

RALUSHAI Commission on INTRODUCTION

Witchcraft & Ritual murder

1 Appointment

The Commission was appointed by the Executive Council of the Northern Province in March, 1995.

2 The terms of reference are as follows

- To investigate deeply the causes of witchcraft violence and ritual murders in the Northern Province.
- To review all criminal cases related to witchcraft and ritual murder for the past ten years.
- To recommend legislative measures to combat witchcraft violence and killings.
- To recommend educational measures to be undertaken by government to combat commission of criminal acts related to witchcraft.

3 The members of the Commission are as follows

Professor N.V. Ralushai (Chairman)

- Retired Vice-principal, former Professor of Social Anthropology & Ethnomusicology (University of Venda).
- A consultant on the history of the THULAMELA ARCHEOLOGICAL SITE (KRUGER NATIONAL PARK),
- Former Senior Associate Member, St. Antony's College, Oxford University, Oxford, United Kingdom.
- Former history lecturer, Jos University, Jos, Nigeria.
- Former Senior Lecturer & Head of Department, African Languages & Literature, University of Botswana and Swaziland (Manzini Campus), Swaziland.

Pastor M.G. Masingi (Secretary of the Commission)

- A retired magistrate.
- Regional overseer of the Full Gospel Church of God in South Africa. (United Assemblies, Northern Province),
- Former Chairperson of Gazankulu Magistrates Association,
- Deputy Chairman of the Giyani Community Court assessors.

Ms D.M.M. Madiba (17 March 1995 - 6 July 1995)

- Systematic Theologian and Senior Lecturer in theological studies (Kwena Moloto College of Education),
- Vice-chairperson of the Northern Province Council of Churches.

Professor J.A. van den Heever

- Professor in Criminal Law and Procedure, University of the North.
- Advocate of the Supreme Court of South Africa.
- Member of the Research Group on the role of Traditional Leaders.

Mr T.J. Mathiba (17 March 1995 - 6 July 1995)

- President/Council of Traditional Healers of S.A.
- Traditional Healer.

Mr M.E. Mphahuli

- A retired Chief Agricultural Officer.
- A Traditional Ruler.
- Member of Contesta.

Brigadier M.W. Mokwena

- Head of Crime Combating and Investigations (C.C.I.)
- SAP Service (Retired on 31. 07. 1995 but continued to serve on the Commission).

Mr P.N. Vele Ndou

- Attorney and former Advocate of the Supreme Court of South Africa.
- Former Senior Law Lecturer, University of Venda.

- Facilitator of the Constitutional Assembly's Constitutional Public Meetings for the Northern Province.

- Former chairman of Lawyers for Human Rights, Northern Province.

- Community Mediator of the Independent Mediation Service of South Africa.

- Panelist of the Land Reform National Mediation Panel.

- Panelist of the Independent Mediation Services of South Africa's Arbitration Panel.

Mr D. Matibane

Former ANC Representative in Washington DC USA 1979-1989

A Lawyer by training, member of Lawyer's Guild USA.

Former Director, Matibane Business Association USA/SA

The appointment was stated to be in terms of the Commission's Act 1947, (Act No. 8 of 1947)

The Commission was fortunate to procure the services of Mr M.G. Masingi to transcribe the report of the Commission. In the Commission's view, however, the keeping of a proper record was of prime importance for future reference in view of the subject matter dealt with for the Province as a whole.

Due to the vastness of the province, the diversity of the population, inaccessibility of some areas and the time limit upon which the Commission was to submit the report, it was decided that the Commission be divided into two groups which operated as follows:-

GROUP A

Professor N.V. Ralushai

Mr M.G. Masingi

Mr P.N.V. Ndou

Mr M.E. Mphahuli

This group operated in the north-east part of the Province including the former Venda and Gazankulu homelands.

GROUP B

Professor J.A. van den Heever

Mr T. J. Mathiba (17 March 1995 - 6 July 1995)

Ms D. M.M. Madiba (17 March 1995 - 6 July 1995)

Brig. M.W. Mokwena

Mr D. Matibane August 1995)

This group operated in areas south-west of Pietersburg including the former Lebowa and parts of Gazankulu homeland.

Where the rate of violence was very high, the Commission decided to visit such areas jointly so as to enable the chairperson to ensure uniformity in the methods of research.

METHODS OF RESEARCH

The Commission conducted their research in the following fashion:-

FIELD WORK

1 Definition of Terms

Before giving a definition of terms, it is important to note that the people visited might attach different connotations to the same words due to linguistic, cultural and regional differences.

For purposes of this report any reference to one gender includes reference to the other gender and reference to the singular includes reference to the plural.

DUMBA

A small hut built within the homestead for *xinwanakaji*. In some Tsonga traditional homes, there is a small hut containing a small calabash of snuff, and a small horn containing medicine. In some of these small huts whenever a family slaughters an animal, blood of such animal is splashed in the hut and often even food and sorghum beer are also taken to this hut. Even money is also placed in this hut. They report to the *xinwanakaji* of any event. *Xinwanakaji* huts are found in some Tsonga traditional doctors' home. In the 1990s, many *xinwanakaji* huts were destroyed by the so-called comrades. If the owner does not have the *xinwanakaji* hut in accordance with the expected traditional practices and beliefs, it is believed that the family may suffer from misfortunes or bad luck and in some cases, family members may even die.

HERBALIST

The ordinary herbalist is the person who can treat a disease based on his knowledge of roots and herbs. He claims no special relation to the spirits, but simply dispenses his drugs without making use of divining bones.

MOLOI (N.SOTHO) / MULOYI (VENDA) / NOYI (TSONGA)

The word *moloi* comes from the verb "loya" which means, to bewitch, and is attributed to those people who through sheer malignancy, either consciously or subconsciously, employ magical means to inflict all manner of evil on their fellow human beings. They destroy property, bring disease or misfortunes, and cause death, often entirely without provocation, to satisfy their inherent craving for evil-doing.

MUSIKA (VENDA) LETSWA OR MOTSHEKGA (N.SOTHO) KUSIKELA (TSONGA)

Drug or magic used to kill or harm people at a distance, employed against a thief by the aggrieved owner, or by a bereaved person against the one held responsible for the death of a

MUTIZULU/MUSHONGA(VENDA)/MURHI(TSONGA)

Muti generally means a tree or plant, but for our interpretation it means medicine. Although muti is a Zulu word meaning medicine it is not generally used amongst the Northern Province people, but because it is commonly used in the media and in courts, we have therefore used it for ritual murder cases which is usually referred to as muti killings or muti murders.

MUSWURU (VENDA) MHONDZO (TSONGA)

A substance mixed with water in a bowl is given to each person by the diviner. He or she, when becoming intoxicated by the mixture, is considered to be the culprit. This practice is now obsolete.

NWAMUSORO (TSONGA)

A diviner who does not use divining bones, but finds out the causes of illness by smiling.

TSHIDONIBAMUNWE (VENDA) / SETOPANIONWANAN(SOTHO) / XIDOMBANI (TSONGA)

Wart on the index finger of a thief resulting from musika. (See definition *Supra*)

TSHIGANAME (VENDA) / XIGANAMA (TSONGA)/SEKANAMA (N.SOTHO)

Deadly poison prepared from crocodile brain or liver and so-called because the victim falls on his back forthwith and dies. (Van Warmelo, *Venda Dictionary* P. 399).

TSHIGOMA-MUTANDA (VENDA) / XIGOMANTANDA (TSONGA)

Little medicine - man of no account, mere herbalist (Van Warmelo, *Venda Dictionary* P. 415).

THANGU (VENDA) DITAOLA (N.SOTHO) TIHLOLO (TSONGA)

Divining dice. A set of divining dice may consist of knuckle bones of animals, shells and wooden pieces, etc.

ZOMBI / SETLOTLWANE (N.SOTHO)/XIDADJANI (TSONGA) M.A-TUKWANE (VENDA)

A zombie is a person who is believed to have died, but because of the power of a witch, he is resurrected, but he works for the person who has turned him into a zombie. To make it impossible for him to communicate with other people, the front part of his tongue is cut off so that he cannot speak.

It is believed that he works at night only. It is also believed that by the power of witchcraft, he can leave his rural area and work in an urban area, often far from his home. Whenever he meets people he knows, he vanishes.

SEBONE (N.SOTHO) XIVONI (TSONGA)

A traditional healer or prophet who uses crushed and fermented leaves (roots) of a certain plant. This fermentation has got an intoxicating effect. A client is given this potion to drink and afterwards ordered to sit in the sun to hasten the process of intoxication.

When he is intoxicated, he is taken into a dark room in which there is a white cloth pasted on the wall. The client is ordered to look at the cloth on which he will see images of people and animals that are down and not known to him.

He is now in a state of hallucination. The healer or prophet then asks him what he had seen on the screen (cloth). The client then describes the people or animals. It is important to note that some of the people he describes are no longer alive.

From this observation the traditional healer or the prophet tells the client that the people that he has seen on the screen were the ones who had bewitched him.

Later on the client is given a purgative to cleanse out the effect of the substance that causes hallucination. It is believed that if the effect of this hallucinating substance is not neutralised, the client becomes demented. This whole process is called the mirror or television system. All the informants interviewed mentioned that this is a new phenomenon.

This phenomenon is known around the following districts: Bolobedu, Bushbuckridge, Naphuno, Phalaborwa, Sekhukhune/land, Nebo, Thabamopo, Bochim, Sekgose, Seshogo, etc.

It is important to note that this phenomenon is not known in Venda.

2 Unstructured Interviews

On the whole, unstructured interviews were used and depending on the circumstances, people were interviewed in groups or as individuals. Each group of the Commission interviewed *inter alia*, representatives of the following structures:

CIVICS, TRADITIONAL HEALERS, PROPHETS, CHURCH LEADERS AND PASTORS MEMBERS OF THE COMMUNITY, TRADITIONAL LEADERS, T.L.C., SOCIAL WORKERS, R.D.P. REPRESENTATIVES, NURSES, POLICE OFFICERS, SANCO, THE MEDIA, TEACHERS, TRIBAL COUNCILLORS, COMMUNITY POLICE FORUMS, DEVELOPMENT FORUMS, WOMEN'S LEAGUES, REPRESENTATIVES OF POLITICAL PARTIES, REPRESENTATIVES OF YOUTH LEAGUES, S.R.C.'S.

3 Some Problems Encountered in the Field

Although on the whole the Commission received co-operation from most of the police stations, there were however some areas in which the police did not inform the communities, or did not inform them in time, of the scheduled meeting. The communication between the police and the Community police forums leaves much to be desired. Some places did not even have Community police forums.

As with the interim report we again had the problem of not having had enough typists and typewriters to assist us in the preparation of the final report. In some cases due to distance and "tribal" differences, it was impossible for the Commission to meet the people as a single group. The Commission's field work was also in the beginning hampered by the unavailability of transport to most members of the Commission.

Our combi with more than five hundred police dockets, summary of court cases and a

notes were stolen at the fenced-in parking area of the Holiday Inn, Pieterburg on the 20th November 1995. The loss of the above mentioned possessions caused irreparable damage as we were not only inconvenienced, but lost valuable information which could not be retrieved. On the 14th December 1995, thieves broke into Mr P. Ndlovu's car in the same fenced-in parking of the Holiday Inn and forcibly removed his car radio. Again we were inconvenienced and suffered materially. Finally on the 20th of December 1995, Brigadier. Mokwena's car was also forcibly opened. His briefcase was damaged beyond repair.

4 Places and Organisations visited

FORMER GAZANKULU
Giyani Police Station
Giyani Police Headquarters
Mhala Police Station
Thulamashie
Department of Justice, Giyani
Giyani Traffic Department
Magistrate Offices, Giyani
Valdezia
Hoxani
Jongilanga
Makhaya
Mabunda (Ngove)
Shawela
Lulekani
Majeje 1
Majeje 2
Mudabula/Mulamula/Mukhoru communities
Mavambe community
Shikundu community
Shigalo community
Gidjani community
Tlhaveini community
Madonsi community
Murtiti/Madonsi community
Mphambo/Shigamani community
Shiviti community
Hlaneke community
Nkuri/Siyandani community
Vuyani/Msengi community
Dzameri community
Tiyani/Olifantshoek community
Riavi Police Station
Nkhemani community
Khomani community
Homu com

Peace Rallies

Members of the Commission accompanied the M.E.C. to the following peace rallies:

Kromhoek - GaMakgato (19 February 1995)
Sekhukhune (26 March 1995)
Bolobedu (9 April 1995)
Sekgosesa (23 April 1995)
Namatgale (2 September 1995)
Giyani (2 September 1995)
Thohoyandou (14 October 1995)
Mmapela (15 October 1995)

Rallies of Traditional Healers

Lebowakgomo Show Ground (24 June 1995)
Mphophu Resort (21 October 1995)
GaMolepo (21 October 1995)
Members of the Commission including other structures participated in some of the above mentioned rallies.

