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SARA'S SUICIDE: HISTORY AND THE REPRESENTATIONAL LIMIT*

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We cannot reproach a literature for grafting itself upon a prior violence (for that is always the case); but we can reproach it for not admitting it.¹

In the shadow of death one should walk on tiptoe, for death is a deadly thing.²

This paper deals with cognitive failures and historiographical blind spots in legal and historical representations of the colonised subject. It concerns an archival fragment from the seventeenth century – the suicide of a young woman called Sara in the period of Dutch rule at the Cape. The paper focuses on the production of evidentiary sources and examines the mediations by which a colonial text on subalterns becomes available to the present.

In the first part of the paper, I argue that Sara's suicide throws colonial legality into disarray by bringing its very hegemonic pretensions into question. Dutch officials responded to this crisis by re-asserting the centrality of colonial rule and by re-establishing their dominance. Colonial officials resorted to an act of revenge and to producing a report of the event in which Sara was declared a criminal.³ This re-assertion of dominance was a response to a cognitive failure which precluded or undermined colonial hegemonic ambitions.

In the second part, I consider the contemporary encounter with Sara's 'case' not only as a legal inheritance but as a consequence of the operation of historiography. This is another moment of cognitive failure which fundamentally constrains the possible narrations of Sara's suicide. In this section of the paper, I draw on gendered critiques of Cape historiography but to different ends. Scholars writing in the wake of this intervention have drawn attention to the masculinist bias or gendered exclusions in narrating the outcomes of subaltern lives. These historians have increasingly pointed to the marginalisation of women in accounts of Cape history. Rather than inserting a gendered subaltern such as Sara into a

* Jean Allman, David Roediger, Adam Sitze, Monika Mehta, Andrew Bank, Wendy Woodward and Qadri Ismail read and commented on earlier drafts of the paper. They however, do not share responsibility for the claims made in this paper. I would also like to acknowledge the financial assistance of the MacArthur Program at the University of Minnesota (USA) and the Human Sciences Research Council (Centre for Science Development) in South Africa. This paper is dedicated to my late friend and comrade, Ralton Praah.

1. M. de Certeau, *Heterologies: Discourse on the Other*, trans. Brian Massumi (Minnesota, 1986), 134.

2. A. Brink, *A Chain of Voices* (London, 1982), 19.

3. I am fully aware of the need to subject the phrase 'Cape Colony', especially in the second half of the seventeenth century, to further scrutiny. In so doing, we might find pathways to legal, economic and historical fictions in what is otherwise named as a fact. It seems that the translation from the Dutch referent '*nedersetting*' to colony has been accomplished with far too much haste and too little contemplation. One exception is L. Witz, 'Commemorations and Conflicts in the Production of South African National Pasts: The 1952 Jan Van Riebeeck Tercentenary Celebrations' Ph.D. thesis (University of Cape Town, 1997), 53, 101. Witz argues that the notion of a Cape Colony was a nineteenth century invention and may be attributed to characterisations of the seventeenth century in the works of Moodie and Rhodes amongst others.

narrative of Cape history the paper considers the consequences of the event of her suicide for history and historiography more generally.⁴

Implicit in the critique offered by historians of gender is the problem of the extent to which our encounter with the past is mediated by an archive that privileges male colonial narratives. Susan Newton-King has shown that mediation is not limited to the articulatory structure of colonial rule but also extends to what the historian and the reader bring to the archival text.⁵ Mediation, then, is a crucial heuristic device in historiographical representation. In historiography it is used to examine the extent to which evidentiary sources have been distorted or the extent to which a specific reality has been masked or perhaps skewed.⁶ The aim of this paper is not to work back through these mediations to their original forms – a task I will suggest is highly unlikely in the instance of Sara’s suicide – nor to assert the existence of a prior reality that eludes the historian. Instead this paper problematises a conception within historical writing that treats the ideological operation of mediation as a separable agency.⁷

Sara’s “Case”

In December 1671, twenty four year old Sara committed suicide by hanging herself. Shortly after her death, on 10 January 1672, the Dutch Colonial Court at the Cape heard the ‘case’ of Sara whom they identified as a ‘Dutch female Hottentot’. The court ruled that ‘the said dead body, according to the usages and customs of the United Netherlands, and the general practice of the Roman law, be drawn out of the house, below the threshold of the door, dragged along the street to the gallows, and there hanged upon a gibbet as a carrion for the fowls, and the property of which she died possessed confiscated, for the payment, therefrom, of the costs and dues of justice.’⁸ To justify this bizarre punishment inflicted on a deceased person, the fiscal (prosecutor) represented Sara in the following terms:

