

# THE COMPLEXITY OF THE MOMENT

PICTURING AN ETHNOGRAPHIC PROJECT IN SOUTH AFRICA AND SWAZILAND

[Severin Lenart]



VOL. II:  
PHOTO ESSAYS AND  
COURT CASES, 2007–11

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FIELD NOTES AND RESEARCH PROJECTS V

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Cover Photo: Traditional healers in an initiation ritual, eMjindini Township, Barberton, South Africa, 2008 © Severin Lenart

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# SERIES EDITOR'S PREFACE

(GÜNTHER SCHLEE)

## ABOUT THE SERIES

This series of *Field Notes and Research Projects* does not aim to compete with high-impact, peer reviewed books and journal articles, which are the main ambition of scholars seeking to publish their research. Rather, contributions to this series complement such publications. They serve a number of different purposes.

In recent decades, anthropological publications have often been purely discursive – that is, they have consisted only of words. Often, pictures, tables, and maps have not found their way into them. In this series, we want to devote more space to visual aspects of our data.

Data are often referred to in publications without being presented systematically. Here, we want to make the paths we take in proceeding from data to conclusions more transparent by devoting sufficient space to the documentation of data.

In addition to facilitating critical evaluation of our work by members of the scholarly community, stimulating comparative research within the institute and beyond, and providing citable references for books and articles in which only a limited amount of data can be presented, these volumes serve an important function in retaining connections to field sites and in maintaining the involvement of the people living there in the research process. Those who have helped us to collect data and provided us with information can be given these books and booklets as small tokens of our gratitude and as tangible evidence of their cooperation with us. When the results of our research are sown in the field, new discussions and fresh perspectives might sprout.

Especially in their electronic form, these volumes can also be used in the production of power points for teaching; and, as they are open-access and free of charge, they can serve an important public outreach function by arousing interest in our research among members of a wider audience.

## ABOUT THE AUTHOR

Unlike other authors in this series, who are part of the



International Max Planck Research School  
on Retaliation, Mediation and Punishment

department *Integration and Conflict*, Severin Lenart has been a PhD candidate in the Project Group *Legal Pluralism*, the precursor of our department *Law and Anthropology* (Professor Foblets). His supervisors were Keebet von Benda-Beckmann and Richard Rottenburg. His connection to me consists in his status as a member of REMEP, the *International Max Planck Research School on Retaliation, Mediation and Punishment* ([www.remep.mpg.de](http://www.remep.mpg.de)), of which Hans-Jörg Albrecht and I are the chairpersons. It has been a pleasure being associated with Severin Lenart and his work in courses and workshops and as one of the members of his doctoral committee.



# TRADITIONAL HEALING

(PHOTO ESSAY: SOUTH AFRICAN LOWVELD AND NORTHERN SWAZILAND)



Photo 1: Divining by throwing 'the bones'  
(*tinhlo*) (2008)

# TRADITIONAL HEALER

## DR. M SAIBU



**BEWITCHED PEOPLE &  
BAD LUCK EVERYWHERE  
YOU'RE ALL WELCOME  
TO GET HELP FROM SAIBU  
BY USING MUNTI**

Photo 2: A traditional healer's advertising  
in Paarl, Western Cape (2005)



**ROOM 5**



**TEL NO 072 2522 633**

VICKY'S Art & SIGNS





Photo 3: A traditional healer's *indumba*, Croydon, Swaziland

(2009)



Photo 4: A traditional healer's homestead in eMjindini Trust

(2009)



Photo 5: A visit to the healer (*sangoma*) (2009)





Photo 6: 'The bones'

(2009)



Photo 7: *Muti* (medicine) storage

(2009)



Photo 8: The *sangoma* talks to the spirits through a special device

(2009)



Photo 9: The *muti* starts to operate

(2009)



Photo 10: Burying the pool of sick

(2009)



Photo 11: The cause of the sickness, *sidliso*, a poison sent by an alleged witch

(2009)





Photo 12: *Kugata*. Medication as a preventive measure is applied by rubbing (2009)



Photo 13: *Kufutsa*. A hot herbal preparation against misfortunes (2009)



Photo 14: *Muti* for bathing (2009)



Photo 15: *Muti* for burning in the house (2009)





Photo 16: Cutting the bark of a Maphipha tree near eMjindini Trust (2008)





Photo 17: *Muti* storage in a healer's house, eMjindini Township, Barberton

(2008)



Photo 18: The yellow team is supported by the healer who holds *muti* in his hand

(2009)



Photo 19: The traditional healing section of the Swaziland National Museum

(2009)



Photo 20: Hamerkop (*Scopus umbretta*). A bird that is thought to be carrying *muti* to cause evil

(2009)



Photo 21: Traditional healing section, Swaziland National Museum

(2009)



Photo 22: Traditional healing section, Swaziland National Museum

(2009)





A hand-drawn sign on a white board with blue lettering. The sign is placed on a sidewalk next to a brick building. The text on the sign is as follows:

**DOCTOK MUKASA**  
**COURT CASE**  
**DROP (GONORRHEA)**  
**TUBERCULOSIS (TB)**  
**PENIS ENLARGEMENT**  
**BRING BACK LOST LOVE**  
**Cell: 0789952745**

Photo 23: A herbalist advertising his services,  
Barberton (2009)

# AN INITIATION RITUAL

(PHOTO ESSAY: eMJINDINI TOWNSHIP, BARBERTON, SOUTH AFRICA)



Photo 1: The *gobela* (teacher or trainer) (2008)





Photo 2: Traditional healers (*tangoma*) under the guidance of ancestral spirits

(2008)



Photo 3: The healers recite in cadenced verses the greetings from the ancestors

(2008)





Photo 4: Red, black and white are the colours of the *tangoma*

(2008)



Photo 5: A healer tells a member of the audience what the spirits have revealed

(2008)



Photo 6: Dancing ...

(2008)



Photo 7: The healers *pahla*, they call their spirits by name to join the gathering

(2008)





Photo 8: ... dancing

(2008)



Photo 9: Drumming is hard work and may continue for a whole day

(2008)





Photo 10: Dancing with a *sjambok* (stiff whip) and a *lishoba* (2008)





Photo 11: The body of the *sangoma* quivers, the voice is strange (2008)



Photo 12: The spirits have chosen the recipient of the message

(2008)



Photo 13: The dialogue is public and often embarrassing

(2008)





Photo 14: The ancestors (*emadloti*) must be taken seriously by the recipient

(2008)



Photo 15: Dialogue with the spirits through the medium of the *sangoma*

(2008)



Photo 16: The drumming and dancing starts

(2009)



Photo 17: The consultation begins with the greeting of the ancestors, *Thokoza!*

(2009)



# THABISO AND THE DEMONS

(PHOTO ESSAY: eMJINDINI TOWNSHIP AND eMJINDINI TRUST,  
BARBERTON, SOUTH AFRICA)



Photo 1: 'Sniffing out' the evil spirits (2011)





Photo 2: *Kugata*. Medication as a curative measure is applied by rubbing

(2011)



Photo 3: The healer's consultation room

(2011)



Photo 4: Burning some *muti* (2011)



Photo 5: A *muti* store in Barberton (2011)



Photo 6: More *muti* (2011)





Photo 7: Barberton *muti* store. ‘Specialist in African *muti* and herbs’

(2011)



Photo 8: Potassium permanganate, a strong oxidising agent, and glycerine

(2011)





Photo 9: The symbolic burial starts by cutting Thabiso with a razor (2011)





Photo 10: Digging the grave next to the river

(2011)



Photo 11: Doing the healer's bidding

(2011)





Photo 12: The symbolic burial, one

(2011)



Photo 13: The symbolic burial, two

(2011)



Photo 14: Mixing potassium permanganate and glycerine with secret herbs

(2011)



Photo 15: Magical retaliation

(2011)





Photo 16: *Kufutsa*, the sauna, a popular remedy against misfortunes

(2011)



Photo 17: Getting in

(2011)





Photo 18: Artisan production of heat

(2011)



Photo 19: More heat is needed

(2011)



Photo 20: A special *muti* to ‘sniff out’ the evil

(2011)



Photo 21: *Muti* storage

(2011)





Photo 22: 'Sniffing out' the evil spirits from Thabiso's body

(2011)



Photo 23: A spirit talks through the healer

(2011)



Photo 24: Treating Thabiso, one

(2011)



Photo 25: Treating Thabiso, two

(2011)





Photo 26: Talking to the spirits through a special device

(2011)



Photo 27: Preparing *muti* for Thabiso

(2011)

# DISPUTES



Photo 1: Meeting of a community court or *bandlancane* in Mpofu, Swaziland (2009)



# THE DEAD SNAKE

(FILE 08120700)

SUNDAY, DECEMBER 7, 2008 – CHIEF’S COURT,  
EMJINDINI TRUST, BARBERTON, SOUTH AFRICA

CHAIRMAN: We do not have informal conversations here that we do in the location only. You shall not interrupt each other but give each other a chance to speak. What we know we shall answer for and we shall not withhold anything from you as a council. Ladies and Gentleman, if you wish to say something then do so by a show of hand and you will be given a chance to voice opinions.

COMPLAINANT: This man here my neighbour, and his son is married to my daughter, in other words, I’m trying to say that we are more than neighbours, we are in-laws. The thing that upset me about this man, so much that I had to come before you, is that when he is drunk this man says that my family and I are involved in witchcraft. But what brought me here today is an incident that occurred the previous week: this young child here was carrying my grandchild on her back as they were passing his house. As they were passing a friend of his who was with him had killed a snake. He then proceeded to taunt the children with this dead snake that he had killed. He threw the snake at that child over there, which ended up in hospital. I believe she was in hospital for an entire day. I had to hire a car in order to send the child to hospital. However, I didn’t act on this as I was expecting an elder from his family to come and make amends for his behaviour, but alas, nobody came; a week past and still no elder. It was then that I heard that he already left for work. When the child’s mother took the child to hospital, I was advised to lay a charge against him in court, but I decided to go the Bantu route, so this issue could be discussed and dealt with in that way. That is why I am here before you, laying a charge against him. What vexes me so much so that I am here before you is that this man here said he wanted my grandchild to be injured, with the aim of exposing my family’s involvement in witchcraft. Another thing that upset me is that he never checked up on her. I only just fetched the doctor’s letter today and I had planned to bring the doctor’s letter that gives description of her injuries, but alas, I have forgotten it.

HEADMAN: May I ask when this incident occurred, was the snake dead or still alive?

COMPLAINANT: The snake was dead; he had already killed it when the chasing and throwing began. He threw it at my grandchild here; the child was frightened and fell, hurting himself in the process.

COUNCILLOR 1: May I ask?

COMPLAINANT: Of Course.

COUNCILLOR 1: Who killed the snake?

COMPLAINANT: That man, over there. I don't know where he killed it exactly; whether it was at his house or elsewhere.

COUNCILLOR 1: Is he the same one who taunted the children with the snake?

COMPLAINANT: The very same one. He taunted these two children with it and he even threw the snake at my gate where it spent several days. It was just washed away by the rain into a hole where it started to decompose.

COUNCILLOR 1: And the child, was the child very frightened?

COMPLAINANT: Yes, the one who was carrying the younger one on her back was frightened. So much so that she fell and sustained injuries. These injuries led to a swelling on her back, which lasted an entire week, one can still see the remains of the swelling and the scars from the injuries.

COUNCILLOR 1: And then what happened?

COMPLAINANT: She was taken to hospital where she stayed overnight; she was only discharged on the following day.

CHAIRMAN: Thank you, you may be seated.

HEADMAN: To summarize, this is your statement: You, are filing a case against, William for taunting you these children with a dead snake, frightening this one and causing her to fall which led to her hospitalization.

COMPLAINANT: Indeed she fell, father. She fell and injured her back. This did lead to her hospitalization. A bone in her back was injured during the fall and there are still scars on her back indicating where she was injured.

HEADMAN: Are you not laying a charge of slander against this man as well, for his blasphemy against you and your family's involvement in witchcraft?

COMPLAINANT: It is the same charge, father. He taunted the children with the dead snake because he wanted to prove that we are indeed involved.

HEADMAN: I see.

COMPLAINANT: Yes, father.

CHAIRMAN: We will now hear your side. But I should warn you first, do not lie or sugar-coat; tell the truth as it is. Keep to the facts and all will be easy and well; but if you lie, things will be difficult for you. Tell the story the way you remember it, the way it happened. Thank You.

DEFENDANT: I was at home on the day in question. It was early in the evening and I was home, where we have a spaza, with a friend, drinking. We were just sitting there when a snake came from the path and came straight toward me. My friend, who was with me, then beat the snake on its head until it died. This is when the Silinda children came to see the snake. I was got up with the aim of removing the snake's corpse and the children started running away and one of them fell. That's how I remember it.

HEADMAN: Do you agree with the allegation of Mister Silinda? The one which he is accusing you of? Or if you disagree you have to give reasons why?

DEFENDANT: I disagree because Silinda, he was not around when the incident happened. Only his children were present because they came to see the snake. Not even mine came, it was only them who came to see the snake.



HEADMAN: Okay, so when you are denying the allegation, give us your reasons!

DEFENDANT: The reasons are that I killed the snake at my house and at that moment Silinda's children came closer to see the snake. Suddenly they became scared and started running when I wanted to throw it away. Later the mother of the child turned up and shouted at me in the way that: 'Look what you've done, my child is injured now!'

CHAIRMAN: Ya father, but you didn't mention the reasons why you disagree with the allegations. But actually you have been asked to state your reasons why you disagree. Instead you are just chatting now with us, you are telling stories but you have not given us any reasons why you disagree with his statement.

DEFENDANT: I disagree with this allegation because I did not throw the snake at the child, I did not!

COUNCILLOR 1: Father?!

DEFENDANT: Yes father?

COUNCILLOR 1: Father, as I have said we are all in this inkundla here and I hope you were listening very very well before. So, with your threatening behaviour you wanted to see the witches, that is the involvement of these people in witchcraft. Did you see any signs of witchcraft at that moment? Did the witch appear?

DEFENDANT: It didn't.

COUNCILLOR 1: That's what we want to know. You must please listen to us and answer to the secretary [is taking notes] and my indvuna here. So, what are the reasons that you disagree with this case?

DEFENDANT: Yebo.

COUNCILLOR 1: But you were present when this man next to you, the complainant was talking. You didn't disagree with what he stated but at the same time you did also not agree. You don't agree with what he was saying? Listen, you must not disagree with what the council is saying, you must disagree or agree with what the complainant said. You won't disagree with what I am saying because I was not there. You must disagree with what the man next to you said, you are next to him, and you do hear him well! Even what has happened, the two of you were there and we were not, do you understand?

DEFENDANT: Yebo.

COUNCILLOR 1: We take this thing the way we hear it from you, do you understand?

DEFENDANT: Yebo.

COUNCILLOR 1: I see, then you must try to disagree with what he said now, do you understand?

DEFENDANT: That's what I am trying to explain with my story. There was the snake and then the children passed by, but I didn't talk to Mister Silinda and I also didn't see him. That's how I am stating that I disagree with what he said before. And I also did not say that I want to expose their involvement in witchcraft. I never said that I want to see a witch or the like.

COUNCILLOR 1: It's been many times when you ate that thing, when you were drunk and insulted him such as accusing him of being a witch. But now at the end you said that you have chased his children away with the snake. You said that you want to see their involvement in witchcraft because you have thrown the snake to his children. This story, I hear it for the first time here, I don't know the story how it happened in the location. Maybe because I didn't hear it very well or haven't you heard it when this father was talking about it?

DEFENDANT: I've heard it.

COUNCILLOR 1: Then disagree with him! Start with the disagreement and continue until you reach the point he has reached at the end. Didn't you say that you don't know this case?

DEFENDANT: Ehmmm.

COUNCILLOR 1: Tell Mister Silinda that you don't know anything about these witchcraft accusations. I know that you are a preacher, you see. We were going together to church, do you see ... inhhi ... So, now we will hear the real story of this case.

DEFENDANT: As I am trying to explain that I won't agree with him because he was not around when this incident happened.

HEADMAN: Okay.

DEFENDANT: Ihmmm.

HEADMAN: Let me read out aloud what you have just said. You said that you do not agree with the case of the child. Didn't you?

DEFENDANT: Ihmmm.

HEADMAN: The reason that you have given before is that you were sitting with a friend of yours at your house and then the snake came toward you and he then killed the snake?

DEFENDANT: Yebo.

HEADMAN: You took the snake to throw it away and that was when Justice's children saw you and ran away?

DEFENDANT: Yebo.

HEADMAN: So, he opened a case against you because you insulted them several times. When you were drunk you always accused them of witchcraft and even on that particular day when you taunted the children you said that you want to expose them as witches. You threw the snake at Justice's child; she fell and had to go to hospital. Can I ask you mother [to the mother of the child], how far are your homesteads apart?

DEFENDANT: There is one house in between us.

HEADMAN: One house?

DEFENDANT: Ihmmm.

HEADMAN: So, where did you take the snake?

DEFENDANT: I didn't go inside his yard, I simply threw it in the air, I threw it up.

HEADMAN: Why did you throw it up?



DEFENDANT: I wanted to see whether it was still alive.

COUNCILLOR 1: My brother does a snake fly or does it coil on the ground?

DEFENDANT: It seemed as if it was dead.

COUNCILLOR 1: So, when throwing up a snake how can you determine whether it is alive or dead?

DEFENDANT: I can see that it is dead if it does not move anymore.