Formal Meetings

The Commission has held several meetings at Head Office, Lebowakgomo and Thohoyandou to discuss logistics, procedures, programmes and progress of its functions.

Participation by Non-Governmental Structures

Since the time of inception, the Commission has had contacts with the following non-governmental structures:-

1. Help-Age International
 2. Northern Province Council of Churches (SACC)
 3. Bishops and theologians in the Province
- These organisations assisted victims of witchcraft.

Questions and Answers on the Witchcraft Theme

Unstructured interviews were conducted with the view of gathering information on the following questions:

DOES WITCHCRAFT EXIST

The overwhelming majority of the people interviewed in both urban and rural areas still believe in witchcraft.

However, amongst the theologians and their followers of both mainline and independent churches, there were some who argued that belief in witchcraft only exists in the minds of people and it is not a reality.

Reasons for believing in witchcraft were based on the following:

Some informants, to strengthen their argument for the belief in witchcraft, made reference to the scriptures: Exodus 22:18, Deuteronomy 18:10-11, Acts 8:18-20

Others, especially scholars who have read William Shakespeare's *Macbeth*, strongly argued that Shakespeare would not have referred to witches if they did not exist during those days. They argued that since time immemorial witchcraft has been in existence and therefore there is no reason why they should not believe in it.

The fact that all Africans historically believed in witchcraft indicates that our forefathers regarded witchcraft as an integral part of our lives.

Many young people, especially students, attribute unexpected illness to witchcraft, for example, during examination time, some students suffer from extreme headache and partial blindness. The students would argue as follows: *Why does this happen during examination time only? This means that a jealous neighbour or relative whose children are not doing well at school is behind this unexpected illness.*

Uttering of life threatening statements, such as *"You will not see the setting of the sun" or "wait when rains start"*. By coincidence it might happen that a man is struck by lightning or killed in a motor accident. For example a student at Dinga Village in the Mlamulele district was threatened by an old man that he would be struck by lightning on the 9th of November 1995. Lightning indeed struck the hut in which the threatened boy was sleeping. He managed to run out despite the fact that the hut was totally destroyed. On Saturday the 11th November 1995, lightning again struck a friend's hut where the same boy had sought refuge. Both managed to escape although the hut was totally destroyed. The following day the community met at the headman's kraal where both incidents were discussed. The name of the old man who had uttered the threat was mentioned. It was decided that the old man should leave the area. The man is now under police protection at Mlamulele.

The question may be asked whether a community that still strongly believes in witchcraft can be blamed for insisting that the old man, who had made the threat, should not be removed from the area.

WHAT IS YOUR PERCEPTION OF MOLOI (N. SOTHO) / MULLOYI (VENDA) NOYI (TSONGA) (For definition of MOLOI see page 4)

A Moloi destroys property, brings disease of, or misfortune, and causes death, often entirely without provocation, to satisfy his inherent craving for evil doing.

An example of a person who acts without provocation to satisfy her inherent craving for evil doing: A few years ago an old lady was caught at Vhutfuli running away from her neighbour's homestead. She was only partially dressed. When asked what she wanted at that man's house so late at night, she replied as follows: *We were going to a certain place and rested at this man's gate, unfortunately I overslept and decided to enter this man's homestead. The purpose of coming and entering this man's homestead was to cause his highly pregnant wife to abort. I am very sorry. The sound of the pregnant woman then asked her: Why did you single out my wife*

for this evil deed". She answered: *I am very, very sorry, I can honestly assure you that I will not repeat this, but remember it is beyond my control. As she had assured the family that she would not cause mischief in the family again, the two families lived in peace again until the old lady died.*

GENDER OF MOLOI

Traditionally women were mostly accused of practising witchcraft, but from our recent investigations, males were also victims of witchcraft burnings or purges. This is corroborated by the police statistics for the period 1st April 1994 - 16 February 1995: 97 females and 46 males were killed as a result of witchcraft accusations.

In all the areas the Commission visited, respondents gave the following reasons for witchcraft accusations:

1. As women generally outnumber males, there are more female than male witches.
2. Many males argued that women kill men once their sons have reached adulthood, so that they (women), would remain in control of the family.
3. They further argued that there are very few cases in which husbands kill their wives as polygamy allows them to marry as many women as they can maintain.
4. Jealousy, not only concerning love affairs, but jealousy concerning material possessions of the neighbour. If children are performing better than the children of the neighbour, the mother of those children who are performing poorly is believed to be more envious than the father of her children.
5. The knowledge of witchcraft is generally believed to have been acquired from the maternal side (mother's breasts). It is therefore not surprising that women teach their daughters witchcraft practices (*bololo*). The Venda go to the extent of saying: *(women are witches and men are swivimbili)* (*Vhasedzi ali Vhidoi, vumuna ndi swivimbili*).

THE USUAL AGE OF PEOPLE WHO PRACTICE WITCHCRAFT

Although from the police records we found some few cases of females aged below 20 years having been accused of practising witchcraft, on the whole in our findings, ages of witches start from 20 years and above. It is however, important to note that at a very early stage a mother tests her baby whether he could be a witch or not, as follows:

The baby is thrown against the wall and if he clings to the wall, such a baby will grow up as a witch and will remain a witch until he dies. Such a baby, when he grows up, is not in a position to control his witchcraft practice:

Men who are supposed to be able to go around collecting with females in their sleep without being found out.

WITCHCRAFT ACQUIRED BY USING MEDICINE: BOLLOI BJA GO REKWA (N.SOTHO) WULOYI BYO XAVA (TSONGA) VHULOI HA URENGA (VENDA)

Here knowledge of causing evil or misfortunes or death is usually not inherited from parents but "bought" from a traditional healer, e.g. traditional healers may give a person *Xigwana* (Tsonga), *Tshigamame* (Venda), *Sekwana* (N.Sotho): deadly poison prepared from crocodile brain or liver, and so-called because the victim falls on his back forthwith and dies. (Van Warmelo, *Venda dictionary*, P 399).

AT WHICH PLACES DID KILLINGS OF BALOI TAKE PLACE

The burning of the so-called witches usually takes place at home, or on route when trying to flee, or suspects are taken to the veld where they are killed.

WHO ARE USUALLY RESPONSIBLE FOR THE KILLING OF MOLOI

In general the community is responsible for the killing of witches, but the youth who are called "conrades" are in the forefront. *Note: ages of the accused ranges between 14 - 38 years. Most respondents said that the youth are manipulated by adults and members of political organisations who wanted the country to be ungovernable.*

One of the reasons why the youth are easily used by adults and political organisations is that they know that such juvenile offenders would be treated lightly by the courts because of their youthfulness.

WHY DOES A GROUP OF PEOPLE PARTICIPATE IN THE KILLINGS

According to the perception of the youth, they are protecting the community as traditional or tribal courts are no longer allowed to try people accused of practising witchcraft. For example, at Mabitsela a young high school student said that ever since they killed people causing lightning, nobody has been struck by lightning, and at Park Hotel, Potgietersrus, a young steward when asked whether it was right to kill witches, answered as follows: *"what do you do when you have cockroaches in the house? You kill them"*

WHAT HAPPENS TO THE RIGHTS, POSITION, POSSESSIONS, AND FAMILY OF THESE PEOPLE WHO ARE ACCUSED OF PRACTISING WITCHCRAFT (BOLLOI)

The rights of such a person are affected for example, when he meets members of the community, the remark is made that "there is a witch" or else people try to avoid him. His possessions are usually destroyed. In certain instances, the so-called witch is separated from his family unit. In some extreme cases, people are forced to go and live at places demarcated for witches (Baloi). For example, Helena Trust Farm, Phola Park in Acornhoek; Matlala Police Station near Vlakfontein; At Gilead, children of witches are prevented from attending school and the families are under police guard; in Venda, the late President Patrick Mphahlele banished some so-called witches to a village called Tshitwi; in the former Gazankulu, some witches were banned to the *ulani* Village in Ginyani district.

Furthermore in some cases, suspects of witchcraft practices are forced to accompany a delegation appointed by the chief to consult a Mungoma (diviner) to find out whether the suspect is guilty of practising witchcraft.

There was no unanimity on what should be done to the perpetrators of witchcraft killings. Some of the respondents, especially adults, said that they should be hanged or given life imprisonment, whilst others (mostly the youth) felt such people must go free because they have killed witches.

They even went to an extent of saying that even their children should not be spared, because snakes, regardless of age, are capable of killing. This is emphasized in the saying of the Tsonga, Venda and Northern Sotho-speaking people who were interviewed: Northern Sotho - *Noga ga euri negant*. (All snakes are the same, whether small or big). Tsonga - *Nwoka oyi naXinyokanu* and Venda - *Nwoka d hura newani*.

ARE THE POLICE USUALLY MADE AWARE OF ALL WITCH KILLINGS

In all incidents of witchcraft killings which occurred in the past ten years, not all the cases were reported to the police for fear of victimization.

On the whole the police were made aware of witch killing but because of the following reasons their work was often made less effective:

1. Lack of transport: It is quite common in some police stations to find the police being unable to investigate the reported complaint in time.
2. Vast distances: Complainants have to travel from their places of residence to the nearest police station e.g. Naphuno 2 to Lengenye police station which is 80-90 kilometres away. These people do not have adequate means of communication, such as telephones, taxis and buses.
3. Apartheid: Because of Apartheid at the height of the 1990 crisis, some people were discouraged to report to the nearest police stations as such stations were generally reserved to serve mainly white populated areas, for example, people of Tshakhuma, which is about two and half kilometers from the Levubu police station, had to report their cases at Vuwani police station, about 15 kilometers away.
4. In some police stations manned mostly by members of the local community, especially those police officers who belong to local ruling families, respondents expressed their concern over investigations of cases in which traditional leaders or their relatives were involved, for example, one respondent even went to the extent of saying "What is the use of reporting the case to the local police station when you know that our police seem not to be serious when dealing with cases involving chiefs or important people in the area, particularly cases concerning ritual murder or multi murder".
5. Some of the respondents maintained that it was of no use reporting serious offenses as easily as minor ones to the police, as the police would not do much for them.

6. Others maintained that the courts often impose light sentences. The number of withdrawals, and cases where the prosecutor declined to prosecute, were also given as reasons for not reporting.

ARE THERE ANY AREAS DEMARCATED FOR WITCHES AND RITUAL MURDERERS

Helena Trust Farm, Phola Park at Acornhoek, Matlala Police Station, Bolobedu Police Station, Devonia in Bochum (Lebowa), Savulani village in Giyani district, Ga-Mporito Village, Ga-Marais Village, Nwakhwana and Maswanama Villages in Giyani district, Maswanama is established under Chief Nkomo area (Giyani), while Tshitwi village is in Mphahlele's area in Venda.

IS IT PROPER TO RESERVE A CERTAIN PLACE FOR PEOPLE ALLEGED TO BE PRACTISING WITCHCRAFT

The general feeling is that it is proper to reserve certain places for witches. In Venda some informants went to the extent of saying they should be kept with wild animals in the Kruger National Park!

There were however, certain people who felt that the removal or resettlement of witches was not only immoral, but expensive as victims of such barbaric practices are likely to claim compensation from the government.

WHAT IS THE ATTITUDE OF THE LOCAL COMMUNITY TOWARDS THE DISPLACED PEOPLE STAYING AT POLICE STATIONS

Generally local communities are not happy to have witches as their neighbours e.g. the people of Vlakfontein near Matlala Police Station have issued a memorandum and handed it to the Station Commander demanding the removal of the witches.

WHAT IS THE ATTITUDE OF THE LOCAL POLICE TOWARDS THESE DISPLACED PEOPLE

The attitude of the local police towards displaced people is generally good, but in some few police stations, especially due to transport problems, the police feel that these people cause an unnecessary burden on them e.g. Gilead and Mankweng areas. Some of the displaced people were complaining that some police are making jokes at the expense of the displaced people, for example, whenever a cock crows, some police would say to each other "Go back to your offices hurriedly otherwise you will see witches returning from their missions to their sleeping place at the police station".

This is not surprising as most of the police who were interviewed also stated that they believe in witchcraft.