Sara, a Dutch female Hottentot, resided (verkeert) from her childhood with Company’s servants or free men; and that not merely for bare food, but also with some persons for wages, by which she had thus long maintained herself, and had thus acquired the full use of our language and of the Portuguese, and become habituated to our manners and mode of dress; and as she had also frequently attended divine service, and had furthermore, (as is presumed) lived in

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4. H. Bradford, ‘Women, Gender, and Colonialism: Rethinking the History of the British Cape Colony and its Frontier Zones, c.1806-1870’, *Journal of African History*, 37 (1996). Bradford argues that many texts in Cape historiography have not merely neglected women, but have conceptually denied their existence. She offers a critical reading of two key events in this historiography - the 1825 slave revolt in the Koue Bokkeveld and the Xhosa cattle killing of 1856-1857 in the Eastern Cape - and concludes that when scholars marginalise women, they simultaneously impoverish the history of both men and the region as a whole. Several scholars have made arguments similar to Bradford and have called for a recognition of gender as critical to reconstituting Cape history. See, for example, Patricia Van Der Spuy, ‘Making Himself Master: Galant’s Rebellion Revisited’, *South African Historical Journal*, 34 (May 1996), 1 -28; Y. Abrahams, ‘Disempowered to Consent: Sara Baartman and Khoisan Slavery in the Nineteenth Century Cape Colony and Britain’, *South African Historical Journal*, 35 (November 1996); Wendy Woodward, ‘Torture, Trials and Testimony: Two Slave Women in the Eastern Cape Courts in 1834’, Paper presented at the ‘Gender and Colonialism Conference’, University of the Western Cape, January 1997.
 5. S. Newton-King, *Masters and Servants on the Cape Eastern Frontier* (Cambridge, 1999), 3.
 6. R. Williams, *Keywords: A Vocabulary of Culture and Society* (London, 1983), 206. The use of mediation has chimed with the modern use of media or mass media where certain social agencies are seen as deliberately interposed between reality and social consciousness, to prevent an understanding of reality.
 7. For a discussion on the complexities of the concept of mediation see Raymond Williams, *Marxism and Literature* (London, 1977), 99.
 8. Extracts from the journal kept in the Fort Good Hope in D. Moodie, *The Record: Or a Series of Official Papers Relative to the Conditions and Treatment of the Native Tribes of South Africa* (Cape Town, 1960), 315.

concubinage with our, or other German people (natiën) not having any particular familiarity with her kindred or countrymen; which is the case also with her mother who also maintains herself by earning daily wages amongst our inhabitants – That, from the said allegations and reasons, it is concluded that the said Hottentot can not be any longer considered as having led the usual heathenish or savage Hottentot mode of life, but to have entirely relinquished the same, and adopted our manners and customs and that accordingly, she had enjoyed, like other inhabitants, our protection, under the favour of which she had lived; as this animal then, has not only – actuated by a diabolical inspiration – transgressed against the laws of nature, which are common to all created beings; but also – as a consequence of her said education – through her Dutch mode of life – against the law of nations, and the civil law.⁹

Sara's 'case', as it came to be known by Dutch authorities, may help us to think about the two paradigmatic possibilities within which the violence of colonialism in South Africa has generally been represented. In the first instance, the historian sets out to reconstruct the context – what Ranajit Guha has called situating the fragment in a series – that may have motivated Sara to commit suicide.¹⁰ Here, as in the debates about Sara Baartman – another victim of colonial violence – the object of history is to establish, as far as possible, causal probability in the circumstances within which an event unfolds.¹¹ In this representation, the historian attempts to piece together the conditions of everyday life, the structures of oppression and exploitation, the context as defined by gender and class relations – in short an explication of the objective conditions that may have sparked particular outcomes. In his discussion of suicide amongst slaves, Nigel Worden points out that at the Cape, as in other slave societies, suicide was the most tragic form of slave response, reflecting the desperation of the slave condition. Yet, he suggests, distinctions must be made in the nature and the possible motivations of slave suicide. Some were bids to avoid the torture of certain painful death by the authorities when slaves were on the point of capture after committing crimes or running away. More indicative of the desperation of some slaves were the cases of suicide which were planned as a means of escaping from the ordinary situation of the slave who was not being threatened by imminent punishment.¹²

In this general approach to accounting for suicide, Sara's actions may be viewed as a reaction to wider societal arrangements. The limited reference to persons who are mentioned in the record will not go unnoticed. Francois

9. 'Extracts' in D. Moodie, *The Record* (Cape Town, 1960), 315-6.

