Pearls worth Rds4000 or less: Reinterpreting eighteenth century sumptuary laws at the Cape

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Abstract

Governor Ryk Tulbagh promulgated sumptuary laws at the Cape in 1755. Umbrellas could no longer be carried freely by all classes, silk dresses of a certain length could not be worn by ladies without regard to rank, and the value of pearl necklaces was strictly limited. These laws have often been interpreted as an attempt to maintain a social hierarchy (e.g. Ross 1990), a “defence against emulation” in the words of De Vries (2008). But the standard explanation leaves something to be desired: it does not engage with the economic motivation for sumptuary laws that influenced similar regulations in Europe and Asia at the time, nor does it explain why the VOC would legislate in the Cape what the Dutch never tolerated at home, and it seamlessly extrapolates the explanation for laws in Batavia to a different social and economic setting in the Cape.

An alternative interpretation of Tulbagh’s sumptuary laws is developed in this paper, which draws on evidence from the Cape and from Batavia. Their economic causes are sought in the East, where the laws originated, while their social reception and their impact are sought in the records of the Cape. In this way the paper provides a new interpretation of the causes underlying the sumptuary laws of 1755 and their role as instruments of economic and social policy.

Key words: Sumptuary laws, Cape colony in the 18th century, Dutch East India Company

JEL codes: N47, N97

1 Introduction

Ryk Tulbagh decreed in 1755 that only women married to a Councillor of India may wear a string of pearls worth 4000 rixdollars (Rds) or more in the Dutch

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East India Company’s (VOC) colony at the Cape. This sumptuary law was an unqualified success; there was not a single recorded violation. We might explain such unusually successful social legislation in one of two directions: perhaps the women of Cape Town read the errors of their extravagant ways in the preamble to these sumptuary laws and promptly adopted the modest mores recommended for their dress and conduct. On the other hand, it may be that no one at the Cape had a string of pearls splendid enough to fall foul of a law that was designed to be either irrelevant or unenforced. This paper considers the evidence for these two possibilities as part of a reinterpretation of Ryk Tulbagh’s sumptuary laws.

Cape Town was an affluent city in 1755. The ‘Tavern of the Sea’ serviced the ships on the Europe-Asia trade route and, by the middle of the century, travellers commented on the evident local wealth and fashion. In a prospering society, all boats do not rise at the same rate though, and those who had been at the top of the social ladder might have resented those who were catching up or even passing them in the accumulation and display of wealth. Such were the tensions at the Cape during the 1750s, we have been told. (Schoeman, 2011: 228), and where the nouveau riche lacked private restraint, an austere governor stepped in to enforce public respectability and protect the colony’s hierarchy with a set of sumptuary laws.

This is the standard interpretation of Tulbagh’s sumptuary laws: it was an attempt – albeit a failed one (Ross, 2007: 384) – to maintain the social status quo ante in the face of a rapidly rising middle class (Ross, 1999: 10; Ross, 2007: 288-289; Schoeman, 2011: 228; Fourie, 2012a: 18), or in Groenewald’s (2012: 53) words: “... the laws reveal much about the nature of symbolic power in VOC Cape Town society, and its immense importance”¹. But this interpretation runs into three difficulties: sumptuary laws aimed at social control would have been anachronistic by 1755 (the period problem), they would have been out of place in a Dutch Society (the Dutch problem), and it is known that these laws were not written in response to tensions at the Cape but were instead designed at and for circumstances in Batavia (the Batavia problem). The untangling of these three problems leads to an alternative interpretation of Tulbagh’s sumptuary laws. Their economic causes are sought in the East, while their social reception and impact are sought in the records of the Cape.

