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# ‘Vindictiveness on Account of Colour’?: Race, Gender, and Class at the English Divorce Court, 1872–1939

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**Abstract:** This article uses 116 divorce or separation cases involving people of color between 1872 and 1940 to interrogate the role of the state in adjudicating racially mixed marriages in Britain. These examples demonstrate the rising population of imperial subjects within the U.K., but also that marital cases could reverse in-migration, due to embarrassment and expense for all parties. In addition, gender and class factors limited the impact of race in the court. Men’s advantages in bringing cases overcame some racial prejudices, and rich men, whatever their color, could hire effective representation. Race only impacted divorce cases when women could play on stereotypes of violent men, or when men of color were co-respondents and thus broke up homes. Still, the number of undefended cases limited the influence of race in most divorce suits.

**Keywords:** marriage; divorce; race; gender; empire; migration

## 1. Introduction

Racially mixed marriages in Britain have been the subject of much recent historical work. Historians have explored ordinary lives in British working-class districts, where the majority of mixed marriages occurred ([Auerbach 2009](#), pp. 90–97; [Belchem 2014](#), pp. 39–77; [Caballero 2019](#); [Caballero and Aspinall 2018](#); [Frost 1999](#), pp. 187–96; [Holland 2017](#); [Tabili 1994](#), pp. 135–60; [Tabili 2011](#), pp. 152–72, 220–26). Others have centered on the British fears of polygamy with Muslim subjects ([Bailkin 2012](#), pp. 132–63; [Bland 2013](#), pp. 132–75; [Frost 2019](#); [Savage 2008](#)), or the impact of mixed marriages on the empire ([Ray 2015](#), pp. 159–89; [Tabili 2005](#)). The stark disapproval of all such unions, at least when the white partner was female, was clear, but the level of disparagement varied by place and time and by the perception of the partner’s original home. At the turn of the century, Chinese immigrants faced the worst discrimination up to and including deportation. After World War I, Social Darwinist rhetoric most affected those of African descent. Disapproval ran the gamut from hostile stares to shunning to violent rioting, though some neighborhoods offered safe spaces even in the worst times ([Caballero 2019](#)).

Did these attitudes translate into the court system? Historians have seen no simple pattern. Racial “others” certainly had disadvantages in the criminal courts ([Seal and Neale 2020](#); [D’Cruze 2007](#)), but well-off and prominent men of color in the empire enjoyed more success in civil litigation, particularly against poor women ([Yahaya 2019](#)). Bias in criminal courts also emerged after the riots of 1919, since white perpetrators received little punishment for attacking people of color ([Evans 1980](#); [Jenkinson 1985](#); [Jenkinson 2009](#), pp. 131–54). The legal system also interacted with government on the issue of deportation. The state’s ability to deport “foreigners,” even those married to British-born women, was a source of deep anxiety, especially for those from China ([Auerbach 2009](#), pp. 100–2; [Wong 1989](#), pp. 53–54). Some judges joined the Home Office in showing little sympathy for wives and children left behind by these abrupt repatriations, a policy continued after World War II ([Webster 2018](#), pp. 233–34). From these examples, most historians have concluded that the British courts were biased against mixed relationships, but not necessarily all people of color in all unions.

A man of color with enough social standing and wealth could overcome race prejudice, especially in the civil courts. Moreover, during boom economic times or wars, badly needed laborers or soldiers from the empire or abroad received kinder treatment than during depressions or when their military help was no longer needed.

The divorce court has received less attention from historians on the issue of race. The most important article on race and divorce is Gail Savage's essay about the Mir Anwaruddin case (Savage 2008). Savage examines the legal ramifications of the clash between Muslim and Christian approaches to marriage and divorce through various civil trials involving the marriage of Anwar Mir Anwaruddin, an Indian barrister, and Ruby Hudd, a white Englishwoman, who wed in Britain in 1913. When that marriage fell apart in a few months, Ruby sought a judicial separation from her husband at the magistrate's courts. She convinced the lower court of her claims of cruelty, but she lost on her husband's appeal to the Divorce Court. Mir Anwaruddin returned to India, divorced Ruby by the Muslim rite of talaq, and then came back to the U.K. When he sought to marry another British woman on the strength of that divorce, the registrar of Hammersmith Register Office refused him. Mir Anwaruddin sued the registrar, insisting he had the right to remarry. The British courts, though, decided that the rules of *lex loci*, the land where the marriage occurred, overcame the husband's private international law. Since the judges insisted British law forbade even potentially polygamous marriages, Mir Anwaruddin could not remarry in England on the strength of an Indian divorce (Savage 2008; Frost 2019). Mir Anwaruddin's many trials, centering as they did on a Muslim husband, also demonstrated the intertwining of religious and cultural issues in British disapproval of mixed marriages. Fears of polygamy, accompanied by stereotypes of overbearing Muslim husbands, harems, and purdah, played a part in the decision.

This essay will expand on the issues Savage highlighted by considering 116 separation or divorce hearings that involved at least one person of color, as a petitioner, respondent, or co-respondent/intervener. The inclusive years begin in 1872, the date of the first divorce case discovered with a person of color, and end with the start of the Second World War in 1939. Finding divorces involving people of color meant deploying various techniques. First, I searched the *Times* newspaper with a variety of different terms ("divorce" and "West Indian", for example), which yielded a core group of marital disputes. When possible, I then traced these cases to the divorce petitions in the National Archives.<sup>1</sup> Second, I searched the National Archives divorce petitions, using the word "divorce" combined with the most common first and surnames from South Asia (India, Pakistan, and Bangladesh), East Asia (China, Japan, Pacific islands), and the Middle East and North Africa. Many divorce petitions were abandoned, struck out, or settled out of court; in addition, newspaper reporting on divorce actions was illegal after 1926. Thus, a search of the petitions was necessary to get a more complete picture (Savage 2008). Unfortunately, using names for the search parameters had the disadvantage of undercounting men and women from the Caribbean and Africa, whose names were often Anglicized. Despite these omissions, a database of 116 suits allows some conclusions about mixed relationships and marital litigation.

Access to the English divorce court was limited in several ways. The expense of divorce lessened its use by the working classes, especially working-class women. After 1895, the latter used the alternative of separations, brought at the magistrate's/police courts, as Ruby Mir Anwaruddin had done in 1913. Access to divorce was also heavily gendered. Until 1923, men could divorce for a single act of adultery, while women had to have adultery and another ground, such as cruelty, desertion, or bigamy. Thus, women often opted for a judicial separation, which did not require as many grounds and offered the chance for maintenance. Such a proceeding had to be brought at the Divorce Court before 1895, so it remained an expensive option for Victorian litigants. After 1923, Parliament equalized the grounds, allowing both sexes to sue for adultery alone, but only in 1937 did Parliament expand the grounds

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<sup>1</sup> Though most were divorces, the newspaper reports included five separation cases in the police/magistrates' courts as well as two nullity suits. Other separation cases were folded into divorce actions as countersuits.

to include desertion, insanity, and cruelty. Furthermore, men still had better access to English courts after 1923, since the English divorce court accepted cases only from couples domiciled in England, and legally the husbands' domiciles counted for both spouses. If the husband had permanently settled in England, the couple could use the English courts, but if the husband kept his foreign domicile, his wife's domicile was foreign as well. Thus, race interacted with many other factors in the access to divorce and the success of the petitioners.