MOTHER OF THE CHILD: The way I see this story, you are still denying. If I were you I would apologize because you said you wanted to see the witches. You threw the snake at the kids because you are calling them, how? Witches! When the snake of the witch [as a familiar] came toward you, you took it and threw it at my kids [coz he might have thought it was coming from them, it was theirs]. Father, if you did something like that, apologize! If we could go and fetch that person who was with you that day, he could state clearly what this man has done. The children cannot say something they haven't done. You have done that thing! The kids can't tell any lies! Why should they lie about something like that? Why did you throw the snake at the children, father?

HEADMAN: Answer the mother is asking you!

DEFENDANT: Eish, actually I don't know what happened because I was drunk. But I didn't throw the snake at them.

HEADMAN: Sihlongonyane, when you wanted to detect whether the snake was dead or not, what did you do? Did you throw it up? Tell us how you detected whether it was dead or not. All the people here [libandla] can also raise their voices and explain how they would act to find out if a snake is dead. So, explain to us how you did it!

DEFENDANT: So, that means if you want to see you touch it on its head to see whether it is alive or not?

HEADMAN: Where would it be when you want to find out, up in the air?

DEFENDANT: It would be on the ground.

HEADMAN: What did you use to hold the snake?

DEFENDANT: It was just a small stick.

HEADMAN: Oh, you were holding it with a stick. And where do you have that witchcraft thing [name] from?

DEFENDANT: I don't know where it comes from because Silinda was not around when this incident happened. The only thing they said to me was that I should look at their child's injuries and that in the end it's going to be me and you.

HEADMAN: So, what did you do when Silinda's child got injured?

DEFENDANT: According to what I think, because he said it will be me and him, and they also wanted to phone my home ...

HEADMAN: No, answer father. What did you do when Silinda's child got injured? What did you do because you've heard that the child got injured because of the snake, and you said you were drunk, do you understand? What did you do when you heard that Silinda and his child went to hospital because of you? What did you do the following day?

DEFENDANT: I woke up in the morning and left my home.

HEADMAN: Wena?

DEFENDANT: Ihmmm. The mother of the child said that she'll not only see for herself but also see me ...

HEADMAN: Inh inh. I asked you about your acting, answer according to what I have asked you. You are saying now that the mother of the child said that she will take care of everything by herself. When she said that, why didn't you ask what she meant by that? You didn't bother yourself to find out what she meant by saying that?!

DEFENDANT: No, I didn't.

HEADMAN: Inhhi. What did you think she was referring to?

DEFENDANT: I thought the way she did things she would withstand it.

HEADMAN: What made you think that she will withstand?

DEFENDANT: That is what she said to me.

COUNCILLOR 1: Eh, so tell us the words she uttered. We would like to hear everything, father.

DEFENDANT: Yebo, the mother said to me that I look thin [meaning that he is sick] and that she's going to see me.

HEADMAN: What happened [that she said something like this]?

DEFENDANT: Because the child fell down.

HEADMAN: Her child?

DEFENDANT: Yes.

HEADMAN: Why did the child fall?

DEFENDANT: It's because I threw the snake at the child and she was frightened.

CHAIRMAN: Yaa, stop asking the father, stand up!

COUNCILLOR 2: May I ask you, if we would bring your friend, the one who you were sitting with that day, would he approve what you just told us?

DEFENDANT: I don't know because that person is renting a house ... [Maybe he will not be around]

COUNCILLOR 2: Enh, enh.

[Some people of the libandla are complaining that he is not answering according to the questions and that he should talk the truth]

COUNCILLOR 2: Whether he is renting or not, we are not interested in that and we didn't ask you that ...

DEFENDANT: Yebo.

COUNCILLOR 2: We are saying that we want to ask that guy who was with you that day

DEFENDANT: Yebo, yebo.

COUNCILLOR 2: Are you saying that he is the one who killed the snake?

DEFENDANT: Yebo, uhmmm



COUNCILLOR 2: So, you did not take an active part in the killing of the snake? It was the guy who did it and you then only determined whether it was still alive or dead?

DEFENDANT: Ummm, ummm.

COUNCILLOR 2: And if he would say something different from what you said?

DEFENDANT: I don't know, maybe he saw things in another way. So, you can hear from him, I won't talk for him.

COUNCILLOR 2: So, if maybe he comes and tells us a similar version of the complainant's; how should the libandla then deal with you?

DEFENDANT: Yaa, that means then that I am not telling the truth but definitely it was him who killed the snake.

COUNCILLOR 2: Okay.

CHAIRMAN: Thank you nine bekunene. Thank you for listening, we don't choose any people's colour [meaning that everybody is welcome] here. I can see a man shaking his head. Tell us what you know about this case?

LISTENER [UMLALELI]: Ah, no I don't know anything, I wasn't there.

CHAIRMAN: I can see that you are looking around and especially at the father next to you.

CHAIRMAN: Bandla leNkosi, bandla leMswati, bandla laMbandzeni, bandla leNgwazi kaMahloko. I want you to tell the truth now; I just want to know what happened. If you don't do that I will kick you out! What did you do after you threw the snake at the child and it received injuries? Did you go to your neighbours?

DEFENDANT: No, I didn't go there.

CHAIRMAN: Why didn't you go to your neighbours if you, as you said, innocently threw up a dead animal which had been killed by your friend at your house? What kept you from going next door and tell them 'hawu, I threw up a dead snake and your children were around and got frightened and then they fell'. Why didn't you go and explain that to them?

DEFENDANT: It's because the mother of the child said ...

CHAIRMAN: Listen here, listen here, father!

DEFENDANT: May I please answer ...

CHAIRMAN: Listen here, listen, listen, father! We don't talk about this mother here. The house does not belong to the mother [usikhonti ekhaya], so don't tell us about the mother [meaning he was not supposed to talk to the mother but to the father], because you have a wife. Your wife has to listen to what you are telling her and not the other way around. When the wife tells you that something has happened, one, two things have happened, you then must tell her what to do next. Hha, so the mother is controlling you at your home, she is your police?! In fact you saw what happened to the child. What did you do because you were the one who threw the snake at them? Help us father!

DEFENDANT: It was them who came to see ...

CHAIRMAN: Father, I am asking ...

DEFENDANT: I didn't go to them ...

CHAIRMAN: I am not asking that! You're starting to make me angry; I will handcuff and dynamite you! I am asking you, what did you do when these children were crying? You didn't throw that snake at them intentionally, okay, but it happened that they got frightened; what did you do then? Because you are neighbours and not in good terms, did that make you throw that snake at the children? But did you go and talk to that father?

DEFENDANT: I didn't.

CHAIRMAN: Why didn't you go to him if you are actually not quarrelling? You should have gone there to apologize and tell him that the snake accidentally fell on his child and it thus fell and got injuries. Why didn't you go to him?

DEFENDANT: It's because of what the mother of the child said to me. [I've heard the words the child's mother said to me.]

CHAIRMAN: How do you think the father [the owner of the home] is thinking of you now after what you've done to him? How would you feel [think]?

DEFENDANT: Even him, he would have not come to me.

CHAIRMAN: Who has a problem now? [Everybody's laughing]

COUNCILLOR 1: Why should have he come to you? Why should have he come to you?

CHAIRMAN: Who is accused of having done wrong here and charged with the incident of throwing a snake at the children? Who was wrong, is it the father?

COUNCILLOR 1: This man is not showing any respect!

CHAIRMAN: Just wait, we were eating a cow's head the day before yesterday, we will give it to him and then he's going to regret ... [he's not showing respect].

COUNCILLOR 1: Come back ...

CHAIRMAN: Is there any other person than you who was supposed to go and ask for forgiveness for what had happened in your homestead? Was he supposed to come to you since you threw the snake at his child who then only woke up in hospital again? Does that mean that he was supposed to come to you?

DEFENDANT: The way we are close to each other [situated] ...

CHAIRMAN: So, he was supposed to come to you?

DEFENDANT: No, he was not supposed to come here [eMjindini].

CHAIRMAN: Because you threw the snake at the children and they fell and got injured; why didn't you when you woke up the next morning or any other time go to your neighbour and told him that an accident occurred? Why didn't you report at that time? Even if he was not around, when you would have seen him coming back home that's when you were supposed to approach him as your neighbour! Who actually used to give you emahewu [drink made from thin fermented porridge] or water?



CHAIRMAN: Answer! Don't put your hands in your pockets!

DEFENDANT: I didn't put them in.

CHAIRMAN: I will handcuff you! I am begging you only for a few moments to answer my questions. Look at me! I will handcuff you and leave you there up until 3 o'clock. You are not respecting us. Mother, I can see you are raising your hand, you can talk. But father, I will come back to you once more.

COUNCILLOR 1: Sit down mother.

CHAIRMAN: Sit down mother. You don't have to stand up but if something happens, you'll be in trouble.

AUNT: Ayi, I just want to say something briefly. If you would be mentally fit [nangabe uphilile] you would have come straight to the point in your answers just as they said. I saw the dead snake lying in a rubbish dump after the child had been injured. I am the aunt of that child and I was with her that day in Extension 11. The child was conscious. That day there was heavy rain and thunder and lightning but we managed to organize somebody with a car to take us to hospital. In hospital we waited until 2 o'clock and returned only in the evening of the following day. And the snake was still lying at the gate. I don't know if the gate is something like a rubbish dump or so, I am sorry. That's all I wanted to say.

HEADMAN: Can you please answer what I am asking you?! You said that you threw the snake in a rubbish dump, is this father's gate a rubbish dump? Answer according to what has been said by this mother!

DEFENDANT: The snake was right there on the road.

HEADMAN: So, you didn't take it to the rubbish dump?

DEFENDANT: I didn't take it there.

HEADMAN: Can you see that all the things that they are saying about you that they are true?

COUNCILLOR 1: That means when you threw it up it was still alive and it then coiled to the gate to die there, was it like that? Because you said that you threw it up with the intention to see whether it's alive or not; so, it means that it was alive and then it coiled to the gate of the father. Was it like that?

DEFENDANT: I'm not sure, I don't know.

BAGWEBI BOBABILI: [laughing] he-he-he-he

COUNCILLOR 1: Yaa, it seems like it did that.

CHAIRMAN: We are asking you [libandla] to help us, wena wekunene.

LISTENER: He is supposed to accept everything [every detail] we mentioned today.

LISTENER: I would just like to pass a short comment. When the mother of the child came to you, did you go there to report as a neighbour? Did you go to her? Did you?

DEFENDANT: I didn't.

LISTENER: What kept you from going there? Why shouldn't have the father of the child taken any actions against you since you injured his child and he

was informed by a neighbour about that incident? And it was not your intention to throw the snake at the child? Father, don't tell any lies here. You are having a beard [meaning you're old but in an insulting way; I'd rather would take off my belt and whip you on the spot. You are a liar! When the mother came to you to report you were supposed to go and attend her! What made you not to attend her?

DEFENDANT: Aaa, I didn't realize that I have done something wrong [not going to report]

LISTENER: Why did you do that as a father of a house? Do you see that that thing is pulling you in a big hole? You are a liar! You didn't do what you were supposed to do and now we are sitting here resolving your case, something that you wouldn't have done if you would have acted in a right way. You are a liar. Now you are telling us that you threw the snake up and down, were you playing soccer with the snake?

DEFENDANT: No.

LISTENER: What were you doing? You see, now it shows that you were telling lies. You are wasting our time. You are telling lies and you did that [throwing the snake] intentionally because you never went to their house to apologize and you also didn't check the child in hospital! What held you?

DEFENDANT: Ah, they didn't tell me that she was there [in hospital].

LISTENER: The mother? The mother is here now [in the inkundla], she is out. Here is another witness, she should tell her story.

CHAIRMAN: Thank you father, the mother already explained her whole story.

MOTHER OF THE CHILD: Okay, I do agree. I am the mother of that child. I did go to his house but my intention was not to talk to him but rather to his wife, to explain her and show her the injuries of my child. Okay, unfortunately the mother was not at home, then he approached me and asked what I am doing at his homestead. I explained to him that I am coming to show the injuries my child got because of him but he retorted and denied my intention. He rather accused me of coming with the purpose of bringing *muti* to his homestead. I wanted to leave but he started insulting me and accused me of being a witch. His children did the same. I then wanted to make a phone call from his son's spaza but he rejected and ordered me to leave the premises. Furthermore he angrily shouted that we should never come to his spaza again. Even if we have money we are not allowed to buy anything there.

CHAIRMAN: That is all, mother?

FEMALE COUNCILLOR: Can I ask something Nkosi? I wanted to ask you sister, the time he woke up again, was he still drunk?

MOTHER OF THE CHILD: He was drunk but it doesn't mean that he was not respecting [misbehaving], but he was drunk.

FEMALE COUNCILLOR: I told you father, you know the truth! Don't cause headaches and apologize to the people so that we can continue with the other pending cases.

COUNCILLOR 1: Those are for tomorrow!

DEFENDANT: Eh, I'm sorry, I'd like to apologize to the Silindas.

COUNCILLOR 1: Why are you saying this? I didn't ask you that! Have you been trained as a *sangoma*? Or are you a prophet because you answered to what I have never asked?

DEFENDANT: No, the mother talked first.

CHAIRMAN: That's why I am asking you, have you been trained as a *san-goma*?

DEFENDANT: No, me I haven't been trained as a *sangoma*.

CHAIRMAN: Are you a prophet?

DEFENDANT: No, I'm not a prophet

CHAIRMAN: Do you go to church?

DEFENDANT: Yes.

CHAIRMAN: Which church?

DEFENDANT: iZion.

BAGWEBI BOBABILI: (laughing) he-he-he-he

CHAIRMAN: Father, you are failing to explain. You mean, you are telling me that whenever you've been drunk you have insulted your neighbour, you've accused them of being involved in witchcraft. But they've always been patient and tolerant towards you but now it's like you insulted them directly because you threw the snake at his children though knowing exactly that you are actually not fighting with the children but with the father. You threw up the snake, which you said was killed by a friend of yours, with the intention to sift out the secret of his bewitchment. What are you saying? Do you think the children would have fallen down when the snake would have just been lying there on the ground? Do you think they would?

DEFENDANT: No, grandfather, they wouldn't.

CHAIRMAN: Father?!

DEFENDANT: Yes.

CHAIRMAN: Can I ask now what are we supposed to do with that man? He insulted his neighbour of being involved in witchcraft several times; I'd like to hear that from you what are we supposed to do?

DEFENDANT: What I can say is that I am sorry. I'd like to apologize for my behaviour, Silindas! I won't do that again, I won't make any mistakes anymore, I won't insult you anymore.

CHAIRMAN: Okay, I can hear you, you are apologizing but the people you were with when you insulted the father, the people you were with that day when you threw the snake at the children, when will you tell them about what was happening here because now you are apologizing to us, they will not know that you've apologized, they will only know what you had done. When will you tell them that you have apologized?

DEFENDANT: Where should I address them? Here at eMjindini or at my home?



CHAIRMAN: I don't know. Where did you tell those people that Mister Silinda is practicing witchcraft? And where did you throw the snake at the children? You must also tell them that you are sorry; I don't know where you are going to address them. But I can see that you are apologizing, it's up to you where you will talk to them.

DEFENDANT: It's just that I am apologizing to you all here.

CHAIRMAN: Okay, we hear that. But there was a group of people in the location who know the story that you insulted him. Where are you going to tell them because everybody knows now that this one is a witch because you said so? They will not go there to ask for any help because can you ask somebody for help who is a witch? When are you going to call them so that they will not look at this father in a bad manner because now they have this picture of him as if he has been practicing witchcraft? So, when are you going to call them and apologize for insulting him?

DEFENDANT: It means I am going to make a ritual ceremony.

CHAIRMAN: The ritual ceremony [umphahla] is for whom?

DEFENDANT: When there is such a gathering ... [Everybody is giggling]

HEADMAN: Hey father, it means if something is wrong with your neighbours, you insult them? You told us that the snake was killed by someone who was sitting next to you on that particular day and then you presented your neighbour as a bad person?! According to your wrongful behaviour, do you think that all neighbours should now regard Mister Silinda as a witch? We as a libandla of eMjindini we don't like spoiled people who don't even present any evidence for their accusations. If you can produce any witnesses who can affirm that Mister Silinda is involved in witchcraft we will give you directions and advice where to go to find out whether he is practicing witchcraft or not. Then you will have to account for transport and other related costs. But we as the libandla we are asking you, when are you going to inform the community and the neighbours that what you've said was wrong and that you'd like to apologize for that?

COUNCILLOR 1: Sorry for a moment. It might happen that we are one-sided in our perspective. Maybe he has got proof and he is sure that Mister Silinda is bewitching him because we can't determine that. So, we should give him a chance. We can even direct him where to go to find out whether he's really a witch or not. Maybe we should give him the chance to go because we asked him to apologize but his heart is not well because of that. We should give him a chance to go and find out.

CHAIRMAN: Ya, father, listen attentively. They [lenkundla] are saying that they'd like to give you a chance to go together with this man to the inyanga who said that this one [Silinda] is a witch because you took the snake and threw it at the children to get a proof. So, the libandla says that we should give you a chance to go to an inyanga first and only then sit together again and proceed.

COUNCILLOR 1: Because if he is really a witch the nation [sive] will turn away from him. We won't be able to play around him anymore because he is then dangerous. If you come back and there is proof that he is a witch we will put roses [as a mark, as a sign] around him that this person is a big witch [umtsakatsi lomkhulu], do you understand?

CHAIRMAN: We are now handing over to Sihlongonyane.

DEFENDANT: No, it's not time for that now, no, I'm sorry for now.

HEADMAN: You are sorry?

DEFENDANT: Ehmmm.

COUNCILLOR 1: You are saying you are sorry just for now?

HEADMAN: Let me tell you something Sihlongonyane. You told the whole world that this person is practicing witchcraft and a lot of people died here in South Africa due to a necklace [burning tire around the neck] just by pointing at somebody that he or she is doing things like that. You have to apologize within your community because if you don't do that, members of the community can put a necklace on him and burn him. Lots of people died in that manner.