2 Sumptuary laws by the mid-eighteenth century

Sumptuary laws have a long history. They were widely used in the middle ages as instruments of social policy to express, in Europe at least, Christian concern with the display of wealth. The vows of poverty by members of many religious orders gave concrete form to this sentiment, and it passed from private

¹While Groenewald (2012) reads these sumptuary laws along the lines of the standard interpretation, he does allow that an investigation of their “real impact” (Groenewald, 2012: 224, n67, emphasis in the original) remains unclear. This paper forms part of the discussion about the actual impact of Tulbagh’s sumptuary laws.
virtue into social policy, with sumptuary laws having been enacted in Italian city states, German principalities, Swiss Cantons, England, France and Spain (Ross, 2007: 383-384). By the early modern period, a new role for sumptuary laws had emerged with the breakdown of the rigid social structure of the feudal order. In many European countries, laws would henceforth help maintain the social hierarchy in outward form by structuring the public display and consumption of wealth according to social rank.

But the political climate was changing by the 18th century, with sumptuary laws becoming instruments of economic necessity, and what is now called industrial policy supplanted the social imperatives that underpinned these measures in medieval Europe (Hunt, 1996). The economic motivation for such laws in this era, not just in Europe but in Asia too, included the following: balance of payments concerns with the outflow of bullion in an era of mercantilist reasoning; the protection of local industry; and an attempt to divert income towards savings, with the goal of boosting the accumulation of capital (Baldwin, 1926; Freudenberger, 1963). These mercantilist objectives included support for local textile industries in many European counties, with the notable exception of the Dutch Republic (Lemire and Riello, 2008: 898). The unintended consequence of such mercantilist reasoning was to divorce sumptuary laws from the “... moral and social connotations ...” (Freudenberger, 1963: 44) that they had had in an earlier period. This is the first problem with the standard interpretation of Tulbagh’s laws, call it the period problem, i.e. the second half of the eighteenth century was well beyond the period of morally or socially based sumptuary laws.

The year 1755 was not only late for moral or social foundations upon which to base sumptuary laws, but Dutch society was also uniquely resistant to such interference. Unlike England, France and many of the German principalities, there was no history of sumptuary laws to support public morals or maintain the social hierarchy. This is the second problem, call it the Dutch problem, with the standard interpretation of Ryk Tulbagh’s sumptuary laws. Not that social tension was absent from Dutch Society, but the “Genevan” style of Calvinism, as Schama (1991) calls it, could only break into the “pragmatic atmosphere of government in big commercial centres like Amsterdam and Haarlem” under the stress of extreme circumstances (Schama, 1991: 336).

One such case was during war with England in 1655; another was in 1672, again during war, though on that occasion with France (Schama, 1991: 182, note 113). Clothing was not restricted though and neither were the type and quality of food one could consume, though the number of guests and musicians, and the

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2 The Synod at Dordrecht (1618-19), which played a central role in codifying Calvinism, recommended sumptuary laws. Elsewhere, Schama (1979: 117) describes the futile efforts of the “Church to ban sweetmeats and wine from all baptismal feasts, weddings, and wakes, and failing in that, [it] attempted with even less success to ban those celebrations outright”.

3 Schama (1991: 184-185) recounts the curious incident in 1663, when the mayor of Amsterdam used the religious restriction on idolatry to ban all dolls as well as gingerbread men and other cookies and candles that might be effigies. This religiously motivated attempt to control consumption was quickly defeated by outraged children and their parents.

4 It was not just war with England, but the economic slump and the plague that encouraged extreme political decisions in 1655 (Schama, 1991: 182).
duration of feasts were temporarily limited. These regulations look sensible for a government interested in rationing resources, while also being sensitive to the many adverse incentives created by sumptuary laws: the problem of monitoring, smuggling, and the basic contradiction that Ross (2007: 384) identified at the core of such laws, i.e. that the sumptuary law itself raised the status of the prohibited consumption.

Even the stress of circumstance could not guarantee that these laws would be enforced though, especially since the enforcers would also have to stick to the law. That is precisely what the social elite – which for this purpose included “… virtually anyone of any substance at all” (Schama, 1979: 13) – did not intend to do. These sumptuary laws would be just as little enforced as the legal protection offered to the Sabbath, which the magistrates ignored after they had given their “pious assent” (Schama, 1979: 13). Ross (2007: 384) argues that sumptuary laws failed not only in Holland, but also generally.