## 2. The Sample

The overall numerical breakdown of the cases matched patterns of immigration discussed by many historians, ones that emphasized Britain's role as the hub of a large empire. Most notably, the cases reflect the fact that immigrants to Britain were overwhelmingly single males. Of the 116 cases, 27 involved male petitioners of color; in contrast, only one wife of color sued her white husband for divorce.<sup>2</sup> Forty-three cases had men of color as co-respondents, named by the white husbands as the adulterous partners of their wives; only four petitions mentioned women of color as "interveners," the accused adulterous partners of husbands. Notably, in all four, the wives claimed the husbands had affairs with women while the couples lived in the empire, so the women of color had never been in the U.K. Similarly, 35 petitions were brought by white wives of men of color, while only seven white husbands sued wives of color. The overwhelming predominance of male immigrants was clear. As a result, a possessive attitude from white British men about "their" women marrying "out" was potentially a factor in marital and family disputes (Jenkins 2014).

The racial make-up of those involved in divorce litigation demonstrated the importance of Indian immigrants to Britain in the late 19th and early 20th century (Lahiri 2000, pp. 48–81). South Asians were involved in 48 of these actions. Middle Eastern or North African men and women made up 34, while East Asians were only 22, likely due in part to the decimation of the Chinese community after the Aliens Act of 1905, but also to the low socioeconomic position of most Chinese immigrants. Caribbean and African litigants trailed with 12, but this was an artifact of the difficulty of finding cases based on ethnic names. Most of the men of color in England came as a result of work in the merchant marine if they were in the lower classes, and they clustered in port cities such as Cardiff, Liverpool, and London (Halliday 1992, pp. 1–57; Duffield 1994; Green 1998). Higher-class men came as students, tourists, or diplomats and were more evenly distributed around the country (Lahiri 2000, pp. 48–81; Adi 1994, pp. 107–28). All these trends were reflected in the divorce courts. The British courts' anxiety about polygamy (Bland 2013; Frost 2019; Savage 2008) was partly because of the number of Muslim men who married British women was more noticeable.

Unsurprisingly, given men's legal advantages, more men sued than women in this database, especially when omitting judicial separation and nullity cases. Male petitioners sued in 66 of the 109 divorce cases, and they succeeded in getting their divorces 53 times. Women petitioners were only 32 of the divorce cases, and they succeeded 24 times. (In the other cases, both sued, and the court consolidated the suits into one.) In short, women's winning percentage was slightly lower, and they had the initiative less often. British divorce courts did not allow collusion, and they also demanded "clean hands" from the petitioner. Thus, the process was two-fold, an initial decree (*decree nisi*), followed by a six-month period for investigation by the Queen or King's Proctor. If no one informed the court of any reasons for an investigation, the *decree absolute* came smoothly, but if someone informed the Proctor of suspicious circumstances, an investigation ensued. The courts then held a hearing to determine if the petitioner had lied, colluded, or committed marital faults of his/her own. The courts rescinded the original decree if the Proctor proved any violations. In three cases (two brought by men), the original decree was rescinded because of examination by the proctor.

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<sup>2</sup> In addition, one Middle Eastern woman countersued when her husband petitioned for a divorce; see footnote <sup>48</sup>.

When race was added to gender as a factor, the importance of the sex of the petitioner was clear. White male petitioners who sued their wives and cited a co-respondent of color won 26 cases but failed 10 times. In five cases, a white male petitioner sued his wife of color, and men won three of those. Put together, men's percentages were good, but not overwhelming, indicating that white males did not have a strong racial advantage at the divorce courts. In fact, male petitioners of color sued white wives for divorce 30 times, winning the decree in 25 of those cases (four were dismissed, and one got a *decree nisi*, which was later dismissed on investigation by the King's Proctor). Men's advantages at the divorce court, then, appeared to be more important than race bias. White female petitioners suing their husbands of color won 17 of 24 cases, a success rate close to that of white males (six were struck out, and one was rescinded on investigation). In addition, the one Chinese woman who sued for divorce won her case. White women had more success in judicial separation cases at the magistrates' courts, with four out of five successful against husbands of color. Still, they had an even greater success rate against white husbands, winning all five (these were cases in which women countersued for separation from husbands who accused them of adultery with men of color). In short, the overall picture does not support a strong racial bias in marital litigation. The all-male judges and juries often sympathized with betrayed husbands, whatever their race, and they also sided with wives against harsh or violent men in separation cases.

### 3. Metropole, Empire, World

The importance of immigration to Britain from the empire was underlined by the number of male petitioners/co-respondents of color. The English based access on domicile, so these couples lived in England; most met their spouses there, fell in love, and married, then saw the marriages fail for various reasons. The divorces included partners from North and West Africa, Australia, Singapore, Hong Kong, Japan, Egypt, Turkey, Ceylon, Jamaica, India, Tunis, and Canada. Though racially mixed neighborhoods existed in many areas of Britain, the Divorce Court did not reflect this. London predominated; out of 63 cases with a specific location, couples married in London 28 times, and several others married in counties close to London (four in Middlesex and three in Essex). The only other area with more than two was South Wales (with five); four of the couples had married in Cardiff and one in Swansea. The Divorce Court met only in London, and thus metropolitan couples had fewer travel expenses (for themselves and witnesses) in using the court, which partly explains these couples' predominance. The place most clearly under-represented was Liverpool, which had only one mixed race couple in the database, perhaps due to the geographic distance but also the poverty of much of its mixed-race population. Those who married outside of England made up only 11 of the 63, and 3 of those were Scotland. Of those remaining, four were in South Asia, one in Japan, one in Java, and two in Egypt. Due to religious differences, most of these couples married in the Register Office; the introduction of civil marriage in 1837 had the unintended consequence of easing the marriages of mixed-race couples.

Movements across borders were common to British partners and imperial subjects alike. Cases reveal constant movements for career or personal reasons, with both men and women meeting potential mates along the way. Elliot Daunt lived in Ceylon and worked as a tea planter when he married his wife Margaret in 1914. In 1915, he traveled to Iraq on business, then joined the army. He served in India, adding yet another place to his passport. That was where, he claimed, his wife had an affair with their Indian servant. At the end of the war, the couple went to Calcutta, and Margaret entered a convent, while Elliot returned to England.<sup>3</sup> In other words, Elliot's world travels both helped him meet and then lose his wife; Margaret, for her part, remained in India as a permanent expatriate. Such wide-ranging travels were not unusual in the 20th century, particularly for the upper classes. In 1934, a marriage suit involved an Australian heiress and an Iraqi husband who met and lived in London. When the case settled out of court, the wife returned to Australia briefly before sailing to

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<sup>3</sup> *Daunt v. Daunt*, National Archives, Kew, Divorce Petitions, J77/1729/3827 (1920–1923).

Malay, while the husband lived in France.<sup>4</sup> As the cost of travel lessened, more lower-class Britons joined these movements. William Lovegrove, a tailor, married his wife Olive in 1932, and they lived in Surrey. His wife began an affair with an Indian man named Des Raj in 1932 and soon left her husband. William, in turn, had an affair with an American woman on a trip to New York in 1928, remaining in America long enough to be the co-respondent in her husband's divorce case. Thus, a tailor's domestic tangle ultimately encompassed three continents and two different divorce courts.<sup>5</sup> William's story was not unique, especially in its circular pattern. Those who migrated out of Britain often intended to return; for their part, many visitors to Britain expected to go home.

