The Theory of Aboriginal Women in Native Law, by Whitehead

1. Pure Native Law in S. E. Africa recognised some distinction between
   (a) Crimes
   (b) Wrongs which gave rise only to civil remedy.

2. This distinction was built upon the theory that all members of the tribe belonged to and were subject to the Chief.
   Any injury to the person of any member of the tribe, whether male or female, was therefore looked upon as an injury to the Chief, unless he alone, protection was due. There were the so-called blood cases, which came under the jurisdiction of the Chief, and reparation was demanded, as claiming to
   (a) be the injured person or
   (b) that family injured through the accident or wrong to the person.

Hence, all cases of homicide—i.e., where the person injured was a native of the injured person
was dealt with by the Chief. Civil cases were referred to him and by him alone. No member of the injured person's family (in this case deceased) could claim any benefit out of the blood of the injured man.

In all cases of personal assault, the same principle applied.

The chief might sometimes die, have a portion of the fine imposed by him to the person injured; but this was a gift by him, and compensation claimable of right by the injured man.

Comment

This means in effect that injury to the person, in pure Native law, was regarded as falling within the scope of criminal law and law civil, i.e., an assault against the community represented by the Chief.

Homicide was divided into two categories, viz,
(a) those which resulted in death—homicide
(b) those which did not result in death—assault.

Each category was regarded as "blood case," which gave rise to the necessity for reparation (affine) or no compensation.

The fine imposed went to the Chief who might, if he so choose, give a portion to the injured person. The Chief did not claim compensation out of right.

Where the fine imposed was in respect of a homicide, the family of the injured person could not claim compensation in respect.

The author does not deal with the degree, where the injury to the person of the individual did not result in the death of the person. He does not deal with the aspect of an assault being an effort to the deprive of an individual as well as to his person (crime). In other words, the author may mean giving a rather narrow meaning to the expression "injury to the person."
as referring only to those cases where physical injury was done to the person attempted. He submitted that even in pure Nature law there was a new physical element in the conception of an injury to the person. For example, where the animal was tamed by an individual upon another who was in the community regarded as his equal the value of the beast might perhaps be regarded as only from the point of view of the physical injury; but where for example a young person was killed by some other person in a fight, or where a person of less status committed one of higher status such as a common assault a false arrest or a false imprisonment or a person killed as a punishment for his misdeed, really the case was not nearly one of the blood of any which proved but else of the insult inflicted upon the person attempted.

**INJURIES TO PROPERTY**

Injuries to property, on the other hand, by Nature laws only gave rise to claims for compensation by the owner of the property. This means that injuries to property fell into two categories of civil and criminal laws. They were wrongs against specific individuals rather than wrongs against the community as a whole. (Cf. 1st

The form approved could only claim compensation in property. He could not, for example, claim the right to bear a theft the individual who had injured his property. The evidence given to the commission of 1853 shows that a man found in the act of stealing was not liable in certain circumstances to be killed with impunity. This exception was to the extent of human nature in the protection of property. Killing in defense of property, in other words, might be regarded as an attempt to avoid a crime, in the context of circumstances in homicide cases or even as a complete defense in certain circumstances.

To the theft, malicious injury to property was usually included in damage for in the value of the theft or injured property. The action was found as well as representing.

Such damages were awarded to the owner of the property, and to the chief. The value of the property might be considered as a portion to the chief and to the man who received the chief judgment against the wrongdoer.

Theft, malicious injury to property was being regarded as crime in more cases that commercial crime by mutual agreement. As opposed to 18, the further cases under the latter subject, themselves, without bearing resort to the chief's court.

There in the old days, when indigene dealt with chief, ruled absolute, the inferior laws dealt with cases nearly personal matters, is all offenses which might be continued to bear into the category of blood cases, while the civil laws dealt
with cases referring to property, including a new wife, his character, his death, his wife, his sons, his daughters, and other matters.

Comment

The author interprets the testament widely to include:
1. heir to his house, to whom he bequeathed.
2. his daughter who is his wife, to whom he bequeathed.
3. his wife, to whom he bequeathed.
4. his sons, to whom he bequeathed.

In other words, any inquiry affecting these fell into the category of property.

Again, here the expression "bequest" is interpreted in a naturalistic sense, except in the case of a child, the expression of contemplation being seen to be included in the idea of property as conceived by Wheatfield.

Nature of (a) In the case of property, the general fund generally falls into the form of a permanent fund, ranging from a single head of cattle to the confiscation of the whole of one's estate.

(1) The estate of a person who is not a minor is one in which an attempt to restore the "bequest" is undertaken. The attempt to do this "bequest" is undertaken by his executor, a form of protection that is necessary. In the event of his death, the executor is actually found at his hands and must be confiscated. In that event, the regioned stock would enable him to represent his fortune.

