interests, at odds with European political control, and contrary to British civility. That this early nationalist boundary-marking took place through the immigration system is telling (Luibhéid 2002; Canaday 2009); in few places are the state's population anxieties more acute than at its border.

Archives of marriage and empire

This article grew out of my research on the opposite end of the century. As part of a larger project on sexuality and migration in southern Africa, I was studying the history of the Aliens Controls Act (No. 95 of 1991), the dying act of the apartheid regime (1948–1991). Aliens Control facilitated immigration through dual sex monogamy and barred entry to people convicted of sodomy. It was in this context that I first came across the 1913 Immigration Act, which, as mentioned, specified an avenue for women’s immigration through “monogamous marriage.” Mindful of the literatures on intimate regulation and racial capitalism, the act’s specificity stood out to me. I subsequently conducted an abductive examination (Tavory and Timmermans 2014) of South African historical scholarship on race and marital regulations and archived attempts at the immigration of plural wives.

My initial archival research focused on the period between 1900 and 1927, when regional marital immigration policies were most contested (Vahed 2003; Peberdy 2009; Mongia 2018). As I was based in Cape Town for the broader research, I first researched in the Western Cape Colonial Archives. I searched by racial group (European, Asiatic, Chinese [Dhupelia-Mesthrie 2011]) for “polygamy,” “monogamy,” “monogamous,” “polygamous,” “husbands,” “wife,” “plural wives,” and “wives.” This identified South African and British official correspondences about Asiatic immigration through marriage, including the immigration of individuals the South African government considered “polygamous” as well as much smaller sample of plural wives’ immigration cases.

I started by collating an initial sample of plural wives’ immigration cases. I read the files in their entirety. I took notes on applicants’ efforts to challenge restrictions, as well as the dates

and recorded rationales for immigration decisions. I separately tracked officials' efforts to cross-reference cases in the marginalia. Like most immigration cases, the ones I study here spanned multiple years. This had implications for where in South Africa the records were stored. In consultation with regional archivists, I located records that started in the Western Cape prior to 1910, for example, but continued in the South African National Archives, in the capital of Pretoria, after unionization. To track down such records, I visited the archives in Pretoria and subsequently coordinated research assistance in Pretoria, Pietermaritzburg, and Cape Town to scan relevant additional records.

As this is a story of sexual regulation and transnational migration however, key documents on the topic were not necessarily stored within South Africa's borders (Gleckman-Krut 2026). The South African records led me to the British National Libraries. These repositories paid more attention to Asiatic polygamous immigration as a phenomenon. For example, British and South African records independently indicated that around 1914, Indians in South Africa were instructed to submit lists of plural wives and their children. I found a list of forty-one such families in the Transvaal, but no comparable list in the Cape.¹⁵ To ensure that I captured imperial discussions on the topic, I separately surveyed the British Archives on polygamous immigration between India and South Africa from 1850 to 1910. A research assistant in London scanned select materials. The first British record I found dealing with Asiatic polygamous immigration to South Africa was from 1901.¹⁶

Almost all the plural marriage cases I identified were Muslims attempting to enter the Cape. Further research is needed to examine Indians' experiences with polygamous immigration in Natal and the Transvaal; cases that stalled in India prior to wives being documented by South Africa; and the application of monogamous marriage against other groups identified as "Asiatic."

As a starting point for future research: I found a reference to, Dawood Ebrahim, a Parsi man, encountering protracted difficulties with marital immigration due to official accusations of his polygamy;¹⁷ a reference to a marriage conducted under “Chinese rights” being refused because the applicant, Sing Chow, could not demonstrate that his was “a monogamous marriage” until it was certified as a “Christian marriage;”¹⁸ and a statement by the Principal Immigration Officer at Cape Town, Clarence Wilfred Cousins (Dhupelia-Mesthrie 2014a) that “It is a very unusual thing to find a Hindu with more than one wife. [But] It has been known to me.”¹⁹

Within the records I collated, I worked to read the racial and gender ideologies folded into administrative decisions (Mbembe 2002; Macharia 2015) by interpreting official punctuation and omissions as data. I find that a small number of Muslim men successfully migrated multiple wives to South Africa in the early twentieth century. Doing so required an ability to negotiate the South African immigration infrastructure coalescing into “monogamous marriage.”

Monogamy in British Natal: Building an infrastructure of intimacy

Over the first half of the nineteenth century, the eastern coast of southern Africa witnessed a series of battles that culminated in the British establishment of the Natal Colony. Natal’s settlers remained a distinct regional minority, and the colony subsequently struggled to meet the Empire’s goals regarding racialized labor and export revenue (Tallie 2019, 1). To encourage the expansion of European population and industry, the colony tried to contain indigenous jurisdiction. In the late 1840s, Native-Affairs, the imperial bureaucracy designed to govern indigenous populations, devised land reserves and customary law (Mamdani 1996)—which was distinct from settlers’ farms and the civil legal code (Hoad 2013, 154–55). At the same time,

settlers demanded that by the 1850s, Native-Affairs Secretary Theophilus Shepstone recruit some thirty thousand indigenous men into their employ (Sheik 2014, 78).

Marital regulation was central to Natal's efforts to establish racial capitalist extraction in the region (Sheik 2017; Tallie 2019). This began with Protestant leaders' vilification of Zulu marital practices. The missionary Hyman Wilder, for example, decried that for the Zulus, "the holy institution of matrimony is in ruins [as polygamy caused a husband to] blunt his moral feelings, and . . . place him on a [sensual] level with a brute" (Tallie 2019, 26). Missionary pamphlets, newsprint, and travel literature collapsed *ilobolo*, a bride-price, into the sale of a female slave. This rhetoric elided Zulu men's intergenerational political structure and Zulu women's strategic navigation of agrarian economies (Sheik 2014). Instead, settlers learned of indigenous intimacies as morally depraved.

As settlers' anxieties about the failure of their colonial enterprise mounted, they began incorporating missionaries' religious claims about polygamy into their demands for racialized laborers (Sheik 2014). As an example, in an 1852 commission of inquiry, white farmers argued that, through polygamy, the Zulu drew upon "forced labor of females" (Tallie 2019, 22). This, they contended, created a labor advantage European farmers could not compete with (McClintock 1995, 252–59). The British, after all, had outlawed slavery in 1834.²⁰ As in other colonial contexts (Morgan 1997; Nagel 2003), accusations about the moral backwardness of indigenous sexualities attempted to overwrite the impracticalities of imperialism—here, Europeans' inability to establish sizeable demographic representation and implement their industrial agricultural fantasies—in favor of asserting settlers' rightful access to indigenous labor and land.

In 1848, Shepstone devised a plan that would respond to settlers' moralized economic demands while, he hoped, avoiding dissent among the region's majority populations (Shepstone commonly raised concerns about the possibility of indigenous revolt) (Sheik 2014): Native-Affairs started taxing Zulu homesteads. The tax was relative to the number of huts, which corresponded with the number of a compound's wives. For Shepstone, the aim was to both compel African men into wage labor (men would have to make money to pay the tax) and limit polygamy (by making multiple marriages more expensive). Furthermore, Shepstone argued that the tax would purport neutrality and thus obfuscate the government's intimate interventions. Ostensibly as a way to end "Zulu slavery," Shepstone capitalized on "Zulu polygamy." It was remarkably successful for Native-Affairs' purposes. In its first decade, the tax raised over a third of Natal's revenue, contributing to the quadrupling of the colony's civil service (Sheik 2014, 78).

Over time, the allure of wages corroded indigenous social formations (Sheik 2014, 83-84). Younger Zulu men used paid employment to seek status outside of age-regimented patriarchal arrangements (Morrell 1998). They became part of the roughly three-quarters of all indigenous southern African men who, by the twentieth century, lived in mining compounds (Achmat 1993) for over half the year (McClintock 1995, 318). Furthermore, to allay settlers' moral panic polygamy as a form of enslavement, in 1869, Law 1 required Zulu women to verbally consent to marriages, albeit witnessed by a male relation (Tallie 2019, 32). Recalling the Cott's (2001) writing on the colonial use of marital consent as a purportedly "civilizing" project, Natal solidified gender subservient legal identities for women the government identified as Native, disciplined by the Empire's strengthening command over the region's material resources (Sheik 2014). These legal arrangements gradually diminished indigenous women's bargaining power.