The underlying reason for this Dutch problem with respect to sumptuary laws is contested: on one side of the debate, Schama (1979) has argued that it reveals the combined effect of two deeply divergent value systems that combined to form the Dutch character of this period, with money, commerce, arts and science on one side, and piety, austerity, sobriety and Calvinism on the other. By contrast Ross argued that the class structure in Holland was relatively open compared with, say, contemporary England (Ross, 1999: 14). It was possible for a rising merchant to become a patrician in a way that was not possible in most European societies. But such a rise required that the merchant live the lifestyle of a patrician, with all its implied display (Ross, 1999: 15). These options were also available to those who rose to great wealth in the colonies, though it was only the Swellengrebel family from the 18th century Cape colony who are known to have converted colonial wealth into patrician status in their home country (Ross, 1999: 15, footnote 16).

Both Ross’s description of a relatively open class structure and Schama’s combination of divergent value systems agree on one point: that sumptuary laws were unlikely instruments of Dutch policy – except, apparently, in their colonies. When the Dutch governed their commercial empire through the VOC they “soon conquered such scruples” as held back sumptuary laws in their home country – to paraphrase Ross (2007: 386) – which led to such laws at the Cape in 1755. To explain why the Dutch accepted social legislation for their colonies that they would not tolerate at home, Ross (2007) gave an expanded version of the standard interpretation, but he also highlighted the irony of laws that sought to “… ban in the VOC’s Asian world those developments [the marketing of consumption] which the VOC in Europe had done everything within its power

5 Ross (2007) credited Montaigne with this insight.

6 Though he allows that the motivation of the Dutch colonial sumptuary laws is the realm of speculative history, two points nevertheless seemed obvious to Ross (2007). Firstly, the sumptuary laws were attempts by the VOC to maintain the company’s internal hierarchy and external supremacy in colonies where these were under pressure from a prosperous class of free burghers. Secondly, these sumptuary laws reflected a struggle over consumption, which was a proxy for an underlying struggle for political and social power in the colonies (Ross, 2007: 388-389).
to promote" (2007: 387). What I have called the Dutch problem in this paper is the plausibility of this ironic twist whereby the Dutch would prohibit at a distance what they were enthusiastically marketing at home.

3 Sumptuary laws at the Cape in 1755

By the second half of the 18th century, there was much prosperity at the VOC’s colony in the Western Cape. Ross (e.g. 1983) and, more recently, Fourie (2012a) have demonstrated the comparative wealth of the colonists in terms of assets and real income for this period. Cape Town, especially, gained a reputation as a wealthy city from many travel accounts, such as those of S.P. van Braam, who found “... a magnificence which I am certain in general can be found in no other colony, nor even in the richest cities of any country in the world”, or the commissioner Hendrik Breton, who found “... nothing except signs of prosperity, to the extent that, in addition to splendour and magnificence in clothes and carriages, the houses are filled with elegant furniture and the tables decked with silverware ...”. A few years earlier, Johan Stavorinus had been equally impressed with a farmstead he visited a short distance from Cape Town (at what is now Kuils River), which he thought resembled not so much the house of a farmer as the compound of a rich landowner (Stavorinus, 1797: 52). These anecdotes about the relative prosperity at the Cape in this period can easily be multiplied, and the more systematic investigations, such as that of Fourie (2012a), tell the same story.

Ryk Tulbagh was appointed governor at the Cape in 1751 during a local recession and against the backdrop of the long-run decline of the VOC. This observation does not support the analysis of, for example, Joubert (1942: 10), who claimed that Tulbagh assumed command during a period of economic stagnation only intermittently relieved by the temporary boom of a passing convoy. That would be to confuse the long-run trajectory of wealth and income with the business cycle: It is true that Tulbagh assumed control in a relatively difficult period, but more recent analyses of the available data, for example, Fourie (2012b), showed that Joubert (1942) had the sign wrong; that prosperity was increasing at the Cape despite the Company’s slow decline. Rising prosperity at the Cape suggests that the displayed wealth of burgers and officials reflected the usual relationship between income and non-essential consumption, in contrast with Joubert’s (1942) moralistic argument that conspicuous consumption was somehow causally connected to the colony’s decline.

