

Abstract

This thesis focuses on the establishment of the Native Divorce Court and its impact on the formation of urban African identities during the 1940s in South Africa's Transvaal Province. This was a period characterised by rapid industrialisation and urbanisation of the black population, and notably of African women; increased attempts to control their labour and movement; mass political mobilisation; legislative change; and state-driven expansion of the capitalist economy. The thesis tracks the development of the Native Divorce Court from its establishment under the Native Administration Act 9 of 1929 to the extension of the Transvaal Central Division of the Native Divorce Court in 1948. Using court cases and other archival records, this study examines how urban Africans navigated the processes and functions of the Native Divorce Court and how they conceptualised and practised common law marriages and divorce. It also attempts to show that urban Africans used the stage of the Native Court to both challenge and uphold modes of authority and patriarchy. The Native Divorce Court offered urban African women legal recourse against their husbands, even as their husbands attempted to use the court to control their wives' productive and reproductive capacities. Another argument advanced by this research is that even in segregation-era South Africa, urban Africans were able to assert a degree of agency – albeit limited - in their engagement with the Native Divorce Court. Finally, this thesis attempts to interrogate the role of the court and the archive in representing urban African lives, through an examination of the processes involved in the recording and filing of court cases. Among the themes the study focuses on are gender and identity formation, urbanisation, labour migration, Christianity, and state development in the first half of the twentieth century. The findings of this thesis contribute to the historiographies of gender and sexuality, studies on the role of migration, urbanisation and Christianity in shaping urban African identities, and histories which show how common law marriage and divorce among the urban African population was shaped by the state and forces of colonisation, Christianity, and the development of the capitalist economy.