DEFENDANT: Ehmmm.

HEADMAN: So, if you said words like this, what was your intention? Did you mean they should kill him?

DEFENDANT: The fact is I've said, but no ...

HEADMAN: You've said that you were drunk so we would like to teach you a lesson that if you are drunk you should drink for yourself. If you go to a tavern to drink, if you come back from there you must go straight to your home and take your blankets and sleep. Don't stand around at the gate and look out for people who pace up and down. We are not sending you to go and drink beer. We didn't send you to the tavern but what we want is that you stop saying such words [insults]. These words, when you are drunk and then you insult your neighbours, that's not good. It's your own decision that you take whether you are going out to drink or not, we don't interfere here. You planned this thing when you were sober that you want to say this and this and this but just because you don't have the guts when you are sober, it's not something that comes because you are drunk, it's something that you planned but it's just when you are drunk that you have those guts to talk as you are pleased. Let's put aside that thing that you were drunk because now we are sober, everybody here is sober and even you are sober, aren't you?

DEFENDANT: Ehmmm.

HEADMAN: Inhhhi ... even you, you got in troubles because of alcohol [tjwala]. When you have drunk you must go straight to your house but if you are out of control when you drink, then you must never drink again otherwise you going to have more cases in future. I don't know because at Zion they don't drink but you drink alcohol.

CHAIRMAN: Ya people [bandla], people of our grandfathers; father Sihlongonyane you are playing with us! There is no seriousness in your apology! Because after the hearing here you will use insulting language again, won't you? You can apologize now here but afterwards, what will happen afterwards?! Please mothers, talk! Don't be quiet!

FEMALE COUNCILLOR: Ayi, you know very well that you are supposed to apologize.

CHAIRMAN: Keep quiet, I want this father to come and sit here. Sihlongonyane, if you would be my neighbour and I would do what you did, how would react? If I would talk to you in an insulting language, accuse you of witchcraft and throw a snake at your child, what would you do?

DEFENDANT: Most of the time, actually it's rare for me to open a case.

CHAIRMAN: I'm saying if it would have been this father who did that to you what you've done to him, how would you react as an elderly father? What would you do?

DEFENDANT: I think we would have sat down and talked about it.

CHAIRMAN: When and where and after how many days? The very same day it happened?

LISTENER: Nkosi, I can see that ... You must apologize so that this whole thing can come to an end because if you don't apologize it means that you still disagree with the accusation. It seems as if you went to a *sangoma* and then the *sangoma* told you that it's your neighbour who is bewitching you. If you can go and ask this *sangoma* to come here in front of everybody to state what he had told you, he won't come because he is a liar, he is not a real *sangoma*. And you are having quarrels with your neighbours because of this *sangoma* who just wants money. Nowadays, traditional healers can't tell you what is wrong and right. They are causing a lot of trouble so it's better just to apologize so that this thing can be over now.

LIBANDLA: Nkosi!

CHAIRMAN: Did you hear that father?

DEFENDANT: Yes, I've heard him.

CHAIRMAN: We will hear what we are going to do. In our culture, in our siSwati way, what do you do when you have poured oil at somebody? What do you do? So, you have poured oil at this person, what are you supposed to do? You poured oil at a person without any apparent reason, what are you supposed to do now [in Swazi culture]?

DEFENDANT: You wipe him.

CHAIRMAN: Wipe him with what? Wipe him with what father?!

DEFENDANT: You wipe the person with what you are supposed to use for that.

CHAIRMAN: No, go straight to the point. Speak the truth, don't fool around!

DEFENDANT: I agree.

CHAIRMAN: You wipe him with what because you poured him with dirty fish oil? That person was clean before and now he's dirty. So, what do you use to wipe him?



DEFENDANT: I would wash this person with what he is supposed to be washed with.

CHAIRMAN: Okay, but if a child doesn't listen to you, what do you do?

DEFENDANT: You beat it.

CHAIRMAN: Can I slap you in the face because you are old and you don't understand? Can I slap you so that you can hear what I am saying?

DEFENDANT: No, you can't.

CHAIRMAN: Who then do you want to slap you? No, I don't get this thing bandla laMswati, I don't get it bandla laGogo laBhangase. Let's go and look into the books we've got from Swaziland and see what we can do in such a case. Sit down, sit down father!

HEADMAN: Eh ... how old are you?

DEFENDANT'S SON: I'm his first born [of Sihlongonyane]

HEADMAN: Where are your uncles [big brothers of your father; bobabebakho labakhulu]?

DEFENDANT'S SON: They are in Swaziland and in Likazi.

HEADMAN: Did you tell them that your father has a case here? Because as a family they are supposed to know that we here at eMjindini have laid a charge against your father that he has talked in an insulting language towards his neighbours.

DEFENDANT'S SON: I have received the letter only last week and I don't stay at home.

HEADMAN: You don't stay at home?

DEFENDANT'S SON: Enh-enhe. I have only heard about this story on Thursday.

HEADMAN: Father, did you report to your uncles?

DEFENDANT: Ah, my family is the one I'm staying with and all of them know about it.

CHAIRMAN: Ya, do you hear your father because you are the first born.

DEFENDANT'S SON: Yebo.

CHAIRMAN: Okay, because there is no family, I don't know about your family. Your father doesn't say anything about the family. Okay, because you are here as his first born, what do you say? You have heard everything, what do you say? What do you want us to do? Is it right or wrong?

DEFENDANT'S SON: I can see that he made a mistake.

CHAIRMAN: How can you help him as his child?

DEFENDANT'S SON: How?

CHAIRMAN: Your father has done wrong to his neighbour, what can you advise him to do, tell us what you think!

DEFENDANT'S SON: I won't look at it.

CHAIRMAN: Enhee, let's go libandla!

[The traditional council retreats for a few minutes in the meantime a community policeman talks to the defendant]

COMMUNITY POLICEMAN 1: How old are you?

DEFENDANT: 39.

COMMUNITY POLICEMAN 1: Is it for the first time that they've opened a case against you?

DEFENDANT: Yes, it's the first time.

COMMUNITY POLICEMAN 1: You failed even to answer a simple thing. As old as you are you are failing to apologize?!

DEFENDANT: It's because they wanted me to answer in their way.

COMMUNITY POLICEMAN 2: Innhi ... you know what, in everything you say you should be sure and produce evidence. We won't teach you how to talk, you have to talk for yourself but what you have done you could easily be arrested for that.

COMMUNITY POLICEMAN 2: I have sent many people to emkhayeni and I've stayed at eMbuzini before MaShele [former president of Mocambique] died there in an aeroplane crash [area around Komatipoort where the president of Mozambique died; it's known for a person who was good at umkhaya].

DEFENDANT: Now there are no people left who can do that.

COMMUNITY POLICEMAN 2: I have sent three people there; it's very difficult to go there. How much money do you have? How much can you afford to go there? When you go there it's frightening, you can hear yourself shivering. You can shiver even if it is not cold. It's very difficult because some persons are very strong.

COMMUNITY POLICEMAN 2: Where is this person now, Guguda? Maybe he comes back to sign for next year.

DEFENDANT: I don't know where to get the money from!

COMMUNITY POLICEMAN 2: Ask me next year .... sit down and close your mouth.

[The council comes back from 'reading the book of law']

CHAIRMAN: Inkundla, nine bekunene, can I have your attention?! Listen people, listen carefully and open your ears. We are now from reading our books [law]. We have read and read and now we know what we are supposed to do. Sihlongonyane, I am asking you that from today you have to come of age and behave like a father, not like a boy. You mustn't teach your child behaviour like yours but rather the right cultural way of doing things. Sometimes your child can be hard put and you won't be able to help him. Grow up because what you did it happened here under the sun [on earth; it shouldn't have happened, it's totally wrong]. You must learn to be in good relations with other people, your neighbour is your brother because when you go out to work for example your wife will be left behind and will take care of your home if neighbours or anybody else comes to ask for help or whatsoever.

Even if it's in the middle of the night and you're facing difficulties you can go and ask help from your neighbours and he will then help you. But you, Sihlongonyane, you don't want to have any neighbours. Why not? Do you read the bible? What are they saying in Genesis? What is this book about?

DEFENDANT: It is about neighbours.

CHAIRMAN: Why don't you want to be in a good relationship with your neighbour instead of bolting to the veld [ehlatsini]? So, who is going to help you when you're facing difficulties, if somebody wants to attack or even kill you? Babe Sihlongonyane, we regard you as somebody who doesn't show any respect, you don't respect the law, you don't respect your culture, you go out and dance naked in front of other people [meaning you are disrespectful in every regard]. Father Sihlongonyane, you've lost your cultural track, reconsider and continue the Swazi way. Let's continue, wena wekunene, as a true Swazi you were supposed to go there even if it would have been the following day and apologize. If the whole situation would have been delicate for you, you should have asked other men to accompany you, so that they could endorse you. But you failed to see and talk to your neighbour whereas you knew that his child got injured and had to go to hospital just because of you. You waited for the people to come instead of approaching them directly. Your behaviour was totally wrong. Eh - so, we've read our book of law. It intends for people who do not respect the community [sive] or themselves as Swazis, who insult other people, it actually intends corporal punishment. Because we are working according to the law and you have fallen foul with it, furthermore I asked you earlier what you are supposed to do if somebody is misbehaving and your response was to beat that person and I also asked you what you're supposed to do if you pour oil on somebody; your answer was to wipe him; alright let's go on; so what you did was wrong. Sihlongonyane you are fined two goats. If you don't have these two goats we want R1.500. You bring them here to the office not to this father, you won't meet him again. Let's give thanks and go.

LIBANDLA: Nkosi!

CHAIRMAN: Emaphoyisa [emango]! Father Sihlongonyane is yours.

COMMUNITY POLICEMAN 2: Talk my brother!

COMPLAINANT: I agree with everything that has been said here at buk-hosini. I hope that this issue has come to an end now. I also wanted to ask you about the car I had to hire to take my daughter to hospital that night. I haven't paid the R150 yet so I would like him to bear the costs.

CHAIRMAN: Thank you. We will discuss that when you come back, just relax for now.

CHAIRMAN: Ya boy, your father won't leave this place now. They will come and take him to the police station up until you go home and fetch the money. Then he will be released.

DEFENDANT'S SON: How much is it? R1.500?



COUNCILLOR 1: We want two goats or if you don't have them you have to pay R1.500. There are people selling goats that side; you can go there to find out how much they are and negotiate a price. If you come back with the goats, it will be fine, if not, you will pay R1.500.

DEFENDANT'S SON: If we don't have the R1.500, what are we supposed to do?

HEADMAN: Then he remains in court and when he loses the case he has to go down to emgodzini. You have to find money at home to get him out because all the cases here at eMjindini are registered with the chief magistrate. Tomorrow we will go to register the case and tell them what had happened here. We agreed with the chief magistrate that if we charge somebody and he or she does not pay - because there are some who do not take this seriously - then we are supposed to hand over so that he or she can be dressed in a proper way [with prison clothes - ayewugcoka]. We are imposing these fines because we don't want people to be arrested and spend most of their time in jail. Furthermore, job opportunities will be scarce if you've spent time in jail. We are imposing a fine so that the money can be brought to us and that person can continue with his or her life. When you're not in jail you can just sit under a tree and look out for wives [laughing].

CHAIRMAN: I am saying like that and I hope you've heard that. Father Sih-longonyane another thing is that you have to pay this father R150 for taking his child to hospital with a hired car. And you boy, why are you shaking your head? Who do you think is going to pay the money? Don't solely shake your head, say something because we want a solution now and it was your father who made all these mistakes.

DEFENDANT'S SON: Hhayi, I am just thinking about the money because you've said that he will remain behind.

CHAIRMAN: Ya, he will remain behind or even in jail. Do you think you can make a plan? Did you bring your ID [lipasi]? Do you have an ID?

DEFENDANT'S SON: I do have an ID but I did not bring it.

CHAIRMAN: Are you sure because now you are going to sign here that you'll pay the amount. If you won't pay I will take you to court [magistrate] and you won't be able to go to school anymore. What are you saying now?

DEFENDANT'S SON: Okay, if I can provide you with my ID, do you want us to make an agreement that I will pay the money?

CHAIRMAN: An agreement for what? I want your ID number, where you're staying, where you're schooling and who your teacher is!

DEFENDANT'S SON: I'm not schooling.

CHAIRMAN: Where do you work?

DEFENDANT'S SON: At Sappi.

CHAIRMAN: Then pay for him! Discuss it with your father and provide half of the amount so that you can buy the two goats. If you can't get two goats then bring R1.500. Once you've brought the money, there will be no problem anymore. So, what do you think, when will you pay the money plus

R200 and the R150 for the car. I will keep quiet now. When will you bring the money?

DEFENDANT: On the 2nd of January [2009], it's going to be a Friday.

HEADMAN: How much will you bring?

DEFENDANT: The whole amount. We will think about how to organize the whole amount.

HEADMAN: When do you think you will be able to organize the whole amount?

DEFENDANT: Emmmm.

HEADMAN: And the R150 you are supposed to give to the father?

DEFENDANT: Can we give it to him personally?

HEADMAN: When? When will you give it to him?

DEFENDANT: Even today.

HEADMAN: Okay, you can give it to him today. Okay, you will then bring the whole amount on the 2nd of January because the [community] police is always here.

CHAIRMAN: Because if you bring the money you know that in Swazi custom you have to be accompanied by somebody else, not your son, so that this person can sign as a witness that you have paid. Do you understand father?

DEFENDANT: Yes, I do understand.

CHAIRMAN: Enhhe. And you [complainant] owe R50 for uplifting the inkundla [kuphakamisa, gathering of the libandla]. You owe the inkundla R50, put them there so that the inkundla can go and drink tea after we've finished here.

COMPLAINANT: If I don't have the money for father Nkuna?

CHAIRMAN: You will give it to whom? You can even ask this person [umkhoti: term used by husband's and wife's parents towards each other] here to lend you the money. He once helped me when the days were dark for me. He rescued me from a river when the water was already carrying me away.

FEMALE COUNCILLOR: If I would go with Masebe I wouldn't have a stick to beat you?

HEADMAN: So we all agreed that Sihlongonyane is going to pay the whole amount on the 2nd of January 2008 and today the R150 for Silinda.

LIBANDLA: [correcting the headman that it will be 2009 and not 2008].

HEADMAN: Wo, 2009.

CHAIRMAN: Then we have to agree now whether he will pay the money or bring the goats. Write it down what he prefers whether it's money or goats. We need to know that to avoid any difficulties in town tomorrow [magistrate court]. It doesn't matter whether it's money, cows or goats.

DEFENDANT: I think I will bring money.

CHAIRMAN: I don't have any problem, it's up to you.

DEFENDANT: Mmmmm.

HEADMAN: You have to sign here, father, your name, here next to the date, to the 2nd. If you don't come to pay they will fetch you with this car and then you will pay.

DEFENDANT: Does it mean that the 2<sup>nd</sup> will be a Friday? Will you be here then?

HEADMAN: Here is the office where you're supposed to pay then. There you'll get a receipt to proof that you've paid. It might happen that we'll be looking out for people who haven't paid, so then you'll be able to produce the receipt, you see. You can come on the 2nd but I'm not sure which day it is because on the 1st it's New Year but anyway you'll find somebody here who will be able to assist you.

DEFENDANT: Mmmmm.

HEADMAN: You can go! [to everybody involved with that case]

DEFENDANT: We will be here on the 2<sup>nd</sup>, thank you.

FEMALE COUNCILLOR: Keep well.



# CHILDREN, WITCHES AND HOT INTESTINES

(FILE 09011100)

This case deals with a dispute between two neighbours from the township. The case was tried in the eMjindini chief's court and involves a variety of facets ranging from physical violence and poisoning, to *tokoloshes* and the involvement of a *sangoma*. It reveals why traditional leaders perceive witchcraft as a serious problem that needs adequate resolution. Thandi Nxumalo, 32 years old, and 18-year-old Jele Khosa used to have a neighbourly relationship. As long as Thandi's parents and Jele's grandparents were still alive, the two families used to exchange and ask each other for basic stuff like sugar, salt and soap. The families used to have a largely uncomplicated relationship up to a point where Jele's mother fell sick. The defendant, Jele, lived together with her siblings and parents in shacks made out of wood, stones and corrugated iron opposite the complainant's house in Extension 10 of the township. Her father was working as a bricklayer whereas the mother usually stayed at home. Jele recently finished schooling but did not work yet. Thandi, the complainant, was cohabiting with the father of her children, Siphso, in a spacious brick built house that she inherited from her deceased parents. Her mother was a respected and well-known *sangoma* when she was still alive. Thandi herself used to be involved in the temporary broken down Tinjojela Medicinal Plants Project that was started to supply local healers with commercially produced medicinal herbs and essential oil bearing plants. At the time of the conflict, Thandi was working as a cleaner at a primary school in a different part of the township.

SUNDAY, JANUARY 11, 2009 – CHIEF'S COURT, EMJINDINI TRUST, BARBERTON, SOUTH AFRICA

CHAIRMAN: I would like to greet everybody in this New Year and we are happy to be with you in this New Year. We are also very fine. We are fine so we are going to be happy together. You see, if you praise God all those who are high will also come down. So, I thank God who created the heaven and the earth, he leaded me through the valleys and he even protected me from being hit by a car. He was also with you because he loves you. So you have to work for him and never sin against him so that he can continue being with you in your days of your lives. I also say that we have met today in this New Year, what happened in your homes, we don't know because we were not there. We must respect each other by listening to each other and try to be together as one and never let anyone down. And don't look down upon each other thinking that you are superior. And don't point fingers at each other. So

I beg you to respect and choose Gods way. We should not gossip about others and not be committed in hatred.