Early in 1755, Ryk Tulbagh received a placaat (statute) from Batavia describing the extensive sumptuary laws promulgated by the governor-general,
Jacob Mossel, in December of the previous year\textsuperscript{10}. The preamble to the laws spoke of the scandal caused by the “... splendour and pomp among various Company servants and burghers ...” (translated by Ross, 1999: 9). Such behaviour combined three vices, or so the preamble claimed: first, it risked the financial ruin of the spendthrift; second, such splendour was the fruit of pride; and third, the extravagant persons of lower stations might lose respect for their social superiors, threatening the very hierarchy upon which depended social order and the prosperity of the company (Ross, 1999: 9-10). To these motivations Schoeman (2011: 228) added the speculation that these laws might have been practical measures in the ongoing struggle against corruption in the VOC\textsuperscript{11}, while in an earlier era, Theal (1897: 82) added the psychological speculation that such laws were appropriate for the “... simple, honest, manly race of colonists, [and] to preserve the hardy virtues which had made the people of the Netherlands a powerful nation”\textsuperscript{12}.

Mossel’s \textit{placaat} was nothing if not comprehensive, with 12 chapters and 124 articles, consolidating earlier attempts in the same direction at Batavia and extending them enthusiastically to cover dress, transport, ceremonies, slavery and jewellery. Meanwhile, Tulbagh had his hands full with a serious smallpox epidemic at the Cape, and he instructed the Council of Policy to review the \textit{placaat} and suggest amendments for local circumstances. For example, while Mossel forbade more than two horses per carriage for all but the highest-ranking officials, the Council felt that this was impractical at the Cape, where roads were poor and distances great. Allowance was also made for the colder climate of the Cape where the admissible liveries of slaves were concerned (Schoeman, 2011: 229). The next few paragraphs summarise, briefly, the sumptuary laws enacted at the Cape\textsuperscript{13} (Joubert, 1942: 93-108; Ross, 1999: 10-12; Schoeman, 2011: 229-230).

The Batavian laws opened with very extensive regulations with respect to transport: the admissible number of horses, admissible types of carriages, the liveries of coachmen, and so on. These were watered down considerably at the Cape, but Tulbagh’s laws nevertheless contained the following restrictions: only members of the Council of India\textsuperscript{14} (which included the governor-general of the

\textsuperscript{10}These were not the first of their kind in Batavia, and followed the laws of 1680, 1704, 1719, 1729 and 1733 (Jonhert, 1942: 36-39, 65, 67).

\textsuperscript{11}This practical reason could hardly have weighed heavily in Tulbagh’s calculation. He was not above corruption, although Schoeman argues that the degree was comparatively modest by the standards of the day. Nevertheless, he is known to have concealed his considerable wealth from company officials and to have died a very wealthy man (Ross, 1983: 210; Schoeman, 2011: 231-232).

\textsuperscript{12}This psychological theory was Theal’s (1897: 82) way of explaining why Tulbagh would promulgate sumptuary laws in a colony with “... very little accumulated wealth”. It did not occur to him that the laws might simply have failed through want of enforcement, as they had, by his observation, failed in Batavia. Since Theal greatly underestimated the wealth of colonists and officials at the Cape (see, for example: Fourie, 2012a), there is no further need for his psychological analysis.

\textsuperscript{13}Botha (1926: 61-62) claimed that Simon van der Stel had forbidden altogether the use of umbrellas as protection against the sun in 1687, but his is the only reference I found to such an early sumptuary law at the Cape.

\textsuperscript{14}The company’s operations in the East (which included the colony at the Cape) where
Cape) were allowed to decorate their carriages with gold and silver, and only the upper merchants were allowed family emblems or coats of arms on their carriages. While Europeans were allowed guides for the horses of carriages, these guides were not allowed to be liveried. The same restrictions extended to sedan chairs for women and children.