10. See R. Guha, 'Chandra's Death' in Guha, ed., *Subaltern Studies*, vol. 5 (Delhi, 1987), 139. I acknowledge an enormous debt to Guha's reading of Chandra's death.

11. For an elaboration of a similar argument, see Y. Abrahams, 'Disempowered to Consent: Sara Baartman and Khoisan slavery in the Nineteenth Century Cape Colony and Britain', *South African Historical Journal*, 35 (November 1996).

12. N. Worden, *Slavery in Dutch South Africa* (Cambridge, 1985), 134.

Champelaar (servant of Joris Jans) and Angela of Bengal (wife of Arnoldus Willems) discovered Sara's body in the sheep house of one of the free men. On arriving they had noticed some motion in the veins of the neck which prompted them to cut down the body 'in the hope that life was not extinct.' This information is significant in the search for what led Sara to her death. Indeed the historian views the names of servants and masters as an indispensable lead in the attempt to identify the circumstances surrounding Sara's suicide and may also attempt to compare this case with others in the Cape Colony to assess and explain the outcome of the case of Sara.¹³

The second paradigmatic possibility, though not completely unimaginable in the context of the first, may entail the moment after the dead body was dragged beyond the threshold of the door – a movement perhaps suggestive of a shift from the private to the public sphere. This is indeed an important moment given that the body is 'now' within the domain of power and institutions. The historian, as a result, has much more to work with. The official document, it would seem, allows for sufficient access to the consciousness of Dutch colonial administrators if not to ruling relations in society in the seventeenth century.¹⁴ The historian, in other words, may attempt – as Robert Ross has recently done with Sara's case – to reclaim the document for altogether different historiographical ends. In this context we may conclude that colonialism was not only a process of excessive violence but also that it was sustained through very specific modalities of power and discourse.

Both strategies bear the marks of a cognitive failure. In the absent spaces, where history cannot be narrated or where an a priori causality cannot be established, the historian invariably turns to a discussion of the context to accomplish a narration.¹⁵ Every attempt at representing Sara as historical subject only results in frustration. If Sara's suicide is a crisis for colonial authorities and Roman-Dutch law, then that crisis is multiplied for the historian wanting to make sense of this archival fragment. Sara's suicide is bound to a series of intervening mediations that include the process of textual production as well as the process by which the text arrives in the present. We should therefore consider how Sara's story becomes available to the contemporary historian and how this process of production limits the possibilities of historical narration.

In both scenarios of historical narration described above we find the imprints of a legal discourse – in method and in emphasis – from which the historian derives the bulk of her evidence. By declaring Sara's suicide a crime and identifying it as a 'case', a tragic event is rendered interpretable only in relation

13. For an example of this see R. Ross, *Beyond the Pale: Essays on the History of Colonial South Africa* (Hanover, New England, 1993), chapter 8.

14. For a similar approach to constructions of the Bushmen, see P. Skotnes, ed., *Miscast: Negotiating the Presence of the Bushmen* (Cape Town, 1996).

15. See LaCapra's discussion of the concept of 'over-contextualisation' which elaborates on this point. D. LaCapra, *History and Criticism* (Ithaca and London, 1985).

to the legal discourse within which the evidence is inscribed. Guha reminds us that

the law as the state's emissary had already arrived at the site before the historian and claimed it as its own by designating the event as a 'case' and the death as a 'crime'. The struggle is nothing less than a contest between two kinds of politics. Each of these has it as its aim to try and appropriate the event as a discursive site – on behalf of the state in one case [as in the text produced by the courts in Sara's case] and on behalf of the community on the other [as in the case of historiography]. The consequences of a legal appropriation has been to clip those perspectives which situated this incident within the life of the community where a multitude of anxieties and interventions endowed it with its real historical content.¹⁶