Natalian customary law thus gave polygamy jurisprudential expression as opposed to European economic aspirations (settler command over extractive industries and indigenous labor), political control (demographic representation), and symbolic order (settler Protestant masculine ideals). By contrast, monogamous marriage assumed the imperial ideal. Missionaries touted settler monogamy as an institution that disincentivized interracial, commercial, and same-sex sexuality, as well as overindulgence in alcohol (Tallie 2019; Klausen 2022). Natalian civil law forbade European men from engaging in polygamy under the threat of punishment (Tallie 2019, 49). A concert between prevailing religious and legal strictures asserted Protestant gender arrangements and its associated racialized economic structure (Hoad 2013). As Shepstone anticipated, however, the formalities of law, with its proliferation of mundane administrative processes (Breckenridge 2014), obscured imperial ideologies. By the turn-of-the-century, British Natal had built an infrastructure of intimacy—monogamous marriage—that held together and imposed its political, economic, and symbolic ideals. And South Africa would soon come to repurpose that infrastructure against Asiatics.

Polygamy and the Asiatic menace: Repurposing the infrastructure

Though Shepstone's hut tax increased colonial revenues, by the 1850s, it had failed to recruit enough African men to meet settlers' demands (Harries 1987). The Empire compensated, in part, by migrating Indian indentured laborers.²¹ The indentured were followed in the 1870s by independently migrating "passenger migrants," including wealthy Muslim traders from Gujarat (see Dhupelia-Mesthrie 2009) or, like Essack, from other British colonies like Mauritius (Vahed 2003, 3). By the turn of the twentieth-century, class-stratified, linguistically and religiously diverse communities of Indians rivaled Europeans' representation in Natal, threatening the

latter's political control. In this context, European settlers expressed distinct class antagonisms concerning "economically conspicuous" (Mongia 2018, 89–90) traders; the so-called "Asiatic menace" soon provoked yet another sociolegal struggle over polygamy. As I will now show, the regional associations with polygamy – as a threat to European symbolic orders, and subsequently to their political and economic dominance – resurfaced in the struggle over "Asiatic polygamy." But Asiatics were governed under civil law. Because of this, attempts to regulate Indians' intimate ties defied Natalian sociolegal binaries separating monogamists from polygamists, settlers from Natives, managers from workers, South Africans from "not."

Throughout the British Empire, Indian and Chinese migrants embodied a racial capitalist tension: imperial governments sought to balance their insatiable desire for cheap labor with their anxieties of managing the threats racialized populations posed to European control.²² In this context, as it did with the Zulu, Natal mobilized marital regulations to administer Asiatics. The intention was to homogenize, however imperfectly, the groups it sought to subjugate (Mongia 2018). Law 12 of 1872 required all settlers of Indian descent – regardless of their religion, caste, occupation, and region of origin – to register their marriages (Vahed 2003, 5). To proscribe legal unions for Indians however, Natal had to invent a common definition of Asiatic marriage. This precipitated a generation of consternation between community members, Hindu and Muslim leaders, and British colonial officials over how the imperial government might recognize non-Protestant religious rites (Vahed 2003).

Key for my purposes, by the 1870s, Natal had fashioned three legal systems for regulating polygamy: Native, European, and Asiatic. Customary law recognized Zulu polygamous marriages. Civil law, by contrast, forbade Europeans from polygamy under threat of

imprisonment and hard labor while, through its attempt to recognize of non-Protestant religious rites, entitled Asiatic men to it (Tallie 2019, 48-49).

Natal's tripartite marital system was a form and function of Asiatics' ambivalent location within the colony's crude racial capitalist imagination (Vahed 2003), and as such it provoked European unease. For if the colonial government considered religious and civil marriages to be equal, then Muslim men could, in theory, have multiple wives, while Protestant men could have but one. Wealthy Asiatic men thus could be seen as threatening to exceed not only European men's demographic representation and economic dominance but also their gendered entitlements. The possibility of Asiatic men "having" *plural wives* defied European symbolic orders. Indeed, to quell this provocation, Law 25 of 1891 prescribed the registration of polygamous marriages contracted in India (Vahed 2003, 10) but denied the recognition of Indian men's subsequent marriages in South Africa (Tallie 2019, 48). At this phase of the imperial effort to regulate Asiatic polygamy, Indians could have more than one wife, an agreement made in the context of promoting British self-righteous claims to religious pluralism, but they could not bring more wives into South Africa than their European counterparts.

As the century came to a close, however, Indians continued to rival European's representation in the colony. They were also continuing to amass property and wealth. European settlers' anxieties mounted once more. This contextualized Natal's efforts to restrict Indian immigration and business. In 1897, Natal became the first colony in the British Empire to require that immigration applicants demonstrate competency in a European language to the satisfaction of a European official (Martens 2006, 333).²³ This massively disadvantaged Asiatics, even those who were educated in English (Perbady 2009). In this period, Natal also altered its domestic franchise and trading license qualifications to exclude Indians (Mongia 2018, 89-90).

Discriminatory migration and economic policies pressured Asiatic workers, men and women alike, to re-indenture for European managers or return to India.

And then, in 1899, a Muslim woman, Tulukauem, sued in a Natalian court for the nullification of her marriage to Munsami. She did so on the grounds that he was married to another woman, Thaiyi (Tallie 2019, 48-50). Recall that in South Africa, polygamy was governed under customary law, which implicated indigenous communities, who were living inside the country's borderline but excluded from British subjecthood. But Asiatics were regulated under civil law, which concerned British subjects and defined marriage as monogamous. Tulukauem, Munsami, and Thaiyi's union pushed the colony to reconcile its various and mounting anxieties about the "Asiatic menace" with the binary logics governing marital regulation to that date.

Judge Broome, who oversaw the case, determined that, even if religious rites or British Indian law recognized the relationship, polygamous unions were outside Natal's civil definition of marriage (Vahed 2003, 10–11). Tulukauem's marriage was annulled. As Goolam Vahed (2003, 26) describes, the decision imposed Protestant gender expectations onto Muslims. I highlight that this symbolic action – the rejection of civil law polygamy -- was part of a suite of contemporaneous efforts in Natal to assert European supremacy apropos Asiatics. If restrictions on migration and businesses responded to European anxieties about Indian men threatening their political and economic dominance, the Broome decision was about asserting European symbolic control. Indeed, as T.J. Tallie (2019, 49) points out, the judge maintained a racial distinction in the treatment of monogamy violations under civil law—European men were still punished for polygamy, while Asiatic men were not. By denying domiciled Indian men the capacity to exceed Protestant gender ideals, and by reiterating the boundaries of appropriate European masculinity, the court reasserted the regional supremacy of European gendered orders. In the process, Broome

also began to prescribe a legal category for Asiatic women that hinged on the government's recognition of their intimate ties to Asiatic men. This mirrored the colony's designation of a gender subordinate category for Zulu women in the generations prior and thus reified the sociolegal conditions contextualizing Indian women's abuse and neglect (Vahed 2005, 249-254). If the colony had first mobilized monogamous marriage to symbolically demarcate and economically hierarchize European and Native populations under civil and customary law, it had now executed a parallel process under civil law targeting Indians living in the colony.

Polygamous until proven civilized

The Broome decision came down on the eve of the Boer War (1899–1902), which precipitated massive shifts in the region's political economy and contextualized the responsible government joining what were once four provinces into the Union of South Africa in 1910 (Klaaren 2005). Prior to the war, the British colonies of Natal and the Cape, and the Afrikaner republics of the Transvaal and the Orange Free State, were independently governed. During the conflict, the British took over the Transvaal's lucrative gold mines, and between 1904 and 1906, contracted sixty thousand Chinese laborers to restart them (Epprecht 2013, 63-64, 143–45). Few Chinese workers stayed beyond their contracts. Among those who stayed, many settled in the Cape, where the administration lumped them into a growing community of Asiatics (Harris 2014); during the war, thousands of Indians had fled from Natal to the Cape as refugees (Dhupelia-Mesthrie 2014a). There was by 1900 in the Cape already a budding community of migrants from India, many of whom immigrated as non-indentured workers from the Bombay Presidency (Dhupelia-Mesthrie 2009). Additionally, between 1880 and 1930, communities of Eastern European Jews escaping pogroms and attracted by the region's rapid industrialization, arrived in

the tens of thousands (Krut 1985; Peberdy 2009, 57–84).²⁴ Cape Town’s population alone more than doubled between 1891 and 1904 (Dhupelia-Mesthrie 2014a, 103).