Clothing was extensively regulated too, and these regulations have become the best-known parts of Tulbagh’s sumptuary laws. Only the governor and his family were allowed to wear clothes embroidered with gold or silver thread, and gold or silver buttons were only allowed one step lower down the hierarchy, i.e. for the upper merchants. These upper merchants were also allowed to wear velvet, but nobody below them could, and lower merchants and above could wear gold and silver buckles on their shoes. There were degrees of strictness for a number of these laws, such as the examples just mentioned, with the regulation increasingly strict with the declining social rank of the person. To measure rank the laws used the Company’s established hierarchy such as the rank of governor, or upper-merchant. For the purposes of these laws a husband’s rank applied to his whole family. The laws applied to all free citizens, with the strictest category in each case applicable where the male head of the family held no rank in the company hierarchy.

The Council of policy seemed especially concerned with velvet and silk, a matter to which I will return further on to explain the motivation for these laws. Restrictions according to VOC rank were also placed on the admissible size of umbrellas, a perennial source of social tension. The liveries of slaves were also regulated, with gold and silver jewellery reserved for slaves of the high government. Only the spouses of the members of the high government were allowed a train of three slaves when they appeared in town, with the number of slaves allowed in the train diminishing with the decreasing rank of the husband.

Women’s jewellery was limited by value, with only the wives of high-ranking officials allowed to wear a display worth more than Rds1000 in total. Pearl necklaces were specifically limited, with the spouse of a lower merchant and higher to just below the rank of Councillor of India not being allowed to wear a string of pearls worth more than Rds4000. If her husband was but a captain or higher, the pearls had to be more modest still and not exceed a value of Rds3000. (Joubert, 1942: 100).

Finally, a number of restrictions were also placed on ceremonies. Here the

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15 A well-known painting of Pieter Cnoll (and his family), an Upper Merchant at Batavia in the 17th century, by the painter Jacob Coeman, shows Cnoll with gold buttons such as those limited by the sumptuary laws (Taylor, 2006: 27). Ross (1999: 10, footnote 3) observed that these buttons were often used as money, in which case it is hard to account for their restriction to a few men in each VOC colony.

16 In a later iteration, these laws evolved to focus specifically on emancipated slave women, who were forbidden to wear silk, hooped skirts, ear-studs and decorated hats, with the exception that they were allowed black silk dresses when attending church (Ross, 1999: 11).
regulations limited bridal arches, clothing at weddings and funerals, and the extent of the feasts. Beyond these major events, the ceremony of daily life was affected by a regulation that required the public to show respect to the Councillors of Policy and the governor by stopping at their approach (Ross, 2007: 387).

Even Joubert (1942: 95), who mostly follows Theal’s (1897) romantic sketch of Tulbagh as an austere, but ultimately benevolent “father,” argues that the sumptuary laws could not have been a response to social conditions at the Cape. Here, as with the taxes and other industrial policy measures discussed in the next section, the trumping fact was that the refreshment station at the Cape of Good Hope fell under the legal jurisdiction of the VOC’s governing Council in Batavia. Hence, it is to Batavia that we must turn our attention to look for insight as to the possible purpose of these laws.

4 Jacob Mossel and the challenges facing the VOC in Batavia

Jacob Mossel had an enviable task. He succeeded Gustaaf Willem van Imhoff to the governorship in Batavia in 1751, a time when the Company’s fortunes were dwindling. The Company faced intense external competition from, inter alia, the British East India Company, internal corruption, a shift in Asian trade patterns that disrupted its business model, high mortality rates by company staff, and an unsustainable dividend policy (e.g. De Vries and Van der Woude, 1997). His predecessor, Van Imhoff, had mishandled an uprising in Bantam (a region at the Western end of the island of Java), and there was tension among the different groups in his cosmopolitan headquarters at Batavia.

Van Imhoff tabled a grave assessment of the company’s prospects, full of biblical premonitions, during a visit to the Cape in 1743. By the next decade, the Here XVII attempted an extensive budgetary consolidation: on the expenditure side, they required cost-cutting from all the colonial outposts, including the cancellation of company-sponsored festivals, the reduction of garrisons, and lower expenditure on slaves. Mossel achieved considerable success with this economising and was duly rewarded with honorific titles by the Staten Generaal (parliament) and a rising stock price by the markets (Coolhaas, 1958: 37-38).