Historians have frequently discussed the role of marriage in welcoming immigrants into the community (Levine 2004; Tabili 2011). The choice of a British wife or husband meant a commitment to remain, at least for some years. Adulterous husbands of color, rather than leaving after falling in love with a new partner, instead were often determined to remain. Magurditch Pantikian, a Persian Turkish subject, was divorced by his wife Annie in 1914, but he stayed in Manchester, remarrying another British woman in 1917.<sup>6</sup> In other instances, adulterous wives anchored both husband and lover to Britain. Grace Guide's husband Hamid divorced her in 1926, complaining of her affair with "Nassir Seraime" in Cardiff. Grace married a man named Said Mohamed Said only three months after the final decree, living with him in Stepney. Either she protected the man she loved by convincing her husband to name a different co-respondent, or she met and married Said independently of her previous relationship. Either way, she helped two men of color integrate into their new homeland. All three of the actors in the divorce—husband, wife, and lover—remained in the U.K. after the case finished.<sup>7</sup>

Yet marital failure could also encourage out-migration, and this process has received less attention from historians. Marital litigation was expensive and embarrassing for all parties; just the social disgrace alone might lead men and women to decamp to other places. When large sums of money were involved, incentives to leave grew greater. Men named as co-respondents might have to pay damages if they lost their cases, a good reason to get out of the jurisdiction of English courts. Edith Hutchinson had an affair with a Japanese boarder, Yoshimaro Tanaka, while her husband fought in World War I. When John Hutchinson returned on leave, he sued for divorce with Tanaka as the co-respondent. The jury assessed the impressive amount of £350 damages, but one doubts Hutchinson saw any of it. Tanaka had wisely left the country (Itoh 2001, p. 107).<sup>8</sup> The notoriety of divorce also led "guilty" parties to depart when possible. Walter Mockford divorced his wife Doris Madeline because of her affair with Mirza Alikhan. The lovers ran away to Edinburgh in 1917 and remained there until the divorce was final in November 1918. Apparently, they then married and traveled to India, since "Doris M. Alikhan" returned from Bombay (now Mumbai) to Britain in December 1921. In short, the failure of the Mockford marriage made for more, not less, international movement for both Mirza and his new English wife.<sup>9</sup>

<sup>4</sup> *Shashoua v. Shashoua* (1934); *Times*, 15 February 1934, 4; 16 February 1934, 4; 17 February 1934, 4; 20 February 1934, 4; 6 September 1934, 9; 5 October 1934, 11; 6 October 1934, 4. Shashoua previously married, and then was divorced by, another Englishwoman in 1926, J77/2305/2209 (1925–1926). See also Alien Passengers List from the *Orontes*, 29 September 1929, on Ancestry.co.uk, accessed 12 February 2020. For Joan's return to Australia, see National Archives of Australia, A1, 1938-18342/8376500. The Home Office has a file on his first wife that is closed until 2030, HO 144/10896 (1929).

<sup>5</sup> *Lovegrove v. Lovegrove and Des Raj*, J77/3033/3502 (1932–1933). Because William was honest about his affair, the judge exercised his discretion and allowed the divorce.

<sup>6</sup> *Pantikian v. Pantikian*, J77/1100/3373 (1912–1913); J77/1119/3964 (1913–1914); Ancestry.co.uk, 1901 Census of England and Wales; Civil Registration of Marriages, July 1917, Chorlton; Civil registration of Deaths, 1946, Manchester; accessed 11 February 2010. The 1901 Census describes him as a Persian living in Turkey.

<sup>7</sup> *Guide v. Guide and Seraime*, J77/2299/2036 (1926–1927); England and Wales Civil Registration of Marriages Index, January 1928, for the marriage of Grace H. J. A. Guide and Said Mohamed Said in Stepney.

<sup>8</sup> *Hutchinson v. Hutchinson and Tanaka*, J77/1729/3829 (1920–1922); *Times*, 15 February 1922, 5; 16 February 1922, 4. Avoidance of paying damages was common in all types of marital litigation. In *Ward v. Neill* (1891), Ward received £750 in damages for breach of promise, but one suspects she got little of it, since Neill, a Parsi, had returned to India. *Times*, 30 October 1891, 10.

<sup>9</sup> *Mockford v. Mockford and Alikhan*, J77/1320/348; ancestry.co.uk, England and Wales Record of Arrivals, 3 December 1921, accessed 11 February 2020.

Running from the embarrassment or expense was motive for crossing borders, but even when men of color defended themselves from charges successfully, they had to travel back and forth to do so. Having already moved to Britain, they were more likely to be comfortable with returning when faced with marital disappointments or conflicts. In *Booth v. Booth and Kothari* in 1892, the husband accused his wife Sarah of an affair with her sister's Parsi fiancé, Maher Kothari. Charles Booth was suspicious of his wife's interest in Buddhism and her gifts to Kothari, as well as the fact that Susan Horden, her sister, called off the engagement suddenly. Kothari left for India soon after the end of the engagement, but he returned to London when he found out he was named as co-respondent. He testified that the break in the engagement was because the mother of the bride did not wish her daughter to live in India, not due to inappropriate feelings for Mrs. Booth, testimony that helped convince the jury to side with Sarah.<sup>10</sup> In this instance, both the failure of the engagement and the end of the Booths' marriage influenced Kothari's travels.

When the man of color was the betrayed husband, he might hope to start afresh elsewhere, leaving Britain behind. Sometimes he had legal advantages if he did so, since men in polygamous religions could remarry in their home countries with or without a decree from a British court. Areas with polygyny included India, Turkey, China, and some African states like Egypt. For such men, previous marriages in Britain were not impediments to remarriage; indeed, Hindus did not believe such marriages to be valid. Muslim men also had a much simpler way to divorce their wives, the *talaq*, but, as Mir Anwaruddin discovered, this divorce was effective only in the men's homelands. Men's legal right to remarry without divorce gave them considerable latitude and encouraged them to "forum shop" for the best marital regime, leaving British wives in the lurch. Zareh Bakirgian did not return to England when his wife Margaret instituted a divorce against him, remaining in Smyrna (now Izmir) where he was a merchant. As he had already remarried a local woman, he had no reason to contest Margaret's suit.<sup>11</sup> Other unhappy couples may well have settled things out of court and then gone their separate ways. Isabelle Dutt sued her husband, Hen Chandra Dutt, for divorce in 1927, but neither party appeared when the clerk called the case in November 1930. Hen Chandra Dutt was almost certainly the "H. C. Dutt" who departed on the *Mooltan* in June 1930 for Bombay (Mumbai). To get her to drop the suit, Dutt may have offered maintenance payments or a lump sum settlement, and he then returned to his homeland where he could remarry with or without a divorce.<sup>12</sup> Men who had affairs with English wives, similarly, could marry their lovers much more quickly in their homelands. Denison Daubeny sued his wife for divorce when she ran away with Khan Aurban Ali Khan to India. While Daubeny's divorce slowly worked its way through the English courts, the lovers married by Muslim rites in Amritsar, eventually having a son together.<sup>13</sup>

Women had less freedom to go elsewhere and remarry, since English law restricted their access to divorce by privileging the husbands' domiciles. Only if polygamous husbands married *before* their weddings in the U.K. could women escape the bonds, as their marriages in the U.K. were then bigamous. When Kehr Singh Grewal got his law degree and was called to the bar, he returned to India, leaving his wife Maria behind. Fortunately for her, he was already married in India when he went through a ceremony with her, and she was able to have the marriage nullified. As a Sikh, Grewal did not have the right to marry more than one wife, so this case did not present the issue of polygamy. The court ignored the issue of domicile as well, since Maria sued for nullity, not divorce.<sup>14</sup> Because of their legal disabilities, women who could not divorce their husbands in Britain might try elsewhere; if they did

<sup>10</sup> *Booth v. Booth and Kothari*; J77/490/14917 (1892); *Times*, 25 November 1892, 14; 26 November 1892, 7; 29 November 1892, 13; 30 November 1892, 3; 1 December 1892, 3.

<sup>11</sup> *Bakirgian v Bakirgian*, J77/999/333 (1910).

<sup>12</sup> *Dutt v. Dutt*, J77/2389/4675 (1927–1930); ancestry.co.uk, England and Wales Record of Departures, 27 June 1930, accessed 11 February 2020.

<sup>13</sup> *Daubeny v. Daubeny and Ali Khan*, J77/2108/6028 (1924–1926). For a similar case, see *Guinness v. Guinness and Khan*, J77/3455/5412 (1935–1936); *Times*, 5 November 1935, 5.