Following the tumult of the war and the migration flows that followed, the Cape, the Transvaal, and later, the Union, adopted Natal’s discriminatory diction and financial provisions into their migration restrictions (Martens 2006). In this section, I argue that the Union’s first immigration policy also inherited imperial Natal’s ideological struggles about monogamous and polygamous marriages. In the years after the colony imposed monogamy onto domiciled Indians (1900–1925), the anxieties Natal had associated with polygamy in the latter nineteenth century—namely, that it represented a threat to European symbolic, economic, and political control—bled into how the Cape, the Transvaal, and the Union adjudicated Asiatic immigration. In the process, those anxieties reconfigured “polygamy” to address the myth of the Asiatic menace. The section closes with an examination of how Indian men navigated the infrastructure of monogamy in immigration policy.

Asiatic polygamy as a sociolegal ambiguity

Mohamed Ibrahim . . . has a wife and two children in Cape Town. This does not mean, of course, that he has not got a wife and a good many more children in India, possibly two or three families, and a polygamist can never expect to be treated with as much consideration as a man of a more civilized type.²⁵

Chief Immigration Officer

Cape of Good Hope

June 4, 1909

Mohamed Ibrahim moved from India to South Africa around 1900. He worked in the Cape as a general dealer. In 1903, Mohamed married a Cape Malay woman named Rookia. They had two children together. Mohamed returned to India in 1907. While he was there, his mother and brother passed away. The funerals and related religious- and estate-related responsibilities concluded around 1909, at which point Mohamed was ready to return to South Africa. By that time, however, he had overstayed his reentry permit. He wrote to Rookia and a friend in Cape Town, Bala Ahmed, to organize his authorization to return. A principal founder and vice president of the British India League and fellow general dealer, Mohamed Abbass, submitted an affidavit attesting to Mohamed Ibrahim's marriage to Rookia, as well as the death of his family members and his lack of awareness of the permit requirement.

Yet in considering Mohamed's reentry permit, the chief immigration officer at the Cape, Cousins accused him of "possibly" being "a polygamist." As evidence for this accusation, Cousins observed that Mohamed had a wife and children in South Africa. This, the chief immigration officer continued, "of course" implied that Mohamed might have "a wife and a good many more children in India." Here, Cousins invoked a provocative image: one Indian man's excessive marriages could result in an untold more Asiatic people, "possibly two or three families," arriving in South Africa. In other words, based on an unfounded suspicion (Dhupelia-Mesthrie 2014b, 642) about the number of Mohamed's wives,²⁶ Cousins claimed that he lacked civility and posed a racialized threat to the country. (Recall the acuteness of Europeans' demographic anxieties at the time). These were the grounds upon which Cousins deemed Mohamed less worthy of the government's consideration for re-entry.

Using this combination of ideas to rationalize denying a polygamist access to the South African governments' resources was not new. Recall that when Natal first attempted to regulate Zulu marriages, it defined polygamy under customary law as opposed to European morality, a threat to European economic and political control – and on those grounds outside of British subjecthood. Cousins's associations with polygamy echoed Natalian sociolegal practice, and in this way exemplify that Asiatic polygamy was embroiled in the ideological struggles predating it.

What was new about Cousins's associations was the invention of the notion that Asiatic men were *possibly* polygamous; they *could* embody the various threats polygamy posed to the nation. There is ambiguity in this imaginary. In the early 1900s, European officials in South Africa did not understand Indians as always already polygamous, as they did the Zulu. Yet, as Broome's decision identified to the Natalian government a decade earlier, some Indians married polygamously.²⁷ Cousins reflected a racially specific anxiety that Asiatics might embody the assemblages of threats associated with polygamy—but the legal logics of the time classed that ambiguity as a possibility, not an absolute. Cousins's consideration of Mohamed's case anticipated a next phase of South African immigration struggles over Asiatic marriage, which involved, among other things, defining all Muslim and Hindu marriages as polygamous. The government was fashioning conceptual tools and an accompanying legal framework to block the immigration of Indian women. It did so by further emphasizing that "South Africans" were "monogamous" and by concomitantly expanding the sociolegal definition of "polygamy" to include Asiatics.

Defining Asiatic marriages as polygamous

Sukina and Hassim Mohamed married in Surat, India, in 1895. Like many women in her position (Dhupelia-Mesthrie 2014b), Sukina had stayed in India when her husband moved to South Africa. In 1905, Hassim married another woman, Issa, though they later divorced. Then, in February 1912, Hassim applied to bring Sukina into the Transvaal. In May of that year, Justice H.H. Jordan prohibited her entry, as he did not consider her “the wife of Hassim” under the provincial Act 15 of 1907. Jordan’s decision extended Justice John Wessels’s relatively “more liberal” interpretation of a similar case the Transvaal division of the Supreme Court in 1911 (Mongia 2018, 93-97). What was notable about Hassim’s case is that neither Issa nor Sukina were in South Africa at the time it was adjudicated. Jordan’s decision refused entry into the Transvaal to even one wife of a “lawfully resident and duly registered” Indian man because the singular marriage could, by his approximation, become polygamous. By invoking the Asiatic racial designation, Jordan also subsumed Hindu marriages into discussions of “Asiatic polygamy” – even though Sukina and Hassim were Muslim.

In November 1912, Hassim appealed Judge Jordan’s the decision. To adjudicate Hassim’s appeal, the Transvaal’s Justice Leonard Syer Bristowe mused: “In the case of a European immigrant, can it be suggested that ‘wife’ means anything except a wife as understood by our law? And if not, then can it be suggested that it means something different in the case of a Mahomedan immigrant?” In light of the regional racial mapping of monogamy and polygamy, Bristowe’s first question needed no reply; through generations of contrast with indigenous polygamy, South African civil law had by 1912 firmly defined European marriages as monogamous. But Bristowe continued: “It is admitted that a Mahomedan [*sic*] marriage is polygamous, not in the sense that a Mahomedan necessarily has more than one wife, but in the sense that he may do so.” He doubled down on Jordan’s rationale to argue that because Islam

allowed men to marry multiple women, for the purposes of South African civil law, Muslim marriages should be legally understood as polygamous. That is, he affirmed that for the purposes of evaluating immigration eligibility, even Islamic marriages between one man and one woman should be considered as polygamous.

Islamic law outlines polygamy's prosocial intentions (Vahed 2003, 11); it allows men to bear children with a second wife in cases where first wives cannot, and to satisfy sexual urges that might otherwise lead to extramarital sex. The religious code also discusses polygamous marriages as a means of protecting widows. With these specifications in mind, Muslim men are permitted to marry up to four women, but only if they can provide them each with food, clothing, housing, and time. This meant, though, that Islamic polygyny was expensive. Coupled with its specific religious intentions, very few Muslim men at the time married multiple women.

Unsurprisingly, Jordan and Bristowe ignored this cultural context. Instead, the understanding of "Mahomedan marriage" as bearing the potential, or even the propensity, for polygamy motivated the latter's contention that Justice James Rose Innes's civil marital definition should prevail in Asiatic immigration decisions. Crucially, to make his case, Bristowe cited Innes's rationale in *Mashia Ebrahim vs. Mahomed Essop*: "With us marriage is the union of one man with one women to the exclusion, whilst it lasts, of all others; and no union would be regarded as a marriage in this country, even though it [might be] recognised [*sic*] as a marriage elsewhere, if it were allowable for the parties to legally marry a second time during its existence."²⁸ Innes's definition of marriage for "us"—that is, South Africans—relied on the "invalidity of cases of native polygamous marriages" under civil law. Innes cited cases that had recently been handed down in the Transvaal.²⁹

By invoking Innes, Bristowe brought the logics dividing customary polygamy from civil monogamy into Asiatic immigration cases. I read this decision as a response to the anxieties Cousins reflected three years earlier; in the face of the possibility that Asiatics could bring polygamy, and all its associated threats to British control, into South Africa, Bristowe attempted to reinstate the finitude of a legal binary at the national border. Civil law, he argued, allowed men to bring to South Africa wives through monogamous marriage. Yet Asiatic marriages could be polygamous. Therefore, Asiatic men should not be able to immigrate their wives at all (Mongia 2018, 96).