The reforms were not just on the expenditure side of the Company’s income statement though; Mossel also raised revenue by imposing taxes onburghers and officials in their individual capacity and trade taxes on foreign ships in company ports. These taxes were designed not only to raise revenue, but also

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17 Georg Forster, a member of Captain Cook’s party, visited Cape Town just more than a year after Tulbagh’s death and noted that the late governor was “…looked upon as a father to this colony” (Ross, 1999: 11).

18 It is instructive that governor Tulbagh at the Cape objected strongly to these taxes, as he did in correspondence during April and May 1754 (cited in: Joubert, 1942: 39, 68). These letters show that Tulbagh grasped the economic impact of these taxes on the Cape, and he won some concessions and exemptions for his colony from the Here XVII.
to be instruments of industrial policy, as they included trade taxes (on imports
and exports) and a special tax of 20% on textiles. In this way Mossel brought
to a close an experiment in relatively free trade by his predecessor Van Imhoff
(Coolhaas, 1958: 43). To these measures were added a reduction in the price
the company would pay for produce at its various stations, such as at the Cape
(Joubert, 1942: 36-39, 65, 67). The VOC’s belt-tightening and tariff policies
of the early 1750s were followed by the promulgation, in December 1754, of
sumptuary laws in Batavia to regulate many consumer goods and some services.
Although the details of the specific laws differed somewhat in Batavia from
Tulbagh’s laws discussed above, the major themes are the same: restrictions on
transport, clothing, jewellery, slaves and ceremonies.

In its extensive trade network in the East, the Company was a net importer
of textiles, especially silk from China and various varieties of Indian cloth, a
portion of which was intended for re-exportation to Europe (Knaap, 2006: 495).
Taxes on the local use of textiles in particular and trade taxes in general form
tariff barriers, with the (hoped for) effect of strengthening the trade balance of
the policy makers against those of their trading partners. Non-tariff barriers
can achieve the same result, as they do in the 21st century, where health and
safety laws, minimum labour conditions, or any number of non-tariff barriers
are used as instruments of industrial policy. Sumptuary laws are good examples
of the non-tariff barriers employed by various governments in Europe and Asia
during the 18th century (Hunt, 1996).

The third problem with the standard interpretation of Tulbagh’s sumptuary
laws, call it the Batavia problem, follows: those sections of the Batavian sum-
ptuary laws which Tulbagh promulgated without too many local qualifications
related mainly to clothing, especially to luxury cloth such as silk and velvet and
to previous metals such as gold and silver. These were precisely the sections
of the Batavian sumptuary laws that were most directly related to the mercantile
needs of the Company in the East, where the acquisition of these goods for
domestic consumption would have weakened the balance of payments. That is
to say, there was a plausible industrial policy motivation for these laws, which
would have explained the emergence of these laws despite the Dutch and period
problems highlighted above.

5 Implementation and interpretation of the sumptuary laws

The thesis in this paper is that the sumptuary laws at the Cape should not be
understood as a reasonable response to class or other social tensions. Ross (1999:
4) argues that society at the Cape during the 18th century was characterised
by a “wide range of interconnected, and not always consistent, statuses, which
were proclaimed in a wide variety of ways”, one of which was consumption,
especially of fashion\textsuperscript{19}. Since society was not stationary, status was a potential source of tension, and historians have documented instances where the latent tension turned into outright conflict\textsuperscript{20}. But it is a leap from the observation of tensions to the conclusion that sumptuary laws would have been the governor’s reasonable response. Three reasons to doubt the standard connection between the sumptuary laws and social tensions developed have already been discussed. But these objections do not settle the matter; the enforcement of laws provides extra information about their potential motivation and reception.