<sup>14</sup> *Grewal v. Grewal*, J77/869/6401 (1906–1908); *Times*, 1 August 1907, 15.

not intend to return to England, they might be able to establish domiciles and then sue as separated women. In 1920, the India Office received a letter from Mrs. Violet Himatsinhji who had married a Hindu man. He returned to his home, and she heard nothing for weeks, and his father refused to help her. In the end, the IO put pressure on the man's father to give her maintenance, but she was unable to divorce her husband in England and thus could not remarry. Violet May, rather than settle for a life of celibacy, traveled to New York. According to her debarkation statement, she planned to live there permanently; one suspects she hoped to divorce under the more forgiving laws in the U.S.<sup>15</sup>

In other words, engagements and marriages encouraged in-migration, but divorces and settlements influenced out-migration, both of immigrants and their embarrassed British-born partners. Of course, divorces were only one of many influences. Legal positions, economic prospects, and religious choices also played a part in complicated decisions of where to live and settle. Beginning a family in a new land gave immigrants access to an extended family, community activities, and business connections, a process of integration well known to historians. Divorces, broken engagements, and nullities were the opposite, pushing migrants back to safe harbors of their natal kin or, alternatively, encouraging the immigration of British partners out of places where their humiliations were well known. Marital failure, as well as marital success, was one strand in a complicated movement between metropole, empire, and globe.

The international divorces that have received the most historical attention produced legal precedents. Mir Anwaruddin's trials were a case in point. He argued that his private international law was Indian, not English (Savage 2008), forcing the courts to set precedents about recognition of potentially polygamous unions in England. In addition, the rules of domicile badly disadvantaged women, who found they could not escape marriages with Indian or Egyptian husbands who subsequently returned to their homelands and remarried (Frost 2019). Some tried, but failed, to have their marriages nullified, setting more precedents in the process.<sup>16</sup> All the same, such cases made up less than 10% of the divorce cases involving men who returned to their birth countries. They had legal ramifications and influenced policy decisions, but they were not the norm in marital disputes involving people of color. More often, couples traveled back and forth from the husband's homeland, using whatever courts were convenient and trying to avoid appeals, long delays, and expense.<sup>17</sup> Instead of having legal influence, average divorces demonstrated the world-wide impact of Britain's global power in a subtler way, as individual decisions percolated up to influence global migration. Marriage and family could both attract permanent migrants and repel them, depending on the success or failure of these unions.

#### 4. Did Race Matter?

As the above discussion indicated, bias on account of race was not a simple influence on divorce suits, but the perception of prejudice lingered. Some spouses believed that husbands of color had disadvantages, which may have discouraged the latter from resorting to British tribunals. In 1912, Sophia Mohamet sued her husband Amaar, a photographer, for judicial separation. She accused him of threatening to "break every bone in her body," throwing "books and a kettle" at her and trying to strangle and choke her. Mohamet denied all of these allegations, but he also claimed that "His wife had told him that, as he was a black man, there was no law for him in this country, and that she could always take him to Court and gain the day." Since Amaar was from North Africa, and Sophie was

<sup>15</sup> British Library, India Office Files, IOR/L/PJ/6/718, Englishwoman and Divorce of Hindu Husband, 1920–1921; 25 November 1920, Violet Himatsinhji to IO; 24 October 1920, Maharaja to Violet Himatsinhji; 6 January 1921, J. E. Shuckburgh to IO; 14 March 1921, A. Montgomerie to Government of India. Ancestry.co.uk, Passenger Debarkation List, June 1921, accessed 10 July 1919.

<sup>16</sup> For examples, see *Lendrum v. Chakravarti* (1929); *Scots Law Times*, 1929, pp. 96–105; *MacDougall v. Chiuvais* (1937), 1 *Modern Law Review* 79–80 (1937–1938); *Watson v. Mangrulkar*, *Times*, 20 January 1939, 14.

<sup>17</sup> *Ali Khan v. Ali Khan*, J77/844/5679 and J77/851/5877 (a consolidated suit), 1905–1908.

Australian, he may well have believed she had an advantage.<sup>18</sup> Similarly, Elsie Bhandari, whose case is discussed in detail below, insisted she would get the sympathy of judges and juries, not her Indian husband. According to his lawyers, she taunted him that “if you take any proceedings against him in a Court of law, the Court would be prejudiced against him . . . ”<sup>19</sup> Some litigants even addressed the court about racial biases. One of the few women of color who counter-sued for divorce, Rose Legge, argued with the judge in her trial, complaining that the jury “are white men and they ought not to judge on flimsy evidence.” She was concerned enough about her Turkish background to mention that “they were as good gentlemen among the Turks as anywhere else.”<sup>20</sup> The belief in racial bias in divorce was not necessarily true, but since the British did not breakdown divorce statistics by race, spouses of color had no way to know.

Though racial bias is hard to detect in numbers, white women had a good record of getting separations when they played on stereotypes of tyrannical Muslims or “savage” Africans. Such complaints, since they played into common English assumptions, were easy to assert without much proof. Thus, when the woman had several witnesses, the cases were open-and-shut. Most notably, large age differences played on fears of predatory seducers, an echo of the moral panic around “white slavery” at the turn of the century. In 1905, Emily Ali Khan sued her husband, Mohammed Ali Khan, for judicial separation after seven years of marriage and the birth of one son. Emily accused her husband of multiple acts of cruelty, including hitting her in the face and kicking her out of the house. On more than one occasion, she insisted, he threatened her, their child, and her siblings with a knife; other assaults included his throwing plates, dragging her by her hair, and almost suffocating her. Ali Khan was a nawab, the nephew of Usfe Ali Khan, prince of one of the independent states of India, and he was 43 when the two wed. Emily, daughter of a “gentleman,” was only 15. Emily’s evidence reinforced views of Muslim men abusing English “girls” (the term always used, whatever the age, and in this case accurate). To avoid a judgement, Khan eventually agreed to pay her £180 in alimony, and she also got sole custody of their son, an agreement overseen by the court.<sup>21</sup> Estella Hussein managed to get a nullity of her marriage to her husband Mohamed in 1938 on the grounds that he threatened to kill her if she did not marry him, so the wedding was coerced. As she was under aged, while her husband was ten years older, Justice Henn Collins concluded that Mohamed “was clearly avid of power over her and he used that power over a girl of only 18 years of age.”<sup>22</sup>

Depicting Muslim men as predators was common in marital litigation. As Savage has shown, Ruby Mir Anwaruddin’s ability to get a judicial separation from the magistrates partly stemmed for her convincing the court of her husband’s unreasonable sexual demands, something the lower-court judges believed, though the divorce court judges were less convinced. Ruby also, invariably, was called an “English girl,” though in this case, she was in her early 20s (Savage 2008, pp. 351–54). This was also true in some domestic violence cases, as Lucy Bland has shown (Bland 2013, pp. 132–75). Sensational circumstances amplified negative views of minority groups, crowding out the more ordinary cases that might challenge stereotypes. Thus, in a few divorces, the judges believed “Muslim” men to be particularly brutal, while, at other times, men found proving their grounds for divorce impossible. Satis Biswas Day sued his wife Lily for divorce three times without success. He cited her adultery with Hugh Drummond-Lloyd every time and added Mohammed Omar on the third try, in 1912. Yet, the judges and juries never found his evidence convincing. On the final attempt, Lily counter-sued for divorce, citing Satis’s cruelty and his adultery with Emily Franklin. She accused him of drunkenness, throwing her out of the house, and threatening to murder their child. In April 1914, the judge and jury sided with Lily, granting her the divorce and custody of their son. In this case, Satis was much

<sup>18</sup> *Mohamet v. Mohamet*, *Times*, 1 July 1912, 3. Ancestry.co.uk, 1911 Census, accessed 9 February 2020.