Jordan and Bristowe reified South African nationhood as European and Protestant by contrasting it with hyperbolic depictions of Asian sexuality. This is a classically Orientalist maneuver (Said 1979). Nonetheless, the ideas affirmed by *Rex v. Sukina*—that South Africa defined civil marriage as monogamous and that Asiatic marriages should be legally understood as polygamous—informed pivotal subsequent jurisprudence. In March 1913, Judge Malcolm Searle in the Cape affirmed that all Asiatic marriages should be legally defined as polygamous and thus outside South Africa's civil definition (Mongia 2018, 97-106). In June of that same year the Union passed its Immigration Regulation Act, which, again, explicitly specified the authorization of entry to women through monogamous marriage. And then, in October 1913, Natal's Justice J.P. Dove-Wilson – in the case regarding Kulsum Bibi, the only wife of Mehboub Khan Jamadar – determined that wives of any religious denomination that South Africa understood to proscribe polygamy would be denied the right to immigrate through marriage (Vahed 2003, 19–22). This was applied to all Muslim and Hindu marriages, and as such, for a time, all but blocked women's marital immigration from India to South Africa.

[INSERT FIGURE 1]

Caption: The sociolegal evolution of monogamous marriage as immigration infrastructure.

Timeline of key events and jurisprudence from British imperial Natal (1843–1909) to the Union of South Africa (1910–1930).

Plural wives of the Union?

Though widespread protests would soon lead to the amendment of the Union's prohibitions on Indian immigration through marriage, this section argues that monogamy was by 1913 firmly installed at the national border. That is, monogamy, loaded with all its historical meanings, continued to organize South Africa's immigration infrastructure, even after the passage of Indian Relief. I make this argument through detailed attention to a case of a Muslim man, Hadjii Abdurahman Sheik Mahomed. Between 1911 and 1918, Abdurahman spent significant financial, economic, social, and political capital to immigrate his third wife, Fatima, from India to South Africa.³⁰ The case exemplifies the phases and features of the struggle over Asiatic polygamy in the period between unionization and the implementation of the Smuts-Gandhi agreement. Abdurahman and Fatima's protracted efforts also make plain the extent of the resources required to successfully negotiate with the Union government for the admission of plural wives. In effect, Abdurahman's lawyers mobilized these many resources to build the legal argument that he was not "a polygamist," in the government's sense, but rather a civilized man who was supportive of British business interests and political orders—who happened to have multiple wives.

Abdurahman was "the registered owner of landed property in Cape Town known as 34 Lee Street and [was] also a duly licensed General Dealer and Butcher" who worked at six locations across the city.³¹ He lived with his second wife, Hadji Naselia Abdurahman, whom he

married in South Africa around 1900, after his first wife passed away in India. Abdurahman and Naselia had four children together, though three of them passed away as children. He visited India in late 1903, when he married Fatima in Bombay. In 1911, Abdurahman tried to immigrate Fatima. Though Cousins had already “on several occasions” refused this request, Fatima arrived on October 23rd of that year.

The chief immigration officer interviewed Naselia and Fatima to consider the latter’s eligibility under the Cape Immigration Act of 1906. Fatima’s testimony was taken through a sworn interpreter. It read: “[I am] about 19 years of age, and was born in India. . . . I have been married for about seven years to Hadje [*sic*] Abdurahman. This was at . . . Kolaba [*sic*], where I was living with my mother [Katija]. I have no brothers or sisters. I have never before seen Hadjie’s other wife. I saw her for the first time on the ship this morning.³² It was not quite a year after I was married when my husband went away, and I have not seen him since till [*sic*] I came to Cape Town to-day. Before I left India I went to the Magistrate with my mother. He gave my mother a paper. This was taken away at East London [South African port of entry] by an Officer.” Fatima’s testimony concluded that she “knew Hadjie was already married when I was married to him.”

The day after Fatima’s arrival, Cousins arranged a “Very Urgent” telegraph to the minister of the interior, Montford Chamney, requesting legal precedent regarding Abdurahman’s application. Cousins and Abdurahman appeared in the Supreme Court that very week (October 24 – 27, 1911). The minister replied promptly with a *Rand Daily Mail* newspaper report about the Wessel judgement, decided in the Transvaal in July 1911, which found that “Mohammedans were allowed more than one wife, but under the Ordinance only one wife could be admitted” (emphasis in the original).

As the *Cape Times* newspaper reported on October 30, 1911, Minister Smuts's representative in Fatima's appeal proceedings, Mr. Lansdown, cited, among other British imperial precedent, Judge Wessel to argue that Abdurahman's "union with Fatima was not a marriage according to our law, and therefore she was not 'the wife' of the applicant." Almost as soon as the Union consolidated, and before it implemented its first Immigration Act, the infrastructure of monogamy was guiding immigration restrictions on Asiatic marriages – from the Supreme Court in the Transvaal to individual cases in the Cape. Abdurahman's appeal was refused with costs. Fatima was scheduled to be sent back to India just four days after she arrived.

For the Cape's chief immigration officer however, Abdurahman's trial raised much larger questions than those concerning Fatima alone. He promised to forward the relevant newspaper clipping as thanks to the minister ("My dear Chamney," he wrote, the precedent "came in most opportunely" in service of "an excellent judgement"). He also reported on the case of Abdurahman's "so-called wife" to the secretary for the interior. In so doing, he raised again his concern that, "exception in favor of the wife of a person permitted to enter the country would apply only to the wife of a monogamous marriage and. . . . According to Mohammedan rites [the Asiatic husband] would be entitled at any time to take another wife." As with Mohamed Ibrahim in 1909, Cousins rehearsed the notions that Asiatic men's possible polygamy posed a threat warranting consideration in immigration proceedings. In this case, however, he raised the issue as a concern for the highest members of South Africa's government.

To Cousins's chagrin however, in 1911, both the Cape judge and the acting undersecretary for the interior refused to provide general guidance on Asiatic marital immigration. The latter informed the chief immigration officer on November 13, 1911, that, for the time being, "no change should now be made in the method of dealing with such cases." For

Cousins, justice might have been found in Abdurahman's case, but the threat he represented—a wealthy Asiatic man who could potentially bring multiple Indian wives into South Africa—was a fixation that would not soon disappear.

For his part, Abdurahman was not deterred. Immediately after Fatima's deportation, Abdurahman switched legal representatives to Dempers & Van Ryneveld to lodge an appeal. He then traveled to India with his son for much of 1912. While Abdurahman was overseas, in November 1912, his attorney's office wrote to Cousins about the family's plight, emphasizing "The many merchants in the Town can bear testimony to [Abdurahman's] character and uprightness in business." Abdurahman appealed to Minister Abraham Fisher at the Immigration Department. His petitions stated that his landed property on Lee Street alone was "valued at £ 700" (about £ 100,000 in 2024), that the legal proof of his marriage "according to Mahommedan [*sic*] Rights" in India, that he paid license money (£ 35, or about £ 2,500 in 2024) to the treasury annually, and that he "is in position of supplying a great many testimonies from Merchants . . . testifying to his excellent character." The lawyers' claims about Abdurahman's status locally accords with the Department's internal records; an official wrote in the margins of Abdurahman's travel permit: "This man is well known here" and that he "Speaks English and Dutch well."

My argument is that Abdurahman's lawyers were trying to quell the economic and political anxieties South Africa had to that date associated with polygamy. In response to the associated notions "a polygamist" might threaten European businesses, the lawyers presented evidence of Abdurahman's material assets and compliance with regional licensing fees; in response to the invented concern that polygamy could bring incivility into the Union, the lawyers offered local – perhaps signaling European settlers – merchants' testimonies to the contrary in

Abdurahman's case. This financial and social evidence was presented alongside the promise of conclusive proof of Fatima's marriage to Abdurahman. Though as much would prove pivotal in years to come, on November 27, 1912, the acting secretary for the interior affirmed the decision to exclude Fatima from entry into the Union.