Court records do not provide a comprehensive account of how law abiding a society is or was: Enforcement is imperfect, and Heese (1994) observes that this was especially so in the outlying districts of the Cape colony during the 18\textsuperscript{th} century. The Court of Justice sat in Cape Town, and Heese (1994: 2) refers to crimes committed in the outlying districts due to the poor enforcement of the law. But the sumptuary laws were not meant for the countryside or the towns beyond Cape Town; they were meant, if the standard interpretation is correct, to change behaviour in Cape Town, close to the Court of Justice, where – Joubert (1942: 96) argued – they would have been a severe restriction on private lives. The assumption that implementation was possible is, accordingly, plausible.

Heese (1994) recorded all the court sentences in criminal cases for the 18\textsuperscript{th} century, i.e. all cases recorded in the archival group \textit{Sentenciën}. This includes all criminal cases that were served before the Court of Justice in Cape Town, but excludes all less serious cases dealt with by rural magistrates. Heese (1994: 5) also found some prisoners on the lists of Robben Island who did not appear in the \textit{Sentenciën} lists. The interpretation of the court records, with respect to the sumptuary laws, proceeds here with the acknowledged risk that the \textit{Sentenciën} excludes some persons who were incarcerated for serious offences on Robben Island and some who were sentenced for lesser crimes by rural courts. It is assumed that the sumptuary laws fell into neither of these two categories. That the \textit{Sentenciën} includes sentences for other social crimes (sexual misdemeanours\textsuperscript{21}, polygamy\textsuperscript{22}, \textit{crimen injuria}\textsuperscript{23}, keeping children out of school\textsuperscript{24}, etc.), (Heese, 1994: 30) is read as evidence to support the assumption that offences against the sumptuary laws should have been recorded in the \textit{Sentenciën}.

The long list of crimes, many of a social nature, listed in Heese (1994) does not, however, include a single offence against the sumptuary laws. Joubert

\begin{itemize}
\item\textsuperscript{19}European fashion influenced local fashion, and Ross (1999: 11) notes the expectation that newly arrived women from Europe would display the latest fashion at their first ball.
\item\textsuperscript{20}Joubert (1942: 5) discussed a curious incident from 1715 where a visiting official Pieter Gysbert Noodt claimed to outrank the secundus at the Cape, Abraham Cranendonk, with respect to military salutes and seats for their wives in the church.
\item\textsuperscript{21}For example, Jan Theunisse was sentenced for sodomy in 1717.
\item\textsuperscript{22}For example, Jan Calmers was sentenced for polygamy in 1711.
\item\textsuperscript{23}For example, Hendrik Meyboom and his wife Elsje were found guilty of \textit{crimen injuria} against Hendrik Bouman in 1705.
\item\textsuperscript{24}Theal (1897) mentions the case of a Cape Town widow who had kept her children at home until she was threatened with a flogging by the Council for undermining their Christian education.
\end{itemize}
(1942: 108), although deeply sympathetic to the cause of the sumptuary laws, regretted that he could not find any evidence of their actual enforcement, and Trotter (1903: 270) observed that no traveller to the Cape in this period mentioned these laws or their application. There are four possible explanations for this silence in the official records and travel accounts. First, offences against the sumptuary laws were tried elsewhere and were not counted as criminal offences. The reasons for discounting this possibility are that the crimes would have been committed in the location of the Court of Justice and that this court did not avoid social crimes. A second possibility is that locals never broke the sumptuary laws because they immediately changed their behaviour in accordance with Tulbagh’s _placaat_. This is logically possible, but judged implausible in light of the evidence that the same population did not respond in this manner to other laws and in light of travel accounts from later in the century mentioning at least the same level of fashionable display as earlier.

Three plausible explanations remain: that the sumptuary laws were not enforced or were designed to be irrelevant or were enforced through a moral suasion that went unrecorded. The evidence suggests that the first two possibilities are both correct to some extent: some of the laws were designed to be irrelevant, and the remainder were not enforced. It is harder to judge the possibility of moral suasion since it would have been exercised with discretion if done at all. Having said that, it is not hard to imagine that social pressure would have been placed on those who stepped out of the accepted social hierarchy at the Cape. But informal enforcement of social norms does not require legal backing; legislation is not needed where the social enforcement of norms succeeds. In this case it did not: as mentioned above, there was no observed change in the display of fashion at the Cape in the wake of the sumptuary laws.

