

## DELICTS IN NATIVE LAW

### ABDUCTION — UKUTWAKA.

"While it is recognised that the custom of "twala" is still largely practised among the natives, this Court is not prepared to countenance its use as a cloak for forcing unwelcome attentions on a patently unwilling girl. It is true also that in cases of real "twala" the girl does make a show of resistance as to appears to go too willingly would be regarded as a disgrace but in such cases it is always shown that the resistance is not serious. In the present case the first defendant admits in his evidence that he knew the girl did not want to marry him as he had another lover. He does say that he was in love with her and she with him, but if this is so why did he not ask her permission to twala her. That the plaintiff was not willing to be twaled is evidenced by the fact that her father made a demand for ten head of cattle as damages and that she herself had brought this action. .... In the opinion of this Court the Aborigines Native Commissioners erred in finding that this was an ordinary case of twala and that the girl was willing. The defendants have been guilty of a serious assault on the plaintiff for which she is entitled to be compensated in damages.

Manyangwani Mekupeni vs Kloweba Nonunganya & others, 1936 NAC(CS) 77.

## DELICTS IN NATIVE LAW

### Ukutwala - Abduction - MEASURE OF DAMAGES

The Native Assessors state:

"According to Tealbu custom there is only one beast payable for twala irrespective of the number of times a girl has been twalaed. Among the Pondo men no beast is payable for twala. If as a result of twala the girl became pregnant five heads of cattle would be payable in addition to the twala beast. If one twala beast were paid and then subsequently six were paid this would show that the latter were dowry and not damages for seduction." This court is in entire agreement with the opinion expressed by the native assessors.

Koli Ngadene vs Nkonane Gqubukomo, 1935 NAC (C50)  
54.