SECRETARY: I would like to start with Gamedze or Gumedze from Ext 10, I don't know whether she is here. You can give me your name and surname.

COMPLAINANT: I'm Nxumalo.

SECRETARY: You are Nxumalo?

COMPLAINANT: Yes.

SECRETARY: Can we please start with them because it seems like she has to go to work?

CHAIRMAN: Did you lay a charge?

COMPLAINANT: Yes.

CHAIRMAN: What is their surname? Is it Ndzimandze?

DEFENDANT: It's Khosa.

SECRETARY: Ok Khosa, can you please come to the front so that we can see you. But their letters were written last of last week and sent with Mr Mpila. He struggled to get their numbers because the numbers are most of the time at the corners of the houses, but he couldn't see it. I finally went there myself because I know the place. So the Khosas don't have a letter because I am the one who didn't submit it.

HEADMAN: Everybody who is here, whether you have laid a charge or not, listen to what has been said and you are free to raise your opinions. Then the complainant and the defendant are supposed to give each other a chance. So you have to keep quiet till the other one is finished. Don't talk while the other one is talking. You'll be given a chance to breathe. Even if you hear that she or he is saying something you don't know, you just keep your mouth shut. Here we have our own cell that will motivate you, we call it Lankosi even the magistrate knows about it. Then if you behave like a mad person we will leave you there for the whole night and we will see you in the morning.

CHAIRMAN: Thank you everybody, thank you Mswati's nation the one for Mahlokohla's soldiers, we are now here at this work that we had agreed to do. Mother what is your surname?

COMPLAINANT: My surname is Nxumalo.

CHAIRMAN: Are you married?

COMPLAINANT: I stay at my parents' home.

CHAIRMAN: At your parents' home?

COMPLAINANT: Yes.

CHAIRMAN: Do you have a father?

COMPLAINANT: My biological father?

CHAIRMAN: Yes.

COMPLAINANT: No.

CHAIRMAN: Who had accompanied you?

COMPLAINANT: My husband.

CHAIRMAN: What have you said before?

COMPLAINANT: I am not married but I stay with and he is the father of my children.

CHAIRMAN: Woe, this is your boyfriend, you don't have a father so where is your mother?

COMPLAINANT: She passed away.

CHAIRMAN: Are there any people who know about your problem?

COMPLAINANT: Yes.

CHAIRMAN: Where are they?

COMPLAINANT: They are at school.

CHAIRMAN: Isn't anyone here?

COMPLAINANT: Yes.

CHAIRMAN: It's only your boyfriend who is with you?

COMPLAINANT: Yes.

CHAIRMAN: Ok young lady what is your surname?

DEFENDANT: My surname is Khosa.

CHAIRMAN: Are you still at school?

DEFENDANT: No.

CHAIRMAN: Why are you not at school? Don't close your eyes because we're not proposing each other here, why are you not at school? What happened? Where is your father (the Chairman trying to be harsh) where is he, you must speak aloud and don't keep on chewing your chappies!?

DEFENDANT: He is at home.

CHAIRMAN: The one you are with here is who, does your father know you are here? Come here, did you tell him yesterday?

DEFENDANT: He said that I must come with my mother.

CHAIRMAN: Why did he tell you to come with your mother and leave him at home?

SECRETARY: I am sorry Father, he said that he won't come because he is going to church, and he told me verbally, this kid is lying.

CHAIRMAN: Thanks. Madam you are the head now because you have to act like your husband.

DEFENDANT'S MOTHER: I am the mother.

CHAIRMAN: You are the mother?

DEFENDANT'S MOTHER: Yes.

CHAIRMAN: There is something I would like to ask first because maybe something will disturb in the middle of the issue. Why do you say that you are the mother of that home?

DEFENDANT'S MOTHER: They have paid *lobola* and a wedding was conducted.

CHAIRMAN: What type of wedding?

DEFENDANT'S MOTHER: Court wedding.

CHAIRMAN: Western wedding?

DEFENDANT'S MOTHER: Yes.



CHAIRMAN: Even you Mama, you don't have any witnesses? Are you going to stand for yourself or do you need them and if so where are they?

DEFENDANT'S MOTHER: Yes.

CHAIRMAN: You don't need them as well. Okay, and you won't tell anyone that there's someone in the location who can help me?

COMPLAINANT: I will need them if I see a reason for their presence.

CHAIRMAN: So why did you leave them behind? We don't need them because you are the one who will need them because they were with you when all the things happened. Then if we proceed won't you need them?

COMPLAINANT: I didn't know that I will need them.

CHAIRMAN: But when they say there's a witness, what does that mean?

COMPLAINANT: It's the one who has heard something.

CHAIRMAN: Because you have heard that today you are coming here why did you leave them at home? Whom are they going to talk to because they have to agree with you about what they heard and saw? What I think is that we were not with you in the location and we don't know what happened, we will hear that from you.

SECRETARY: I will start with you, what is your name?

COMPLAINANT: I am Fikile (Thandi) Nxumalo.

SECRETARY: Where do you live?

COMPLAINANT: I am from Ext 10.

SECRETARY: What is your number?

COMPLAINANT: It is 36##.

SECRETARY: Do you have a cell no.?

COMPLAINANT: Yes.

SECRETARY: What is your cell number?

COMPLAINANT: 082#####.

SECRETARY: Then what is your name?

DEFENDANT: I am Jele Khosa.

SECRETARY: What is your stand number?

DEFENDANT: Its 36##.

SECRETARY: What is your cell number?

DEFENDANT: I don't have one.

CHAIRMAN: We are going to give you a chance to speak aloud so that we can hear you clearly. Also the audience should hear you so that they can help you.

COMPLAINANT: I brought her here because she accused me of being a witch and she said that I have *tokoloshes*.

CHAIRMAN: Start your story from the beginning.

SECRETARY: I'm sorry. I am looking at her age. How old are you (asking the defendant)?

DEFENDANT: I am 18yrs old.

SECRETARY: And you what is your age?

COMPLAINANT: I am 42yrs old.

SECRETARY: I don't know whether we are supposed to talk to her. Look at the age she is still a school kid. I think we will scare her with our beards and bald heads. But I hope we can continue talking to her because she will repeat the same thing knowing that she is still under age.

CHAIRMAN: We are going to talk to her, then we will give it over to her mother to continue.

AUDIENCE: Yes it is true.

CHAIRMAN: You as a mother come and stand in between them because you are innocent. And you, complainant, you can start to explain what had happened.

COMPLAINANT: I came from work when I found my child crying at home and telling me that he was beaten by Jele. I asked him that why he was beaten and he told me that he was passing by when he saw them under a shower. He said to them that they were washing themselves in the shower since it was their first time having one. Then Jele probably had beaten him up. One of the neighbours asked Jele why she was beating the child and she said that she needed me as the mother. When I came from work I then went to ask her where he was beaten and I was told that Jele was warned not to do that but she said that if I wanted her I must come to her home. Then I went to ask her why she had beaten my child and she told me that it was her right. I asked Jele why because the child is so young. Then her mother said that my kids also beat her kids and I said that I need an explanation because I am working and I have got no clue that mine also have beaten them. But she could not give me an answer. I told her that when my kids beat her kids I always discipline them. Then she didn't answer my question, and she then said to me I must get out of her home because I am a witch and I have got tokoloshes in my house. And she said that she was better because she was having a mother and a father and mine were dead.

CHAIRMAN: Is that all?

COMPLAINANT: After that I could not reply to them, I just kept quiet.

HEADMAN: Were those words said by Jele or her mother?

COMPLAINANT: I didn't hear her saying anything.

CHAIRMAN: Yeah, everything was heard and everybody in the house had opened the ears.

HEADMAN: I didn't get your story properly.

CHAIRMAN: They said that they didn't hear you properly.

COMPLAINANT: I came from work and I found my child crying and I asked him why he was crying and he told me that he was beaten by Jele. I asked him why she had beaten him, and he told me that he was joking with Cebo and Bobo telling them that it was their first time to see a shower. Jele followed him and beat him by the other neighbours' house. The neighbour asked her why she was beating the child and she told her that she needed me

because she wanted to tell me some stories. This neighbour told me to go and ask her maybe she is going to tell me what she wanted to say to me. Then when I arrived there I asked her why she had beaten my child but she could not answer me. Her mother told me that my kids also beat her children. Then I asked her that did she ever tell that to me because I am always at work. Then she kept quiet and I also told her that I always discipline my kids when I see them beating other kids.

SECRETARY: You should not be in a hurry mother because it is like you are singing now. You must try to be clear.

CHAIRMAN: Continue mother, then what happened afterwards?

COMPLAINANT: Then Jele told me to get out of her home because I am a witch and I've got tokoloshes in my house.

CHAIRMAN: The mother only said that your kids also had beaten hers and that's where she ended? So, the other things were said by Jele?

COMPLAINANT: Yes, then Jele started.

CHAIRMAN: Then she gave you all that shit?

COMPLAINANT: Then she was stopped by another guy and said ...

CHAIRMAN: No, no, no. Continue with the shit she was saying because we want to hear that.

COMPLAINANT: She accused me of being a witch and of having tokoloshes. Then I kept quiet and the guy and the neighbour also told me to keep quite.

HEADMAN: They said to the guy?

COMPLAINANT: Yes.

HEADMAN: They asked you, who said those words and you said it was Jele. You didn't say that the mother also said those words? You said that the mother was also there, isn't it?

COMPLAINANT: Yes, the guy also asked her that ...

HEADMAN: Mother listen here, can you please repeat those words that were said by the mother?

COMPLAINANT: The time Jele accused me, the guy asked them if they would hear themselves.

HEADMAN: No, mother.

CHAIRMAN: Say out those words that the mother said.

COMPLAINANT: The mother said that my children had also beaten her children and I asked her 'did you ever tell me about that because I am always at work?'

CHAIRMAN: (chairman pointing towards the defendant) Then did you say all those words? Or is it wrong (now pointing towards the complainant)? Are you finished?

COMPLAINANT: Yes.

CHAIRMAN: (chairman talking to the defendant and her mother) Are you still here?



SECRETARY: Have you heard what made her to lay a charge against you?

DEFENDANT: Yes.

CHAIRMAN: Can you please help us and tell us what you know about what have been said by the complainant.

DEFENDANT: We were taking a shower when the child said to us that it is our first time to see (or experience) a shower. And he said that we even went outside to show everybody that we've got a shower at home. Then I asked him if he was talking to us like that and he said yes. Then I promised him that I will beat him but he intended to tell me that he has got a father and a mother and then I beat him up. Then when his mother came from work he asked why I had beaten her child. Then at the time I wanted to answer her she slapped me and I went into the house but she opened the door and came inside and slapped me again and when she went out she was the one who said that I'm a witch because my grandmother died in the house. She told me that my mother's mouth is salivary and then I told her that they were the ones who made her to be like that because they gave her poison.

CHAIRMAN: Then, are you done my child?

SECRETARY: There's nothing more you can say? I've clearly heard, then what do you say (speaking to Jele's mother)?

DEFENDANT'S MOTHER: What I can say is that I don't know about their misunderstanding. I don't even know whether she beat her in the house because I was outside. I asked her why she was beating her but she said she provoked her and she stopped her. I did say that her kids also beat mine. There's this other 12-year old boy of mine who was beaten by her husband. He just went into my house and beat him up. I was sleeping because I was suffering from a headache. Then I told him that it is a crime just to come into somebody's house without permission and he said I must teach my child because he has not been taught in the right way. So, this bewitching I don't know. I'm sorry, I know nothing about it.

CHAIRMAN: Haven't you heard about that, mother?

DEFENDANT'S MOTHER: No.

CHAIRMAN: Because she said that your daughter said those words after you replied.

DEFENDANT'S MOTHER: No, I haven't heard that. They were just insulting each other and she said that she is in love with Shangaans and the other one said that you are the one who proposed the Shangaan for me. Then the other one said that they are poor; they stay in shacks together with kids and so on.

CHAIRMAN: Was that the only insult they said?

DEFENDANT'S MOTHER: Yes.

CHAIRMAN: Is that the only thing you've heard?

DEFENDANT'S MOTHER: That's what I've heard. That anyone is bewitching, no; I didn't know something like that.

CHAIRMAN: I've got a question: You said that you do have a father. What have you done to show that you are the oldest because you saw these kids were quarrelling in front of you?

DEFENDANT'S MOTHER: She went to open a case and they said they would need an elder person. Then when we reached there they said they are not going to help us because she also retaliated. It would have been better if she hadn't done that.

CHAIRMAN: No mother, you haven't answered yet my question. I've asked you what you do if you see children quarrelling. If you are a mother or a father, what do you do?

DEFENDANT'S MOTHER: I just stop the conflict between them.

CHAIRMAN: Then after that?

DEFENDANT'S MOTHER: I told her to go.

CHAIRMAN: Where? Where to did you say they should go?

DEFENDANT'S MOTHER: To her home. She shouldn't come to my house.

CHAIRMAN: What made you and your husband not to follow her after you had been attacked? Or ask an elderly person to accompany you so that you can find out what had happened?

DEFENDANT'S MOTHER: I don't know but her husband came to my home to ask about that incident and I told him that he also did the same thing, beating my child in my house without any respect. So, finally he asked for an apology.

CHAIRMAN: He asked for an apology?

DEFENDANT'S MOTHER: Yes, he said it was not here to fight but only to ask what had happened.

CHAIRMAN: The good thing I like, I will make it clear, is the way you explain it. The other thing is that we heard from the complainant that she beat Jeje but she excluded that. Do you oppose or affirm the words that you slapped her inside the house?

COMPLAINANT: I found her holding a pipe and when I talked to her she just wanted to hit me with it.

CHAIRMAN: Mother, do you hear what I say?

COMPLAINANT: I don't oppose it.

CHAIRMAN: Did it happen?

COMPLAINANT: Yes, it happened but I didn't go into the house to beat her. She fled into the house with her mother and then I asked her whether she insulted me or not. I then went out and left.

CHAIRMAN: Because in your statement you should have included that rather than skipping it. It happened during that incident, so it makes us to think the other way around, you see?

COMPLAINANT: Yes.

CHAIRMAN: You see, you have made a mistake.

MEMBER OF THE COUNCIL: According to my opinion this wife and her husband showed disrespect because they did not respect that mother's home.

Because firstly her husband went there to beat a child and then his wife did the same thing.

COMPLAINANT: I didn't get in to fight, I went in only to ask about her behaviour and about the way she responded and wanted revenge.

CHAIRMAN: Mother, can I ask you something because you have to ask if you haven't heard. The time you went there it was the time you were coming from work? When you came home you found your child crying?

COMPLAINANT: Yes.

CHAIRMAN: You went to your neighbour to ask where your child was beaten.

COMPLAINANT: Yes.

CHAIRMAN: How did you know that your child was beaten at that place?

COMPLAINANT: I was told by his friends.

CHAIRMAN: Did they say that your child had been beaten by the neighbour or had been beaten by Jele at the neighbour's home?

COMPLAINANT: They said that Jele went to beat him at the neighbours' premises.

CHAIRMAN: What truth did you want to prove from the neighbour because the neighbour didn't beat your child?

COMPLAINANT: I wanted to know why she beat him because the neighbour tried to stop the conflict.

CHAIRMAN: Do I hear it clearly? The neighbour didn't beat your child, isn't it?

COMPLAINANT: Yes.

CHAIRMAN: Then what is it what you wanted to find out? If it was them or not or who beat the child? Because you were still cool when you got there, then you heard what you wanted to hear and you then turned into fire and you were like at war. Why didn't you go to her at the time when you were told by the children that your child was beaten by Jele?

COMPLAINANT: I wanted to get the real truth whether she was the one who beat my child or not.

CHAIRMAN: Your neighbour was the one who beat him because she was also the one who told you the truth.

SECRETARY: From my point of view the complainant went there to get the story because her child was the one who provoked the others by saying that it is their first time to use a shower up to the point where the defendant went out to discipline her. Then the child went to the neighbour's home because her mother was at work, the defendant followed her to beat her up. So then, because she wasn't there and heard from others, she was right to go there and make sure what happened.

FEMALE COUNCILLOR: The guy who said that, did he hear himself what he was saying, that she has got tokoloshes? Is he the only one who heard that and is he able to confirm that he had heard them saying that? Can he say yes, I've heard them and I did ask them?



CHAIRMAN: Where was that guy coming from?

DEFENDANT'S MOTHER: We don't know anything about that guy she is mentioning now.

CHAIRMAN: We need someone to explain here the words that your mother has a malformed mouth that were said by the complainant. Can you please explain so that we are able to discuss them and understand them? Or let me put it in another way, what did you say to her that show that you were fighting, the words from you to her?

DEFENDANT: I answered the way she insulted me.

CHAIRMAN: You talked to her in the same way?

DEFENDANT: No.

CHAIRMAN: We want to know what you have said.

DEFENDANT: I said that the reason why my mother has a malformed mouth is because she poisoned her. She couldn't have been like this otherwise.

CHAIRMAN: In other words you are telling us that she was bewitched by her because she gave her poison?

DEFENDANT: Yes.

SECRETARY: Did you see them when they gave her the poison?

CHAIRMAN: Sh..sh..continue so that you can finish.

DEFENDANT: Then she also said that my grandmother was a witch because she died in the house. I said the reason why she died there was that she was still in the house when she was sick.

SECRETARY: Then what was your answer because she was insulting you and told you that your grandmother died in the house, what was your answer then?

DEFENDANT: The reason she died in the house ...