WHAT ARE THE AUTHORITIES DOING ABOUT THE PLIGHT OF THE DISPLACED PEOPLE

Although the authorities have not done much to help the displaced people, the appointment of the Commission of Enquiry

concern: in fact they have gone to the extent of appointing a Special Investigation Unit under the command of lieutenant S.J. Botha. Above all, the Department is also working very closely with non-governmental organisations e.g. Help-age International.

DOES YOUR COMMUNITY BELIEVE IN ZOMBIES / MATUKWANE / SWIDJANI

The majority of the communities we have interviewed believe in *Zombies / Matukwane / Swidjani*.

ARE THERE INCIDENTS OF ZOMBIES/MATUKWAN/SWIDJANE IN YOUR AREA OR COMMUNITY

With the exception of Eastern Venda, Gazankulu and some areas in the former Lebowa, the existence of *Zombies / Matukwane / Swidjani* are generally recognised in the areas visited. The following is an account of an interview with a young man who was nearly made a *Zombie*:

Max Poniso Malesela Mashiane, now 24 years old (born 18 August 1971) residing at Headkral, GaChuene. Presently unemployed and living with his parents. He has passed Standard 10 with an EE symbol. He states that he has been trying to find employment in vain. He states that on the 27th July 1992, late at night, he was asleep with Clive Mashiane, his cousin brother, who was born in 1972. As he was asleep, he heard a voice calling out his name. It was a female voice but he could not recognise as to who it was. He put on his clothes and went outside. When he got outside he saw four females. He recognised all four being: Ramabela Mpe, an elderly woman who was already pensioned; Ramadimeisa Phahlane, an old age pensioner; Mmamogolo Chuene, an old age pensioner; Raphahle Phahlane, a young woman.

None of the four women were employed; Ramabela Mpe's children are not successful in life; Ramadimeisa Phahlane, has one child who is a school teacher at a local high school; Mmamogolo Chuene's children are not very successful and Raphahle Phahlane's children are working in the Reef and they appear successful.

He states that he found all four women naked. He approached them and they told him that that day was his last. He states that he only saw himself following them. He followed them through the Mlogodimo river that passes through the Chumiespoort gorge until they reached a big tree in the bush. At this stage it was becoming dawn and the four left him under the tree as they disappeared into thin air.

He spent the whole day going down to the river nearby where he would drink water and go back to the tree where he would just sit doing nothing. He never thought of going home and he never even endeavoured to leave the tree.

On the night of the 28th July 1992 the four women came back late at night and found him. On this day they were wrapped in some white cloths. He was surprised to see them there. They took him to a classroom where they forced him to drink the stuff.

He started vomiting and his stomach started running. They then took him to a dilapidated house at a deserted kral and they left him scared there and he slept there and he felt cold. He saw the following people who were believed to have died some years ago:

Ngwana-Mafalo, Lebowa Chuene, husband to No. 1 Alfred Mashiane and Mafowane his wife.

On the 29th July 1992 he spent the whole day in that deserted kral and he would see his people going up and down looking for him but he could neither call them nor go out so that they could see him.

On the same evening the four witches came back and he walked with them towards the mountain. He went and sat with them next to the mountain and the four were busy conversing amongst themselves, but he could not understand what they were saying to one another. He then saw his late sister, who had died more than ten years before. She appeared before him for a little while and told him that he had come to a place of suffering. He did not answer her and she then simply disappeared. His sister was clad in tatters. The group then left him in the bush.

On the 30th July 1992 he remained in the bush for the whole day and they went and picked him up again late that night. He followed them to the Chuene Dam whereat he was put inside the water of the dam and was surprised to find himself on the other side of the dam.

They then took him to another dilapidated hut at a deserted kral where they left him.

On the 31st July 1992 a group of villagers who were looking for him saw him going out of the hut and they chased him until they caught up with him.

He was taken to the Chief's kral at GaChuene and the group then asked him to relate what had been happening to him which he did.

The group then sent a delegation to go and collect the four women from their krals. When the four arrived, they were questioned and they all confessed.

He was taken to a witch-doctor who gave him medicine to help him return to normality. The witch-doctor also divined and mentioned the four names.

On the 1st August 1992, the villagers resolved to kill the four witches. They attacked Ramabela Mpe at her kral and killed her. The others survived because the police arrived in time and stopped any further killings.

He states that he felt better after he had been treated by the witch-doctor.

AN INTERVIEW WITH MEMBERS OF THE MAFIKENG FAMILY AT MASHALENG (SCHOERLENG, BOCHUM) IN THE FORMER HOMELAND OF LEBOWA ON 3RD DECEMBER 1995.

On 3rd December, 1995, Mr Ndou of the Commission of Inquiry into Witchcraft Violence and

Jack Mafikeng's younger half brother, Albert Phuthi Mafikeng took Mr Ndou to the family's main kraal at Mashaleng (Schoerleng) in the district of Bochim.

The background to the interesting but sad story is as follows:

During 1965, Jack Mafikeng was a young man apparently in his early twenties. He lived with his uncle Marea Mphahlatla Segata in the neighbouring village of Mlongalo. He was intending to get married to his uncle's daughter and had sought and found employment somewhere in the Reef.

Jack's father died during 1995.

During 1965, Jack Mafikeng died whilst living with his uncle and his family buried him in a grave which is still there today. According to the family, there was no question of mistaken identity as during those days there were no mortuaries in the area and when people died at home they were buried within a day or two. The family was convinced beyond doubt that Jack was dead and properly buried.

In 1990, exactly twenty five years after his death, Jack Mafikeng went back to his family to the confusion and surprise of many people including his family.

After his unexpected come-back from the dead, Jack's uncle moved away from his own village and now lives at Mota where the ZCC Headquarters is situated. Nobody knows why he has moved there.

On the date of this interview, we could not trace Jack at his family's kraals and we were informed that it is extremely difficult to get hold of him as he is always moving from one area to another. But he is physically alive and well. We understood that he is very suspicious of strangers and will not easily talk to them.

Jack's father's youngest wife, Malegase Mafikeng and his other half brother, Frans Mafikeng are quite reluctant to divulge as to what Jack has told them about what had been happening to him in the twenty five years he had been away. They informed the Commission that the full story had been given to the police by Jack himself. As it was on a Sunday, it was not possible to obtain the statement from the police.

When Jack appeared for the first time, he appeared different and this made his family doubt that he was in fact the Jack Mafikeng they knew. These days however, they say, he looks exactly like his father and they are now dead sure that it is him.

In the former Lebowa the following communities denied that they believe in the existence of zombies: Ga-Ledwaba, Ga-Maraba, Phahameng, Ga-Mashashane and Steilloop Town.

PERCEPTION OF LIGHTNING

The respondents mentioned two types of lightning, namely humanly controlled lightning and lightning that is not humanly controlled.

The lightning that is not caused by human beings is believed to have been caused by a so-called lightning bird. Such lightning does not usually strike human beings, properties or domestic animals.

The one that is humanly caused usually damages properties and kills people and domestic animals. Many stories are told about this type of lightning:

1. If there is a stockfel party, and if lightning strikes the hut where people are assembled and the stockfel money and meat meant for members of the stockfel are missing, it is considered to be the work of a humanly caused lightning.

2. In some cases after striking the house furniture is found to have disappeared. This explains why some people who have bought furniture insist that it should be delivered in the evening.

3. Mutu which is obtained for the purpose of attracting lightning is placed near the object to be struck, e.g. in most places visited by the Commission, many respondents maintained that traditionally there were people who had such mutu which attracted lightning. The Commission was told that it is now easier to obtain such mutu from Indian shops, hence lightning is common.

4. In Sekhukhuneland and Botobedu, herdboys are not allowed to cause cattle to run when it is thundering as it is feared that when they(cattle) get tired, they may urinate with the result that lightning may strike the whole herd of cattle. It is believed that this happens because one of the colours of the urine resembles one of the colours of the rainbow.

5. A more or less similar belief on lightning is found amongst the Venda. When it is raining or thundering, herdboys are forbidden to touch tails of cattle as it is feared that when the cattle are struck by lightning the herdboys may also be struck.

ARE THERE INCIDENTS OF THE SO-CALLED LIGHTNING IN YOUR AREA

Although there are few incidents of lightning in Venda and Gazankulu, there are much more incidents in the former Lebowa.

IS IT TRUE THAT THERE ARE PLACES WHERE LIGHTNING IS COMMON

Some people whom we have interviewed believe that there are places where lightning is common e.g. Sinthumule and Kintama in Western Venda, Mabogo, Bochim, Matlala, Kromhoek, Ga-Kibi, Nebo area, Mamane in Sekhukhuneland, Moleiti, Botlokwa, Botobedu, Bushbuckridge, Zebediela, Mankweng area and Ga-Motlape.

WHICH AREAS IN THE NORTHERN PROVINCE ARE NOTORIOUS FOR

- (a) Ritual Murder
- (b) Zombi inkwane/Swidjane/Setlotwane

- (i) Places notorious for ritual murder are Venda, Bushbuckridge and some parts of Gazankulu.

- (ii) Areas in which zombies are said to be found are Bochum, Bolobedu, Gilead, Kromhoek, Bolokwa, Malebogo, Ga-Kibi, Western and Central Venda, Gijana, Mluti, Eastern Madonsi and Shigalo, Matefe, Ga-Mathabatha, Ga-Ledwaba, Ga-Mphahlele, Ga-Maseke, Ga-Makuruni, Mankweng, Ga-Seloane (Namakgale district), Mokopane, Namakgale, Ga-Manetja, Ga-Mogoboya, Ga-Mothiba, Ga-Makotopong, Ga-Lekalakala, Ga-Seleka, Mapila, Bavaria, Ga-Seloane (Thabamopo district), Ga-Molepo, Sekgopie, Ga-Sekgopo, Sekgosese 2, Ga-Ramokgopa.

WHICH BIRDS ARE COMMONLY USED FOR WITCHCRAFT PURPOSES

Birds commonly linked with witchcraft are an owl, bat, and 'muswo'.

WHICH ANIMALS ARE COMMONLY USED FOR WITCHCRAFT PURPOSES

Animals known to be used for witchcraft are cats, baboons, hyenas, crocodiles, snakes, pole-cats, goats, jackals, duikers, cattle, donkeys, thokoloshe, pulmetisi tortoises, scorpions, pigs, dogs, leopards and monkeys.

It is important to note that in all areas visited the following animals were mentioned as the most commonly used by witches: Baboon, pole-cat, hyena, cat and snake. One of the informants went to the extent of calling a baboon "*Professor of witchcraft*".

Strangely enough, at Bakenberg the people interviewed did not associate a baboon with witchcraft.

A very interesting story concerning a pig as a means of transport for witches was recorded at Thomo village in Giyani district:

Two women, one of whom was not a witch, were friends. One day they decided to go to Johannesburg to collect money from their husbands. The woman who was not a witch, first asked as to how they would reach Johannesburg. The friend (a witch) said she would show the other how they would travel.

They decided to leave at night from the witch's home, where the witch used her magic. They then climbed on the pig both of them being naked.

On their arrival in Johannesburg, the woman who was not a witch remained where her husband was sleeping. She searched his clothes looking for money and got it.

As she was not used to stay naked in the cold, and despite the warning that she should not put any thing on her body, she took the vest of her husband and put it on.

When the witch came back, she found that the friend was wearing a vest. As this was contrary to what she should never wear anything, she witch left her behind. The

She explained the story to him and he bought her dresses and came home with her where she related the story to members of the family. Few weeks later the woman died and the witch fled from the area.

WHICH ARTICLES OR OBJECTS ARE COMMONLY USED FOR WITCHCRAFT PURPOSES

Articles used for witchcraft are razor blades, mirrors (seipone) special sticks, brown bread, traditional brushes, whirlwinds, pot-lids, plates, saucers, spoons (used as steering-wheels for driving brown bread), traditional horns (blown at night) ball pens, gramophone records and books.

There are many stories concerning these articles or objects, but for our purposes we have chosen the story that is focussed on the bread:

At Ha-Sinthumule village in Venda, a Sub A school child told a story that she had been to Johannesburg with her mother the previous night. She said they had gone there to collect money from her father and they were back the same night. When asked as to how they went there she said they used brown bread as a means of transport. They found her father fast asleep and her mother searched his clothes and took out the money and came back to Venda. The husband did not hear her removing the money.

A plate is said to be another means of transport for witches:

At Namakgale, Phalaborwa when there was a night vigil, children were heard crying in a separate room. When their mothers went to check, they found one child carrying a plate. When they were asked by their parents, why they were crying, they said that the child who was carrying the plate had been urging them to move into it so that she could fly with them to a certain place. The mother took her away. The other women regarded the child holding the plate as a potential witch.