<sup>19</sup> *Bhandari v. Bhandari*, J77/2773/5942 (1930–1941), W. H. Bellamy, Solicitor, to Elsie Bhandari, 30 August 1928.

<sup>20</sup> *Liverpool Echo*, 7 February 1924, 7 (first quote); *Liverpool Echo*, 6 February 1924, 5 (second quote).

<sup>21</sup> *Ali Khan v. Ali Khan*, J77/844/5679 (1905–1908).

<sup>22</sup> *Hussein v. Hussein*, J77/3753/4334 (1937–1938); *Times*, 22 March 1938, 5.

richer than his wife (his father was a “gentleman” and hers a perfumer), so his wealth should have helped him. He also had the advantage of needing only one ground while his wife had to prove two. Yet he lost every case. His religion and his race combined with his documented alcoholism left him vulnerable to her countersuit; ultimately, judges believed the young English wife and not the older, better-off Muslim husband.<sup>23</sup>

All the same, except in unusual cases, husbands of color rarely fared better or worse than other petitioners. Though women had a good percentage of winning in separation cases, not all claims impressed the magistrates. Annie Okoro failed in her separation suit in 1920, as she did not have proof of cruelty by her African husband, Thomas (Jenkinson 2009, p. 118).<sup>24</sup> That same year, the Lambeth Police Court decided for the black husband, a preacher, whose wife accused him of “unprovoked assaults” that amounted to “persistent cruelty.” The magistrate, Mr. Gill, decided that he did not have enough evidence to grant the separation, but he “recommended the parties to come to an agreement to separate by arrangement.”<sup>25</sup> Magistrates often preferred reconciliation, given women’s problem in getting maintenance (Behlmer 1998, pp. 181–229), so these cases followed typical procedures, ones that rarely helped abused wives.

The most important factor in blunting racial bias, however, was that many divorces were undefended. In many cases, the guilty spouse had already left with his/her lover and did not contest the divorce. Especially for husbands, the mere fact of adultery was the only thing to prove, and many wives left abundant evidence. In these cases, race was immaterial, and the court’s sympathy with betrayed husbands came to the fore. Nowrojee Dalal divorced his wife, Emily, for her adultery in 1921, after 22 years of marriage. She lived with her lover for three years before he petitioned (for the second time). Though he did not have enough evidence in his first try, Emily did not defend the suit either time.<sup>26</sup> Similarly, Fung Wan sued his wife Mabel for a divorce in 1925 because she was living with James Hartley. The two had grown apart when Wan had to remain in China longer than expected. This case, too, was undefended.<sup>27</sup> Sometimes the divorces were so smooth, they were likely collusive. Jiban Dasgupta’s divorce from his wife Hannah sailed through, as she did not contest it. He remarried less than a month after the final decree, indicating that he had already begun his relationship with Olive Muthu, his second wife. Yet, the King’s Proctor had no knowledge of Jiban’s relationship (if it existed), so the divorce went unchallenged.<sup>28</sup>

White wives who sued husbands of color also sometimes had irrefutable evidence of adultery and a second ground, so their suits were also routine. A 1919 judicial separation hearing involved Norman Harry, a Jamaican who was a son of a doctor and worked as a clerk. His wife Agnes was a singer, and the two had married in 1909 and had a son in 1910. Norman soon strayed, and two of the young women with whom he had affairs testified in the trial. Given the evidence, Justice Coleridge decreed a maintenance of 15 shillings a week and gave the mother custody of their son. Both the alimony and the custody arrangements were standard in cases with a guilty male respondent.<sup>29</sup> Though Norman presented a defense, half of the husbands in my database offered none. As with guilty wives, sometimes they wished to marry someone else. Matilda Nogi divorced her husband Mohammed for his adultery. She had little trouble making her case, since he was living openly with his lover in Cardiff. The suit

<sup>23</sup> *Day v. Day and Drummond Lloyd*, J77/1033/1317 (1911); J77/1057/2041 (1911–1912); J77/1100/3367 (1912–1914). Lily had records of his stay in an asylum, suffering from the DTs.

<sup>24</sup> I have not included this suit in my database, as I am unable to verify it independently.

<sup>25</sup> *Times*, 16 December 1920, 9.

<sup>26</sup> *Dalal v. Dalal and Macilquham*, J77/1443/4453 (1919–1921).

<sup>27</sup> *Wan v. Wan and Hartley*, J77/2156/7529 (1925).

<sup>28</sup> *Dasgupta v. Dasgupta and Oganjan*, J77/2014/5887 (1924–1925); Ancestry.co.uk, England and Wales Civil Registration of Marriage Index, 1916–2005, accessed 11 February 2020. The divorce was final 30 September 1925, and Jiban had remarried by October 1925.

<sup>29</sup> *Harry v. Harry*, *Times*, 4 April 1919, 4; 5 April 1919, 4. Agnes cited grounds of cruelty and adultery.

was undefended, and Matilda was free by December of that year. Notably, she herself remarried soon afterward, also in Cardiff, showing, again, possible collusion that went undetected by the proctor.<sup>30</sup>

Racial issues did occasionally figure in the *breakdown* of the marriages, if not the divorces, at least according to the husbands. Some wives use racial epithets against their mates, or, as in the cases above, taunted their husbands that they could not get justice because of their color. Racial slurs damaged relationships that were already faltering, but since they did not count as grounds, they were incidental to most divorces. In *Wadia v. Wadia* in 1916, the English wife treated her Indian husband with “contempt and ridicule on account of his family and colour”, actions that pulled apart the spouses. But the reason for the divorce was Mrs. Wadia’s adultery with Mark Anton (Caballero and Aspinall 2018, pp. 161–62).<sup>31</sup> Thus, in many of the trials, husbands’ easier access to the divorce court and other men’s concern for betrayed husbands overruled concerns about a “black” husband with a “white” wife. Though judges had protective reactions to very young or physically abused women, they were ambivalent about what constituted legal cruelty, so did not automatically side with wives (Behlmer 1998; Hammerton 1992; Savage 1999). Nor did racial abuse go only one way. When Nagi Nassar sued his wife Olive for divorce in 1920, she did not defend the suit, but the King’s Proctor investigated and insisted that Nagi did not have clean hands. He was abusive to his wife: “[He] threatened to smash her face in, and frequently swore at her, calling her ‘a white English bastard’ and a ‘whitelivered [sic] bastard.’” Justice Horridge rescinded the divorce due to Nassar’s marital fault, and the two remained unhappily yoked together.<sup>32</sup>

In six cases, the male petitioners and the co-respondents were *both* men of color, and this circumstance also complicated the race factor. Two involved two Chinese men, one in Limehouse and one in Liverpool, and both husbands were poor, since they required legal aid (Savage 2011). In 1918, e.g., Chang Ping divorced his wife, Marie, for her affair with Yip Soy, prompting the judge, Justice Horridge, to remark, “The woman must have a fancy for Chinamen!” (Auerbach 2009, pp. 163–64).<sup>33</sup> The other three involved two Syrian men (in 1913), a Somali case in 1926, and one with two South Asian men. In the Syrian case, the couple had married in Damascus, but had immigrated to England and the husband naturalized as a citizen. He succeeded in getting his divorce; as in so many cases, the wife did not defend the action, possibly in order to marry her lover, Aref Asali.<sup>34</sup> The Somali case was also undefended, the petitioner’s wife having left London to live with her lover in Cardiff.<sup>35</sup> The only exception was the South Asian dispute, discussed below in more detail; that case failed for lack of evidence. Still, the husband later did succeed by accusing his wife of adultery with a different man of color.<sup>36</sup> Thus, five of the six cases (counting the above case twice) that involved two men of color were successful, but, again, this was largely because the wives were indifferent. Only Marie Ping put up a defense, and she abandoned it at the hearing.<sup>37</sup> Notably, none of the husbands asked for damages, so the wives and their lovers were willing to shoulder the blame.