(a) Food, whether stored or growing, was never included in confiscation.

(c) Whether it has been able to pay his fines, has been collected, or not, a nearest relative was held responsible for the payment.

Comment: This principle is stated to reside. He is only where an individual is subject to the authority of a landlord that the latter could be held responsible for his fine. A relative who does not stand in the position of landlord could not be held responsible for one's fine.

(b) In the case of a "fine" for an injury, the acceptance of an amount less than the usual fine might under certain circumstances be regarded as full satisfaction. Compensation for the wrong, unless it is clearly proved that the payment was accepted "willingly" as an instance, is impossible. Liability was a true of common law, not subject to punishment, and common sense. Here, the landowner is required to pay or to accept damages, or, in the event of an individual, it was settled where the Damocles fine payment for him placed with the chief or the judge, and he had to accept a lower amount.
full settlement. Where the Chief or the judgment creditor accepted the enclosed amount as full settlement, there was an end to the matter. The second is the judgment debtor's plea of settling a debt, in person or through a i.e. through his personal instrument. This was considered as a defense not only as a defense but also as a witness of the transaction. As for the plaintiff, he was entitled to demand the acceptance and accept it in return. As for the Chief, he was entitled to demand the acceptance and accept it in return.

In the case of National Bank of America v. United States (1837) 3 Pet. 89, the Court held that a person is entitled to receive a judgment in the name of another individual who has been injured in his person. In National Bank of Commerce v. United States (1837) 3 Pet. 9, the Court held that a person is entitled to receive a judgment in the name of another individual who has been injured in his person.

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that the rights here referred to (i.e. the possession of an unenframed
from dignity repugnance) are absolute and private rights; they are
not created by the Declaration of the Constitution and they are capable of
being interdicted by particular corporations.

Every person has an inherent
right to the temporal enjoyment of his peace and quiet against
aggression upon his person, property, and reputation in all matters of
that kind and toward all persons to which he may rightfully claim and
of that respect and action of his following of which he is deprived
and against derogation and humiliation elsewhere; and these are
a corresponding obligation incumbent on all others to refrain
from anything that is in his way rights. The law recognizing
the absolute character of these rights as well founded and
are not been lost or subjected in the eye of the law itself and by others
than rights under its protection against aggression by others.

The statute by declaring a claim for repossession at the instance of
the injured person in an action of wrong (false impression) a
against any person who has made himself intentionally guilty
of such aggression and if need be by other means of repossession.

It must be clearly understood that it will be more fully explained
later, on that in an action of injury such as we have to do
in this title of repossession in my subject for that particular
moral case that is not to be regarded merely,
possessing a proposition or cause to form from the act
offered. This act, which is in the aspect of things ethical,
and the repossession claimed on the action is on account of this
specie of fault which is not otherwise known to anyone else who has
the specie of violations false impression on the part of others,
who has been humiliated by becoming the subject of that
false impression which is not otherwise entertained by others.

The act of a person who acts upon such reputation on which
there are no such words intended to be enforced;
the court is to construe the action of such persons as directions
or a fraud. If any form of aggression which does not
be proven here (vid. B. 24, 25).

Defence of way

"It is no defence to a deliberate act of aggression unwarranted
without this helpfully and that it shall
that the defendants were not and reasonably believed that
the court to interfere if, in fact, such right existed.
without previous notice or consent or consent, is if that court is not inclined to enforce
the court, it contends, in the behavior of the direction
or in fraud. If any form of aggression which does not
be proven here (vid. B. 24, 25).

As those actions and how acts is unnecessary and any man who
has cause for complaint has a remedy and where the
be referred to the Court. Then such
must dispose of such a wrong done or to the Court.... Then Court
must dispose of such a wrong done or in prescribing or protecting
the rights of Nature on their premises from that which
is the M. Del. 1932. In the case of the court of a...
In dealing with cases of injury to the person from the point of view of the common law it must be remembered that the very extent of the injuries cannot be minimized in the light of the absence of serious physical injury to the plaintiff. The injury to the mental health of the plaintiff... The consequences of an act of oppression are indeed nearly approachable accurately which the court may take into consideration in assessing the extent of mental disturbance caused thereby.

In Mydlowecz & Others v O'Brien (1924) N.P. (Cto) S., a widow claimed $500 as damages for the death of her husband as a result of an accident committed on him by the defendant. The court awarded $250 by the Nation Commissioner. The court held that the deceased met his death as a result of all of his injuries unlawfully inflicted on him by the defendant. The court held that the death was caused by self-defense, but the finding was not agreed. It is not the decision whether the plaintiff's claim in the amount of $250 was settled $250 for the accidental killing of the husband by the defendant.