WITCHCRAFT AND RACE

WHITES

DO WHITE PEOPLE PRACTICE WITCHCRAFT

All respondents stated that no white people have been accused of practising witchcraft in South Africa.

DOES AFRICAN WITCHCRAFT HAVE AN EFFECT ON WHITE PEOPLE

Many informants maintained that White people do not become victims of witchcraft because they have not undergone the: *u thusa * suana ceremony*, (Venda), *Kuthusa mwana*, (Tsonga), *Go thusa ngwana*, (N.Sotho).

*U thusa **, Accor. g to N. Van Warmelo in his *Venda dictionary*, P.380, to treat a newly born

Some respondents said that if witchcraft were effective on all races, freedom fighters would have long used witchcraft against colonial administrators and supporters of Apartheid. This was said by those respondents who do not believe in witchcraft.

INDIANS AND WITCHCRAFT

DO INDIANS BELIEVE IN WITCHCRAFT

Many respondents maintained that Indians supply African traditional healers and businessmen with human fats for medicinal purposes:

- (a) At Sekgosesa, respondents spoke of an Indian businessman from Soekmekaar who visited their chief with a list of names of local people who were failing to pay for the muti (medicine) for causing lightning.
- (b) A resident of Lulekani Township fell pregnant whilst living in Boksburg in 1997. She consulted an Indian doctor to help her to an abortion. The Indian doctor is alleged to have told her that he was prepared to help her, but would take the foetus to roast and boil it so that he could get human fats for medicinal purposes. It is said that these fats are mixed with *doepa* - a Malay word meaning medicine usually given to children for the treatment of headaches, convulsions, fever and teething problems. It is the act of using a foetus for medicinal purposes that puts this doctor in the category of a witch.
- (c) Finally an African minister of religion at Ben Farm, Lulekani district Phalaborwa, is alleged to have ordered medicine from Indian businessmen in Durban so that his church membership could increase. This was probably done after the minister suspected that certain witches were causing his church to have a decline in its membership.

10

Questions and Answers on the Ritual Murder Theme

WHY DO THEY KILL PEOPLE RITUALLY

People are killed ritually for financial gain and to bring luck. In the case of ritual killing is done for the purpose of power and authority.

In the past, especially amongst the Venda people at the beginning of the ploughing season, royal seeds were mixed with those of the local subjects, and later sowed in the field. It was believed that this practice would yield good harvest for the nation. This practice was called *Tshirivavavavane*. Some people believed that these seeds were mixed with human fats. Ritual murder is also used by some of the royal families for rain making purposes.

Human fats were also used by iron ore smelters. The purpose of using human fats was to make embers to glow in such a way that iron ore would melt faster.

WHICH HUMAN PARTS ARE USUALLY SELECTED FOR WHICH PURPOSES

clients. It is also believed that ritual murderers may hypnotise their victims by showing them a human hand.

The eyes of the victims, it is believed, give the user of the *muti* farsightedness, while blood produces vitality. Genital organs and breasts on the other hand are for fertility purposes.

Although traditional healers flatly deny that they use human parts for treating patients, at Galeshwa in Lebowa, an old traditional healer told the Commission that *The bone of a person killed by a vehicle could be used to join broken or fractured bones of a patient. This is done as follows: One portion of the bone is burnt to ashes while the other portion is grinded into powder. The powder and the ash are then mixed. This mixture is then rubbed into the injured part where some cuts had been made by a razor.*

Another interesting example of human parts being used for medicinal purposes: At Ntso, a traditional healer said a bone of a person who died of madness caused by *letswa* could be used with other medicine for another strong *muti* for *letswa*. He went further to say such a medicine is capable of killing persons who have taken part in the killing of another. This medicine is so potent that it can single out the actual perpetrators in a mob killing.

IS IT TRUE THAT THERE ARE CERTAIN PLACES WHERE THEY SELL HUMAN PARTS

According to some people we have interviewed, human fat is readily available from some hawkers shops dealing with herbs in Johannesburg. Unfortunately names of such hawkers were not revealed to us.

WHO ARE KNOWN FOR USING THESE HUMAN PARTS AND FOR WHAT PURPOSE

From court records and our field work investigations, business people, inyanga, and traditional leaders are the people who are known to be using human parts.

Some respondents maintain that some church members are also involved in the use of human parts.

RITUAL MURDER AND RACE

HAVE YOU HEARD OF WHITES WHO HAVE BEEN VICTIMS OF RITUAL OR MUTI MURDERS

Almost every victim of ritual or muti murders were Africans. There have, however, been a few whites who had been killed for muti purposes:

- (a) Few years ago, body parts of a white man ritually killed in East London, (Eastern Cape) were found by Police in a traditional healer's home at Durban, Venda.

- (b) A boy white man, a certain J.H. Labuschagne, was found by school children near Mole, Johannesburg on the 31st October, 1989. It was found that various parts of his

IS IT TRUE THAT MEDICINE (MUTI) MADE OF A WHITE PERSON'S ORGANS IS MORE EFFECTIVE THAN THAT MADE OF AN AFRICAN'S ORGANS

Many respondents said that they did not know anything about the use of white men's organs in medicine. Very few respondents especially old men, said that medicine which included European organs, was more effective or powerful than that made of a black person's organs, because money was brought by white men into this country and whites are more successful in the business world than Africans. It is therefore not surprising that human organs obtained from white victims are in greater demand than those of Africans.

WHY IS IT THAT VERY FEW WHITES BECOME VICTIMS OF RITUAL MURDERS

Many respondents said that as Africans who kill whites are usually sentenced to death, the death sentence being a strong deterrent.

APART FROM RITUAL MURDER VICTIMS, WHERE ELSE CAN ORGANS OF WHITES BE OBTAINED

Whenever there is an air crash, particularly in the former Venda, some traditional healers would join the search parties creating the impression that they are helping the search parties looking for victims of the air crash. It is alleged that they conceal some human parts that they might find.

Recently, a white police officer working in a mortuary in Johannesburg was alleged to have been supplying traditional healers with human furs. This is certainly one of the rarest cases in South African legal history.

RITUAL MURDER AND INDIANS

ARE INDIANS INVOLVED IN RITUAL MURDER CASES

Many respondents said that Indian businessmen are only indirectly involved in muti or ritual killings as they did not take part in the actual killing of people for muti. It is said that they send Africans to get body parts or furs of humans which they use for medicinal purposes.

In the Former Venda, many respondents cited the 1992 incident, which resulted in the looting of Indian shops at Thohoyandou:

Three Venda boys aged about 12 died mysteriously. No organs were found missing from the corpses of the boys but it was alleged that they were all struck by a blunt instrument near the forehead resulting in the loss of excessive blood. It was also alleged that this blood was taken to Indian businessmen who wanted the blood for medicinal purposes. The Police managed to arrest one local suspect but as there was no evidence linking him to the death of the three victims, he was released.

The public still feels that more investigations should be conducted. A recent Zambian case of ritual or muti murder involving Indian traders is often cited to support the argument that human organs for medicinal purposes,

Many Venda people argue that jealousy was the motive for looting of Indian shops in Venda. Following the creation of a "Venda State," many Indian traders entered Venda and it was believed by many Venda people that such Indian traders were granted preferential treatment by the then Venda Government when they submitted their applications for licences for trading purposes because of corruption and bribery.

What is interesting about this issue is that local people tend to underplay the involvement of the fourth so-called victim of Indian ritual murder. This was a twelve year old boy who spread the lie that he had escaped from some Indian men who wanted to kill him ritually. The boy later confessed at the Thohoyandou Police Station that he had not been running from Indian businessmen but from some of his colleagues who had been committing sodomy on him.

Mr A. Maganlal, a prominent local business man explained in detail Indian customs and practices in a Thohoyandou Radio-phone-in programme that Indians do not practice ritual or muti murder. A very lively debate followed between him and some local participants who insisted that Indians believe in witchcraft and ritual murder although they could not give reliable information. There is certainly no evidence to prove that Indians were involved in ritual killings.

Finally at a Peace Rally held at Gasekhukhune on the 26th March 1995 Dr K. Parahoo presented a very important paper in which he was showing that it was humanly impossible to cause lightning.

Questions and Answers on the Role of Traditional Healers/Inyangas

HOW DO YOU BECOME AN INYANGA

Briefly, most informants maintain that to be an *inyanga* one must have had ancestors who were also *inyangas*.

They also maintain that there are traditional healers who have learnt the art of healing through training. Such healers who have acquired the skills through individual initiative, that is, by asking a well known healer to train them are, however, not highly respected.

Those who are highly respected are those who have inherited the ability of becoming traditional healers from parents or ancestors as follows: A person becomes ill for a considerable time very often without any immediate cure. Such a person ultimately finds a traditional healer who tells him that there is nothing physically wrong with him. The traditional healer then tells him that his parents or ancestors (who had been traditional healers) would like him to become a traditional healer too. The same traditional healer may start initiating him in the art of traditional healing. If he is not able to do this, he refers him to another traditional healer to train him. Some patients are referred to traditional healers for the above mentioned training as a result of dreams.

WHICH AREAS ARE MORE FREQUENTLY VISITED FOR CONSULTING DIVINERS

Before Phafuri and Pandamalia were included in the Kruger National Park, they were the most popular area for divining, but now, Gazankulu, Mozambique and Mbuluzini (KaNgwane) are the most frequented places for diviners. But those people who live near

Phafuri, Phundamula tended to visit diviners in far away places such as Swaziland, Mozambique and Zimbabwe. Presently some people even travel as far as Zambia, Malawi, and Tanzania etc.

The reason why nearby diviners are not consulted is to ensure that the diviner consulted does not know anything about the personal or family background of the client.

IS IT TRUE THAT WITCHES ARE "SNIFFED" OUT BY DIVINERS, IF SO HOW RELIABLE IS THE "SNIFFING" OUT BY DIVINERS

It is true that witches are sniffed out by the traditional healers. However, reliability of the sniffing out was questioned by many other people e.g. at Malala Moshate, Makgabeng, Bushbuckridge, Mbhisela, etc.

DO YOU BELIEVE IN "PICKING UP SOIL" WHERE A MAN / WOMAN HAS URINATED TO BE USED FOR WITCHCRAFT PURPOSES

Many people interviewed believe that soil picked up from the spot where a man or woman has urinated can be used for witchcraft purpose.

Some traditional healers when intimidating people are often heard saying "If you repeat what you are saying now, you may regret it because I will pick up soil where you have urinated and on the day when lightning strikes, you will be the first to go."

DO YOU THINK IT IS FAIR TO KILL TRADITIONAL HEALERS WHO ARE KEEPING XINWANAKAJI IN THEIR HOMESTEADS

Although killing of human beings is unacceptable, in Gazankulu during the 1990 crisis, traditional healers who kept (*Dumba - xinwanakaji*) in their premises were either killed or they were forced to flee because they were accused of being witches.

The villages which were greatly affected were Thomo, Ndindhani, Jimmy Jones, Mvambe, Gandamani and Nwadezekudzeku

It would appear as if the civil war in Mozambique partly contributed to the targeting of traditional healers. Many of these traditional healers who had fled into the former Gazankulu were from Mozambique.

12 Questions and Answers on The Relationship Between Witchcraft and Ritual Murder

WHAT ROLE DOES BELIEF IN WITCHCRAFT PLAY IN RITUAL KILLINGS

Belief in witchcraft plays a major role in ritual killings, for example, in the recent case which was heard by the Supreme Court in Thohoyandou, in February 1995, the accused solely believed that if he obtained a human being's bones he would, as a traditional healer, be able to cure those patients who were terminally ill and that he If would become rich and

13 Questions and Answers on the Role and Responsibility of Traditional Authorities

WHAT WERE THE TRADITIONAL METHODS OF PUNISHING WITCHES

Depending on the merits of each case, witches were treated as follows:-

After the diviner has pointed out a witch, part of his head was shaven, but this could be avoided by paying a special fee by the people accompanying the witch.

Upon reaching home, they would proceed to the royal village where the tribal court could impose a fine or order the witch to leave the area and settle elsewhere. In some extreme cases, the witch could be killed as follows:-

- By being tied to a rock and pushed into a pool of water by a hooked stick called *khakwana* in Venda (N.Sotho: *Khakhangwe*) the purpose being to drown the witch.
- The witch could be thrown down a precipice.
- During the time of *Ngunungunyani* a witch would be wrapped with grass and the grass would be set alight and he would then run away and die in the bush.
- The witch would be taken to the bush where he would collect fire wood and this fire wood would be packed around him. A fire would then be made and he would then be roasted to death.
- If a witch commits an "offence", twice or more, he was taken to a bush by tribal "police" to collect firewood which was brought to a selected spot where a hole was dug and fire was made. The witch was ordered to get into the hole with hands downwards. The soil was then thrown into the hole covering the lower part of the body up to the hip. Embers were then placed in front of the witch roasting him to death. This was the practice followed by the people of Bolobedu area.