## 5. Co-Respondents and Race

Though successful as petitioners, men of color potentially faced discrimination when they figured in divorce cases as co-respondents. After all, a “foreign” man taking an Englishwoman away from her husband played into nationalist sexual jealousy. Still, in most cases, the husband was content

<sup>30</sup> *Nogi v. Nogi*, J77/2395/4821 (1927); Ancestry.co.uk, Civil registration of Marriages, October 1927, accessed on 9 February 2020.

<sup>31</sup> *Wadia v. Wadia and Anton*, J77/1155/5078 (1914–1917); *Times*, 15 November 1916, 3; 21 December 1916, 4. See also *Khan v. Khan*, J77/844/5679 (1906–1908), settled by private agreement.

<sup>32</sup> *Nassar v. Nassar and Gonzales*, J77/1585/9170 (1920–1921).

<sup>33</sup> *Ping v. Ping and Yip Soy*, J77/1353/1435 (1918–1920); *Times*, 8 November 1919, 4. The other case was *Wong v. Wong and Lam Ken*, J77/3797/5655, *Times*, 17 May 1938, 5.

<sup>34</sup> *Habra v. Habra and Khalil*, J77/1104/3487; *Times*, 10 March 1914, 3.

<sup>35</sup> *Guide v. Guide and Seraiame*, J77/2299/2036; *Times*, 4 April 1927, 4.

<sup>36</sup> *Wickramasinghe v. Wickramasinghe and Allah Nawaz Khan*, J77/2526/8633 (1928–1930); *Wickramasinghe v. Wickramasinghe and Rasheed Ahmad*; J77/27595549 (1930–1931).

<sup>37</sup> *Ping v. Ping and Yip Soy*, J77/1353/1435 (1918–1920).

for the co-respondent to pay the costs of the action. Husbands did not want to endanger their suits by making an excessive demand and thus provoking the wife and co-respondent to put up a stiff defense. When Cecil Whittall sued his wife Dorothy for divorce for her adultery with Syed Mohamed Hyder in 1935, he asked only for £25 damages. The actual cost to Hyder was much higher, as the court fees amounted to almost £250, but at least the damages were reasonable.<sup>38</sup> Similarly, George Hindle apparently agreed to drop his claim for damages against Kyioshi Minagawa in 1924, if Minagawa agreed to pay the costs. Katie Hindle's countersuit for judicial separation meant that the expense rose to £350, a not inconsiderable sum, but since the husband had a love letter from Minagawa to his wife, such an agreement was a wise course for the respondents.<sup>39</sup>

The elite class status of many of the co-respondents was a temptation to ask for excessive amounts, but this was risky. These men were also the most likely to have good representation and thus to offer vigorous defenses. George Statham put in a claim of £20,000 in damages from "His Highness Maharaja Gackwar Sir Sayaji Rao II of Baroda" in his divorce petition from his wife Beatrix. Rao vigorously opposed the action on the ground that as a prince of an independent Indian state, he was not under the jurisdiction of British courts. Statham had to withdraw the charges.<sup>40</sup> In 1928, Don Martino de Zilva Wickramasinghe demanded £8000 damages from Allah Nawaz Khan, who was Nawabzada of Dera, for adultery with his wife Vera. This suit failed, as the nawab's emphatic denials and ability to assemble a large legal team convinced the husband to withdraw the suit. Don Martino had to petition a second time, with a different co-respondent, in 1930, and this time he asked for no damages.<sup>41</sup>

"Shadism" was also a possible influence; prejudices against people of color were sometimes fiercer against those of African descent than others. Women who left their white husbands for black lovers faced a total severance of contact with their children, for instance. Louisa Taylor lost custody of her daughter, Lucy, when she was found guilty of adultery with a medical student from St. Kitts, Joseph Numa Rat, in 1873. She was reduced to begging her daughter's schoolmistress to pass on letters and gifts to her child, as her husband had forbidden all contact. Rat returned to St. Kitts after qualifying, so that relationship foundered as well.<sup>42</sup> Similarly, Catherine Hazleton lost custody of her daughter, Lillie, after she ran away with John Linton, a black music hall performer, in 1877. The court ordered no access to the child for her, and Linton had to pay the costs, £55.16.3.<sup>43</sup> Loss of custody for the guilty party in a divorce was standard, but usually he or she got some access to the children, so these were harsh conditions.

In rare cases as well, the damages reflected disapproval. When Albert Sandler, a violinist, sued for divorce against his wife in 1934, he named Nathaniel Johnstone, a black vaudeville performer, as co-respondent. Boyd Merriman cautioned the jury against "vindictiveness because of colour" in assessing damages. The all-white jury's response was to award the husband the whopping sum of £2500. In part because of this excessive amount, Johnstone appealed the verdict on the grounds of collusion, and the decree was voided in May 1934. In the months after the first attempt, the three people in the triangle may well have come to a settlement (ironically, this constituted actual collusion). Apparently, Albert agreed not to ask for damages if Johnstone dropped his defense and paid for the

<sup>38</sup> *Whittall v. Whittall and Hyder*, J77/3407/3985 (1935–1936).

<sup>39</sup> *Hindle v. Hindle and Minagawa*, J77/2006/2864 (1923–1925); *Times*, 9 July 1924, 5.

<sup>40</sup> *Statham v. Statham and Rao*, J77/1056/2007 (1911–1912), *Times*, 12 December 1911, 3; 22 December 1911, 3. Similarly, Eric Conant asked for £10,000 from Muhammad Shar Agha Agha in October 1904, only to have to withdraw the suit two months later; *Conant v. Conant and Agha Agha*, J77/828/5189 (1904). He again failed in his attempt at divorce in 1907, as he had also committed adultery: J77/912/7709 (1907–1908); *Times*, 28 October 1917, 3.

<sup>41</sup> *Wickramasinghe v. Wickramasinghe*, J77/2526/8633 (1928–1930); J77/2759/5549 (1930–1931). The second co-respondent was clearly the correct one, as Mrs. Wickramasinghe married Rasheed Ahmad in January 1931 in Richmond, see Ancestry.co.uk, Civil Registration of Marriage Index, 1916–2005, accessed 11 February 2020.

<sup>42</sup> *Taylor v. Taylor and Rat*, J77/124/2389; *Times*, 12 December 1873, 8. For Joseph Numa Rat, see Ancestry.co.uk, U.K. Medical Directories, 1845–1942, accessed 11 February 2020. See also *Headland v. Headland* (1890), J77/425/2980; J77/425/2964; *Times*, 14 February 1890, 3.

<sup>43</sup> *Hazleton v. Hazleton and Linton*, J 77/214/5850 (1878–1879); *Times*, 7 March 1879, 4.

divorce. The subsequent attempt, then, was much easier, as Johnstone and Mrs. Sandler were living openly together. The decree was absolute in July 1935, after which Johnstone married his lover.<sup>44</sup> Johnstone's race led the jury to try to mulct him for large damages; fortunately for him, his financial status forced a compromise. Still, the original decision showed prejudice against a black man "taking" a white man's wife.