The discussion of law and colonialism in South Africa and Africa more generally is extensive. Unfortunately, it has not addressed the representational limit identified by Guha beyond admissions of the potential bias of the legal archive. Kristen Mann, for example, notes that if used carefully the records provide an exceptionally rich source for the study of colonial African history.¹⁷ Since the concept of the rule of law was confined to colonial ideology, the manipulation of legal institutions by colonised subjects was greatly enhanced in the African context. Court records, argues Mann, throw light on the inner worlds of the colonisers and the colonised, opening to scrutiny discourse, ideology and consciousness. The approach adopted by Mann to court records is premised on the notion of law as a site of hegemony. It follows Eugene Genovese and Edward Thompson's interventions that law did not simply serve the interests of the ruling class.¹⁸

A similar discussion about the importance of legal records as evidentiary sources has surfaced in the context of Cape history. Robert Ross has suggested, for example, that the history of slavery and colonialism is extensively mediated by the material deposit left by the exercise of judicial terror at the Cape. Like Kristen Mann who has studied the relationship between colonialism and law in a West African context, Ross notes the limitations posed by an archive that privileges colonial ideology and interests. According to Ross:

The court cases tell much about the life of the slaves and their masters, but they are also crucially silent about much. The problem is that for an event to be recorded in the judicial records it must have been something out of the ordinary.¹⁹

16. R. Guha, 'Chandra's Death', *Subaltern Studies*, vol. 5 (London, 1987) 142 [my parentheses].

17. K. Mann, 'The Rise of Taiwo Olowo: Law, Accumulation, and Mobility in Early Colonial Lagos' in K. Mann and R. Roberts, eds., *Law in Colonial Africa* (Portsmouth and New Haven, 1991), 91.

18. K. Mann and R. Roberts, 'Introduction', *Law in Colonial Africa*, 35. This does not mean that the English working class and the colonised subject in West Africa experienced and related to law in the same ways. Instead it points to the different strategies by which hegemony is realised. See also E. Genovese, *Roll Jordan Roll: The World the Slaves Made* (New York, 1974), 27; and E.P. Thompson, *Whigs and Hunters: The Origins of the Black Act* (London, 1975), 258-269.

19. R. Ross, *Cape of Torments: Slavery and Resistance in South Africa* (London, 1983), 7.

Notwithstanding these limitations and constraints, the court cases, suggests Ross, provides the scholar with invaluable insight into the conditions and responses of slaves and Khoi at the Cape. Given the limited archival sources dealing with early Cape history, most scholars agree that court records form an indispensable part of discussions on colonial Cape society. Many would go on to conclude alongside Genovese and Thompson, that the conditions of law were largely hegemonic – although scholars such as Wayne Dooling insist that this did not preclude violence.

Dooling, in a provocative essay on the application of law in the Cape, attempts to steer clear of both instrumentalist views of the law and those that hold that Cape society was marked by an ethos of paternalism. He points to the hegemonic and universalist character of Roman-Dutch law. With an impressive reference to particular cases in the Stellenbosch District and by focussing on law in action, Dooling is able to show how slaves, the Khoi, masters and the gentry had access to the law, albeit unequally at times. He goes on to argue that the law was fundamentally transformed as a result of this encounter. By focussing on law's hegemonic ambitions, the question of its cognitive universality – its claims to mastery over assumptions about pre-conquest arrangements and its ability to engender silences – has, however, remained largely neglected. The claim of laws universality is less obvious when one considers that the bulk of those who are its subjects (in the subordinate sense of the word) have not been party to its formulation. As Dooling himself acknowledges, Roman law was an inherited practice that enshrined the rights of slaves at the very outset.²⁰ Thus the law, it could be argued, is structurally unequal – that is unequal in its very constitution.

In some versions of Cape history, the constraints of legal discourses on historical narration are especially explicit.²¹ In the discussion of Sara the limits established by legal codes have had significant consequences for attempts to transcend the prescriptions of Roman-Dutch law which mediates our encounter with the event. Ross, for example, concludes that the Court of Justice accepted the fiscal's (prosecutor's) mixture of natural law ideology and the concepts of territorial jurisdiction in their decision to dishonour Sara's body.