WHAT ROLE, IF ANY, DO TRADITIONAL LEADERS PLAY IN MULTI OR RITUAL KILLINGS

Traditional rulers may be involved in witchcraft related killings or in ritual killings when they need muti to be used in rain-making ceremonies and initiation schools.

WHAT ROLE, IF ANY, DO TRADITIONAL HEALERS PLAY IN THESE WITCHCRAFT RELATED KILLINGS OR IN RITUAL KILLINGS

Traditional healers are usually involved in witchcraft related killings or ritual killings:

- In witchcraft related killings, from court cases and field work investigations, it was found that traditional healers sniff out a witch with the result that the aggrieved family and the local community could then decide whether he should be killed or not.

- (b) In ritual killings we found that they are the people who identify parts to be used for medical purposes.

WHAT ROLE, IF ANY, HAVE CHURCHES PLAYED REGARDING THE BELIEF IN WITCHCRAFT

The missionaries in the main line churches have always condemned believing in witchcraft, but some African independent or Zionist churches believe in witchcraft practices. It is important to note that there are places where Zionist or prophets also practice as traditional healers, for example, Venda, Phalaborwa, Bushbuckridge, Mokerong 3 district, etc.

WHAT ROLE, IF ANY, DID POLITICS PLAY IN THESE WITCHCRAFT RELATED KILLINGS OR IN RITUAL KILLINGS

In order to discredit some traditional leaders, and former homeland governments (especially in Venda) the opposition or the liberation movements accused members of the ruling party as being the cause of so-called witchcraft and ritual murders.

Shortly before the coup (5/4/1990), some anti-Venda government supporters started to spread the rumours that the late State President Mphahlele had been turned into a *zombie* (*inkwazi*). To those Venda people who were still largely traditionalist at heart and ardent supporters of the late President Mphahlele, this was one of the factors which made some of them to support anti-homeland parties.

DO THE COURTS DEAL WITH ACCUSATIONS OF WITCHCRAFT KILLINGS / RITUAL MURDERS

Yes, the courts do deal with accusations of witchcraft killing and ritual murders, however, there are several problems:

- Witnesses are very often reluctant to testify.
- Traditional doctors who sniffed out the so-called witches are rarely prosecuted.
- It is also difficult to build up a strong case against them.
- Police incompetency during the investigation often jeopardize the prosecution of cases.
- Judicial officials are not exposed enough in cases of this nature.
- There is often disparity in the method of sentencing.

SHOULD PEOPLE CHARGED WITH THESE OFFENCES BE ALLOWED LEGAL REPRESENTATION

The affected family would obviously not be happy with legal representation for people who have killed their next of kin but for the local community the case funds, to pay for the legal witches and ritual murderers are seen as heroes, that is why to

SHOULD THE LOCAL PEOPLE BE FORCED TO CONTRIBUTE MONEY EITHER TO CONSULT AN INYANGA OR A LAWYER

The local people should not be forced to contribute money. However, in some places whenever there were witchcraft related incidents, the youth often forced the community involved to make contributions for consulting.

IS THERE ANYTHING DONE TO THE PERPETRATORS OF WITCH-KILLINGS

Nothing is done by the community to the perpetrators of witch-killings. They are often seen as heroes and protectors of their respective communities.

WHAT MUST HAPPEN OR BE DONE TO PEOPLE CONVICTED OF RITUAL MURDER

The majority of people interviewed favoured capital punishment for people convicted of ritual murder. But because capital punishment has been abolished, the people felt that such offenders should at least be sentenced to prison for life.

ARE COMMUNITIES SATISFIED WITH THE SENTENCES METED OUT BY THE COURTS FOR WITCHCRAFT RELATED KILLINGS AND RITUAL MURDERS

Some communities felt that the courts are too lenient when it comes to sentences meted out (See Appendix 2 - Court cases).

1-14

Questions and Answers on Statistics

HOW MANY PEOPLE WERE KILLED IN YOUR AREA OR COMMUNITY SINCE 1985 BECAUSE THEY WERE BELIEVED TO BE WITCHES, WIZARDS OR RITUAL MURDERERS (SEE ABOVE).

The Commission had tried its utmost best to get reliable figures from the different communities we had interviewed. For various reasons these figures are not reliable, for example, according to the number of people killed given by the communities interviewed in the former Lebowa, during the period 1985-1995 only 95 people were killed in witchcraft related or ritual killings. The figures for the same period given by respondents in the former Gazankulu were 57 witchcraft related and 52 ritual killings. The official statistics obtained from the records of the former Lebowa police on the other hand, showed that 312 witchcraft related killings were reported during that period.

We suspect that the following might be some of the reasons why the communities were reluctant to give us the correct figures.

1. Fear of victimisation:
- (a) Some respondents feared that they might be killed by suspects of witchcraft violence and ritual killings.

(b) Respondents also feared that by identifying killers or the number of people killed, they too could be killed or victimised.

(c) Some respondents might have wrongly thought that members of the Commission could inform the police who the killers were.

15 General Questions on Witchcraft

DO YOU BELIEVE THAT IN CASES INVOLVING WITCHCRAFT, THERE IS USUALLY A CONNIVANCE BETWEEN THE TRADITIONAL HEALER AND THE TRADITIONAL LEADER

The majority of people interviewed believe that in cases of witchcraft there is usually a connivance between the traditional healers and the traditional leaders.

WHOM DO YOU THINK IS RESPONSIBLE FOR THE KILLING OF PEOPLE WHO ARE ACCUSED OF PRACTISING WITCHCRAFT (Briefly give reasons for your answers)

- (a) traditional healers
- (b) traditional leaders
- (c) business people
- (d) prominent people
- (e) the youth

Answers:

(a) As sniffing out of witches is done by traditional healers, most people think that they are responsible for the killing of witches.

(b) It is believed that there is usually connivance between traditional leaders and traditional healers.

(c)and(d) Business/prominent people are not directly involved in witch killings.

(e) The following reasons were given by the people interviewed why the youth are involved in the killing of witches:

- According to the Youth Commission, the youth are put in the forefront by the elderly people. This is also supported by our field work investigations.
- Some of the people interviewed maintained that many young people often act violently when they have taken liquor and daga.
- They were also influenced by what was happening in urban areas where the youth were in the forefront in the killing of political undesirables e.g. informers, pro-government blacks, etc. In both situations, they were seen as heroes.
- Youth are put in the forefront because it is common knowledge that age is a mitigating factor and therefore it is believed that so their age they would be considered more leniently.

IF ONE OF YOUR FAMILY MEMBERS IS ACCUSED OF PRACTISING WITCHCRAFT SHOULD HE OR SHE BE KILLED

The majority of the people interviewed said if one of their family members is accused of practising witchcraft he or she should not be killed.

IF ONE OF YOUR FAMILY MEMBERS IS ACCUSED OF PRACTISING WITCHCRAFT SHOULD HE BE REMOVED TO A SECLUDED AREA

The majority of the people interviewed were of the opinion that such a family member should not be removed to a secluded area.

WHAT DO YOU THINK SHOULD BE DONE TO END:

(a) The Killing of Witches

The traditionalists were of the opinion that the old order should be restored i.e. traditional courts should again be empowered to deal with cases involving witchcraft and that diviners should therefore not be charged for having sniffed out a witch.

On the other hand amongst the "modernists" (though many of them still believe in witchcraft) the feeling was that the practice of killing of witches could be eradicated by means of education, the church and the mass media

(b) Ritual Murders

According to the people interviewed the only way to end ritual murders is to impose capital punishment on people convicted.

The Question of Displaced People

Are there people of your community who have sought refuge at the local police station? If there are:

1. How many?
2. Who are they?

The following people have sought refuge at the following places:-

HELENA TRUST FARM

1. LEBHO JACK
MALE
81 YEARS

2. LEBHO DUBA L.R.
FEMALE
70 YEARS

3. LEOHO FRANCE
MALE
30 YEARS
4. LEOHO ROBERT
MALE
30 YEARS
5. LEOHO ANNAH
FEMALE
25 YEARS
6. LEOHO CHUENE
MALE
12 YEARS
7. LEOHO MARTINA
FEMALE
40 YEARS
8. LEOHO DANIEL
MALE
37 YEARS
9. LEOHO GRACE
FEMALE
32 YEARS
10. LEOHO GLADYS
FEMALE
16 YEARS
11. LEOHO CONSTATIA
FEMALE
15 YEARS
12. LEOBO PORTIA
FEMALE
11 YEARS
13. LEOHO IGNITIUS
FEMALE
8 YEARS
14. SEMENYA HILDA
FEMALE
50 YEARS

15. SEMENYA ADOLPHINA
FEMALE
16 YEARS
16. SEMENYA JUNIUS
MALE
14 YEARS
17. SEMENYA TSHEDI
FEMALE
5 YEARS
18. NGOEPE WILLIAM
MALE
90 YEARS
19. NGOEPE MACHUENE
FEMALE
70 YEARS
20. NGOEPE EDITH
FEMALE
30 YEARS
21. NGOEPE KOLOBE
MALE
7 YEARS
22. NGOEPE WINNIE
FEMALE
5 YEARS
23. PHUKUBJE WILLIAM
MALE
68 YEARS
24. PHUKUBJE MAKGABO
FEMALE
64 YEARS
25. PHUKUBJE FOCLAS
MALE
25 YEARS
26. PHUKUBJE ELVIS
MALE
23 YEARS

3. LEBOHO FRANCE
MALE
30 YEARS
4. LEBOHO ROBERT
MALE
30 YEARS
5. LEBOHO ANNAN
FEMALE
25 YEARS
6. LEBOHO CHUENE
MALE
12 YEARS
7. LEBOHO MARTINA
FEMALE
40 YEARS
8. LEBOHO DANIEL
MALE
37 YEARS
9. LEBOHO GRACE
FEMALE
32 YEARS
10. LEBOHO GLADYS
FEMALE
16 YEARS
11. LEBOHO CONSTATIA
FEMALE
15 YEARS
12. LEBOBO PORTIA
FEMALE
11 YEARS
13. LEBOHO IGNITIUS
FEMALE
8 YEARS
14. SEMENYA HILDA
FEMALE
50 YEARS

15. SEMENYA ADOLPHINA
FEMALE
16 YEARS
16. SEMENYA JUNIUS
MALE
14 YEARS
17. SEMENYA TSHEDI
FEMALE
5 YEARS
18. NGOEPE WILLIAM
MALE
90 YEARS
19. NGOEPE MACHUENE
FEMALE
70 YEARS
20. NGOEPE EDITH
FEMALE
30 YEARS
21. NGOEPE KOLOBE
MALE
7 YEARS
22. NGOEPE WINNIE
FEMALE
5 YEARS
23. PHUKUBJE WILLIAM
MALE
68 YEARS
24. PHUKUBJE MAKGABO
FEMALE
64 YEARS
25. PHUKUBJE FOCLAS
MALE
25 YEARS
26. PHUKUBJE ELVIS
MALE
23 YEARS

3. LEOHO FRANCE
MALE
30 YEARS
4. LEOHO ROBERT
MALE
30 YEARS
5. LEOHO ANN'AH
FEMALE
25 YEARS
6. LEOHO CHUENE
MALE
12 YEARS
7. LEOHO MARTINA
FEMALE
40 YEARS
8. LEOHO DANIEL
MALE
37 YEARS
9. LEOHO GRACE
FEMALE
32 YEARS
10. LEOHO GLADYS
FEMALE
16 YEARS
11. LEOHO CONSTANTIA
FEMALE
15 YEARS
12. LEOBO PORTIA
FEMALE
11 YEARS
13. LEOHO IGNITIUS
FEMALE
8 YEARS
14. SEMENYA HILDA
FEMALE
50 YEARS

15. SEMENYA ADOLPHINA
FEMALE
16 YEARS
16. SEMENYA JUNIUS
MALE
14 YEARS
17. SEMENYA TSHEDI
FEMALE
5 YEARS
18. NGOEPE WILLIAM
MALE
90 YEARS
19. NGOEPE MACHUENE
FEMALE
70 YEARS
20. NGOEPE EDITH
FEMALE
30 YEARS
21. NGOEPE KOLOBE
MALE
7 YEARS
22. NGOEPE WINNIE
FEMALE
5 YEARS
23. PHUKUBJE WILLIAM
MALE
68 YEARS
24. PHUKUBJE MAKGABO
FEMALE
64 YEARS
25. PHUKUBJE FOCLAS
MALE
25 YEARS
26. PHUKUBJE ELVIS
MALE
23 YEARS

Introduction

Any reader who has gone through our Interim Report would notice that some of the findings and recommendations have remained unchanged, this is because such findings have also been confirmed in our subsequent visits to other areas.