Juries were influenced by many factors, as the cases above indicated. Class and status mattered, as did service in WWI. Race was a factor only in certain circumstances and then only if the husband demanded damages. In fact, husbands of color also asked for—and received—damages when betrayed by their wives. Phillip Cursett Sutherland, born a Parsi in India, came to England to study engineering at University College, London. He served in the Royal Engineers during World War I and married Eve Marquadt in 1919. By 1923, his wife had left him and lived openly with David McDonald. Cursett Sutherland had changed his name by deed poll from Pherosha Furdoonji "to safeguard the rights of his son," and had also converted to the Church of England in 1912. He was, then, as Anglicized as he could manage in Edwardian England. Perhaps because of this, his wife and her lover decided not to contest the divorce, and the jury gave the Indian husband and war veteran £500 damages. Though these circumstances were unusual, they did show that juries did not inevitably favor one race over the other. Numerous influences intertwined with race in civil courts, partly because well-off people had advantages in legal representation, and partly because men continued to have the legal upper hand.<sup>45</sup>

## 6. Women of Color and Divorce

Because of men's legal advantages, women of color were doubly disadvantaged, and they appear only rarely in divorce/separation cases. Few came to the U.K. until after World War II, and many of those who did were married to male migrants. Rare cases do show women of color succeeding at the British courts. Countess Hoey Stoker (called Angel Caulfield-Stoker in the suit), a woman of Chinese descent brought up in Java, sued her husband Beauchamp for divorce after he treated her cruelly and committed adultery. She got the divorce in 1920, including custody of their son (Caballero and Aspinall 2018, pp. 162–63).<sup>46</sup> Given her status, Hoey was an extremely unusual woman, but most women of color who appeared as respondents also benefitted from having a high-class status. The two Mander brothers, Lionel and Alan, married sisters who were daughters of the Maharaja of Cooch Behar. Lionel married Pretiva Sundari in 1912, and Alan married Sudhira Sundari in 1914. Sadly, neither marriage was successful. Lionel sued Pretiva for divorce in 1920 on the grounds of her adultery with Reginald du Beer. Justice Horridge was openly skeptical about Lionel's story of catching the two of them together, but when Lionel supplied proofs that his wife was living with du Beer, the judge relented and granted the decree. Alan, on the other hand, was unable to divorce Sudhira, the mother of his two children, when he tried in 1934. She lived with her lover and had a child with him, but Alan apparently condoned the adultery, so his divorce petition was dismissed.<sup>47</sup>

The *reasons* for the breakdown in the marriage also showed complicated interactions between race and other issues. Women of color in the divorce court as petitioners or respondents tended to be wealthy, titled women. Their class status, then, could be a bigger problem than their country of origin, since some struggled to adjust to the reduced circumstances of their husbands. Rose Legge was the daughter and sole heir of Selim Faris, a diplomat at the Turkish court and a fabulously wealthy man.

<sup>44</sup> *Sandler v. Sandler and Davies and Johnstone*, J77/3145/6668; *Liverpool Echo*, 6 March 1934, 12; 7 March 1929, 7, 16.

<sup>45</sup> *Cursett Sutherland v. Cursett Sutherland and McDonald*, J77/2232/9920; *Times*, 21 July 1926, 5. Cursett Sutherland remarried in 1930 to Nina Vinogradov, possibly another immigrant to the U.K., Ancestry.co.uk, Civil Marriage Register, 1930, accessed 9 February 2020.

<sup>46</sup> *Caulfield-Stoker v. Caulfield-Stoker*, J77/1593/9425 (1919–1920); *Times*, 20 April 1920, 5.

<sup>47</sup> *Mander v. Mander and du Beer*, J77/1722/3616 (1920–1922); *Times*, 8 June 1921, 5; 19 May 1922, 5; 24 May 1922, 5; *Mander v. Mander and Quill*, J77/3358/2514 (1934–1936).

Her husband, Reginald, was a captain in the British army who later won medals and promotion to brigadier general in WWI. When they married in 1900, they did not disagree over religion or nationality; Rose accepted her husband's home and reared her children Anglican, and Reginald, in turn, agreed to a Muslim ceremony as well as a civil wedding. What the couple could not agree on was money. Reginald, in his petition, accused his wife of "extravagance," that favorite term of disgruntled husbands (Hammerton 1992, pp. 113–14). He also insisted she flew into rages when denied her material desires. She, in her turn, accused her husband of being the spendthrift, saying he had drained her of all her inheritance. She looked down on her husband, finding "his nouveau riche desires for show" very "trying." Though she was able to delay his petition for five years, eventually Reginald divorced her for adultery. In this case, money was the main bone of contention, though Rose also faced a jury influenced by her husband's sterling military record. In the aftermath of a devastating war, she was disadvantaged by being a native of a country on the opposite side. Nevertheless, the real problem was her inability to adjust to being the wife of an army officer and no longer living the lavish lifestyle she preferred. The class difference meant she did not respect her husband, and he found her pretensions exasperating.<sup>48</sup>

Women who appeared as "interveners" (female equivalent of co-respondent) offered a stark contrast with petitioners or respondents. They were all women in the empire, either regular mistresses or prostitutes from local brothels. They rarely received names in the court petitions. When Kate Pemberton divorced her husband George in 1908–1910, her grounds were cruelty and adultery while the couple lived in Hong Kong. She had five instances of adultery in her petition, including two "unknown" women in Yokohama, Japan in 1906, and anonymous prostitutes in two brothels in Bombay (Mumbai) in 1907. George's bad temper, belittling behavior, and trips to brothels were well known in the English community in Hong Kong, so Pemberton got her divorce and custody of their daughter.<sup>49</sup> This case was typical; women who returned to England and endured the embarrassment of divorce often succeeded when naming anonymous women of color as interveners.<sup>50</sup> Evelyn Anderton complained that her husband Edward committed adultery with "a native woman named Tandrire" in South Africa, as well as "a native woman" in East Africa who "shortly" gave him a venereal disease. Evelyn's brother Charles described the latter as Edward's "concubine," whom the latter visited regularly and paid 10 rupees a month.<sup>51</sup> The interveners of color remain shadowy figures, examples of Englishmen's sexual exploitation of indigenous women in the empire (Ghosh 2006, pp. 35–132; Levine 2004; Ray 2015, pp. 56–76). This kind of mixed relationship was largely ignored in discourse about mixed unions. Doing so shifted the discussion away from British wrongs and instead highlighted the "predatory" behavior of foreign men. As these cases showed, relationships across racial and national lines were considerably more complex than such stereotypes allowed.

## 7. Bhandari v. Bhandari

As so many of these cases indicated, gender and class complicated the influence of race in divorce petitions and in the relationships of the spouses. The results of the cases turned on the wealth of the petitioners, the sex, the timing (as divorce law changed), nationality, and intangibles such as education, Anglicization, and war service. The last section of this article, then, will explore these complexities by looking at one well-documented case in detail. This drawn-out divorce case demonstrated that race was influential in marriages and divorces, but only as one factor amongst many.

<sup>48</sup> *Legge v. Legge and Landolf*, J77/1742/4239 (1920–1921); J77/1745/4349 (1921–1924); *Times*, 6 February 1924, 5; 7 February 1924, 5; 8 February 1924, 5; *Liverpool Echo*, 3 February 1924, 12; 6 February 1924, 5; 7 February, 1924, 7.

<sup>49</sup> *Pemberton v. Pemberton*, J77/942/8596 (1908–1910). After the divorce, both returned to China, Ancestry.co.uk, U.K. Foreign and Overseas Register of British Subjects, 1628–1969, accessed 9 February 2020.

<sup>50</sup> For another example, see *Davies v. Davies*, J77/494/15056 (1892–1894).

<sup>51</sup> *Anderton v. Anderton*, J77/942/8598 (1908–1909); *Times*, 12 January 1909, 2.