Ross's discussion – which falls within the first paradigmatic framework identified earlier – pertains to the legal position of the Khoi in the colony. He concludes that Sara's case was exceptional in an environment where the Khoisan were not subjected to the extremities of Dutch law. The reference here is to the determined effort of the fiscal to prove that Sara was 'detribalised' and therefore subject to Roman-Dutch law. For Ross the importance of the case is what it tells us about the changing legal position of the Khoi in the Cape. He does not however contemplate the act of suicide itself. In this respect the event remains elusive.

20. W. Dooling, *Law and Community in a Slave Society: Stellenbosch District, South Africa, c.1720-1860* (Cape Town, 1992), 80-1.

21. E. Fagan, 'Roman Dutch Law in its South African Historical Context' in R. Zimmerman and D. Visser, eds., *Southern Cross: Civil Law and Common Law in South Africa* (Oxford, 1998), 33. Fagan challenges the view which sees the growth of a European system of law as a somewhat smooth and seamless process. He argues that this description tended to obscure the extent to which that growth paralleled the establishment of a more general European hegemony. For Fagan, given this larger hegemonic context, the need arises to question why the legal system (in South Africa) is virtually exclusively European. See also T. W. Bennet 'African Land B A History of Dispossession', in Zimmerman and Visser, eds., *Southern Cross*, 64-5. Roman law, Bennet argues, deemed colonised peoples rightless. Although European colonial powers recognised the rights of colonised peoples - those rights which were considered to precede colonisation - on the basis of a concept of natural law, the terms of that recognition were firmly rooted in a Eurocentric discourse of property.

Ross inherits a legal representation that only allows for some speculation about Sara on the basis of the fiscal's argument about her being 'detrified.'

By attempting to prove her detrified condition, the court record limits us to the primary referential status of the Dutch and their legal status as colonisers. The Dutch are assumed to be the source of civility and by committing suicide Sara was demonstrating her ingratitude. Yet, each of the relations described – between Sara and free men, as a concubine to Dutch or German men, as alienated from her 'kindred or countrymen', as a Christian saved from 'the ways of heathenism' – is explicitly a relation of exploitation and humiliation. Legal discourses therefore express a representational limit not simply because they are biased but rather as a result of epistemic ellipsis and elisions. The rules pertaining to legal discourse already prescribe an inequality which in turn defines what can and cannot be said by appealing to a predetermined set of principles and procedures.

A closer reading of the court record raises three salient issues that are neglected in Ross' reading of the text and points to alternate ways of apprehending the text. The first relates to whether Sara, according to Dutch officials, ought to be judged according to the principles of Roman law or whether in fact she had transgressed natural law. The result is not a mixture of the two as Ross suggests, but a confusion brought about by the crisis that Sara's death represents. That crisis, I wish to suggest, is what prompts the movement between sign systems. The result is a legal decision that is in fact based on an indecision about which law is an appropriate mechanism of dealing with the suicide of a subaltern woman.

There is another level of the text's construction which has consequences for an historical appropriation. This relates to the use of the pronoun 'our' in the text. The pronoun occurs no less than eight times in this short excerpt. Its deployment and repetition perhaps reflect the extent to which Europe is constituted as a prime referent against which Sara's suicide is judged. The centring of Europe has implications insofar as it seeks the affirmation of Dutch legitimacy in the face of an act which places a subaltern woman at the centre. The Dutch officials who rule on Sara's case therefore have to reconstitute themselves as the universal subject.

In this regard Sara is featured as subject only in her relations to the Dutch – as one who had enjoyed, according to the Dutch officials, the privileges supposedly associated with concubinage and with the adoption of European languages and Christianity. But it would seem that the ruling over Sara's suicide relates more to the way in which the act undermined the civilising claims made by the Dutch. By undermining these civilising claims, Sara, it could be argued, was effectively challenging Dutch legality and contesting its universal applicability. It is in this context, where Dutch legality proves inadequate, that the allegation of the transgression of natural law becomes part of the fiscal's argument.

The contradiction between appeals to natural and to Roman-Dutch law is matched by a paradoxical claim to protection which the Dutch claimed to have offered the colonised on the one hand and subjecthood on the other. Every claim

about protection and civilisation is backed by a corresponding invocation of domination. Although hegemony is the strategy of rule that may be desired by Dutch colonists, the act of suicide renders this claim obsolete. It is the very construct of hegemony that Sara's suicide throws into crisis. What we have here – to echo Guha once more – is a situation of dominance without hegemony.²² Dominance without hegemony highlights a conceptual limit within the discourses of law and history – both of which respond by appropriating the event in the terms of their discursivities.