In the following months, Indian migration to South Africa became an enormously controversial issue. The Union Act, which passed in June 1913, was book-ended in March by the Searle judgement and in October by the Dove-Wilson judgment, which summarily foreclosed marital migration from India to South Africa. These government actions galvanized the largest work stoppage movement the country had seen to date (Mongia 2018). Heading the Natal Indian Association, Gandhi, in collaboration with the Natal Indian Congress and the British Indian Association, led tens of thousands of workers to protest the act as part of the *satyagraha*, a passive resistance campaign, which slowed coal mining, produce markets, sugar mills, hotels, restaurants, and railways.

Alarmed by the economic slowdowns, the British convened the Solomon Commission in 1914, which split Indian resistance. The Natal Indian Association refused to participate, while the Natal Indian Congress argued that the government should amend its immigration laws to allow plural wives to enter the country (Vahed 2003, 24). The commission determined that "some provisions should be made to legalize *de facto* monogamous marriages under a [religious] system which recognises the right of the husband to take one or more wives" (Vahed 2003, 26).

In 1914, the Cape British Indians, including their chairman at the time, Ebrahim Norodien, coordinated a delegation of Muslim men to meet with Smuts about the issue "Indian plural wives and their children to join their husbands (or fathers)." ³³ As Norodien later reminded the government, Smuts assured the delegation that "there [would] be no difficulty in getting such

people in the Cape Province.” The Indian Relief Act came into effect on July 2 1914, and it reinstated Indian men’s ability to migrate an Indian wife (Vahed 2003, 28), though it maintained the mythical conflation of Muslim and Hindu marriages with polygamy. The act also provided the Smuts-Gandhi concession (Dhupelia-Mesthrie 2014b, 643), which allowed admission to a “very limited” number of plural wives whose marriages had taken place prior to the 1914 agreement.

The protest’s remarkable outcomes notwithstanding, it remained unclear how many wives the Smuts-Gandhi concession would allow into the country. It was also not clear how the Union government would determine wives’ eligibility.³⁴ The Union would capitalize on both ambiguities. Governor General Lord Buxton wrote confidentially to the acting Minister of the Interior Sir Thomas Watt on November 9 1914, months after the agreement came into effect, that though Smuts had discussed with the “deputation of Indian Muhammadans. . . the full recognition of Muhammadan polygamous marriages – [it remained] a point upon which no hope could of course be held out.”³⁵ Amongst themselves, Union officials referred to the permission for Indian men to bring any wives at all under the Relief Act as “an act of grace.”³⁶ Absent a list of plural wives applying for entry into the Cape, for one, Union administrators decided that “each case should be dealt with on its merits.”³⁷

In May 1915, Abdurahman appealed Fatima’s exclusion under the Smuts-Gandhi agreement. The archive does not show that Abdurahman provided additional information regarding Fatima’s eligibility to the immigration office beyond the evidence provided in 1911 of his wealth, business connections, consistent support for the regional government, and the documentation of his third marriage. Under the proviso of Indian Relief, the imperial regime newly interpreted this social and financial evidence as “migration facilitating capital” (Kim

2018). On November 27, 1916, the acting secretary for the interior wrote to Cousins: “I have to inform you that if you are satisfied that the person [Abdurahman] desires to introduce was his wife at the date of the settlement in 1914, viz July 1914, you may admit her although she will be the second wife of this Asiatic in the Union.”

And so even after Abdurahman and his legal team had convinced the top brass of the immigration department to grant Fatima exemption— they still had to satisfy Cousins that she was “a wife.” For this, the government invented arduous and invasive bureaucratic forms specific to Asiatic familial immigration: the D.I. 90 and D.I. 91 (Dhupelia-Mesthrie 2014a).³⁸ In keeping with the regional anxiety about Asiatic polygamy, the immigration forms probed about the singularity of Indian men’s marriages. This bureaucratic feature, of course, Abdurahman would have to defy in order to implement Fatima’s exemption.

A month after Cousins received the order to authorize Fatima’s admission, Abdurahman’s lawyers coordinated the completion of D.I. 90, which was to be completed in South Africa, and the D.I. 91, a corresponding form to be completed in India. Question 16 on Fatima’s D.I. 90 read as follows: “Does any union exist between him and any other woman who resides in any part of South Africa?” Abdurahman’s reply read: “Yes. Wife [at] present residing with me 34 Lee Street Cape Town.” Question 17 on the DI 90 asked: “Has he in any part of South Africa offspring by any other woman who is still living?” to which Abdurahman replied: “Yes . . . all by my wife Hadjina.” In response to the final question, regarding “any particulars relevant to the application,” Abdurhaman wrote “Application for Second [*sic*] wife on Minister’s exception.”³⁹

The D.I. 91 required an Indian official to collect evidence of the marriage and the parties’ identities—which might include photographs, affidavits, marital certificates, and extracts from

Birth and Death Registers—ideally completed by “a European Official” in India.⁴⁰ Once Fatima’s D.I. 91 was submitted, a South African official compared the information provided from the Indian government with their own records to estimate the marriage, birth, and death dates of each member of Abdurahman’s family. (South African officials distrusted forms completed in India, even those completed by the preferred European officials [Dhupelia-Mesthrie 2014a, 128–32]). In certifying plural marriages with children, officials estimated children’s conception dates against immigration records concerning each parent’s authorization to leave or enter South Africa. The Union accepted Abdurahman’s attestation about his marriage to Fatima on June 27, 1918. She was granted admission into the Union.

Securing Fatima’s authorized entry into South Africa required her husband first securing his own authorization to reside in the country. This alone demanded significant linguistic and financial resources. Abdurahman mobilized that cultural and economic capital again in Fatima’s application, emphasizing his commitment to invest his business connections and language skills in regional commerce. Yet his first of many applications on Fatima’s behalf were denied because their marriage was not recognized under South African civil law; she was deported despite his resources. Four years later, following protests by tens of thousands of workers across the country, the Smuts-Gandhi agreement provided a capricious avenue for exceptions to the prohibition on plural wives’ immigration. Abdurahman hired a legal team—which, too, would have been costly—to keep track of the changing law and then appeal to senior officials in the Department of the Interior. In doing so, that team relied upon evidence of Abdurahman’s financial success and extensive networks among regional merchants and political officials in South Africa. They then coordinated the completion of bureaucratic forms in two countries –

forms that were designed around the mythology of Asiatic polygamy – to substantiate evidence of his marriage to Fatima.

Men like Abdurahman, who successfully navigated early South Africa's written and unwritten restrictions on Asiatic polygamy, were few and far between. Indeed, even while implementing the Smuts-Gandhi concession, the Union remained adamant about excluding Asiatic families, particularly those with plural wives. The secretary for the interior wrote to Cousins: "It is not desired that the concession [for Fatima] be advertised in any way or that by any action on your part you should give the Asiatic community any ground for hope that cases raised in future will be considered; but any representations you may receive from an Asiatic should be forwarded for consideration provided that the woman on whose behalf application [*sic*] is made was the wife of the applicant at the time the 1914 settlement was announced, viz July 1914 [*sic*]. Other cases will not be considered."

The Union struggled to balance its desire to restrict Asiatic immigration while maintaining the legitimacy of its claims to religious pluralism. The former was seen as a means of promoting European political and economic dominance, while the latter was part of its efforts to claim the moral superiority, and thus continue to justify its symbolic control. Restriction on polygamous immigration is part of this story. At the same time, that very permission was used as a rationale to prevent the immigration of other Indian families' plural wives. Soon after the secretary conceded to Fatima's entry, he received word that Essack was applying to bring Habiba to South Africa. Like Abdurahman, Essack was wealthy, conversant in English, and exceptionally well connected with local European officials. He too followed the bureaucratic rules, including the completion of the D.I. 90 and 91, and his marriage with Habiba took place in 1892, well before the Smuts-Gandhi agreement. Officials in Pretoria accordingly wrote to each

other in the margins of his application: “The circumstances of the case . . . appear to merit consideration and an exception could perhaps be made under the plural wives arrangement,” especially in light of the fact Habiba and Essack did not have children together.⁴¹ Yet Abdurahman’s case was not to be “any ground for hope” on the part of the families of plural wives. The Union would allow entry to such families, albeit “very few.” And so, based on the grace the Union had granted to one Indian family in June of 1918, it denied Habiba’s immigration application August of that same year.