Pratool Chandra Bhandari studied medicine in Britain, and he married Elsie King in December 1920 in Kensington when he was 21 and she was 23. She was a nurse at the South Western Hospital, so they were well suited in professional interests. After their wedding, they lived in Middlesex and had two children, Kamini, born 1925, and Shanto, born 1927. Pratool eventually established a healthy practice, earning over £2000 a year and buying a bungalow at Dymchurch for holidays. Though they lived comfortably, their relationship began to deteriorate before Shanto's birth, and, by 1928, they were living separately. Elsie became convinced her husband was carrying on with a married neighbor, Elsie May Stallabrass, and accused her husband of neglect and cruelty. Pratool, on the other hand, considered his wife melodramatic, paranoid, and bad-tempered. Unusually for divorce petitions, several pieces of evidence remain in this file, including their letters to each other in 1928 and 1929, when Elsie was at Dymchurch and Pratool remained at work. The jealousy Elsie evinced and the exasperation that Pratool showed in response were both mediated by racial and financial concerns.<sup>52</sup>

Elsie's letters consisted primarily of news about their children and work on the bungalow, common household issues. Unfortunately, as Pratool regarded the holiday home as a useless expense, her chatter about renovations and decorating likely increased their estrangement rather than healing it. She frequently urged her husband to visit them, suggestions he always resisted. In September 1928, Pratool wrote, "no useful purpose can be gained by my coming to Dymchurch today," to which she replied, "We shall still expect you to come to us on Friday morning or Saturday for a few days, so do not disappoint us again." The reason for his reluctance, according to him, was her jealous tantrums. In August of 1928, Pratool's solicitors sent a formal letter, scolding her for making a scene "when Mr. and Mrs. Norman Stallabrass came down there with a view to occupying the bungalow during the holiday as tenants . . ." Given his wife's jealousy, Pratool's offering the cottage to the Stallabrasses was a provocative act, perhaps calculated to get the very reaction it did. As a result of Elsie's furious response, the Stallabrasses holidays elsewhere, and Pratool's poor opinion of his wife was confirmed. Though he may have been passive aggressive in that instance, Elsie made many scenes, often at her husband's surgery, to the point that his solicitors accused her of trying to "ruin your Husband's practice." Thus, in his own defense, Pratool demanded a separation. Elsie, for her part, continued to see Elsie May Stallabrass as the main problem: "Pratool I pray that one day you will realize what game the Stallabrass's [sic] are playing. You have been led away—little by little—now you are completely 'wrong.'" Elsie also reminisced about their early married life, when the opposition to their union had bonded them: "You have chosen the story you love to tell of when you were resident H.P. at St. Thomas's—how you were positively hated because I visited you at hospital—even although they knew I was your wife—it makes me wonder what happened to you—where are you?"<sup>53</sup>

Pratool faithfully sent money for housekeeping and care for the two children, but his love for his wife had died. He blamed her self-centered behavior and insisted that being away from her made him "very much better and happier which is quite a change after my experiences of the last nine years." On 20 September 1928, she wrote again, asking him to consider the children. Shanto had just turned a year old and had missed him at her birthday party. Elsie added, "Tooli I long for reconciliation—cannot future tenderness and love turn your heart to me again?" His reply all but slammed the door on any such hope:

*I am very much afraid that a promise of future tenderness from you has come to mean nothing to me and you have with cruel indifference to consequences or even much decency to have as aggressively and foolishly overstepped the mark and . . . destroyed any grounds that could even be shaped into a common foundation for two lives so widely and essentially [sic] unlike each other . . . after some good*

<sup>52</sup> *Bhandari v. Bhandari*, J77/2773/5952 (1930–1941).

<sup>53</sup> *Bhandari v. Bhandari*; J77/2773/5952; Pratool Bhandari to Elsie Bhandari, 2 September 1928; Elsie to Pratool, no date (ca. 3 September 1928); W. H. Bellamy, Solicitor, to Elsie Bhandari, 30 August 1928; Elsie to Pratool, undated (ca. August 1928); Elsie to Pratool, undated; Pratool to Elsie, undated, (ca. 21 September 1928).

*long time when it is apparent you can think of other people beside yourself when you can recognize that as a man I must have a very considerable share in deciding the events of my life and household . . . when there is definite evidence that you have learned to live without the love of scenes . . . I would be only too willing to forgive but not forget what has happened.*<sup>54</sup>

Pratool never specified the words and actions he could not forget, but his solicitors accused her of false accusations, suborning the couple's servants against him, and jeering at his race: "Dr. Bhandari has been brought up as a gentleman and acts as such, and I think it is a pity that you should always be taunting him as to his Indian birth . . ." The implication of this wording was that Elsie herself was not born so high, perhaps raising herself when she became a nurse. Her father was listed as a "farmer" on the marriage certificate, a profession that was ambiguous in class. If she were the daughter of a small farmer, her marriage to a doctor was an improvement in status; alternatively, if her father were wealthy, she may have had trouble adjusting her standards downward. At any rate, the difference of status—in whichever direction—explained why she was so anxious to spend money, refused to give up her holiday bungalow, and made scenes her husband found excruciating. Moreover, class issues interacted with gender expectations to estrange the couple further. Pratool's insistence on his right to decide the "events of my life" because of his status "as a man" was telling. Indeed, his anger that she endangered her career with her scenes at his surgery combined both class and gender concerns.<sup>55</sup>

Ultimately, Elsie was unable to prove her divorce case, which dragged on to 1941, when it was formally dismissed. The couple apparently never reconciled, though perhaps they made a private settlement, agreeing to live apart. Middle-class, professional Indians possibly were touchy about their status, as many were used to having respect in their homelands. British women married to such men, for their part, were defensive about acquiring and keeping the trappings of middle-class, professional life, partly because their marriage to a man of color made their statuses ambivalent. Notably, the class and gender differences, rather than the racial ones, were incapable of compromise; arguments that used racial slurs hurt chances at reconciliation but did not cause the initial breach. Pratool blamed their inability to reconcile on the fact that they were "widely and essentially" unlike each other, but he indicated these differences were ones of character, a combination of temperament, class, and gender as well as race.

## 8. Conclusions

Divorce cases involving people of color were a small minority of petitions, but their presence in the archives showed the global reach of Britain at the apex of its power. People from all over the world arrived in British ports, met locals, and married; these were predominantly single males, but a few women of color also took advantage of Britain's business and educational opportunities. Marriage was a way to integrate into communities, and the male population who arrived in Britain formed their own neighborhoods (Tabili 2011; Caballero and Aspinall 2018). Marital conflict, though, sent men back to their homelands, with or without their lovers, and deserted wives also sought places to recover from failed unions. British men and women increasingly took advantage of cheaper, faster travel to try their fortunes abroad, meeting new potential partners. These were mostly men, but a minority were wives who found solace with lovers from various parts of the globe. The vast population movements of the early 20th century were small compared to contemporary times, but, over time, they impacted the marriage market, the courts in Britain, and global migration patterns.

Though historians have rightly concentrated on important legal cases and issues of polygamy, the wider context of divorce petitions gives the outlines of a more "ordinary" cases and mixed-race couples. The wide variety of petitions showed how willing people were to grasp the legal opportunities at hand to advance their personal goals. Many divorces were undefended, the adulterous spouse

<sup>54</sup> *Bhandari v. Bhandari*; J77/2773/5952; Elsie to Pratool, 20 September 1928; Pratool to Elsie, no date (ca. September 1928).

<sup>55</sup> *Bhandari v. Bhandari*; J77/2773/5952; W. H. Bellamy to Elsie Bhandari, 30 August 1928.

having left with his or her lover, and race was only one of many factors in success at court. Race had an impact in divorce courts in two instances: when fear of British bias discouraged the use of its tribunals, or when the stories of the marriages confirmed British biases against partners of color (as with large age differences or tyrannical behavior by the husband). Occasionally, as well, juries gave large assessment of damages for a wronged white husband, but these were not always decisive, since well-off men of color defended themselves ably at court. Overall, the advantages that men had, whatever their race, were more decisive; they had easier access, they were more likely to be able to afford the expense, and their domiciles determined jurisdiction. This gender divide was especially wide for the women of color named in divorce suits, who were often completely anonymous and undefended. At least until World War II, the entanglements of class and gender, to some extent, limited the “vindictiveness because of colour” in the English divorce court.

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