The claims to hegemony are even more spurious when one considers Sara as a gendered subject. The invocation of concepts of nature, territorium and property in the court record suggests that Sara had disrupted a male order of necessity – to quote Hannah Arendt in a different context – inhabited by women. Sara had inhabited this order of necessity as a concubine and as a convert.²³ By committing suicide she had overstepped the bounds of that order and had called into question the very permanence of the position of subaltern women in Cape society. It is possible to treat the posthumous punishment meted out to her as an attempt to restore women to the order of necessity. To consider Sara's suicide along these lines is to raise the question – following Spivak – of women as a structural rather than marginal issue.²⁴

The court record, therefore, represents a cognitive failure of colonial legality. In the light of this failure, a legal representation comes to rely on a strategy of displacement. The result is a text which re-establishes Dutch legitimacy and sovereignty by constituting colonial authority as the centre and ultimate arbiter in the death of Sara. But the act of displacement follows a crisis – one where the universal claims of colonial law, the hegemonic pretensions of colonial rule and its civilising and paternal ethos are thrown into complete disarray by the event. This crisis is perhaps best expressed in the inability of colonial officials to represent Sara without recourse to a language of domination.

Law and Historiograph

Sara's suicide has implications far beyond colonial society. The historian who encounters the 'case' of Sara is inextricably bound to the legal discourse within which the event is described. The result is a history which draws on the event to describe a larger social, institutional and political context. For the historian of subalternity, however, the limits posed by an archival record is a matter of great concern. It is in response to this impasse that s/he turns to examining how a legal discourse produced a particular version of universality and the extent to which a later historiography, perhaps unintentionally, replayed this legal fiction by appealing to the very structures, methods and emphases of legal discourses. Sara's 'case' is published in a collection of early colonial records compiled by

22. See R. Guha, *Dominance Without Hegemony: History and Power in Colonial India* (Harvard, 1997).

23. Hannah Arendt cited in W. Brown, *States of Injury: Power and Freedom in Late Modernity* (Princeton, 1995), 6.

24. G.C. Spivak, 'Subaltern Studies: Deconstructing Historiography' in G. Spivak and R. Guha, eds., *Selected Subaltern Studies* (Delhi, 1988), 30. This argument seems to dovetail Spivak's argument in 'Can the Subaltern Speak?' where she argues that the subaltern has been produced as such by discourse. Here again Spivak underscores the level at which the issue of the subaltern is a structural rather than marginal issue.

Donald Moodie, a prominent colonial official, in the nineteenth century. Moodie's contribution to South African historiography has been the subject of several scholarly accounts. According to Ross, Donald Moodie published this work in Cape Town in three parts between 1838 and 1841. It relates to the years between 1649 and 1690, and between 1769 and 1781. Though it was not an explicit work of history, historians of the seventeenth-, eighteenth – and nineteenth-century Cape have found it of enormous value.²⁵

In two recent historiographical contributions by Ross and Bank respectively, Moodie's collection of colonial records have been treated as far from innocent – even though Moodie proclaimed neutrality in the introduction to *The Record*.²⁶ In each case, the authors examine the ways in which ideological debates in the 1820s and 1830s – involving liberals, Cape Dutch conservatives and British settler conservatives – produced the basis of a racial historiography and an archive upon which contemporary scholars have relied in constructing a history of Cape colonial society.

Bank argues that Cape historiography did not originate in the late nineteenth century – with the works of George Theal and Cory – as is often claimed in various historiographical essays, but rather much earlier with contests and debates over race that occupied officials such as Moodie and 'humanitarian missionaries' such as John Philip. Reflecting on Moodie's contribution to the debate, Bank suggests that *The Record* significantly picked out those periods of colonial history highlighted by Philip so as to contradict the latter's 1828 narrative of Khoi dispossession.²⁷

Whereas Bank emphasises the unfolding of a debate on race, Ross argues that Moodie's work set the pattern for much later research. As to its larger significance, Ross writes:

[Moodie's work] had opened the debate on a number of topics, notably the position of the Bushmen and the policy towards the Eastern Frontier, still of importance today, on which his painstaking work still provides the most accessible evidence. It also set the style for much historical writing on South Africa, in its naive belief that attention to the documents could settle everything without either a critical discussion of the implied biases or an enduring engagement with present issues.²⁸

Ross and Bank demonstrate, with remarkable clarity, how a pre-nineteenth century past was constructed in relation to a political crisis amongst colonists in the nineteenth century. They argue convincingly that an archive is never independent of the determinations and plays of power. However, the construction of a colonial archive was not a uniquely nineteenth century phenomenon nor

25. R. Ross, *Beyond the Pale*, 192.

26. A. Bank, 'The Great Debate and the Origins of South African Historiography', *Journal of African History* 38 (1997), 261-81; R. Ross, *Beyond the Pale*, 211.