Our findings and our recommendations are based on an analysis or assessment of existing literature, judgements of courts, legislation and field work material.

The Commission managed to interview all communities which were affected by witchcraft violence and ritual killings. This however, does not mean that communities that have not experienced witchcraft violence and ritual killings were not visited. Communities interviewed were either visited by individual members of the Commission or by the Commission as a group.

The Role of Traditional Healers

Many of the old traditional healers are apolitical but amongst many of the young traditional healers we find a tendency to bring politics into their organisations. For example, recently one of the traditional healers organisations invited both provincial and national politicians belonging to different political organisations to a conference. The following political leaders were invited:

The honourable State President, Mr Mandela

The honourable Minister of Safety and Security, Mr Mufamadi

The honourable Minister of Health, Mrs Zama

The commissioner of Police, Mr George Fivaz

The honourable Minister of Safety and Security, Northern Province, Adv Seth Ntsh

The honourable Prime Minister, Northern Province, Mr Ramathodi

The honourable Minister of Health, Northern Province, Mr Joe Phahla

The honourable Minister, Northern Province, Mr Benny Boshelo

The honourable Minister of Land and Housing and Local

Government, Northern Province, Mr Dombro

The honourable Minister of Home Affairs Chief Mangasutho Buthekezi

The honourable M.E.C. Mrs Mashigo, Department of Health

Eastern Transvaal

The honourable M.E.C. Mr Mabona, Department of Safety and Security, Eastern Transvaal

The honourable Minister of the Department of the Constitutional Assembly, Mr Cyril Ramaphosa

The honourable Mr Nmadzvivhanani, Secretary General of the PAC

The honourable Mr Nmadzvivhanani, Secretary General of the PAC

THE INVITATION WAS DATED 9 OCTOBER 1995.

It is interesting to note that none of the invited guests attended, except for Professor Rahsman who was representing the M.E.C. for Safety and Security Adv Seth Ntsh.

6. MCHIKANA MARIA
FEMALE
32 YEARS

FORMER VENDA

In the former Venda all people who had been forced to seek refuge in police stations have gone back to their original communities or to new areas within the same region.

Of all those who have been forced to live in a new place, the Rev. Masithi, is one of those who are in dire need of assistance. He is temporarily living with his wife and children at Makwarela township.

FORMER GAZANKULU

Now that rains with storms have started, lightning has struck huts in different villages, i.e. Givani Rotterdam in Hlanganani district and Dinga, Makhasa and there are people under police protection at Malamulele Police Station.

From the above-mentioned invitation, with the exception of the Commissioner for Police, all other invited guests belong to the ANC, IFP, and PAC.

During our own investigations, contrary to public opinion that traditional healers were generally uneducated, we found that most of them were very clean, indeed we also found that amongst them there were those with high school and university education qualifications.

With the exception of Tsonga-speaking areas most traditional healers were not young people.

When we interviewed people and wanted to find out why there were so many traditional healers amongst the Tsonga speaking community, various reasons were given, but most people felt that it was as a result of the civil war in Mozambique, which is reputed for the abundance of traditional healers. It is these people who have sought refuge in the predominantly Tsonga speaking areas.

Other informants argued that even before the outbreak of the war in Mozambique, the Tsonga people have always been known for having famous traditional healers, especially diviners.

Many people interviewed believe that to be a good traditional healer, one must have inherited the skills from one's ancestors, unlike in western medicine, where many years are spent at a medical school.

From the court cases studied and fieldwork done, it is also clear that traditional healers are involved in witchcraft related killings and ritual murders.

Diviners and traditional healers do play a part in medicine murder and witch killings. From our investigations their role in these murders is indirect. They are consulted by people eager to further their own selfish interests, especially in the case of ritual murders or medicine containing body organs of innocent victims. This is usually regarded as the exploitation of superstitious beliefs. The victims are killed on instructions of traditional healers. They are murdered in secluded places by accomplices of the traditional healers' clients.

Most of the offences committed by the accused persons, and which arise from the belief in witchcraft, have to do with the influence of diviners and traditional healers. One should be left with little or no doubt that traditional healers and diviners play a significant role in the commission of crimes based on belief in witchcraft. Our submissions are based on the discussions with interested parties. A list of cases where horrendous crimes were committed is discussed in Appendix 2 of this report.

Despite early missionaries' condemnation of traditional healers (witch-doctors) we found that most of the people interviewed still consult them. Traditional healers therefore still have a role to play in their respective communities.

Our findings indeed support what was observed by Mthabane, J. and Cassim Y. "Ritual Murder and Witchcraft: A Political Weapon" 1992 SALJ page 138:

By 1985 there were some 10,000 sangomas and inyangas practising in greater Johannesburg. These traditional healers were consulted at least occasionally by 85 per

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cent of all black households and were supported by a national network of approximately 40,000 traders in healing and magical herbs. The African Traditional Healers Association claimed a membership of 179,000 outnumbering western doctors by 8 to 1.

Unfortunately for the Northern Province, reliable figures are not yet available. One organisation, namely the Council of Traditional Healers of South Africa, claims to have 4,000 registered members.

There is no code of conduct for traditional healers. Some people interviewed were of the opinion that there are many traditional healers who are not "well qualified". It is therefore necessary that their profession should be regulated by a code of conduct.

We have found that there are many traditional healers' associations, each one with its own separate rules of conduct, which are not generally uniform. We have also found that many of the traditional healers do not adhere to those rules of conduct.

Most traditional healers have also given themselves the title of doctor (Dr). This causes confusion between registered medical practitioners and traditional healers.

There is also rivalry and mud-slinging between the leaders of different traditional healers' organisations. This rivalry is twofold, firstly, there is rivalry amongst local organisations, secondly there is also rivalry between the local organisations and those of neighbouring countries.

A patient who has been maltreated by a traditional healer has no recourse to any council to lodge a complaint or report the misconduct or misbehaviour of a traditional healer by whom he has been treated, e.g. victims of body steaming (*PHHONGHLEZANXAMHLE* - TSONGGA) (*TSHIVHLOVHLOLO - VENDA*) (*SEKGOOMA - N.SOTHO*) similarly one traditional healer has no recourse against a colleague for improper or unprofessional conduct.

Many people interviewed prefer to consult old traditional healers. They argue that young traditional healers are more interested in money than in the curative aspect of medicine.

This argument should however, not be carried too far for the Commission has found that many well known old traditional healers do not only dress smartly but are comparatively wealthy. Some of them are known for exploiting their patients or clients.

The Role of Traditional Leaders

Apartheid politics turned traditional leaders into politicians representing a system which was not popular with many people, because they were seen as upholders of that system. For this reason, traditional leaders became a target of the now politicised youth.

Perpetrators of Witchcraft Violence

In some cases the youths intimidated traditional healers in such a way that the latter have little or no option than to sniff out a witch or witches.

From our investigations and the court records examined we found that many young militants, so-called "Comrades" did not only force local communities to contribute money for consulting diviners, but they also, in some cases, forced or intimidated diviners or traditional healers to sniff out a witch.

An example of the latter was experienced at GaMatlala where an old female traditional healer or diviner informed the Commission that if you refuse to sniff out a witch you will be dealt with, meaning that you will be killed. At Mbalhe in Venda, a teacher, Mr Daswa, refused to contribute money for consulting a diviner and was consequently killed.

We have also noticed that few females are involved in the actual killing of witches or damaging of properties.

Although, on the whole, very few females were involved in the killing of witches or damaging of properties, in certain places females were also involved: e.g. Seshego Case no C72/92 (CR 152/1/92) where eight young females were among the accused:

ACCUSED:	(Age)
(1) Albertina Mokoeba	(16)
(2) Doris Pheme	(17)
(3) Elsie Molewa	(17)
(4) Betty Serumula	(16)
(5) Jimmy Serumula	(16)
(6) Albertina Serumula	(20)
(7) Elisa Mokehele	(16)
(8) Rosinah Mma-Motlatjo	(40)
(9) Francinah Molewa	(12)
(10) Phineas Serumula	(19)

The complainant in this case was a 47 year old woman. On a certain day as she was chopping firewood the accused arrived. They shouted from the street that she is a witch with a shrunken vagina. They further said that she had killed people by means of lightning and that she has a drum full of zombies. They also said that her son "Zoro" has no male seed and that he could not impregnate a woman. Although she pressed charges against the accused, the complainant failed to attend court on the trial date and the charges against the accused were consequently withdrawn by the public prosecutor.

We have also noticed that when the youths attack witches they sing "Hogo" (One of the most well known circumcision school songs). This is common in Venda and Giyani. This song is now sung at soccer matches and places where liquor is consumed. Traditionally it was only sung in winter when the circumcision school was in progress.

The Role of the Church

No attempt has been made to research in detail the nature of the beliefs of church people, but it is evident that many of them still adhere to traditional beliefs and customs relating to witchcraft and the ancestors' spirits. Most church leaders of the main line churches, or historically white or European controlled churches, spoke contemptuously of witchcraft beliefs and practices. They tend to use the

language used by missionaries, but the majority of their followers still believe in witchcraft. However, leaders of these churches as well as their followers strongly condemn ritual or ritual murders.

Zionist leaders and their members on the other hand, quote from the scriptures to strengthen their beliefs in witchcraft. It is important to note that the term Zionist here does not necessarily refer to the ZCC, but to those Zionists from Venda, Gazankulu and some parts of Lebowa who dress in colourful robes. These Zionists use drums in their churches and believe in faith-healing and through prayers they believe that they can 'remove poisons' from people who are seriously ill.

From our fieldwork, we have also discovered that ritual murderers are not only those people who believe in African tradition, but also members of mainline, independent and Zionist churches.

The Reverend H.H. Dugmore admitted a century ago that religious teaching had little influence on the belief in witchcraft. From the above-mentioned findings we can say without any fear of contradiction that what Reverend H.H.Dugmore stated a century ago still applies in this province.

Witchcraft and The Law of South Africa

BACKGROUND

Once one starts talking about the subject of witchcraft, it follows that one also has to deal with the controversy it has brought about. This controversy is not unique to South Africa but many other parts of the world are affected as well. There are two schools of thought in this area, namely, those who say witches do not exist, and the ones who say witches do exist.

In our country today, this difference of opinion extends even to our system of justice in the courts. There is a conflict on the subject of witchcraft between the traditional courts and the formal courts. Traditional courts agree that witches exist, whilst the formal courts say witches do not exist.

In the past, traditional courts used to try cases of witchcraft. Once an individual was found guilty of practising witchcraft, he was sentenced by the court. The sentence took various forms. In extreme cases the witch was beaten or even killed. Other witches were ordered to leave the village and had their houses destroyed. Ostracism was the mildest form of punishment. Some witches were 'cured'. In such a case a doctor was ordered to neutralise or eliminate the evil spirit that possessed the witch.

Although many traditional courts, as well as family gatherings, still try certain cases of witchcraft, legally they are no longer permitted to do so. According to the law of South Africa such cases must be referred to the formal courts. Cases of witchcraft now come under the Witchcraft Suppression Act, No 3 of 1957 as amended in terms of the Witchcraft Suppression Amendment Act, No 50 of 1970. This piece of legislation has remained unchanged to this day.

As this is a short Act, it will be reproduced *verbatim*.

WITCHCRAFT SUPPRESSION ACT 3 OF 1957 AS AMENDED BY THE WITCHCRAFT SUPPRESSION AMENDMENT ACT 50 OF 1970

ACT TO PROVIDE FOR THE SUPPRESSION OF THE PRACTICE OF WITCHCRAFT AND SIMILAR PRACTICES.