Monogamous marriage as immigration infrastructure

Mohamed Ismail took it upon himself to bring out his second wife, Suba Jan, from India to the Union . . . in these circumstances you will realise that it would establish a dangerous precedent to agree to [authorize Suba Jan’s entry into the country].

Secretary for the Interior

The Union of South Africa

March 12, 1921⁴²

If limiting wives’ immigration is broadly thought to constrain population settlement (Peberdy 2008), in South Africa in the early 1900s, limiting the immigration of multiple Asiatic wives was designed to frustrate wealthy Indian settlement (Mongia 2018, 96). As Radhika Viyas Mongia (2018, 104) argues, at the turn of the century, elite Indian communities in South Africa challenged an “articulation between white supremacy and class privilege.” Her analysis recalls Bourdieu (1984, 479): “Social identity,” here, a new European South African identity, “lies in

difference, and difference is asserted against what is closest, which represents the greatest threat.” Monogamous marriage in South Africa’s founding immigration policy asserted European dominance against one such imagined greatest threat. As typified by men like Essack and Abdurahman, Asiatic men were mythologized as threatening European economic supremacy. They were also widely understood as rivaling European demographic representation, and with it their political domination. Anxiety to dominate in this political and economic struggle played out in protracted attempts to regulate “Asiatics” through the sociolegal paradigms of monogamy and polygamy. That the cases examined here grew from racial anxiety is evidenced by the outsized attention paid to them in the colonial record. As Vahed (2003, 30) points out, the 1921 Census reported that a mere 1.4% of Indian men had more than one wife.

Early South African anxieties about Indian settlers contextualize why H.B. Shaw, with the secretary for the interior in 1921, considered Mohamed Ismail’s immigration of a “second wife, Suba Jan” as “dangerous.”⁴³ Letting “Asiatic polygamy” into the Union could bring with it the fall of European’s symbolic control. And who knew what further threats to the Union this might imply. The government used Suba Jan’s application—which was successful due to her traveling with a “most irregularly issued” passport—to raise suspicion about the reliability of Indian official verification of Asiatic marriages for the purposes of immigration to the Union. This ultimately led to the fading out of women’s immigration via the Smuts-Gandhi agreement around 1925.⁴⁴

There is rich historiographic work on South Africa’s efforts to regulate Zulu marriages (Sheik 2014; 2017; Tallie 2019, forthcoming) and Muslim marriages (Vahed 2003, 2005; Jha 2009; Mongia 2018); and its efforts to grow European immigration (Martens 2006; Peberdy 2008; 2009) while stemming Indian immigration (MacDonald 2012; Dhupelia-Mesthrie 2009;

2011; 2014a; 2014b). This article brings together these strands of research into a comparative historical account of early South African regulation polygamous and monogamous marriages at its border. In so doing, I begin the process of integrating non-European settlers into the broader story of marital regulation and racial capitalism; monogamous marriage is an immigration infrastructure, a product of regional history and a flexible tool of statecraft.

Colonial Natal regulated indigenous marriages with the intention of both recruiting indigenous men into settlers' employ and deflecting the accusation of as much (Hoad 2013; Tallie 2019; Sheik 2014). Accentuated by their inability to recruit Europeans to the colony, the imperial regime was terrified of indigenous unrest (Sheik 2014). In the process of crafting its first marital regulations, the colony defined polygamy under customary law as opposed to European imperial projects. Civil law fashioned "monogamous marriages" as the ideal by contrast. Later into the nineteenth century, Indian communities began establishing sizeable representation in the Colony. Whereas the Empire had initially brought this diverse group to South Africa as indentured laborers, Indians had, by the 1870s, established sizeable enough business holdings to be seen as economically threatening to Europeans. In this context, in 1899, Natal imposed monogamy onto Asiatics. The Tulukauem decision reasserted the supremacy of Protestant gender ideals with the effect of legally marking Asiatics as racially inferior to Europeans. Natal's sociolegal reassertion galvanized what became a national movement of Indian work stoppages (Mongia 2018). In its efforts to regulate both indigenous and Zulu marriages, Natal tried to balance its imposition of a racialized economic order and its ever-present fear of political dissent.

It is well-documented that when the Union came together in 1910, it inherited Natal's linguistic and financial immigration restrictions targeting Asiatics (Martens 2006). I argue that

the Union's immigration policy also inherited colonial-era consternations about monogamy and polygamy. If the former targeted Indian men, the effects of the latter were primarily felt by Indian women. This perspective makes sense of the extent of immigration officials' anxieties in the years leading up to unionization about the possibility of Asiatic polygamy entering the Union. It also makes sense of why judges, like Bristowe, cited customary case law in their adjudication of civil cases concerning Asiatic marital immigration. By the early 1900s, monogamy had come to stand-in for "white" ideals. And polygamy had become a metonym for a range of racialized threats to all that European South Africa held dear. Indeed, as the anxiety about the Asiatic menace grew, the Union made monogamy an explicit ground for women to enter the territory and, immediately afterwards, it defined all Asiatic marriages as polygamous. Through the simplifying logics distinguishing monogamy from polygamy, South African from not – monogamy's function at the border was to stall Indian women's immigration. I find that even after the *satyagraha* protests brought about the relaxation on this prohibition, the few Indian men who, like Abduraham, managed to bring multiple wives into South Africa continued to navigate associations with polygamy that were invented in colonial times. Natal's regulation of Zulu marriages was designed to racially segregate European and "Native" men and women by the fantasies of racial capitalism. Subsequently, the Union's regulation of Asiatic marriages attempted to limit Indian demographic representation (read: political power) and symbolically subordinate (read: deny gender privileges to) some of the wealthiest Indian men settled in the region. Monogmy in immigration policy learned from the imperial marital regulations that preceded it.

Once installed in immigration policy however, marriage works as a bureaucratic means of asserting various and changing national interests. Indeed, the archival data demonstrate

polygamy's ideological dexterity in South Africa. In the early twentieth century, it held together a shifting set of European anxieties and desires. From the perspective of those the Empire classed as polygamists, ideological dexterity made the regulation vexing to navigate. Abdurahman's lawyers, for example, played a game of whack a mole with polygamy's many discrediting associations. From the Union's perspective, the purported clarity of the distinction between monogamy and polygamy, and the ambiguity of that distinction in practice, made it an impactful infrastructure for asserting European control at the border. Indeed, the evasive nature of sexual regulation has meant that many imperial marital laws long outlasted the political regimes that first instantiated them, in some cases establishing the gendered orders against which even postcolonial governments struggle (Hoad 2013).