27. A. Bank, 'The Great Debate', 274.

28. R. Ross, *Beyond the Pale*, 211.

solely a product of the acrimonious debate amongst colonists. It was also premised on the repetition of a prior violence where the experiences of the colonised had been filtered through the lens of colonial legality. As a consequence, a nineteenth century debate came to constitute the colonised subject in the terms of Dutch notions of legality, justice and history. The experience of the colonised, including that of Sara, is represented primarily in terms of the canon of Roman-Dutch law and its allied ideological apparatus.

Significantly absent from the analysis provided by Ross and Bank is a critique that extends beyond calling attention to the Rankean-like method of history employed by these nineteenth century historiographical 'pioneers'. Most crucial in this respect is a critique of the documentary model of history not as a flawed resource but as a complicit discourse – one that articulates with a set of institutional regulators – upon which Philip and Moodie depend. The documentary model establishes a distinction and functional relation between past and present which in turn closes off the possibility of viewing these as dialogic.²⁹ A critique of the documentary model calls attention to the legal frames of intelligibility against which a nineteenth century debate was conducted. It would also suggest possibilities of viewing a nineteenth century debate not only in terms of the origins of a racial historiography, but also in terms of its legal inheritance. What emerges is the way in which a nineteenth century discourse of race and gender is bound to the determinations of universalist constructions of the law.

Like its legal predecessor, historiography thus achieves a further displacement of the subaltern subject. It inherits from law, not only a set of conclusions but also its method of verification and argumentation, and its constitutive silences or cognitive failures. The past is thereby rendered functional to an argument in the present. Universality as an operation of a particular system of knowledge is marked by a constitutive repression. That repression does not destroy but rather displaces something from one place to another within the system.³⁰ Past and present, by this logic, need not only be seen in sequential or functional terms. Psychoanalysis, as Michel de Certeau reminds us, recognises the past in the present and treats the relationship as one of imbrication (one in the place of the other) or of repetition (one reproduces the other in another form).³¹

Subaltern Readings

In re-examining the relationship between past and present (or history and historiography) the universal claims of law are necessarily brought into question. The task for the historian, it seems, is to develop a reading strategy that enables us to reclaim this document that relates to Sara's suicide for subalterns who may have narrativised the outcomes of colonial violence along lines other than those prescribed by colonial law. Implicit in this search for reading strategies are suggestions of the representational limits of legal discourses and historiography

29. The concept of the 'documentary model' is elaborated upon in Dominick LaCapra, *History and Criticism*.

30. J. Derrida, *The Gift of Death*, trans. David Wills (Chicago, 1995), 8.

31. M. de Certeau, *Heterologies: Discourse on the Other*, trans. Brian Massumi (Minnesota, 1989), 4.

discussed earlier. As has been suggested in the context of the discussion on representational limits, Sara's suicide cannot be discussed without a recourse to supplementarity – either by way of a digression into the effects of colonial rule on Sara or into the pursuit of some or the other psychological motive for the suicide. These supplementary analyses depend on the repetition of the silence or absence that Sara's suicide produces. This order of narrativity, it follows, merely re-inscribes Sara's subalternity vis-a-vis dominant and elite discourses.