1. OFFENCES RELATING TO THE PRACTICE OF WITCHCRAFT AND SIMILAR PRACTICES.

Any person who -

- (a) Imputes to any other person the causing, by supernatural means, of any diseases in or injury or damage to any person or thing, or who names or indicates any other person as a wizard;
- (b) In circumstances indicating that he professes or pretends to use any supernatural power, witchcraft, sorcery, enchantment or conjuration, imputes the cause of death of, injury or grief to, disease in, damage to, or disappearance of any person or thing to any other person;
- (c) Employs or solicits any witchdoctor, witch-finder or any other person to name or indicate any person as a wizard;
- (d) Professes a knowledge of witchcraft, or the use of charms, and advises any person how to bewitch, injure or damage any person or thing, or supplies any person with any pretended means of witchcraft;
- (e) On the advice of any witchdoctor, witch-finder or other person or on the ground of any pretended knowledge of witchcraft, uses or causes to be put into operation any means or process which in accordance with such advice or his own belief, is calculated to injure or damage any person or thing;
- (f) For gain pretends to exercise or use any supernatural power, witchcraft, sorcery, enchantment or conjuration, or undertakes to tell fortunes, or pretends from his skill in or knowledge of any occult science to discover where and in what manner anything supposed to have been stolen or lost may be found,

Shall be guilty of an offense and liable on conviction -

- (i) In the case of an offense referred to in paragraph (a) or (b) in consequences of which the person in respect of whom such offense was committed, has been killed or where the accused has been proved to be by habit or repute a witchdoctor or a witch-finder, to imprisonment for a period not exceeding twenty years or to a whipping not exceeding ten strokes or to both such imprisonment and such whipping;
- (ii) In the case of any other offense referred to in the said paragraphs, to one or more of the following penalties, namely, a fine not exceeding one thousand rand,

imprisonment for a period not exceeding ten years and a whipping not exceeding ten strokes;

(iii) In the case of an offense referred to in paragraph (c), (d) or (e), to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding five years, or both such fine and imprisonment;

(iv) In the case of an offense referred to in paragraph (f) to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding two years.

[S1 substituted by S1 of Act 50 of 1970].

2. PRESUMPTION

Where any person in respect of whom an offense referred to in paragraph (a) or (b) of section 1 was committed is killed, it shall be presumed, until the contrary is proved, that such person was killed in consequence of the commission of such offense.

[S2 substituted by S2 of Act 50 of 1970].

3. REPEAL OF LAWS

The laws mentioned in the Schedule to this Act are hereby repealed to the extent set out in the Fourth column of that Schedule.

4. SHORT TITLE

This Act shall be called the Witchcraft Suppression Act, 1957.

SCHEDULE

LAWS REPEALED

1. CAPE OF GOOD HOPE
ACT 24 OF 1886

EXTEND OF REPEAL: THE BLACK TERRITORIES' PENAL CODE;
CHAPTER XI

2. CAPE OF GOOD HOPE
ACT 2 OF 1895
THE WITCHCRAFT SUPPRESSION ACT, 1895
EXTEND OF REPEAL: THE WHOLE

3. NATAL
LAW 19 OF 1891
NATAL CODE OF BLACK LAW
EXTEND OF REPEAL: SECTION 129 OF THE SCHEDULE AS SUBSTITUTED
BY UNION PROCLAMATION 168 OF 1912

4. THE SUPPRESSION OF
 OFFENCES OF 1949
 THE CRIME OF MURDER, 1949
 EXTENT OF REPEAL, SECTIONS INCLUDING REGULATIONS

5. THE SUPPRESSION OF
 OFFENCES OF 1949
 LAWS AND REGULATIONS FOR THE GOVERNMENT OF ZULULAND

When are scrutinised the Act, it becomes clear that it is aimed at six categories of persons:

Firstly, any person who names or indicates another person as being a wizard or witch is guilty of an offence.

The second category of persons affected by the Act are persons referred to as "witch-doctors". Any person who names or indicates any other person as being a witch or wizard and is proved at his trial to be by habit and repute a "witch-doctor" or witch-finder faces a heavy sentence.

The third category of persons affected are those people who approach diviners to sniff out wizards and witches. This means that a person who employs someone to advise him or any other person how, by means of witchcraft, a wrongdoer may be identified, commits an offence.

The fourth category are those people who claim to have a knowledge of witchcraft or of the use of charms; it is an offence to advise someone how to bewitch any person or animal or to supply someone with means of witchcraft.

The fifth category are those people who attempt to practice witchcraft.

The sixth category are those people who, for gain, claim to possess skills to divine.

The Act is regarded by the traditional courts as a very unjust piece of legislation, because its aim is not to punish witches but those individuals who name others as witches.

In 1957 when the first Witchcraft Suppression Act was passed in the Cape of Good Hope, the legislature made it clear in the Act that, although certain people may genuinely believe in witchcraft, it regarded the whole practice of witchcraft as a pretence and a sham, something which in actual fact has no real existence at all.

From our fieldwork and review of hundreds of court records and police files it became clear that the Suppression of Witchcraft Act should be substituted. Our recommendation is that it be substituted by the following act.

WITCHCRAFT CONTROL ACT

To provide for the control of the practice of witchcraft and similar practices.

1. Offences relating to the practice of witchcraft and similar practices.

Any person who

- (a) without any reasonable or justifiable cause imputes to any other person the causing, by supernatural means, of any death, disease or injury or damage to any person or thing, or who names or indicates any other person as a wizard or witch;
- (b) in circumstances indicating that he professes or pretends to use any supernatural power, witchcraft, sorcery, enchantment or conjuration, imputes the cause of death or injury or grief to, disease in, damage to or disappearance of any person or thing to any other person;
- (c) employs or solicits any witch-doctor, witch-finder or any other person to name or indicate any person as a wizard or witch;
- (d) does any act which creates a reasonable suspicion that he is engaged in the practice of witchcraft;
- (e) professes a knowledge of witchcraft, or the use of charms, and advises any person how to bewitch, injure or damage any person or thing, or supplies any person with any means of witchcraft;
- (f) on the advice of any witch-doctor, witch-finder or other person or on the ground of any knowledge of witchcraft, uses or causes to be put into operation any means for process which, in accordance with such advice or his own belief, is calculated to injure or damage any person or thing;
- (g) causes people to collect money, whether willingly or unwillingly, with the intention to employ or solicit any witch-doctor, witch-finder or any other person to name or indicate any person as a wizard or witch;
- (h) causes any witch-doctor, witch-finder or any other person, against that person's wish, to name or indicate any person as a wizard or witch;

shall be guilty of an offence and liable on conviction:-

- (i) in the case of an offence referred to in paragraphs (a), (b) and (c) to imprisonment for a period not exceeding three years or to a fine not exceeding R3 000 (Three Thousand Rand) or to both such fine or imprisonment;
- (ii) in the case of an offence referred to in paragraphs (d), (e) and (f) to imprisonment for a period not exceeding four years or to a fine not exceeding R4 000 (Four Thousand Rand) or to both such fine or imprisonment;
- (iii) in the case of an offence referred to in paragraph (g) and (h) to imprisonment for a period not exceeding two years or to a fine not exceeding R2 000 (Two Thousand Rand) or to both such fine or imprisonment.

2. REPEAL OF LAWS

The laws mentioned in the Schedule to this Act are hereby repealed to the extent set out in the fourth column of the Schedule.

3. SHORT TITLE

This Act shall be called the Witchcraft Suppression Act, 1957.

SCHEDULE

LAWS REPEALED

1. CAPS OF GOOD DOERS ACT OF 1886
- THE BLACK PEARL JEWELS ACT OF 1901
- EXTENT OF REPEAL CHANGES
2. CAPS OF GOOD DOERS ACT OF 1886
- THE WITCHCRAFT SUPPRESSION ACT 1957
- EXTENT OF REPEAL CHANGES

3. MALICIOUS DAMAGE ACT OF 1891
- NATIONAL CODE OF ZULU LAWS
- EXTENT OF REPEAL CHANGES
- EXTENT OF REPEAL CHANGES

4. TRANSVAAL ORDINANCE NO. 1 OF 1901
- THE CRIMES CODE ACT OF 1901

5. ZULULAND PROCLAMATION NO. 1 OF 1901
- LAW AND REG. LAWS FOR THE GOVERNMENT OF ZULULAND

ANALYSIS OF THE ACT

Prof. John Mbiti remarks in his book entitled "African religion and philosophy" that:

Traditional concepts still form the essential background of many peoples, though obviously this differs from individual and from place to place. I believe, therefore, that even if the educated Africans do not subscribe to all the religious and philosophical practices and ideas described here, the majority of our people with little or no formal education still hold on to their traditional corpus of beliefs and practices (Mbiti, 1970:9).

Mbiti goes on to say that in spite of all the misinterpretations, misrepresentation, misunderstandings and attacks on African religions, traditional religions have survived, as they dominate the background of African peoples, and must thus be reckoned with even in the making of modern changes. (Mbiti, 1970: 10).

From the above statements, it becomes very clear that no one can now argue that witchcraft is a myth which can only exist in the minds of the ignorant.

The Witchcraft Suppression Act (No 3 of 1957) as amended by the Witchcraft Suppression Amendment Act (No 50 of 1970) forbids any person to practice witchcraft or accuse another of doing so.

It is interesting to note that the legislature's approach was that witchcraft does not exist. It is further interesting to note that people are forbidden from practicing witchcraft when it is said that it does not exist.

The most vexing problem surrounding witchcraft is that the activities of a witch cannot be witnessed by naked eyes. This means that one cannot be in a position to say that a witch has done this and that. It is clear that eye witnesses are not available in cases involving witchcraft except for those few cases where people are caught naked inside someone's yard, e.g. *State vs Ntshindla* 1990 (3) SACR 331 (AD).

Whereas the witchcraft motive was previously concealed in evidence as far as possible, as an aggravation in the eyes of the law bent on stamping it out, it has now become advantageous to rely on it, or even to pretend to believe in it in order to obtain a more lenient sentence. On the other hand the fear of possible severe punishment may not deter those who firmly believe that the killing of a witch is a moral act in defence of life in their village.

Disparity in sentencing methods by courts is usually due to the courts attitude to the subjective and deterrent factors of punishment. Some complainants think that the machinery of justice is too weak to come to the aid of the victims of these crimes.

There is grave doubt whether all the police dockets concerning witchcraft and ritual murders were submitted to the Commission.

There can be no doubt that the handling of some of the cases by the police and prosecuting authorities has tarnished the image of the law-enforcement agencies in the Northern Province in the eyes of the communities we have interviewed. After receiving some police files and scrutinising them it became clear that in many cases the prosecutor did not take the trouble to inform himself fully of all facts and aspects of the case and that some of them took the easy way out by withdrawing the case against the accused.

7 Witchcraft in General

The continued frequency of witchcraft murders, if not their increase, deserves special mention. Moreover belief in witchcraft remains as prevalent as ever. Belief in witchcraft and related practices form part of a basic cultural, traditional and customary principle of Africans in South Africa, and Africa as a whole. Belief in witchcraft itself is as old as mankind itself. The belief is deep-rooted.

Although our terms of reference restricted the work of the Commission to the Northern Province, from media reports, it is quite clear that witchcraft as a phenomenon is still a factor to be reckoned with in other regions of South Africa.

It is clear that witchcraft beliefs occur among people of all levels.

Although in urban areas many Africans still believe in witchcraft, there are fewer cases of witchcraft related or ritual killings than in rural areas. (See Appendix 2 Cases).

It is also important to note that most urban and rural respondents admitted that they believe in "u fura muli" (Venda phrase meaning protecting a homestead against witches) N. Sotho - "Go aga moise" (means to strengthen) Tsonga - "Kubhithumuni" (means to protect/strengthen).

It is further important to note that most urban and rural respondents still believe in practice of "Go thusa ngwana" (means to protect a child) Venda "u thusa nwanu" (means to protect a child). Tsonga - "Kuthusa" (means to protect a child).

Although traditionally old women were common targets of witchcraft accusations, from court records and our field work investigations, both men and women were affected (for more information on this see cases in Appendix 2).

Various physical and mental ailments and adversities are attributed to witchcraft. Here are some examples: *I had a feeling of invisible insects moving on my face or body and of being quarrelsome and easily offended or I was made very unpopular and was out of work for some time.*

(See some of the cases dealt with in Appendix 2).

Some persons mentioned the motives for bewitchment: jealousy or other forms of tension in inter-personal relations. Successful business people and farmers are believed to have used human parts, e.g. prosperous farmers who are accused of keeping *zombies*.

Education and Witchcraft

Judging by the type of answers given by the witnesses in witchcraft related killings and ritual murders, it is quite clear that their standard of education leaves much to be desired. The type of education they have received, could not mentally liberate them.

The response to the phone-in programme of Radio Lebowa and Thohoyandou were overwhelming in support of the Commission. What was striking in these programmes was the openness and frankness of the participants. It should be mentioned that both members of Zionist and main line churches did not conceal their belief in witchcraft and related practices.