CHAIRMAN: No, no ... the time you told her, don't tell us what you've said already because you were both throwing stones at each other. What do you say, what are the words you said?

DEFENDANT: She said that we are poor.

CHAIRMAN: She said that you are poor, and then what did you say?

DEFENDANT: I said that if we're poor they are also poor like us.

SECRETARY: You know what, it's better to free yourself from problems by saying the truth. Don't try to create your own story because if you are wrong you'll be identified as a liar. And the complainant has also made a mistake because she could have mentioned that she had also beaten her.

CHAIRMAN: Yeah, our time is wasted for nothing and darkness is going to be approaching now.

COMMUNITY POLICEMAN: Let me brief her a bit. You don't want to say that you said she is a witch and she has got tokoloshes. You said that they are those who made your grandmother to be what she is now.

DEFENDANT: I don't mean my grandmother.

COMMUNITY POLICEMAN: Who did you say is bewitching you, I mean

your mother? You said that they are the ones who bewitched her. Can you explain what they did?

DEFENDANT: It was the poison.

COMMUNITY POLICEMAN: That made your mother to be like that?

DEFENDANT: My mother was having flu when she came and she gave her hot intestines so that she can eat them hot. She waited to see her whether she had eaten. Then afterwards she took her dishes and went home. She never came back to see my mother and she couldn't even pass by our street. It's when my mother started to get sick.

COMMUNITY POLICEMAN: Were these intestines from a cow or from a lamb?

CHAIRMAN: Then from there it means when you say someone has given you a poisoned food it means she or he is a witch because it's just the same as killing and you had already said that they gave your mother poisonous food and they were no more passing by your home? Your mother was having flu but after having that food she started to be sick, isn't it?

DEFENDANT: Yes.

CHAIRMAN: Yaa, it's like we are in a game playing hide and seek. Mother, can you see now where this thing leads us to? Did you eat that avfal which she brought? (the Chairman asking the defendant's mother).

DEFENDANT'S MOTHER: Yes.

CHAIRMAN: She brought it?

DEFENDANT'S MOTHER: Yes.

CHAIRMAN: What kind of intestines did she bring?

DEFENDANT'S MOTHER: They were from a cow.

CHAIRMAN: From there ...?

DEFENDANT'S MOTHER: I can start from the beginning. She first brought me groundnuts.

CHAIRMAN: I want the intestine issue.

DEFENDANT'S MOTHER: She brought me the intestines and told me to eat them when they were still hot but I told her that I would eat them later. She insisted that I have to eat them hot and I said no. But she still insisted and I finally ate them until I was finished. She took her dishes and I thought that as a neighbour she would come the following day to see me but she didn't come. And by that time I was very sick and I was shocked not to see anymore. Then my family came to see me and they decided to take me away. My mother then found out that it was the intestines I ate. My father wasn't sure so he also went to another *sangoma* where he was told the same story. But now my mother and father are both dead.

CHAIRMAN: After you've found out what actions did you take because you were not sure since your parents were still alive and they found out that you have eaten the cow's intestines, and then what did you do to react?

DEFENDANT'S MOTHER: Nothing was done because my mother was a

Christian. She refused and said that God is always there and he will be the answer to everything.

CHAIRMAN: Then it was over? That was the end?

DEFENDANT'S MOTHER: Yes.

CHAIRMAN: Then today, who is digging all that out? Because it had already passed away with those who died, because those who went to search for that also left it hanged. Who is the digger now, is that the child who had been beaten?

DEFENDANT'S MOTHER: It means it's her when they quarrelled. Because they are young and the other one mentioned that I have a stinky mouth.

CHAIRMAN: Is it good for the children to involve bewitching when they are quarrelling with each other about something that has passed already a long time ago? Is it the right thing?

DEFENDANT'S MOTHER: No, first they quarrelled and then they included that.

CHAIRMAN: Who included that?

DEFENDANT'S MOTHER: Because they also insulted us.

CHAIRMAN: Who included that? Is it the lady or is it your own flesh and blood?

DEFENDANT'S MOTHER: It is the other lady.

CHAIRMAN: How did she include that because you decided to bury the hatchet and how did she find out that you have found out that she was the one who gave you the afval, how do you dig it out?

DEFENDANT'S MOTHER: No father, she didn't say so. She was insulting

...

CHAIRMAN: Mother, listen carefully, who mentioned the thing that caused your sickness?

DEFENDANT'S MOTHER: It was said by my child.

CHAIRMAN: What did she mean because you heard that from the *sangoma*. But you didn't follow it till end and now they quarrel. Then your daughter includes that, was it good for your daughter to do that?

DEFENDANT'S MOTHER: No, it was not.

CHAIRMAN: According to your opinion, what do you think can be done, how can this issue be solved because your daughter has accused that lady of being a witch, was she supposed to do that?

DEFENDANT'S MOTHER: No father.

CHAIRMAN: According to you, what must we do? Because the children were quarrelling and she turned to mention the issue that was known by those people who had already passed away, how can it be solved?

COMMUNITY POLICEMAN: Father, it shows that this lady is a witch because she gave the intestines to that lady and she nearly died and it was discovered that it was the intestines that harmed her.

CHAIRMAN: I am unable to help you mother. Complainant, do you hear where it comes from now?



DEFENDANT'S MOTHER: Yes, I do.

CHAIRMAN: Did you ever cook those intestines and give it to the mother?

COMPLAINANT: I don't remember myself cooking food and giving it to them. I don't give food to any neighbour; it's my first time to hear that.

CHAIRMAN: Listen, I will kick two or three people here if I can get that you gave her the food. Then what you going to do? If you had done that apologize, so that things can be sorted out. If I can find out that you normally give them some food, what are going to do for this crowd here?

COMPLAINANT: I don't remember doing that.

CHAIRMAN: I said, what can you do if one of the good days it is discovered that you did? Are they lying?

COMPLAINANT: It's just deceptive; it's my first time to hear that.

CHAIRMAN: They are lying. What if someone can come and tell us the same story; what can you do?

COMPLAINANT: I am looking forward for evidence or a proof of where they got that from.

CHAIRMAN: Yeah I am going to give you a chance because there is hiding and seek between these two or three people. There is something between those two and we will quickly find that thing and it's going to be a hard and heavy load for them to carry (chairman turning his words to the defendant). Did you hit her child?

DEFENDANT: Yes, I did.

CHAIRMAN: What answer did you give her when she approached you?

DEFENDANT: I wanted to explain why I slapped him.

CHAIRMAN: I asked, what did you say to her?

DEFENDANT: She hit me before I was able to speak to her.

CHAIRMAN: She just hit you without saying anything? Can a person just slap you without saying any word?

DEFENDANT: Yes, she just slapped me, I am serious.

CHAIRMAN: Let me put it this way, can the complainant's lover come and explain to us how they live as neighbours? Where is he because he is the one who is there for you? And you gave birth to his children and on the other hand you don't have parents. Your trust is in him. So, now he has to take you according to the custom and make you his wife. We ask him to explain how you live with your neighbours.

CHAIRMAN: I would like to start by asking something before we can proceed. Do you sometimes give food to the Khosa family?

COMPLAINANT: No, we don't.

CHAIRMAN: Something raw or cooked?

COMPLAINANT: No, we don't.

CHAIRMAN: Let's hear from the Khosa family.

DEFENDANT'S MOTHER: The food that she normally gives me is beans because she knows that I prefer them.

CHAIRMAN: Raw or cooked beans?

DEFENDANT'S MOTHER: Cooked beans.

CHAIRMAN: Do you give them beans?

COMPLAINANT: I never gave them beans.

CHAIRMAN: What about the other family members?

COMPLAINANT: At home, I'm the only one who stays there together with my children.

CHAIRMAN: When did they give you the intestines? Where her parents still alive?

DEFENDANT'S MOTHER: Yes, when her mother was still alive.

CHAIRMAN: How was the relation between you, her, and her mother?

DEFENDANT'S MOTHER: It was very good.

CHAIRMAN: Where you giving each other some of these things?

DEFENDANT'S MOTHER: Yes.

CHAIRMAN: Then the witch was her daughter?

DEFENDANT'S MOTHER: I don't know what then happened.

COMPLAINANT'S HUSBAND: What I can explain is that between these two families, when the mother was still alive, they used to give each other things like sugar.

CHAIRMAN: What is the surname of the complainant's mother?

COMPLAINANT'S HUSBAND: She was a Gazidze. She also used to ask for soaps from Jele's mother. Something like cooked food I have never seen except asking for sugar, salt and the like. It was a good life in fact until they said that they had given Shangaans. They used to stay together and they were very close. In fact the defendant is always lacking good communication, it might have happened that it was a mistake by her to say that my wife is a witch and Mrs Gazidze was a *sangoma*, I think some of you know her.

CHAIRMAN: Is Mrs Gazidze from Hallman who stayed next to ZCC?

COMPLAINANT'S HUSBAND: They were people who were in good terms but I don't know what then happened.

SECRETARY: Can I help? It started from the time they went to the *sangoma* and were told that it was her.

COMPLAINANT'S HUSBAND: If I can go back, where did the child get that information from because the elders could not take a child with them and they can't come and say we are being bewitched by so and so.

SECRETARY: Because you are here, unfortunately the father of the defendant is not here, how do you both live?

COMPLAINANT'S HUSBAND: We normally call each other brothers-in-law. Like he is a brick layer, we just greet each other and talk in a right way and then he goes where he was going to without any problem.

SECRETARY: Thank you, you can sit down.

CHAIRMAN: Can I ask, there's something left behind, did you go one day to her home and hit her boy?

COMPLAINANT'S HUSBAND: Yes, I did but I took that as part of disciplining the children because I considered them as my children. If I see them doing wrong things I have to discipline them but I didn't know that it was going to be a conflict. I then asked for an apology and I was forgiven and it was over.

COMMUNITY POLICEMAN: It seems that if your wife also went there to beat the defendant.

SECRETARY: I heard the mother saying that what your wife did. You came and asked what had happened and you apologised for what she did.

COMPLAINANT'S HUSBAND: Yes, I did go there to ask and then they explained to me and I apologised.

SECRETARY: Were you apologising for what had happened between your wife and Jele?

COMPLAINANT'S HUSBAND: Yes, because Mobali was also reminding me that I also did the same thing at his home.

SECRETARY: I heard you apologised for what your wife did but was that an apology or what because you apologised and then you came and opened a case here?

COMPLAINANT'S HUSBAND: We opened the case because Jele said that my wife is practising witchcraft.

SECRETARY: What was that apology for because now you have opened a case?

COMPLAINANT'S HUSBAND: Ok it is just that my wife is not a witch.

COMMUNITY POLICEMAN: Don't blame this man to ask for an apology because his wife went to beat the child in their home and the Khosas were supposed to go and ask for an apology because they accused her of being a witch which shows that they waited for some days to see whether they would come for an apology.

CHAIRMAN: You see this man went to ask for an apology that his wife did a wrong thing but the Khosas didn't care because they knew that this woman poisoned their mother and it really shows that she is a witch.

COMMUNITY POLICEMAN: The bewitching issue cannot be dug by children because those who started working on it had already passed away. Then the complainant has to start afresh explaining what happened.

CHAIRMAN: I will repeat what she said that the thing that made her to come here is that she has been accused as a witch.

SECRETARY: It is true the defendant did say that she is a witch, because she also quoted that the way her mother was sick was just because she was poisoned by her. Which means that the thing that you did to my mother was also going to be done to me because when the elders when they got that from the *sangoma* they were told that she was bewitched by her.

CHAIRMAN: We must not keep on talking about those people who had passed away because they went there with their patient and she also knows that she has been bewitched by her, and we are still discussing the same issue



of those two people .This lady also said that this one is a witch and this one felt pain she decided to come here to ask for help about this issue. Here is another thing that we are going to discuss, did you say that this lady has got a stinky mouth, why did you involve that because you were supposed to talk to your friend and the child only?

COMPLAINANT: Can I answer that I did not say that her mother has got a stinky mouth .My boy was passing by and she insulted him including me and the boy answered her that her mother had a stinky mouth, and I did not say something like that, it was the boy who said that as a revenge .

CHAIRMAN: What did she say?

COMPLAINANT: She said your mother sheath and my son said to her your mother has got a stinky mouth because he did not know what to say.

CHAIRMAN: Is there anything you want to say?

DEFENDANT'S MOTHER: I only heard that I have got a stinky mouth but the other things I don't know because I was not there.

COMPLAINANT: I am sorry Mr Khosa also said that to Velaphi why he was insulting the mother and I told him that Jele was the one who started to insult me first. Even Mr Khosa knows that I did not say those words; they were said by my son.

CHAIRMAN: I am asking about this witchcraft issue because you did go to the *sangoma* where you were told who the witch was.

DEFENDANT'S MOTHER: I do not know anything about that.

CHAIRMAN: But you did go to the *sangoma* and you were told that the problem was that you were given intestines, you did go?

DEFENDANT'S MOTHER: Yes I did.

CHAIRMAN: Were you also there?

DEFENDANT'S MOTHER: No.

CHAIRMAN: Then who told your daughter because if I remember well she was still young by that time. Who told her that you were given a plate of intestines by Thandi?

DEFENDANT'S MOTHER: It was discussed during her presence.

CHAIRMAN: These hide and seek won't help you. Now we're going to check with the book of law because in fact this issue was supposed to be solved at the time Mrs Gazidze was still alive and now she is dead. You start mourning if she could not beat the child. When were you going to tell her that she is a witch and has got tokoloshes.

[Then all the members of the council stood up and went out to check with the book of law]

CHAIRMAN: We have now checked in the book of law that was left by Mswati so that we can be able to use it. (Talking to the defendant) The book of law has found that you are guilty because firstly you didn't have the right

to go around spreading the news that you have heard from the parents because you are still a school kid, and if you keep quiet and think, were you supposed to insult that lady? Secondly, do you know that if you accuse someone of being a witch your home is being repossessed when you are referring a person to a slayer (killer) do you know that?

DEFENDANT: No.

CHAIRMAN: As from today my child remember you must be out of that style of calling someone a witch. That is not supposed to be done and now you are regarded as a bad and naughty kid who does not have any respect. You have also polluted your parents with your bad behaviour. Coming to you Thandi, you are old enough now and you have a husband and your mother has left you with a home to look after. Did your mother ever quarrel with neighbours?

COMPLAINANT: No.

CHAIRMAN: So why did you go and make noise in other people's premises because you know even in the location there are those people who are supposed to solve problems for you.

COMPLAINANT: I was pressurised by the way she beat the child.

CHAIRMAN: Do you see what had happened? Is it the good way, what if you were stabbed to death; was that going to be nice? What were you going to do?

COMPLAINANT: I could have said nothing.

CHAIRMAN: What is it that you could have died for?

COMPLAINANT: I could have died in other people's premises.

CHAIRMAN: Why do you as a mother interfere with children's conflicts?

COMPLAINANT: I wanted to calm them down.

CHAIRMAN: Because they were already finished fighting and Jele was already at her place you decided to go and ask her why she slapped your child, why?

COMPLAINANT: It was because she had already said that she wanted me not the child.

CHAIRMAN: So why didn't you ask the elders to bring you together so that she can explain why she hit your child? Instead you decided to go into their home where you came across that problem. To go and fight is regarded as a crime and as we read from the book of law it tells us that you don't have respect for your husband. You were supposed to wait for him and explain what has happened and he was supposed to tell you the next step to take. According to what I think you didn't even wait for him to come back, you just went there alone and then when he came from work you were already back is that false?

COMPLAINANT: No.

CHAIRMAN: By so doing do you think it was the good way?

COMPLAINANT: No.

CHAIRMAN: (talking to the defendant) did you have enough time for thinking? To insult a person it's going to be one cow, so we going to charge you R2,500 so that you can't continue telling someone that she or he is a witch. And you (talking to the defendant's mother) you are expected to be fined with one goat which will charge you R750. Then you (talking to the complainant) it's going to be R250 because you didn't show that you are respecting your husband.

JAN 11



# THE WITCH'S FEASTING GOATS

(FILE 09082508)

This is a short case of witchcraft accusations between two brothers, 69 and 40 years, from a rural area in north-western Swaziland. The incident occurred in late July and was tried about one month later at the Swazi National Court in peri-urban Piggs Peak. A similar issue was pending at the village court (*bandlancane*) in their home area. The complainant, 69 years old, reported to the Royal Swaziland Police that transferred the case to the Swazi National Court. This court has jurisdiction on matters falling under Swazi law and custom and is known for its quick justice. The court is presided by a court president and supported by two male assessors and a female clerk. The following is an account of the proceedings as mainly reconstructed from my field notes. The complainant was often inarticulate and the court officials therefore seemingly annoyed.

THURSDAY, AUGUST 25, 2009 – SWAZI NATIONAL COURT,  
PIGGS PEAK, SWAZILAND

CLERK: On the 21<sup>st</sup> of July 2009 you are accused to have insulted your elder brother by accusing him of being a witch. How do you plead?

DEFENDANT: Innocent.

COMPLAINANT: [takes oath]

CLERK: It makes me sad to see that you're failing to come together, discuss and solve the problem.

COMPLAINANT: The thing that really hurts me is that he is calling me a witch. On that day at about 5 p.m. I drove my goats and my cattle to the kraal, and he was watching me from his window. He said he was looking for me because my goats were always feasting his maize. He then accused me of being a witch, so I decided to call another brother of ours to tell him about that.

CLERK: Defendant, you are now allowed to ask questions to the complainant. Do you have any questions?

DEFENDANT: Okay, it is true that I was at the window. But why do you allow your goats to enter my fields? And tell me, where was I when I supposedly had called you a witch?

COMPLAINANT: You were in your homestead, at the window watching me.

DEFENDANT: But how could I dare to just insult you like that?