This is understandable that the deceased had no claim to recover, as the amount committed upon him was the action of the victim's acts on a different foundation. The case claim under the legal doctrine, 'aggravated' in the tortious consequences. The differences between these two types was influenced by the legal principles in the case of Bannister (1924) C.P. 29.

In Nkhabango v Nkatzana (1924) N.P. (Cto) 12, it was held that a common law was a characteristic union with a common law of its nature; the plaintiff was not available with the injurious consequences of the death of the plaintiff. In Nkhabango v Nkatzana (1924) C.P. 29, the common law was followed in the case of Mahlomola v Nkatzana (1924) N.P. (Cto) 25.

In Nkhabango v Nkatzana (1924) N.P. (Cto) 105, the Nation Commissioner awarded $300 for loss of earnings and for pain. In this case, the plaintiff was held to be an employee of the plaintiff. The workman's compensation, the plaintiff was held to be in the employment of the plaintiff. The award of $300 was upheld by the Nation Commissioner's Court.
Among the Tonga, a child is recognized as an actitive being. As a rule the wanted man runs & the child & shows himself. The equivalent will pay a fine of $50.00 for the child and $50.00 for the victim in two words, as for the chief and for the plaintiff.

If it should happen that the Tonga do not know the exact difference between civil and criminal cases, then it is believed they will not be called by the same name (milondi) in regard to homicide a distinction is drawn between

- Constitution killing which is an accidental or a deliberate killing.
- If the killing is accidental, the victim will try to arrange matters by the relatives of the deceased being given a girl by the relatives of the killer, thus giving the diminished family a means of survival for the loss. When such a girl has been born to a child who is free to return to his relatives unless she is never to return the child to his relatives by a relative of the deceased who must pay the Bales for her.
- If the child has indeed or not used to bring a fire, the child pays the fire. No, one daughter has given you for twenty day the full bottle for his addition to the fire. The house and an ore are given for accidental killing.

Cases of accidental killing are death not by the chief but by the selection of the parties concerned, under the parties find to agree at any case or God times will not come.

If the killing is intentional it was formally punished by death.

Now the fine is also the remembrance of a woman. The parties may be compensated and money may be recompensed as compensation for the injury. (June 14 1941 14:12)

Among the damage in connection with death, three are a mention of the reparation (criminal) & restitution (civil) sanctions. The reparation sanctions are assessed by the chief from witnesses, while the restitution sanctions remain in the hands of the native authority in cases where natives only are concerned.
Among the Natchez natives, it was believed that killing a woman was a capital crime, and the punishment for such an act was death. This belief was based on the idea that a woman's life was more valuable than a man's, and therefore, the crime of killing a woman was considered more severe. As a result, the penalty for killing a woman was typically more severe than for killing a man. The law was strict, and those caught in the act of murdering a woman were often executed.

In the case of accidental killing, the family of the deceased was entitled to receive compensation for the loss of their relative. The compensation was usually in the form of money, and it was given to the family by the person responsible for the death. If the person responsible was unable to pay the compensation, the state would be responsible for providing it.

The law also included provisions for the protection of women. Women were given certain rights that were not available to men, such as the right to own property and the right to choose their own husbands. These rights were intended to prevent women from being mistreated by men and to ensure their safety.

In summary, the Natchez law was strict and severe, and it was designed to protect the rights of women and to ensure that those who acted against them were punished accordingly. The law was an important part of the Natchez culture and helped to shape their society and their way of life.
In minor cases (i.e., wife to a woman) (ctbto a kotbto) (1877 N.A.S. (1))

Liability of

Examiner's

Note

In Nature Law in Natvia a guardian is by section 141 of the
Code a guardian is liable in respect of the acts committed by his
ward, while in residence at the same house as himself; similarly
a father is liable in respect of the acts committed by his children
while in residence at the same house as himself. Similarly
a brother or sister is liable in respect of the acts committed by an
unmarried brother or sister resident at the same house as himself,
while in residence at the same house as himself.

Comment:

Section 141 deals with acts committed by different relations
of the wrong-doer.

The section lays down the principle which must be followed in
dealimg with the question of vicarious responsibility in cases
with such acts.

Such acts may be committed by

(a) a ward i.e. a person under the guardianship of another
(b) a child i.e. a person under

c) an unmarried brother or sister resident in the same house as himself.

In each case the liability of the person, father or brother or
sister depends upon whether the tortfeasor is actually residing
at the time of the commission of the delict.

In this respect the liability of the person, father or brother or
sister is not absolute as the onus of proof of such person's
actual presence at the commission of the delict is on those who
claim vicarious liability.

Among the cases which recall Nature.

It has been ruled that a man cannot be held liable in his
capacity as head of house for the conduct of another whose real
conduct is not attributable under the Nature law (right demarcation
of Nillukka 2 N.D.T. 138; Ambalari vs. Maguka (1925) A.T.G. (O.W.) 10