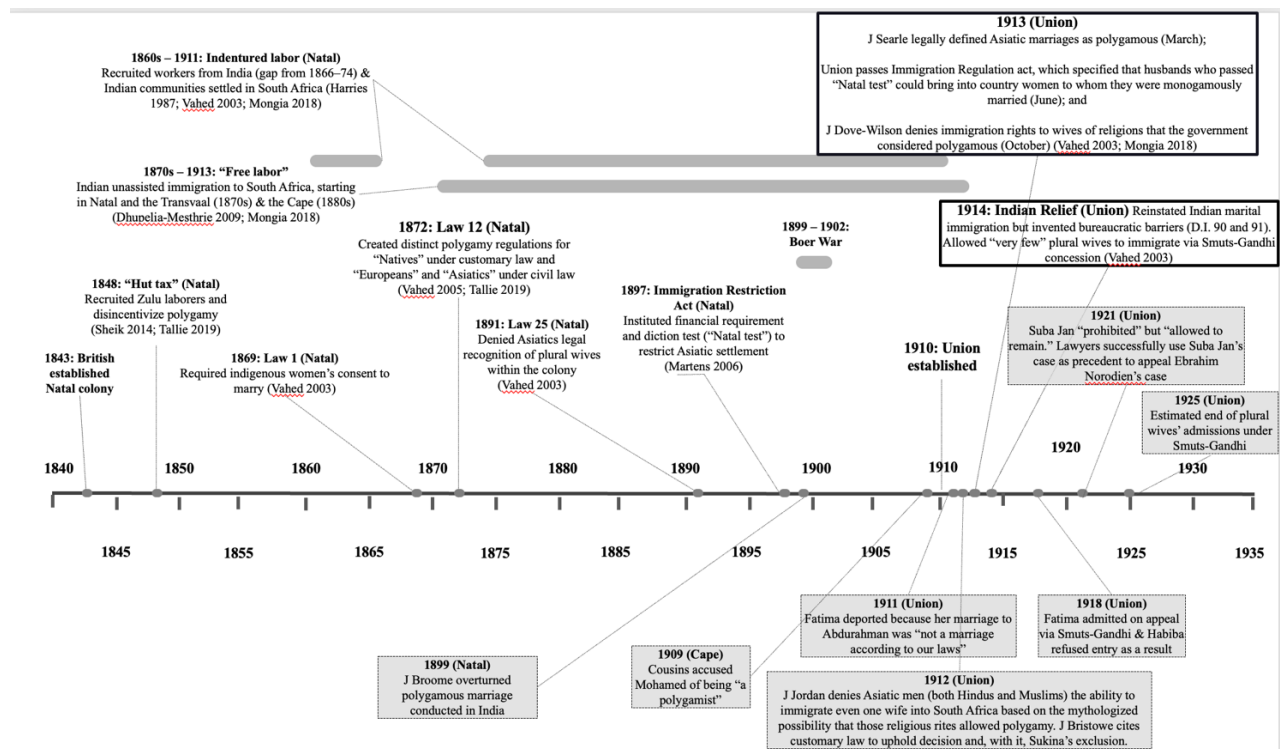
Zine Magubane (2022) teaches that gender relations are common a site of negotiation over racial capitalist iconographies. In this tradition, I add that South African immigration policy incorporated monogamy as part of a broader effort to assert racial distinctions in men's relation to capital extraction. And immigration policy treated women like men's "luggage," as Sally Peberdy (2008, 800) once put it in the pages of this Journal. I build on her argument. The Union government fashioned a legal identity for Indian women that followed the European colonial gender order and was analogous to the position the colonial government had defined for indigenous women in the generations prior. That is, Indian women's access state resources (here, authorized entry) hinged on how the government recognized their intimate ties with a racialized man. Furthermore, because both the colonial and early unionization governments understood polygamy as a threat to British civility, both governments devised an otherwise unheard-of norm: the men who sought to immigrate plural wives from India sought to prove to the South African government that they had received the consent of their wives. This norm has an ironic

opportunity for historical research: it produced the handful of women's testimonies available in the archives of marriage and empire. It thus contextualizes how I came to read words once uttered by Fatima and Naselia, however circumscribed, not unlike how Nafisa Essop Sheik (2014, 74) analyzes Zulu women's testimonies collected in the context of indigenous marital regulations in Natal.

These findings raise new questions about how marriage in immigration policy plays into imperial and early nationalist projects. In 1901, Natal's colonial offices corresponded with the office of the secretary of state, Joseph Chamberlain, about the Broome decision.⁴⁵ The concern was that Judge Broome's 1899 decision to nullify a marriage contracted in India exceeded Natal's jurisdiction. Indeed, Natal received jurisprudential discussions from colonial offices in the Caribbean, which, when faced with the same issue some years prior, determined that jurisdiction precluded the nullification of a marriage contracted elsewhere in the Empire. With the Broome decision, then, Natal may have pioneered in mobilizing monogamous marriage against Indians, a non-European settler community within the British Empire. The Colony may thus have laid the foundations for the Empire's immigration policies—including not only the diction and financial tests (Martens 2006) but also the infrastructure of monogamous marriage. If that is the case, then story I tell about polygamy in South African immigration infrastructure may have influenced how monogamy operates in immigration policies growing out of the British settler colonialism more broadly. It may have reified earlier moral panics about polygamous immigration from China to the United States (1870s) (Abrams 2005) and contributed to the normalization of related mid-century policies in Israel (Aburabia 2019). This would shed new light on, for instance, contemporary debates within the United Kingdom itself about marital immigration from formerly colonized regions (Wemyss and Yuval-Davis 2017). Studying this

historic effort to immigrate Indian women to South Africa continues the work of untangling the exclusionary webs sewn in the aftermath of Empire—a task that is most certainly still ongoing.

Figures



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Acknowledgements: Thank you to Adam Ashforth, Shira Albagli, Elizabeth A. Armstrong, Jaeeun Kim, Sandra R. Levitsky, Durba Mitra, Mira Vale, Gowri Vijayakumar, Anna Wozny, the two anonymous reviewers, and the editorial team at *Signs* for generative feedback on many previous versions of this article. Many thanks also to my colleagues at the Gender & Sexuality Workshop and the Social Studies Workshop at Harvard. Michael Jauchen provided editorial assistance. Alex Abrahams, Nathaniel Grant, Jo-Ann Harrison, Saskia Krut-Powell, and numerous archivists at the Western Cape Colonial Archive, the Pietermaritzburg Archive Repository, the National Archives of South Africa, and the British National Libraries and Archives crucially supported the archival research. The project was financially supported by the American Sociological Association's Doctoral Dissertation Research Improvement Grant, the University of Michigan's Donia Human Rights Center Fellowship, the Rackham Graduate School's Predoctoral Fellowship, as well as the College Fellow Program at the Faculty of Arts & Sciences at Harvard University. All errors are my own.

¹ Western Cape Colonial Archive (WCA) IRC 1/1/21/484A.

² Department of Immigration 1913, Chapter II.4.1a

³ Cape Immigration Act of No 30 1906; Natal Immigration Restriction Act No. 30 of 1906; Transvaal Asiatic Law Amendment Act No. 2 of 1907; Immigrants' Restriction Act No. 15 of 1907; and Immigrants' Restriction Amendment Act No. 38 of 1908; and Orange Free State Law No. 18 of 1899.

⁴ Department of Immigration 1913, Chapter II.5.g

⁵ Department of Immigration 1914, 2 and 3(2)

⁶ Hoad 2013; Sheik 2014; 2017; Tallie 2019.

⁷ Vahed 2003, 2005; Jha 2009; Mongia 2018.

⁸ Martens 2006; MacDonald 2012; Dhupelia-Mesthrie 2009; 2014a; 2014b; Perbedy 2009.

⁹ Stoler 1992; McClintock 1995; Oyěwùmí 1997; Newbigin 2010; Mitra 2000.

¹⁰ Forman 2002; Klausen 2022; Magubane 2022; Tallie *forthcoming*.

¹¹ Abrahams 1997; Morgan 1997; Gqola 2015; Mitra 2020.

¹² Polygyny, men marrying multiple women, more precisely describes Zulu marital practices.

Following Tallie (2019), I discuss polygamy in efforts to chart colonial discourse, which worked under gendered assumptions about economic and political activity.

¹³ Approximately 7 to 10 percent of the indentured migrants from India to Natal were Muslim, and 2 percent were Christian (Vahed 2003, 3). There were also small numbers of Buddhists, Jains, Parsis, and animists (Bhana 1991).

¹⁴ Bhana 1991; Lowe 1996; McKeown 2011; Shah 2012; Mongia 2018.

¹⁵ For the Transvaal, I searched names and combinations of file numbers listed for families but could not locate most of these forty-one records, presumably due to discrepancies in how officials spelled applicants' names (Dhupelia-Mesthrie 2011). Officials' incredulity affirmed that Cape Indians did not submit a list of appeals under Smuts-Gandhi. See: WCA IRC 1/1/176/4181A; WCA IRC 1/1/469/8696A; National Archives and Records of South Africa (NARSSA) GG/910/15/1108.

¹⁶ British National Libraries (BNL) 73/IOR/L/PJ/6/558.

¹⁷ WCA IRC 1/1/179/4222A.

¹⁸ NARSSA CIA/41/M169.

¹⁹ Cited material is from the appeal case concerning Chagan, Nandkor, Lalloo, and Monie (1917) in NARSSA CIA/41/M169. Uma Dhupelia-Mesthrie (2014b, 639) identified another case concerning a Hindu family in the Cape, Lalloo, Reva, and Lissie.

²⁰ For parallel political economic reasons, almost contemporaneous colonial American congressional debates, too, conflated polygamy with slavery (Cott 2000, 72-6).