COMPLAINANT: You called me a witch.

DEFENDANT: I only asked you that how I am supposed to feed my children when your goats ruin my crops. And wasn't it you who called me a fool?

COMPLAINANT: You said I'm bewitching you.

DEFENDANT: Wasn't it you actually who came with the *umgijimi* [runner] and accused me of bewitching you because you were complaining that you are dying? We then even had to go to the *bandlancane* because of that.

COMPLAINANT: Can you show me the *muti* that I'm using to bewitch you?! No, you can't!

DEFENDANT: As you see, he doesn't answer my questions.

CLERK: Answer him. Have you heard what he is asking you?

COMPLAINANT: Yes, I did. But let's deal with the problem that he accused me.

ASSESSOR: He just said that you claimed that he [defendant] is bewitching you. Anyway, who was there when he said that you [complainant] are a witch?

COMPLAINANT: I called our brother.

COURT PRESIDENT: Okay, we need somebody who heard exactly what was said and who called whom a witch.

COMPLAINANT: He called me a witch.

COURT PRESIDENT: Bring in the witness.

[Witness, 55 years, who is a brother to both comes in and takes oath]

**Clerk:** You were asked to appear as a witness in this case before this court. Can you help us?

WITNESS: I was just on my way home from work on the 21<sup>st</sup> of July at around 5.30 p.m. when a child approached me telling me that my brother called me. It took me some time, but I went there and when they caught sight of me my elder brother began to shout that the other one is accusing him of witchcraft. I immediately turned around and left again.

CLERK: That is all?

WITNESS: That's all I can say.

ASSESSOR: You have never heard anything else about this witchcraft issue?

WITNESS: No.

DEFENDANT: [takes oath now]

CLERK: Okay, please tell us only what happened on the 21<sup>st</sup> of July, nothing else.

DEFENDANT: I came back from the kraal to my house when my brother was arriving at the homestead with cattle and goats. The goats went straight to my fields and ate the maize. I asked my brother that what I am supposed to give my children to eat then. I asked this in order to sit down with him and discuss the issue, but he refused and told me that he's not interested to talk to a fool. He said he won't listen to me anyway. I then reminded him that our case was still pending at the *bandlancane* so we should rather sit down and talk about it. But he failed to do so!

COURT PRESIDENT: So, are there any witnesses or not? Otherwise we'll be sitting here and talk until the sun has set. [...] Alright, everybody leave the court now! We have to consult.

AUG 25

[After 3 minutes of consultation everybody was ordered to get back into the court room]

COURT PRESIDENT: The court has come to a conclusion in this case. There are no witnesses who had heard the accusations and above all you are all three brothers. So, go back home and deal with that issue accordingly.



# THE STORY OF THE BEWITCHED SHOES AND A RUNAWAY FAMILY

(FILES 08120701 AND 08121400)

This case involves relatives by marriage and was tried in eMjindini Trust. It demonstrates how different modes like mediation, retaliation and avoidance are practically and rhetorically applied in the course of the disputing process. This not only during, but also before and after the dispute entered the legal arena. Cebisile Zwane, an elderly woman, living on a farm near eMjindini/Barberton opened a case of witchcraft accusations in the chief's court against her neighbour and relative by marriage, 20-year-old Gugu Mbali. Cebisile is married to Lukhuleni, the defendant's mother brother. Seen from Lukhuleni's perspective, Cebisile, his wife, sued his young niece, Gugu.

SUNDAY, DECEMBER 7, 2008 – CHIEF'S COURT,  
EMJINDINI TRUST, BARBERTON, SOUTH AFRICA

CHAIRMAN: Let's now continue with the next case. Can you tell us about the incident in Exchange [Glenthorpe], how did it go?

COMMUNITY POLICEMAN 1: He just drove away in his car.

CHAIRMAN: Can you hear that, mothers? They say that he jumped into his car and escaped.

COMMUNITY POLICEMAN 2: I pulled out the car keys, but the police told me to give them back to him. They said they'll manage it. The owner of the car apologised and asked for the keys. I don't know whether it was his employer but we demanded that he should be cuffed and put in the van.

CHAIRMAN: Was he a black person?

COMMUNITY POLICEMAN: No.

CHAIRMAN: Then where are the cops now?

COMMUNITY POLICEMAN 2: The employer is going to show us where he is.

COMMUNITY POLICEMAN 1: After that they agreed that he should not be cuffed. Then he left with his car but I did say that he won't come to eMjindini. But the cops refused, where is he now?

COMMUNITY POLICEMAN 2: Can I explain, please? The police didn't refuse. It was rather the councillor who wrote the letter with....

CHAIRMAN: Haa ... we don't give a damn about those councillors!

COMMUNITY POLICEMAN 1: He said that we have to leave him, he will follow us, but I said that he was to come after him.

CHAIRMAN: Didn't you get a phone number from him?

COMMUNITY POLICEMAN 2: At the time we went to the company houses, he was by the gate, he departed first and we followed him. When he saw us, he reversed and went back.

CHAIRMAN: Where did he go then? Maybe he went back to his house.

COMMUNITY POLICEMAN 2: He was actually out of the company gate.

CHAIRMAN: Where were the cops by that time?

COMMUNITY POLICEMAN 2: No, it means when he left, he turned to the other road in the direction of the dam.

CHAIRMAN: Ok, it means that the Ford can drive faster than the van?!

COMMUNITY POLICEMAN 2: That man can drive very fast, he can drive faster than the speed of sound.

CHAIRMAN: Is he the Adam we are talking about?

COMMUNITY POLICEMAN 1: They said that the letter was written by Duma so he has to be brought here so that he can explain to whom he wrote the letter to.

CHAIRMAN: These are illegal letters.

COMPLAINANT: (crying) I'm going to pay revenge myself because they are still busy talking about me.

COMMUNITY POLICEMAN 2: He ran away and I wanted to fight with him but they refused because he was supposed to be chucked into the boot.

CHAIRMAN: So, let us see what will happen now since there is only one week left before we close for the Christmas holidays. This family has to know what is happening and we have to make sure that they are safe. What must be done?

COMMUNITY POLICEMAN 1: I don't know the way things are happening at Exchange. The complainant should get together with her family to discuss the issue of the letter. We won't mind about the letters, we want those criminals. There's no need for us to ask for permission from someone, they will explain why they need the chief. I don't know whether he stole the stamp or what. They are going to solve that alone because it is something they had discussed in their committee. So, we need to phone them so that they can say on what grounds they wrote that letter. Who wants the chief? They have their own royal kraal at Exchange, where they can deal with such offences. Then the other man called Mbali whom we went to see at Exchange, he is a problem. We are going to deal with him. That day, he won't go to work because he is fooling us. He showed us that he is clever.

CHAIRMAN: Thank you, you are going to deal with him on Friday or Saturday so that on Sunday we can finish and close. The complainant and her family will be released.

CROWD: Nkosi!

COMMUNITY POLICEMAN 1: Since we are closing this week, I have the fear that they at Exchange might also close. We have to go there during the week because it's like he is in a camp. We have to go there during the week so that we can get him.

COMPLAINANT: It is not a problem on my side. He knows what he is doing because he has got black lawyers with him there.

CHAIRMAN: Is his lawyer there?

COMPLAINANT: Yes, there is this Khathwayo woman whose working at the police station. So, it is her who always influences them.

CHAIRMAN: Ok, we will see her.

COMPLAINANT: She is their conductor. We are worth nothing even if we can go to the police.

CHAIRMAN: Even if it is like that, Mr Nkosi, I think we have to report that problem to the station commander and the magistrate so that she can get the letter together with that guy. Or maybe the magistrate will send the police to catch them and put them into jail until Sunday, then they will bring them here on Sunday morning. The other thing is that we told him his rights and he should be given a phone number so that he can complain in case he feels abused. When he sees no reason for being there he can phone the police complaining that he is jailed for nothing. When he is unable to use his corners, it's when we are going to deal with him using our own way. But he even indicated that he knows about this case. Ask him why he ran away and tell him that this is where he is going to be stuck.

COMMUNITY POLICEMAN 1: We are going to see where the other royal kraal ends. No, Mr Lukhuleni, as you hear Mr Simelane is trying to explain that he didn't overpower him. We thought that we have to work according to the law. Then he saw that we didn't work the right way and now we are going to work in our own way.

CHAIRMAN: Nkosi, we sent our people to bring father Mbali from Exchange but they came bare handed because he pretended as if he was coming with his own car, but he ran away. Then they went to his home but they could not find him. They only found his wife there, they phoned him, but he said that he is going to be here at nine. I don't know what he means by saying he will come at nine. That is what we have been discussing. He has misbehaved many times. We have decided that before we start talking to him, he has to pay these women some money for the transport and for disrespecting them, and the royal highness itself. They have to pay for the petrol expenses. I have decided that next week the community police has to continue searching for these people so that they can be here next week. Those who laid the charge against them, they will be informed if we caught him. Probably they will run short on transport money. He offended them, but now he is unable to come and attend here, that is it your royal highness.

DECEMBER 14, 2008

CHIEF'S COURT, EMJINDINI TRUST, BARBERTON, SOUTH AFRICA

CHAIRMAN: (asking the community policeman to take the man to the side)  
Take him!

HEADMAN: You can stand up.

CHAIRMAN: Eeh ...

HEADMAN: He should come here! Where is the letter? Where are all the letters?

COMMUNITY POLICEMAN: I gave it to him.

SECRETARY: But what is his name? Was it wrong to give the letters to him?

HEADMAN: I gave them to her (defendant). The one you gave the letters to is her father.

CHAIRMAN: This one?

SECRETARY: Yes.

CHAIRMAN: Don't lean on your hands.

SECRETARY: Where do you stay?

COMPLAINANT: At no. ## Glenthorpe.

SECRETARY: And you sister?

DEFENDANT: I'm Gugu Mbali.

SECRETARY: Where do you live?

DEFENDANT: At no. ## Glenthorpe.

SECRETARY: I would like to greet everybody here. I would like to remind you that our main aim here is to re-unite you and not to continue with the hatred. If you are found guilty, you will be charged whether you are the complainant or the defendant. Then the other thing you have to bear in mind is that you are not supposed to say anything until you are given the word. Even if the other person lies, you don't have the right to argue with him or her.

CHAIRMAN: I hope everyone is still inside and nobody outside. We are all listening and I'm asking everybody in this house to work as a team. I would like to ask everybody to be quiet and not to gossip because there are many things happening outside. We were not there whenever those things happened that brought you here. We are going to hear from you what had happened. Everybody makes mistakes, so no one should be afraid to confess. It will make things easier for you because as everybody knows that straight talk won't break real friendship. Then I would like to grant the chance to the complainant to explain her problem.

COMPLAINANT: I would like to greet you all, am I allowed to talk the way I talked before?

CHAIRMAN: Yes, you are.

COMPLAINANT: Even the way she insulted me?

CHAIRMAN: Yes, you have to say everything so that we can know.

COMPLAINANT: It was on the 24<sup>th</sup> of December at about nine o'clock and we were at the Home Based Care garden working when the defendant passed by. It was me, Mrs Nkosi and a young girl called Lindokuhle. The defendant went by without greeting and we heard something that sounded like 'kung' and we laughed. But she didn't say anything and went away. After half an hour she came back. I was standing with another woman called Dumsile when she went to Lindokuhle and told her to say what was said concerning



her mother. She asked her why we were gossiping about her mother since her mother was no longer working there. She wanted to know what it was that we wanted from her. She mentioned many things to the child so I finally noticed that she was not talking to the child, she was saying this to us, as elders. I came to her and I asked her that whom did she heard saying something about her mother. Then she told me that it has been a long time since she was looking for me because I've bewitched her mother. She started insulting me and telling me that my mother was a cunt and that I was a witch. She said that I was the one who bewitched her mother. But since I've seen that she is not dead I apparently went to grass her to Makamo so that they can fire her from work. Then I asked her if she would hear herself. I called her a child but she told me that I must not call her a child. She said 'don't call me your child, you dog', and then I said 'I will slap you'. She started pointing fingers at me and I said to her 'It's better to beat me rather than insult me'. She wanted to hit me and when I came closer she picked up a wooden block and hit me. All the youngsters who were around asked her whether she heard what she said to me, but she intended to tell me not to call her a child. Then she finally told me that she herself and her father went to a *sangoma* who told them that I am the one who bewitched her mother. Later in the evening, my daughter went to her house to demand a pair of shoes for which I have already paid for. But the shoes were in a bad condition so that I decided to send the child back to return them. But she refused and told my daughter that she did not want them anymore because I've bewitched them. She also told my child that she was equally a witch like me. I then decided to take the shoes back myself but before I reached her place my young kid took them and told me not to go there because she thought I was going to fight. So, my child gave her the shoes and she said to my child 'you are also a witch like your mother'.

This is what brought me here because I would like to know that *sangoma* they went to who pointed me out as the one who had bewitched her mother, as she is now sick because of me. The other thing is that I didn't even know that she had already quitted her job. What I knew was that she was sick but that she would come back at one point. I didn't know, however, that I and her were no longer in good terms. I heard that only from her daughter the day she insulted me. Her mother even greeted me the other day but I just kept quiet. The reason why I kept quiet was that one day her younger daughter came to my home to tell me that there was something secret she wanted to tell me. But I told her that I was not interested in secrets. But finally I told her to tell me that thing. She said that her mother was sick and she didn't want to go to her grandmother. So, she asked me if I couldn't see that her mother was sick, she wouldn't be able to go there until I agree that her mother is sick. I asked her 'what is the reason?' She said 'take this phone so that you can be the one who phones our grandmother and tell her that our mother is sick'. I said to her 'I can't do that'. Then the child said 'yaa... our mother is sick, she cannot

even sleep at night, she is always shouting at night, even now she is there by the bush'. I kept quiet and didn't answer her. Then the child went away. So, I decided to wake up early next morning to report to Vinah, one of the women who is in charge of us, and I explained everything to her.

SECRETARY: Mother, I heard you mentioning shoes that were not brought in a good way.

COMPLAINANT: She sold them to my daughter because they didn't fit her. It was a small size.

CHAIRMAN: I think you have just heard what made the complainant to come and lay a charge against you?

DEFENDANT: Yes father.

CHAIRMAN: We ask you not to look at anybody around here in order to explain us what you know about this issue.

DEFENDANT: Yes, it was on the 24<sup>th</sup> and I was on my way to work when Ms Zwane, Ms Mthunywa and a girl called Lindokuhle were in the fields. When I passed by, they laughed. When I looked at them, they were shy to look at me, then I continued my way. Ms Zwane said that even if I would get angry, she wouldn't care because the reason why I am angry was that my mother was no longer working. I ignored her. When I arrived at work I met two guys called Mananga and Shisa. I said to Shisa 'I've got a problem with Ms Zwane. I passed by the fields and she said that I was angry because my mother was no longer working. Shisa told me to go back and ask the girl who maybe could tell me what they were talking about. I returned and went straight to the girl to ask her why they laughed at me. Ms Zwane was far from her that time. I greeted that girl and I asked her why they were laughing at me. She told me that they were not laughing at me. Then Ms Zwane came to me and said 'don't shit on me, don't shit on me, don't shit on me'. I asked her why she is saying that and she replied 'what are you saying here?' I asked her what she heard me saying. She then told me that she is going to hit me, she pushed me with her breasts and told me that she will beat me. She finally punched me and when I left for my home, she told me to go to my mother that was suffering from Aids.

CHAIRMAN: Please don't play games with us. You should not live like a snake. Firstly, you have to disagree with what the complainant said, then you can tell us your story but only after you had disagreed with what the complainant said.

DEFENDANT: Ok, the bewitching story is what I don't know about. It was actually her who told me that she would consult *tangoma* until the soles of her shoes would come off.

CHAIRMAN: Is that all?

DEFENDANT: Yes.

CHAIRMAN: There's nothing else you would like to say?

DEFENDANT: There's nothing else.

CHAIRMAN: Can you really hear yourself what you are up to? I asked you whether you did understand the complainant's problem that brought her here. I want you to oppose that before you start telling us your story.

DEFENDANT: I don't know what she is talking about.

CHAIRMAN: Don't cause yourself more troubles. I'm still going back to beg you. You can't even oppose what she said? Is she lying?

DEFENDANT: She is just creating her own story. I don't know anything about that.

CHAIRMAN: Didn't you go to the *sangoma*?

DEFENDANT: No I didn't.

CHAIRMAN: What if someone can come and confess that you did go there together with your father?

DEFENDANT: We didn't go to the *sangoma* and I didn't say that she is a witch.

SECRETARY: Did you pass there on the 24<sup>th</sup>?

DEFENDANT: Yes I did.

SECRETARY: Then they laughed?

DEFENDANT: Yes.

SECRETARY: Then you came back again?

DEFENDANT: Yes, the time they laughed the lady said that I was angry and not talking to her....

SECRETARY: Isn't it that you passed and they laughed, did you ask her or what?

DEFENDANT: I went to work and I talked to that boy that I worked with and he said that it was better to go and get the story from them.

SECRETARY: That time?

DEFENDANT: Yes that time. I immediately went back to the girl. Then the woman came and pushed me with her breasts. Then she punched me.

SECRETARY: She just hit you without any reason?

DEFENDANT: Yes, I was not talking to her but I was talking to the girl.

SECRETARY: Where is she now?

DEFENDANT: There she is.

SECRETARY: Did you quarrel before?

DEFENDANT: No, we did not.

SECRETARY: How did you know that they were talking about you? What do you think might have been the reason since you haven't quarrelled before?

DEFENDANT: Me, I also don't know because the time I was talking to the girl, she told me not to shit on her, then she hit me.