Starting with the irrelevant laws, these included regulations such as the limit on the value of strings of pearls, with which this paper opened. It was not admissible for a woman to wear a string of pearls in public that was worth more than Rds3000 or Rds4000, depending on the status of her husband. The probate inventories and auction rolls (MOOC8 and MOOC10 series) from this period help us to judge how limiting these constraints would have been. There is considerable variability in the estimated value of pearls recorded in this inventory, ranging from Rds3:6 in Sophia van der Bijl’s estate of 1733 (MOOC10/4.110) to Josina van Dam’s string of pearls with diamonds, worth Rds149 (MOOC10/4.116). Yet the most valuable these strings were worth but a fraction of the legislated limit for pearls in Tulbagh’s sumptuary laws.

The situation is little different for the regulation that limited a lady to jewellery of Rds1000 or less at any point in time. According to Fourie’s .().(2012a: Table 5) list of average asset prices at the Cape in this period, she would have

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25I am grateful to a referee who mentioned the possibility that the laws were enforced by a form of social sanction that would have gone unrecorded.

26The MOOCs series of probate inventories, transcribed by the TANAP (2010) project between 2004 and 2008, lists the assets of individuals who died intestate at the Cape. The project also included the MOOC10 series of auction rolls, which show the prices fetched by goods sold at auction by the Cape Orphan chamber.
been able to buy on average 9 slaves or 66 horses for Rds1000. One of the – if not the – wealthiest women at the Cape during the 18th century Debra de Koning left 24 pieces of jewellery worth Rds761 when she died in 1748 (MOOC8/7.71 3/4c). Given the value of 18th century jewellery at the Cape, it is scarcely plausible that even the elite could have violated this ordinance, let alone the up-and-coming middle class, against whom the laws were ostensibly aimed. Many of the regulations with respect to transport were also known to be irrelevant at the time; for example, there were few of the lighter carriages used for leisure elsewhere (in Batavia), and the opinion was that even these were used for useful transport, not for display.

It is not possible from this vantage point to judge whether Tulbagh’s sumptuary laws were simply not enforced, or were designed to be irrelevant so that no enforcement would be required. Tamplin’s (1897: 22) observation that the laws remained in force at the Cape until 1795\textsuperscript{27} is evidence in favour of the irrelevance hypothesis. There is, of course, no problem in keeping laws such as the restrictions on jewellery mentioned here in force, and they would have had no bearing on behaviour. But there is also evidence in favour of the non-enforcement hypothesis in the form of Hahlo and Kahn’s (1968: 574, footnote 47) record of Batavian placaaten which were simply not applied at the Cape.

There is no need to settle the question between these two hypotheses though. The standard interpretation of the sumptuary laws is not consistent with either: laws designed to be either irrelevant or not implemented could not have been intended as a serious defence of the social status quo.

6 Conclusion

The standard interpretation of Ryk Tulbagh’s sumptuary laws of 1755 is that they were an attempt by the VOC elite to protect a social hierarchy under threat from the ostentatious display and consumption of a rising class of nouveau riche. This interpretation runs into three problems. The first is that by the 18th century, sumptuary laws had evolved from instruments of social control to proto-industrial policy, in step with the mercantilist thinking of the day, and the Dutch were especially unlikely candidates for using sumptuary laws to social ends. It is also known that industrial policy was on the VOC’s agenda at this time, as the sumptuary laws followed shortly on the heels of other mercantilist policies, such as taxes and trade barriers, in Batavia which were extended to Cape Town. This offers an alternative angle to understand the surprising adoption of sumptuary laws in a colony of the one European power not to have used such laws to protect its social hierarchy.

\textsuperscript{27}When France conquered the Dutch Republic in 1795 Britain sent a naval squad to Cape Town to wrest control from the local militia in order to prevent French control of the Cape. The sumptuary laws were abolished as a part of the general reform of laws and codes which followed from the assumption of British control.
References