²¹ The Indian indentured labor system was suspended in Natal from 1866–1874 due to an economic depression following the American Civil War as well as reports of gross abuse. It was reinstated from 1874 until soon after unionization (1911) (Mongia 2018, 88).

²² Harries (1987); Martens (2006); McKeown (2011); Bright (2017).

²³ The 1897 Natal Immigration Restriction Act built on the US Immigration Act of 1891's efforts to limit Asiatic settlement by requiring applicants to demonstrate competence specifically in a European language (Martens 2006). Soon after its invention in Natal, the so-called "diction test" was spiritedly adopted across the Empire in efforts to stem Asiatic settlement in other colonies.

²⁴ Upon their arrival to South Africa, Jews, too, quickly began organizing to define themselves within the region's highly racialized political economy (Krut 1985).

²⁵ WCA IRC 1/1/176/4181A.

²⁶ It so happened that Mohamed Ibrahim did have a wife in India at the time Cousins made this accusation (1909). Her name was Sakina. Mohamed and Sakina married before he emigrated. However, the record indicates that Mohamed made "no mention of an Indian wife or children in India" (emphasis in original) until 1924 when he attempted to bring Abdurahman, his and Sakina's son, to South Africa (WCA IRC 1/1/176/4181A). In his son's immigration application, Mohamed explained that in 1909, Bala had instructed his wife in South Africa, Rookia, that "on no account was she to mention [Mohamed's] wife and family in India as it would militate against

the issue of a permit in [his] favor. This she did,” Mohamed explained, “although at the time she was fully aware of the fact that [he] was married prior to my entry into South Africa.” Mohamed also followed Bala’s advice meticulously. In part due to anxiety about “false sons” (Dhupelia-Mesthrie, 2014a), the government used the fact Mohamed failed to mention Sakina in his permit application as grounds to refuse Abdurahman’s entry in 1925 (NARSSA BNS/1/2/75/A2906). This context makes Cousin’s 1909 suspicion about Mohamed being “a polygamist” ironic, but no less of a racialized invention.

²⁷ For evidence that the Broome decision was widely known among British colonial officials, see BNL 73/IOR/L/PJ/6/558.

²⁸ 1905, T.S. 59

²⁹ Innes cited the following customary marriage cases in his definition of civil marriages: *Nala vs. Rex* (1907, T.S. 407), *Rex vs. M’Boko* (1910, T.P. 445), and *Kaba vs. N’Tela* (1910, T.P. 964).

³⁰ WCA IRC 1/1/287/6204A.

³¹ Hajji is an honorific title given to Muslims who have completed the Hajj. Its usage in cited materials indicate how the title was used either out of respect, as in Naselia and Fatima’s case, or as “ethnographic capital” (Steinmetz 2008), as in Cousins’s.

³² By contrast, Naselia claimed that she had lived with Fatima in India for a year. It is not clear why they differed on this point. It is possible that Fatima had been advised to obscure specificities of polygamous arrangements, a practice that was alluded to in Mohamed Ibrahim’s record (WCA IRC 1/1/176/4181A). I note the inconsistency to emphasize the partialness of the colonial archival materials, even in the rare instances when women’s testimonies were recorded.

³³ WCA IRC 1/1/92/2282A.

³⁴ See Chagan's appeal (1917) for advocate's discussion of D.I. 91 forms as administrative invention after 1914 (NARSSA CIA/41/M169).

³⁵ NARSSA GG/900/15/731.

³⁶ NARSSA GG 895/15/390.

³⁷ WCA IRC 1/1/469/8696A.

³⁸ NARSSA CIA 53/M313.

³⁹ South African officials were inconsistent about how they counted wives. Abdurahman's marriage to Fatima was his third. His first wife had passed away. The records variously count Fatima as his second and third wife. I note a similar issue in Mohamed Ismail's case; Suba Jan was named as both his first and second wife (WCA IRC 1/1/469/8696A). Official accounting reflected the broader discourse of all Asiatic marriages as polygamous (why, then, should officials need to be specific about men's first, second, and third wives?).

⁴⁰ NARSSA GG 910/15/1068.

⁴¹ NARSSA BNS/1/2/35/A1290.

⁴² WCA IRC 1/1/469/8696A.

⁴³ Suba Jan was "prohibited" under the Smuts-Gandhi agreement "but allowed to remain" in South Africa because she had been "mistakenly issued" an Indian passport (WCA IRC 1/1/469/8696A). Advocates in South Africa seized upon her case as positive precedent, and used it to successfully overturn previous prohibitions on polygamous familial immigration. On March 22, 1921, just days after Suba Jan was admitted, the Cape immigration office received an appeal on behalf of Ebrahim Norodien, whose son was prohibited from invoking the Smuts-Gandhi agreement in 1920 (see NARSSA BNS/1/2/44/A1676). The Principle Immigration Officer in Cape Town scribbled onto Ebrahim's appeal form: "I told the Minister that the approval given in

Suba Jan's case would necessarily inform a decision in this case" (WCA IRC 1/1/92/2282A). On May 18th that same year, Dawood Ebrahim also approached the Cape immigration office to appeal the prohibition on his children born to plural marital arrangements. The principal immigration officer wrote again to the Secretary for the Interior: "There is every reason to believe that the renewal of [Dawood's] application is the result of the recent decision by the Minister in allowing the second wife of MOHAMED ISRAEL [*sic*] to remain in the country" (WCA IRC 1/1/179/4222A). Ebrahim's case successfully argued to introduce his children due to Suba Jan's precedent. Dawood's case was ultimately unsuccessful due to official's condemnation of his "conjugal relations" (WCA IRC 1/1/179/4222A and NARSSA BNS/1/2/44/A1674). From the government's perspective, Suba Jan's authorization legitimated the introduction of polygamous families under Smuts-Gandhi. And this was something it was trying to establish bureaucratic means to prevent.

In its internal records, the Union subsequently worked to re-branded Suba Jan's case not as positive precedent within its own jurisdiction, but as evidence of Indian officials' unreliability more broadly. This was even more so, South Africa's Governor-General Aruthur Frederick shared with Wiston Churchill on April 26, 1921, if the D.I. 91 forms were completed by "a coloured official" (NARSSA GG/910/15/1068). In late November 1921, the Indian government refused to accept South Africa's request that only European officials complete the D.I. 91s, as "its adoption would imply an unjustifiable distrust of a certain classes of its own officers," and, by retort, raised the question of whether South Africa's upset regarding Suba Jan implied that "plural wives are in future entirely excluded from the Union" (NARSSA GG/910/15/1105). South Africa affirmed via the Colonial Offices in London that, as of February 22, 1922, plural wives would be admitted under the Smuts-Gandhi agreement "provided that the plurality existed

at the time of the Agreement [1914]” (NARSSA GG/910/15/1108)—and the applicants could furnish the government with all the other financial, social, and political resources it demanded in such cases. In the meantime, the Union continued to decry the sloppiness of India’s processes for completed the D.I. 91s (“in actual practice it has been found that [certificates for marital immigration] have been issued to all and sundry irrespective of whether the applicant could have obtained the proper form of admission under the Resolution of 1914”) (NARSSA GG/910/1122).

By mid-1925, the evidence I found indicates that South Africa was finding ways to close off immigration under Smuts-Gandhi. In July of that year, the Frank & Warshaw attorney’s offices re-submitted appeals on behalf of Mohamed Ibrahim (WCA IRC 1/1/176/4181A) and Dawood (WCA IRC 1/1/92/4222A), citing the success of cases like Ebrahim Norodien’s (WCA IRC 1/1/179/2282A). They charged the government with capricious application of Smuts-Gandhi, citing a relative ease of applications in the previous years—the years when Suba Jan’s case was accepted by Union officials, however begrudgingly, as positive precedent.

Additionally, an increasing number of denials in this period were issued because the marriages took place after 1914 (e.g. NARSSA BNS/1/2/59/A2311). By my estimation, South Africa was by this time routinizing its modes for denying Smuts-Gandhi concessions on behalf of families of plural wives.

⁴⁴ NARSSA GG/910/15/1068; NARSSA CIA 53/M313.

⁴⁵ BNL 73/IOR/L/PJ/6/558.