HEADMAN: I would like to ask the defendant what the reason was that made her to go back because the time they laughed at her she didn't ask them anything?

DEFENDANT: The reason why I went back was that I heard Ms Zwane saying that I am angry because my mother was no longer working. And by that time my mother was indeed no more working. I wanted to get the information from the girl.

HEADMAN: Woe... because she said that you were angry for your mother?

DEFENDANT: Yes, that she was no more working.

HEADMAN: Did you hear that?

DEFENDANT: Yes, I did hear that when she was talking.

HEADMAN: Because it was mentioned by the complainant, why didn't you ask her rather than the girl?

DEFENDANT: I tried to calm myself down and went to work.

HEADMAN: Isn't it that you returned from work and came back to ask the child?

DEFENDANT: Yes, I did come back.

HEADMAN: I asked you why you didn't ask the one who laughed? You shouldn't have asked the child because you were supposed to ask the person you heard talking. What was it that you wanted from the girl? Are you still thinking?

DEFENDANT: No, I'm not thinking.

HEADMAN: Lastly, I was asking you whether it was true or false what the complainant explained that you have accused her of being a witch. Is she lying?

DEFENDANT: No, I don't know that.

HEADMAN: Is it your first time to hear that?

DEFENDANT: It's my first time to hear that. I don't know anything about that.

CHAIRMAN: Yaa... we have to collect opinions before we can call all those witnesses in. In order to proceed, we would like to have the proof that you did say that she is a witch. What would you do if it turns out that you said that?

FEMALE LISTENER: The way I see it it's like she beard grudges against the complainant. The others were not supposed to laugh when she passed by. She went away fuming and the worst part is that she didn't come back to the one who laughed, instead she approached the young girl to ask what was their conversation all about. She beard grudges against Ms Zwane because they proclaimed that she was the one who bewitched her mother. When they laughed, she just said 'yaah, they are laughing at my mother'. Is that false?

DEFENDANT: I didn't bear grudges against her.

CHAIRMAN: Yaah, you have to be free and open your ears. Father, is that your daughter and your wife?

DEFENDANT'S FATHER: Yes.

CHAIRMAN: Why do you say that she is your wife?

DEFENDANT'S FATHER: Because I got married to her.

CHAIRMAN: How?

DEFENDANT'S FATHER: Through the magistrate. We tied a knot and I also paid *lobola*.

CHAIRMAN: Father, the thing that has been explained by the complainant, is it new to you or since when do you know about it?



DEFENDANT'S FATHER: It is my first time to hear that.

CHAIRMAN: Is it your first time to hear about it?

DEFENDANT'S FATHER: Yes.

CHAIRMAN: Is it your first time to hear that, is it the first, first, first time is it new to you?

DEFENDANT'S FATHER: Yes.

CHAIRMAN: Have you heard what your daughter has said? She said that she did tell you that they quarrelled.

DEFENDANT'S FATHER: She told me that they laid charges against each other, but I don't know the reasons for that.

CHAIRMAN: Have you heard what I've asked you? I said that did she tell you before that they had a dispute?

DEFENDANT'S FATHER: No.

CHAIRMAN: You don't know?

DEFENDANT'S FATHER: I don't know.

CHAIRMAN: I think you've heard the reason why your daughter has been brought here, isn't it?

DEFENDANT'S FATHER: Yes.

CHAIRMAN: Did you get the letter?

DEFENDANT'S FATHER: Yes, I did.

CHAIRMAN: Which persons were asked for in this letter?

DEFENDANT'S FATHER: Me and my wife.

CHAIRMAN: What did you do then?

DEFENDANT'S FATHER: I went to the committee to talk. We then sent a letter and I was waiting for them but they told me that the issue was to be solved at the royal residence.

CHAIRMAN: Did you write the letter that was brought here?

DEFENDANT'S FATHER: It was not written by me.

CHAIRMAN: Who wrote it?

DEFENDANT'S FATHER: It was. I was ...

CHAIRMAN: We want to know that who wrote that letter?

DEFENDANT'S FATHER: I ... I stated my problem in the committee.

CHAIRMAN: Who are the members of the committee?

DEFENDANT'S FATHER: All those committee members like Mavonyo and the others.

CHAIRMAN: I only need one person who wrote the letter, who assisted you?

DEFENDANT'S FATHER: I have not read it.

CHAIRMAN: We want the name and the surname of the person who wrote that letter.

DEFENDANT'S FATHER: There are too many people in the committee.

CHAIRMAN: Father ... Father, we don't play hide and seek here because you are the one who is supposed to prevent your child from ... right? I'm done. Didn't the community police come to your place on Sunday?

DEFENDANT'S FATHER: Yes, they did.

CHAIRMAN: Then what did you do?

DEFENDANT'S FATHER: Eeh, I made them upset.

CHAIRMAN: I said that what did you do after they un-cuffed you?

DEFENDANT'S FATHER: I asked them why they handcuffed me?

CHAIRMAN: What else did you do after that?

DEFENDANT'S FATHER: I went to the councillor together with the community police. Then the councillor told me that the issue was to be solved here.

CHAIRMAN: Then what did you do?

DEFENDANT'S FATHER: Then I was released from the cuffs and I got back my car keys.

CHAIRMAN: Then what did you do next?

DEFENDANT'S FATHER: I wanted to come here but on my way I saw Ms Zwane and her husband coming back home already. So, I thought it was too late.

CHAIRMAN: Father, thank you. I can see that you have already climbed a high mountain, but we can easily see you up there. You will regret what you're doing now. You are talking like a small child, whereas you were supposed to help your daughter who caused you lots of problems by accusing this woman of witchcraft.

DEFENDANT'S FATHER: I usually come from work and go home. I don't go to *tangoma*.

CHAIRMAN: Actually, I took you for an elderly person, but you're childish. You are the one who's supposed to help your daughter to extinguish the fire she caused. Now we would like to call one of the witnesses in who will explain what happened.

COMPLAINANT: Yes, there's Mrs Nkosi as one of my witnesses.

CHAIRMAN: We will call her to come and explain what had happened.

SECRETARY: The time you heard them gossiping when you were on your way to work what made you to ask the young girl when you came back because you heard that it was the complainant who talked about you?

DEFENDANT: I was asking the girl what they were laughing about.

SECRETARY: Why didn't you ask the woman you said you heard saying that you were annoyed with her because your mother was no more working? Why didn't you ask her?

CHAIRMAN: Thank you, all of you have to open your ears, then mother, what's your surname?

WITNESS NO.1: My surname is Mthunywa.

CHAIRMAN: What's your marital surname?

WITNESS NO.1: It's Nkosi.

CHAIRMAN: Where is your husband?

WITNESS NO.1: He is at work.

CHAIRMAN: Does he know that you are here today?

WITNESS NO.1: Yes, he knows.

CHAIRMAN: We don't want to talk to you if he does not know that you are here because if a problem arises, he can be shocked how his wife came here without his permission. Can you please help us in this incident and as an adult try to give us some clue of what happened so that we can be able to make some corrections where they need to be. According to your knowledge, what had happened? Please be loud and clear.

WITNESS NO. 1: Ok father, it was on a Monday and we've been working in the fields of the Home Based Care when the defendant passed by on her way to the clinic where she works as a security personal. She didn't greet us and we were all quiet and we were all looking down concentrating on our work. After some time I heard her talking to Lindokuhle, the young girl. I was surprised because she passed by without saying anything. But later she said that we were talking about her mother, telling the girl that we thought that her mother would come back to work again. We decided to keep quiet. However, she continued saying that her mother is sick and that she and her father went to a *sangoma* where they were told that her mother was bewitched by Ms Zwane. Then Ms Zwane stood up where she was and came closer to her and asked her what she was saying. She asked her whether she heard her talking about her mother and the defendant insisted that it was true that she was the one who was bewitching her mother. Finally, the defendant took the wooden block and hit her.

SECRETARY: Whom did she hit?

WITNESS NO.1: The defendant hit the complainant.

SECRETARY: Did you see that with your own eyes?

WITNESS NO.1: Yes, she took the wooden block and struck her.

CHAIRMAN: Up to where did the wooden block issue reach?

WITNESS NO.1: I tried to calm them, then I told Ms Zwane to keep quiet. The defendant then went to her mother's house.

CHAIRMAN: Is that all mother?

WITNESS NO.1: Yes.

CHAIRMAN: Thank you. Have you heard what she said?

DEFENDANT: Yes.

CHAIRMAN: Then what do you say?

DEFENDANT: I don't know anything. She obviously takes side because they work together.

CHAIRMAN: Look, every time you claim that everything is not true, it will give you a problem. Why can't you disagree with what she said because she is also next to you?

DEFENDANT: I don't know that.

CHAIRMAN: But you've heard what she said?

DEFENDANT: Yes, I did.

CHAIRMAN: Alright, but you have heard what she brought you here for?

DEFENDANT: Yes, I've heard.

CHAIRMAN: Is it not the same thing as the witness just said? Is there anyone else?

COMPLAINANT: Yes, my young daughter is also a witness for the issue of witchcraft because she also mentioned it in the evening when she took the shoes to her. She said that she no longer needs the shoes because they've been bewitched. I was in the dark when she told my child that she is also a witch like me. I replied to her and said 'you are happy because you are going to proof that in future'. Those women who were there, they laughed because she was now repeating the same thing over and over again that I am a witch. I think I repeated it more than 20 times where I asked her whether she could hear herself. But she continued insulting me. I didn't say that her mother has got Aids. Even God is my witness. God can punish me if I would insult someone. You can also ask the witnesses or anyone else in the place where we live, they would confirm that I never say anything insane. She also claimed that I was the one who betrayed her mother to Mr Makamo that she has got MDR, something that I didn't even know before. There was nothing bad I did say about her.

CHAIRMAN: Thank you. Do you see what you have done? Are you aware that this thing will lead you into big problems because now your issue includes a lot of people like Makamo? What if he can come now and confess that the story is just like they said? What are you going to do? I have been trying to give you the right way that will make your things easier, but you keep on digging out holes that you can't manage. And another thing, I'm going to give you a chance with your father to take this woman to where you found out that she was the one who bewitched your mother, so that she can also be sure that she is a real witch. Can we give her to you?

DEFENDANT: I don't agree with that because I have not said that she is a witch.

CHAIRMAN: You don't agree? What should we do with her? If it was her who said all those words to you, what were you going to do? Is it nice, is it a good thing that you have done? Is it like honey? Please answer my questions! Is it nice? If it was her who insulted you, would that make you happy?

COMPLAINANT'S HUSBAND: I stand up because I feel the pain. Since they are all like one family of mine, we are old and we know that that this normally happens if someone is angry. She can say something that she can't say the following day again. I can also hear that my brother-in-law there knows nothing about what had happened. It seems as if it is his first time to hear about this issue. We have to try to be truthful because my nephew and my wife here had caused the hatred between me and my sister and I beg them to make some corrections so that we can be united again. What I know is that in such issues people from outside always get happy when they see one family quarrelling and you find that each one has got friends who are going to coach him or her and give her some tips on how to handle a certain thing.



I think that my brother-in-law knew about that issue because he did ask the committee to write a letter. Where did he think that letter was going to be because on what reasons was that letter written? If he knew nothing about it, it means that he got the wrong information from home. I would be happy if my niece could help me to find out if I am living with a witch. I could even think of supporting her financially to take her to the *sangoma* so that we can have a good and happy life without the witch.

HEADMAN: I am very happy my girl because they always say that a case is a denial. You can also run away from it, you did agree that you did pass by, who are you working with?

DEFENDANT: With Shisa.

HEADMAN: Where is he now?

DEFENDANT: He is at Matsulu.

HEADMAN: What is he doing?

DEFENDANT: He stays there.

HEADMAN: The time you talked to the woman where was he?

DEFENDANT: He was at work.

HEADMAN: What did you say when you passed by the women, what did you say, what did you tell him what they have done to you? Hurry up, hurry up my girl, time is running, the thing that was said by the women?

DEFENDANT: Nothing.

HEADMAN: Listen, if someone else can come and confess that you did accuse her of being a witch, you are just loading yourself with a heavy load that you can't even be able to manage. Do you know that accusing a person of being a witch is a heavy load to carry?

DEFENDANT: Yes, I know that.

HEADMAN: If you say that this woman has bewitched your mother, you have to take her to Mahhoyane. He will reveal whether she is a witch or not, and that will satisfy your heart.

CHAIRMAN: What I want to know that who is in charge?

DEFENDANT: The manager.

CHAIRMAN: I don't mean someone in charge at work, I said where you stay?

DEFENDANT: It is my father.

CHAIRMAN: Did you ever attempt to tell him that this woman is creating false stories about you?

DEFENDANT: He was at work.

CHAIRMAN: Did you tell him when he came back from work? Did you tell him as someone who is in charge of you?

DEFENDANT: He was told by my mother.

CHAIRMAN: This is what annoys me. I will call them to take you to tie you by that tree so that you can make up your mind because you were able to tell your mother what happened, so what made you not to tell your father that Ms Zwane has done something wrong to you? Have you ever done that?

DEFENDANT: Yes, I did.

CHAIRMAN: Whom did you inform?

DEFENDANT: I told my mother.

CHAIRMAN: What about your father? He was supposed to be informed by who, between you and your mother, who had encountered that problem, was it you or your mother? Answer my question! So, you want to tell us that it's your mother who gives you the powers of insulting other people who are older than you?

HEADMAN: (talking to the defendant's father) Where are the handcuffs you said that you were cuffed with?

DEFENDANT'S FATHER: It was that ... you were holding when you ...

HEADMAN: Hey, who's that because I am here?

DEFENDANT'S FATHER: I don't know who he was.

CHAIRMAN: Can you please come up with your opinion father (theChairman pointing at one of the men from the crowd).

FOREMAN: I would like to greet myChairman, headman, all the elders and the house at large. I am from Exchange and I work as a foreman there. My surname is Duma and I would like to emphasise that it was not my aim to be a witness and I did not know places like this before. I also didn't know that this issue was about witchcraft accusations and I don't remember the defendant telling me that this was all about bewitching. She only told me that it was a conflict between her and Ms Zwane and I was thinking that maybe it happened those days when she reported that issue, but my wife told me that it happened already a long time ago. When she met me, she told me that they had a fight. She told me that she was bewitched by her and after that I don't know what happened. So, I told her to go to the forum and the following day she went there. Then theChairman of the forum said that they had agreed that they must write a letter to you to ask for a permission so that the issue can be solved at home. I said that the letter must be written to ask you whether the issue could be solved at home. And if you say it's fine with you, I won't say anything. You can handle it the way you think. They then wrote the letter, I signed and stamped it. It was already signed by theChairman of the forum, the secretary and I signed for the stamp that I put on it. Then the letter was sent out but there was no reply. So, last Sunday I wasn't there and when I reached home I found a report that there were people from the royal residence at my house. By that time my wife was scared because she was told that they needed the person who wrote the letter. I then explained to her that I was not the one who wrote the letter. She told me that they wanted to see me. Then, on Monday, Mr Mavuso phoned me and I explained to him how things were done concerning the letter that the forum was in a manner of asking not demanding. He said that we could deal with the issue but we would have to bring a feedback to him. Someone from the committee heard that Ms Zwane didn't want to go the committee but instead has decided that

the issue has to be solved here. The only thing she mentioned was that even if the letter could be written, she won't go to the committee because she had already reported her issue at eMjindini. Then I said that I would let Mr Mavuso know that there was no resolution. But I was unable to contact Mr Mavuso. It was not easy to reach him on Thursday, but on Friday morning I then got him and explained to him everything. He said that it was fine, it was going to be solved here. There is something that I like about this issue. Somewhere I see no truth in the defendant's position. Her statement has got no value and it shows me that she does not want to say the truth because in order solve the problem it would be better to confess. Maybe she was angry and ended up saying something that she can't be able to say now. The place we are now, I prefer this thing to be over by admitting that she was angry and it was really a mistake. We should negotiate.

HEADMAN: The time they wrote the letter, did they tell you that there was also a letter coming from this side?

FOREMAN: Listen I did ask them whether they got a letter from the chief and they said no.

DEFENDANT: You did not ask us.

FOREMAN: They said that they didn't get it.

DEFENDANT: We said we did.

FOREMAN: You must say the truth. I asked you whether you did get the letter but you said that they didn't bring the letter to you.

COMMUNITY POLICEMAN: We think that at the time we brought them the letter, we did explain to them that it was under the royal highness' permission. And you had to listen to us because we had been sent. We told you our names and the reasons why we were there. But we were sent back and the petrol also counts because we went there twice and they said that they wanted a letter. We were patient and we brought it and gave it to you. Firstly, you refused to take it and you were forced to do that and this man is fighting. He even wished to fight us but we were not interested.

CHAIRMAN: Thank you, sit down please.

WITNESS NO.3: Can I please ask something?

COMPLAINANT'S HUSBAND: Can I say something before she can talk?

I am the one who told her not to go to the committee because a lot of days had already passed when I started counting from the days when the forum's chairperson had seen Mr Duma. And this issue started during that time. I told her not to go there because I was excluded and it was unfair because I thought that how can they be able to talk to my wife whilst I wasn't there. I also considered that the forum was not responsible for solving issues of witchcraft. The time they started their conflict, she phoned me and I was at work. I asked her what was the reaction of the elders who are in charge there and she told me that they said that she must go to report to the police. Then at the police station, they only accepted the one for assault. They said that they

can't solve bewitching issues and they told her to go to eMjindini. Then from the 24<sup>th</sup> they tried to protect them. If it was death, we could have died having that forum of theirs doing nothing. In my opinion, this forum only wanted to protect the defendant from being charged here because they didn't even bother to talk to me as the complainant's husband. So, what kind of forum is that? First of all, I was hoping to see my sister and my niece to come together in order to solve that problem. Then if that would fail, we could have been looking for some outside help. After that nothing happened. I only heard that the police was here on Sunday. Afterwards a letter was written and it was submitted to us during the weekend. If I can count, I don't know how long it is now. So we have to deal with things accordingly not to take sides because it ends up being a mess. If there was a forum, it was supposed to bring the people together, talk to them the next day after the conflict, not to wait till month's end and wait to hear that one of them has taken further steps. Then the forum started asking to come together to discuss the issue, but also the wife is not involved that is why my brother-in-law said that he does not know anything about the issue and the daughter only told the mother the day they quarrelled. Everybody can see that they are playing hide and seek. We must stop the game and go straight to the point so that this issue can be solved and get finished.