For the historian of subalternity there is a fundamental way in which the event of Sara's suicide helps us to theorise questions of transgression, the limit and silence. In all the possible ways in which Sara's story may be told (or not told), we have witnessed an intrinsic attachment to the concept of transgression as a legal phenomenon. In the court records and in subsequent interpretations of the text, transgression implies quite literally the movement beyond the rules and parameters of colonial society. The central axis upon which this understanding turns is one that re-constitutes colonial society as primary referent. Colonialism in this respect proves both resilient and infinitely more adaptable to the challenges it encounters. Thus, at every point that it is challenged, or where subalterns transgress its laws colonial society reconstitutes its boundaries so as to close off the possibility of further contestation. But the rules and parameters remain intact – a fact demonstrated by the reassertion of colonial authority when it decides to move Sara's body into the public domain of institutional power. Sara's suicide (the transgression) is related, in this particular understanding, to colonialism (the limit) in a dialectical relationship that shifts colonial power further from its original claims to power. But colonialism is not weakened by these moves; it is in fact consolidated. The subaltern, on the other hand, is perpetually bound to the inescapable existence of subalternity.

One possible way to move beyond this paradox is to problematise the preponderance and dominance of law as the ultimate arbiter of Being in the world. This entails considering the theoretical problematic of a transgression first raised in the context of the court record produced by Dutch officials and reproduced by historiography.

Rather than viewing Sara's suicide as an act of resistance that moves us from one colonial limit to another or shifts us from a condition of deprivation to one of freedom, the historian should consider the ways in which the event illuminates the limits of colonial discourse and gives us a glimpse of the epistemological frameworks we ought yet to overcome. Sara's suicide, to cite Foucault, affirms limited being.³² For the historian, the temptation to subsume Sara's suicide under the name of history – as a moment in the transition to freedom – can only end in a shift of the conditions of oppression. But that is not the only story nor is it, in my view, the best story. The historian may seek to attend to the limits which this moment of tragedy – this flash of lightning embedded in the dark of night – uncovers and to reflect upon whether it is indeed worth working in the epistemological frames we so often find convenient.

32. D. Bouchard, ed., *Language, Counter-Memory, Practice: Selected Essays and Interviews by Michel Foucault*, (London and Ithaca, 1977), 35.

Transgression, as Foucault so brilliantly points out, is not related to the limit as black to white, the prohibited to the lawful, the outside to the inside, or as the open area of a building to its enclosed spaces. Rather, their relationship takes the form of a spiral which no simple infraction can exhaust.³³ Perhaps, Foucault claims,

it is like a flash of lightening in the night which, from the beginning of time, lights up the night from the inside, from top to bottom, and yet owes to the dark the stark clarity of its manifestation, its harrowing and poised singularity; the flash loses itself in this space it marks with its sovereignty and becomes silent now that it has given a name to obscurity.³⁴

Conclusion

Throughout this paper I have argued that the story of Sara's suicide belongs to the complicit discourses of Roman Dutch Law and Historiography. Blocked by the unthinkable, both approach the suicide on terms that readily reconstitute the arenas of power by which subalternity was and is maintained and perhaps structured. In this regard the paper is not an argument against law and history but about their complicity in the constitution of the subaltern as effect. It is this very predicament of the complicity between law and history that Sara's suicide illuminates.

Sara's suicide inaugurates the possibility of thinking at the limit. While much more archival work is needed to foreclose the possibility of an alternative narrative of the event, the suicide invites us to theorise the concept of mediation in the light of Frederick Jameson's now famous claim that 'history is inaccessible to us except in textual form.'³⁵ Jameson, I suspect, is not contesting the singularity of events but rather asks us to attend to the fields of intelligibility through which events are made available in the present. Such a project removes history as a discipline from the politics of retrieval and relocates it in the practice of criticism. A critical argument in this paper, then, has to do with the disciplinary approaches and strategies that historians adopt to deal with bias and exclusion. In most cases, these are dealt with in objectivist terms so that the historian tactically strives for a corrective. The argument advanced in this paper asks us to consider which discursive and mediative strategies sustain bias and exclusion within larger projects of domination.

This paper has demonstrated the epistemological possibility that Sara's suicide suggests. It has decided against the temptation of treating Sara as a martyr or as merely a victim of colonial brutality – both of which she may possibly have been and experienced. It has respected her silent death but at the same time it has

33. *Ibid.*, 35.

34. *Ibid.*, 35.

35. F. Jameson, *The Political Unconscious: Narrative as a Socially Symbolic Act* (Ithaca, 1981), 82.

retained the ability to ask what that silence means to the contemporary scholar. Silence does not stand outside of discourse but permeates its very operations. Just as the flash of lightning illuminates the dark sky, so to are the limits of our knowledge marked out by Sara's suicide. It is this event, and others like it, that throws the coherence of our intellectual claims into disarray.