FOREMAN: Can I also say something father? On the 24<sup>th</sup>, I think it was a Monday because she came to us on Wednesday or Thursday after they came from the police station, they said that she should open a case only for assault because they told her to open a case of witchcraft at eMjindini. But she said that firstly she decided to come to us so that we can talk to the child, so that the issue doesn't have to get transferred here because it's going to be heavy when brought here. So, she asked us as adults to talk to her. I then sent the police to go and get Gugu so that we can talk to her as a child because Ms Zwane was also feeling the pain and she wanted to be relieved because she knew that the case once it is brought here it will involve a lot of people. She was trying to do her a favour and she wanted everything to be settled but Gugu told the police that she was not coming because she claimed that she was not mad. I tried to phone her but her phone was on voicemail. I think I tried to contact her for a week but she could not even pick up the phone and I was trying to stop Ms Zwane not to come here so that we can talk to them as a family. Then I finally got her on Sunday after her father ran away and she told me that she can't waste her time and come here.

SECRETARY: Did she say that to you?

FOREMAN: Yes, through the phone. We thought we were trying to solve things but she showed that she is their boss. They just listen to all what she says and she is rude. You can even hear the way she talks. The forum didn't explain clearly to her that it was not for such cases but that it is for the workers. We wanted to talk to her so that she can continue with a good and



happy life but she indicated that she was so rude and she was a boss. Then we opened the way to the complainant to come here because she was given letters three times. She warned us that we didn't want to end up coming here. HEADMAN: Who wrote the letter opposing the royal highness' decisions? We want to see him because he was trying to show that we are nothing here and he was opposing them on that way.

CHAIRMAN: You can continue (giving a chance to the complainant).

COMPLAINANT: If the forum was fair, would they have first come to me before writing the letter? They didn't talk to me or my husband and they just undermined us. Gugu was the right person to insult me so that the people can kill me and leave my kids behind for nothing. She was busy shouting my name and now the forum is able to write the letter to the royal residence without my permission?

SECRETARY: Did you tell your mother about your issue?

DEFENDANT: Yes.

SECRETARY: Can you hear what your father is saying, he hears about this issue for the first time. And Mr Duma is asking you to confess and admit that you did make a mistake. You, your mother and your father will be given a chance to discuss together so that you can come out with something valid because your mother is saying something different, and your father as well. So, we at least we are going to give you five minutes for discussion so that you can be able to see your mistake and be able to apologise where ever it needs to be.

CHAIRMAN Thank you mother, I just want to ask you whether she did tell you about the conflict between her and Ms Zwane?

DEFENDANT'S MOTHER: Yes, she did.

CHAIRMAN: Then what actions did you take?

DEFENDANT'S MOTHER: She came crying telling me that Ms Zwane hit her and that she was told to return with me, but I told my daughter that I didn't want to go and fight.

CHAIRMAN: Listen here, I don't want you to keep telling us stories. I asked you that what have you done after she told you that they fought?

DEFENDANT'S MOTHER: I kept quiet.

CHAIRMAN: What did your husband do when he came from work? What did he do?

DEFENDANT'S MOTHER: He did not know anything.

CHAIRMAN: Father, what have you said before?

DEFENDANT'S FATHER: I said that they quarrelled, but I did not know that it was a witchcraft issue.

CHAIRMAN: You did hear that they quarrelled, who told you that?

DEFENDANT'S FATHER: My wife told me.

CHAIRMAN: You were supposed to sit down and discuss this issue as a family and forgive each other because you are now sick and your daughter only knows that you have been bewitched by this woman. Do you accept the five

minutes that have been given to you to discuss as a family so that you can solve that problem? I can see my daughter, you are still lacking your mind because you thought that you are highly educated and you thought that you are very clever. You think that you are very clever and you consider yourself as a model c that has got rights.

HEADMAN: I get you Mr Nkosi, do you know what these people said? They said that we thought that we were superior because we came to attack them at their home. And even their daughter locked herself in and the father was taking sides but we only wanted the daughter, not the father.

CHAIRMAN: Father, I've been trying to apologise for you. But everything is still the same and I've told you right from the start that you have to speak the truth and be straight to the point. (Then the Chairman started talking to the witness no.4) What is your surname my girl?

WITNESS NO. 4: My surname is Nhleko.

CHAIRMAN: Thank you, are you still at school?

WITNESS NO.4: No.

CHAIRMAN: Did you finish schooling?

WITNESS NO.4: Yes.

CHAIRMAN: Here, we use the short way. We do not need a person that causes quarrel between other people. I'm sure you always heard in school that if you lie, you get punished. So, these two had a conflict. We will ask you to explain us what you know and tell us what you have heard and the cause of their quarrel.

WITNESS NO.4: We were in the fields in the morning when she passed by. Later she came back and asked me what we were talking about and I just kept quiet and looked at her. So, she said to me that she heard us talking and laughing and she said that she heard Ms Zwane talking. I was shocked what she was talking about. She then said that her mother has been bewitched by Ms Zwane and she, together with her father, went to a *sangoma* who told them that Ms Zwane was bewitching her mother. Then Ms Zwane came closer and the defendant told Ms Zwane not to point at her. The defendant then took a wooden block and hit her. We shouted at Gugu not to hit Ms Zwane, but Gugu told her that she was a witch. It was weird.

CHAIRMAN: Then now what is your opinion because now there are different witnesses who were there during that incident? What is it that you would like to tell us now? The other thing I would like to know is if you have something else to say?

DEFENDANT'S MOTHER: I would like to reply on why my child went to her. It was ... my mother phoned me telling me to come back home but I told her that I was feeling better. The children told her that I was better although it was not so. So, my mother thought that they were lying and the child thought that it was a better way to tell her to phone my mother because she would trust me that I'm really better.

CHAIRMAN: Are you finished?

DEFENDANT'S MOTHER: The issue of going to the *sangoma* with her father is what I don't know about. Even that issue that I'm being bewitched by her, I don't know. I just ...

SECRETARY: Which means that your daughter just made up her own stories?

DEFENDANT'S MOTHER: Surely, I don't know anything about that.

HEADMAN: Because you say that you don't know anything. Why did you refuse to take the letter?

DEFENDANT'S MOTHER: The reason was that firstly you came bare handed without the letter. Then how was I going to know that you ...

HEADMAN: I am talking about the time we had already explained to you who we were and where we were from.

DEFENDANT'S MOTHER: Ok, the time we got the letter we already got a letter from the forum.

HEADMAN: Which letter was written first? You proved that our letter was useless, only yours was important?

CHAIRMAN: Yaa, mother, can you hear where your daughter's issue is now leading us to? Have you heard what she said to Ms Zwane and have you heard what all the witnesses are saying? Fortunately you are here. So, is there anything you would like to say concerning the issue of witchcraft, because now you are sick because this woman had bewitched you? And it was already found out by your daughter and your husband from the *sangoma* and they didn't notify you. Do you want to say something? Father, have you heard what the witnesses just said?

DEFENDANT'S FATHER: Yes.

CHAIRMAN: Have you heard what your daughter said?

DEFENDANT'S FATHER: Yes, I did.

CHAIRMAN: What do you say now as a home owner because this man said that you are his brother-in-law? What do you say if the family encounters such problems? What is it that you think we must do because your daughter has caused conflict within the family? So what is your opinion?

DEFENDANT'S FATHER: The time the conflict started I was not there. I was at work and my brother-in-law was also not there. Maybe Ms Zwane could have gone to my wife. But my wife went to report to the forum and Ms Zwane refused to go there. When I arrived I was told that they were quarrelling and I was not told about the witchcraft issue. I was only told about the fighting issue that is why I asked the forum to help me.

CHAIRMAN: As an elder person, what do you think must be done?

DEFENDANT'S FATHER: I think because it is a family matter, we need to sit down as a family and talk so that we can know what happened. We didn't know that there were also witnesses, even my wife was hiding that from me.

CHAIRMAN: Who did all that mess? Who was supposed to tell you what had happened?

DEFENDANT'S FATHER: My daughter was supposed to tell me the truth.

CHAIRMAN: Then whose problem was it if she didn't want to tell you the truth?

DEFENDANT'S FATHER: She did go to tell them that they were quarrelling.

CHAIRMAN: Who were those people?

DEFENDANT'S FATHER: When she said that they fought.

CHAIRMAN: Why did they fight?

DEFENDANT'S FATHER: That is why I decided to take the issue to the forum.

CHAIRMAN: Wait, let me put it this way, if I can come and say I was beaten by someone, then I report to Shongwe that he had already beaten me up. What is Shongwe supposed to do? He is supposed to ask the reason why I was beaten so that he can know exactly the thing that made him to beat me up. But you did not bother yourself about their quarrel.

DEFENDANT'S FATHER: You mean the reason why they quarrelled ...

SECRETARY: We are talking about two people here, your daughter and Ms Zwane. When your daughter told you that they fought what clicked in your mind because your daughter is young and Ms Zwane is much older than her? They can't fight against each other because of boyfriends, because if they were both young you could have thought that they quarrelled over boyfriends. You were supposed to take it as a serious issue and go to your brother-in-law to discuss what had happened. You were supposed to act immediately, but because you knew that Ms Zwane was a witch, you decided to leave it like that.

DEFENDANT'S FATHER: I can't say there's something I know concerning the bewitching issue because I've heard that Ms Zwane said that my wife was suffering from Aids. So, that's why I decided that the issue should be brought to the forum to be solved.

HEADMAN: You only believed what you were told by your daughter and you were unable to go to Ms Zwane. What satisfied you was that you were told by your daughter that your wife was suffering from Aids, did you believe that?

DEFENDANT'S FATHER: I did not want to quarrel with her.

SECRETARY: You can sit down father because I see that it can take the whole day. You were asked whether you would need time to discuss with your family but you didn't give us an answer to that. If I can quote from last Sunday, you remember what you did to us? It showed us that there was something you know about the witchcraft issue. The way you did things showed us that you are ruled by your children, both your daughter and son, and I nearly hit him so I just saw that I was not supposed to do that. I ignored him because it was not my home and your wife could not say anything and she was quiet when we were supposed to take you with us. But you drove to Mr Adams. Your daughter has done a bad thing and your husband thought that



we are nothing as he had indicated that it was his home and he was also paying for it, so it belonged to him. He thought that he is ruled by the forum or the councillors, the municipality, and not by the royal highness. Can we give you a few minutes so that you can discuss your issue, the three of you, so that we can continue because we've got many cases to be solved here.

COMPLAINANT: Can I ask the witnesses whether I ever said that her mother is suffering from Aids?

WITNESSES: No.

COMPLAINANT: Did I ever insult her even once?

WITNESSES: No.

CHAIRMAN: Can you please answer the question whether you do need some minutes or not, do you agree?

DEFENDANT'S FATHER: Yes I do, so that I can hear what we are talking about.

HEADMAN: Listen father, so that I can explain to you. Are you going to be with your family so that you can correct your mistake, so that we can be released? Do you understand?

DEFENDANT'S FATHER: Only me and my family?

HEADMAN: Yes, you and your family are given a few minutes because we can see that you were not prepared when you came here. Prepare what you have to say.

DEFENDANT'S FATHER: Isn't that everyone that was there ...

CHAIRMAN: Father, listen! We ask you, your daughter and your wife and the Lukhuleni family to discuss. Then if it's not solved, we will proceed.

COMPLAINANT'S HUSBAND: I think there will be no solution. It's like we're wasting our time. According to my knowledge, I've worked with people for the past 20 years and people are sometimes happy whenever a conflict arises between friends. I've tried to explain that before that those who like him always give him points and direction because at last you end up being alone and no one helps you. That's why now those people who said that he should not come here and those who wrote the letter, they are no more here. That is why now they can't talk because they were driven. It is a big lesson that has to be learnt by families that if there is a conflict don't ever listen to other people who would not be able to help you till the end. There is nothing we want to say on the sides, let the issue be solved and get finished.

CHAIRMAN: I only ask one thing that we can go out to check with the book of law what must be done so that we can get done.

HEADMAN: I only ask that the three of them can be given a chance to correct their mistake and come up with a solution. They should stop playing hide and seek, so that if there is an apology, it should be asked for and be forgiven.

SECRETARY: The defendant still doesn't know anything since we started talking and the most important thing is to ask for an apology even though you are going to be charged.

HEADMAN: The father must take her daughter and his wife for a discussion.

CHAIRMAN: Let's not do that because it seems as if they are being spoon-fed. So, let's go out for the discussion because it might happen that in future they say that they didn't want to say something and we forced them.

LISTENER: Can I say that he must be given a chance to discuss and bring us one reasonable answer.

CHAIRMAN: Thank you for that good advice. There is a problem here because the time they came to collect you, you were given the car keys, then you escaped and you didn't come here. Why did you escape?

DEFENDANT'S FATHER: I remember from the beginning that I said that I didn't escape. It was almost four o'clock and they passed by. I had a break down, so I thought it was late, there was no one to talk to by that time.

CHAIRMAN: Were you called by your brother-in-law or by us?

DEFENDANT'S FATHER: It was that I did not know your departing time.

CHAIRMAN: I said, who called you to come here? Was it your brother-in-law or us?

DEFENDANT'S FATHER: I was called by you.

CHAIRMAN: So, why didn't you come and hear what you were called for?

DEFENDANT'S FATHER: I saw that it was late.

CHAIRMAN: Whose time?

DEFENDANT'S FATHER: Sssss..

CHAIRMAN: Ok, what about the next day? Did you bother to come because your car was fixed?

DEFENDANT'S FATHER: It's the time I brought the letter.

CHAIRMAN: For whom?

DEFENDANT'S FATHER: The one from the forum.

CHAIRMAN: Can you quickly take him and tie him there so that he can make up his mind!

HEADMAN: Stand up quickly! Don't ever again do your thing here that you were doing whilst you were there (talking to the other headman). Why cannot you slap him because he has wasted our time?!

COMPLAINANT: (crying) He said that he's not my relative. He even insulted me by calling me dirty names. I won't be able to forgive him until he takes me to Mahhoyane.

HEADMAN: You are not the first one here to experience such an offence. Everybody can see that you are accused falsely. (Headman talking to the defendant) You have to ask for an apology from this woman!

COMPLAINANT: (still crying) Does the community have to kill me now because I am a witch?!

HEADMAN: No, they won't.

COMPLAINANT: What if her mother dies?! People are going to say that I killed her. They are going to say that it's me because she is sick now.

HEADMAN: Now the problem is that the elders could not determine that she does not know anything. The problem lies between the two.

COMPLAINANT: There is nothing she does not know. Many things had happened in front of me. I know a lot of things they have to take me to Mahhoyane. HEADMAN: (still begging the defendant to apologise) Can you apologise for what you have done?! (The complainant fell and the headman started asking one woman to stand up and help her. So, the secretary asked them to take her out. This happened because she has been crying for a long time and she was taken out to get fresh air and water was poured over her).

[The traditional council retreats for a few minutes and then comes back from 'reading the book of law']

CHAIRMAN: Thank you for your time. You left all your jobs and decided to come here. This really indicates that you were driven to write that letter. So, you are not guilty, thank you. Can you please untie the father and bring him to the front! My girl, what did you do to your boyfriend? Is he going to marry you for what you have done at this early stage of your life? It is embarrassing for such a young person like you to be involved in such a big issue. I've heard that you are educated, that you are a security officer. Does the Bible allow you to insult and provoke other people? You're running away from the truth, denying something you did. We are back from the book of law which doesn't judge by walk of life, it judges according to facts and fairness. This book was given to us by the great grandfathers to follow the procedures and rules. You are found guilty for what you did because you don't show any respect, you don't know how to behave and you're lying in whatever you're saying. Then, coming to the father who included that guy in his problems by lying to him so that he can write that letter. A lot of people were involved in this trouble. Your child has not shown respect, she had bad morals even that job of being a security she is doing is not fit for her and her boss could not identify that her inside was very bad. She is like a lion, even if you can fall in front of her she can just stab you thinking that you are just pretending. For all the mischief you did, and the fact that you failed to take the complainant to a *sangoma*, or even the one who told you that she is a witch, you have to pay two cows. Each cow is equal to R2,000 which will sum up to R4,000. And you as her father, the law says we have to charge you a cow [R2,000] for the way you behaved. You behaved like a silly child, like a visitor in your own home and like a criminal, because when you were ordered to appear before this court, you ran away. So, you are fined with one cow which is R2,000.

SECRETARY: Sorry, the issue of the car that went up and down for several times.

CHAIRMAN: Ok, ok, the community police must tell us how many times they went there.

COMMUNITY POLICEMAN: It was three times. So, it is going to be three trips times 150.00 which is equal to R600 plus the R2,000 and it will give the total of R2,600 for the father.

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CHAIRMAN: What is he saying now?

HEADMAN: He says that it will be paid by the government.

CHAIRMAN: Ok, it is true that he is always full of shit, so he is going to sleep here and the girl must be taken to the police cell where the police can come and fetch her.



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