The work of the Commission has aroused great interest from the media, both national and international, individuals and organisations. For example, the ZCC went to the extent of forming their own Commission of Inquiry into Witchcraft. Violence and Ritual Killings. Members of the Commission are:

1. Mr O.P. Mazibuko - Vice-Chairman Bursary Board ZCC
2. Mr Masingeni - Accountant of the Church
3. S. Phooko - Deputy General-Secretary, ZCC, Morija
4. Mr A. Sekgobela - Head of the Youth League, Johannesburg and District
5. Mr P. Raseeka - Businessman and Leader of the Trade and Industries, Johannesburg and District

6. Mr E. Mantini - Public Relations Officer of the ZCC, Member of the Bursary Board ZCC and Businessman
7. Rev. I. Ledwaba - Minister in Charge of Pietersburg District

At a meeting held on the 23rd of October 1995, held at the Boardroom of the M.E.C. for Safety and Security, the following aspects were inter alia discussed with the above - mentioned representatives of the Z.C.C.:

1. They, like the Northern Transvaal Province, strongly condemn witchcraft violence and ritual killings.
2. They assured the Ministry of their co-operation and the fight against witchcraft related violence and ritual killings.
3. They also emphasised the role which education can play to eradicate the problem.
4. They further stressed that their members are not involved in ritual murders. Those people who are found wearing Z.C.C. badges and are found guilty of ritual murders, are not members of the church.
5. They were of the opinion that witchcraft violence in some cases were used for political purposes.
6. They also maintained that most victims of witchcraft violence were killed because of jealousy.
7. They also believed that the restoration of the old African order could perhaps help to minimise witchcraft related violence. It is important to note that they do not believe in the consultation of diviners.

The appearance by Mr Ndou on the TV programme of G.M.S.A. was also well received. Both appearances by Prof Ralushai and Mr Ndou on TV and also on radio have aroused great interest in what the Commission was doing.

RECOMMENDATIONS

1 The Role of Education and the Church

From the answers given by witnesses and accused persons in court cases and from our fieldwork interviews, it is quite clear that the government should embark on a very serious programme of education to liberate people mentally to refrain from participating in the killing and causing harm resulting from their belief in witchcraft. This can be done, for example, by way of organising workshops, rallies, media programmes, TV films showing the gravity of the unnecessary killings.

The Government could also organise a music competition in which composers would be showing the futility of witchcraft purges and ritual murders. For example, in the case of workshops both experts in witchcraft and ritual murders and the judiciary (judges, magistrates, prosecutors and lawyers etc.) should be invited to participate.

Eminent local and international scholars should be invited to come and address our people on this topic. People like Prof. Chavunduka of the University of Zimbabwe and Prof. J. La Fontaine of the University of London are experts who are quite knowledgeable and can be of great assistance.

An international conference of traditional healers could be sponsored by the government where views could be exchanged.

Finally all churches should include in their programmes the condemnation of witchcraft violence and ritual killings, as one of their top priorities.

In our Interim Report the following was recommended:

Although we are not advocating syllabi that are ethnic in orientation, in areas that still believe in primitive practices such as witchcraft and ritual killings, relevant courses designed by experts on African customs should be offered.

Because of the information now available to us we recommend that even syllabi at national level should not lose sight of beliefs and practices of all people. This will help in widening knowledge of the different cultures of the people of South Africa.

2 The Role of Chiefs

The democratisation of the role of chiefs should be scientifically investigated as a matter of urgency. (See Findings).

We are also aware that the question of the role of chiefs is still as complicated as ever. It is also common cause that chiefs are not allowed to play a role in issues pertaining to witchcraft. We therefore recommend that the Government should tread very carefully on the question of the role of chiefs in witchcraft related practices as well as in ritual killings.

The Role of Traditional Healers

We have seen how much influence they have on Africans. We have established how they contribute to the commission of offenses through their utterances and advice. If brought before the law, diviners and traditional healers must be made to taste the bitterness of their medicine.

Traditional Healers should be apolitical. By apolitical we mean that the traditional healers can be involved as individuals in party politics, but they should not tie their associations with any political party. (Cf. Medical & Dental Association of South Africa, Law Society of the Transvaal).

To avoid destructive actions traditional healers should emphasise the curative and preventative aspect of medicine, instead of pointing out so-called witches.

In view of our findings that some of the traditional healers have given themselves the title of doctor (Dr) thus creating confusion, it is recommended that if the structure hereunder proposed is adopted, that they be given the title RTMP, which stands for Registered Traditional Medical Practitioner as they are called in Zimbabwe.

We have also noted that some of the local traditional healers claim to be able to cure all illnesses including diseases like AIDS, EBOLA and other terminal diseases. We recommend that this practice should be stopped as it is misleading.

The Role of the Law

One of the outstanding problems of the law-giver in Africa is the treatment of witchcraft in criminal law.

In the majority of the countries south of the Sahara, the practice of magic and witchcraft is now prohibited by a variety of laws, which are not readily appreciated by people, of whom a large number regard the operation of magic as normal events of everyday life.

In this case, part at least of the trouble, arises from the failure of most of the legislation to draw a clear line between the so-called witch, the sorcerer, and the witchfinder.

The reason for bringing any of these practitioners within the scope of the criminal law is that the practice of witchcraft, and of witch-finding, do actually cause death or injury.

It would not be in the public interest to abandon the sanctions applied by the criminal law against the witch-finders, though something could clearly be done to clarify the actual provisions of the law.

There is no clear-cut solution for the difficulties arising out of the diversions of European and African concepts of justice. It is not possible to do more than to attempt to secure the utmost acceptance for the law, in the course of discussion before it is made, and by a careful study in advance of its probable effects on African society.

We are quite aware of the controversy surrounding the death penalty in this country. We are also aware of the present position prevailing in South Africa as a result of the pronouncement by the Constitutional Court. We have, however, tried during our research to find out the views of the people in the Northern Province on this question, more specifically in issues pertaining to ritual killings and senseless witch-hunts. We have come to the conclusion that the overwhelming majority of the people are for the reinstatement of the death penalty.

As ritual murder is in many ways related to witchcraft, all the above-mentioned recommendations that emphasise education as a means of solving the problem, apply here too.

Forced collection of money to consult a diviner to sniff out witches should be discouraged by prosecution and imposition of heavy sentences. It is therefore recommended that all people involved in such practices be prosecuted.

Also, forced collection of money to consult a lawyer in order to represent people charged with these offenses should be discouraged by prosecution and imposition of heavy sentences. If people wish to contribute they should do so of their own volition. As above, it is recommended that people involved in such practices should also be prosecuted.

The Role of Research

Because of the seriousness of witchcraft killings and ritual murders it would be in the interest of the people and of the country to have the above-mentioned phenomena researched on a more permanent basis.

Alternatively, our Universities, specially the historically Black Universities, should embark on intensive research programmes dealing with witchcraft and ritual killings as most students in these Universities come from communities in which these practices are still prevalent.

Furthermore in areas where lightning is more prevalent, experts should be appointed to do research and their findings could be used in educating the people on the cause of lightning and how to avoid it.

These experts should also examine the allegations by the respondents that before the forced removals there were fewer lightning cases as people lived generally in areas that had sufficient vegetation and water and not in open or bare places where they are now easily struck by lightning.

The Role of the Police

In our fieldwork investigations, we have found in most cases concerning witchcraft or ritual killing, some of the local police secretly try to gain favour by siding with the witch-hunters or people who want to apply instant "justice" to ritual killers and to the alleged witches.

Investigations of cases involving belief in witchcraft should be intensified so as to gather enough and convincing evidence that would lead to the successful prosecution of diviners and traditional healers who have committed criminal offenses.

We have also identified the problem of the limited number of police stations in the Province. This problem affects mainly people who are living in the remote areas where justice becomes very expensive and sometimes almost impossible to administer.

We found that in some cases the extent of the damage that was done would not have happened if the police were easily accessible. We have a case where 9 people were killed in one night in 7 separate incidents within a period of six hours!

If the police had been easily accessible, some of those lives could have been saved. We strongly recommend that the Government should try to spread its police stations evenly and where it is impossible, satellite Police Stations should be set up.

We are also aware that most of our black policemen also believe in witchcraft and as a result of this belief the police are sometimes reluctant to be of any assistance to people having been accused of practising witchcraft. Police need to be taught that it is their duty to protect the public.

We have also noticed from the police files made available to us that the manner in which the police took statements from witnesses leaves much to be desired. This is due to the fact that many of the police struggle to translate or interpret the information given to them by witnesses because of their poor knowledge of English. This often results in the distortion of facts and failure to reflect what the witness has said, resulting in difficulties for the prosecution to arrive at the correct decision. The correctness of statements taken by the police is even now of greater significance as the defence would be allowed to peruse the contents of police case dockets.

We therefore recommend that the language efficiency of police with specific reference to English be improved. Alternatively, statements should be taken by police who are conversant in the English language.

The Importance of Reliable Statistics

As the Commission had great difficulties in obtaining reliable statistics concerning witchcraft violence and ritual killings, we recommend that the police should submit such statistics to the office of the MEC for Safety and Security on a more regular basis.

The Commission was inundated with requests from some communities requiring us to intervene in their crisis, where they had already decided that a witch or suspected ritual killer should be given a "trekpas" (Meaning an order from the traditional leader/farmer to leave the area).

This practice of forcing people to leave their traditional areas should only be dealt with by courts of law.

Proposed Draft Legislation to Control the Practice of Traditional Healers

INTRODUCTION

The chairperson, Prof Ralushai, and Mr Ndou from the commission visited Zimbabwe to look into the question of witchcraft in that country with a view to do a comparative study. They had an interview with Prof Chavunduka, the Vice-Chancellor of the University of Zimbabwe and who is also the President of the Zimbabwe National Traditional Healers Association. They also interviewed members of the Executive Committee of the above-mentioned association.

The overall structure controlling traditional healers in Zimbabwe is as follows:

They have a Council similar to our own Nursing Council and Medical and Dental Council. This Council provides for the registration and regulation of the practice of traditional healers in that country.

Under this Council, there is a national traditional healers association, and this association is again divided into regions for effective control of its members. This idea of a single controlling body is working very well in Zimbabwe.

The present structure of traditional healers in South Africa is chaotic and therefore needs to be streamlined. As a result of the Zimbabwean visit, it is proposed that a traditional medical practitioners council similar to the one in Zimbabwe be established. The following is the proposed draft legislation:

THE TRADITIONAL MEDICAL PRACTITIONERS ACT

To establish a Traditional Medical Practitioners Council, to provide for the registration and regulation of the practice of traditional medical practitioners; and to provide for matters incidental to or connected with the foregoing.

ARRANGEMENT OF SECTIONS

PART I

1. Definition of terms

PART II

TRADITIONAL MEDICAL PRACTITIONERS COUNCIL

2. Establishment of Council and functions and powers thereof.
3. Composition of Council.
4. Condition of office of members.
5. Appointment of members on failure of election.
6. Disqualification for appointment as member.
7. Vacation of office.
8. Minister may require member to vacate office or suspend him.

9. Filling of vacancies on Council.
10. Vice-chairman to act for chairman.
11. Meetings and decisions of Council.
12. Validity of decisions and acts of Council.
13. Funds and accounts of Council.
14. Annual general meetings of Council.
15. Committees of Council

PART III

REGISTRAR AND REGISTER OF TRADITIONAL MEDICAL PRACTITIONERS

16. Registrar.
17. Register of traditional medical practitioners and certificates of registration.
18. Offences in connection with Register.
19. Register as evidence.

PART IV

REGISTRATION

20. Application for registration.
21. Council may grant or refuse application for registration.
22. Honorary traditional medical practitioners.
23. Appeal against refusal or register.
24. Deletions from Register.

PART V

DISCIPLINARY AND OTHER INQUIRIES

25. Inquiries by Council.
26. Exercise of powers by Council after inquiry.
27. Exercise of disciplinary powers on conviction for offense
28. Appeals to Minister.
29. Improper or disgraceful conduct.

PART VI

GENERAL

30. Practice of Traditional Medical Practitioner.
31. Designation of Traditional Medical Practitioner.
32. Recovery by Council of costs, fees and other amounts.
33. By-laws.

PROPOSED ACT

ENACTED by the Parliament of the Northern Province

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29. Improper or disgraceful conduct.

PART VI GENERAL

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31. Designation of Traditional Medical Practitioner.
32. Recovery by Council of costs, fees and other amounts.
33. By-laws.

PROPOSED ACT

ENACTED by the Parliament of the Northern Province

This Act may be cited as the Traditional Medical Practitioners Act.

This Act shall come into operation on a date to be fixed by notice in the Gazette.

(1) In this Act-

"Association" means the Northern Province Traditional Healers Association;

"Council" means the Traditional Medical Practitioners Council established by section two;

"improper or disgraceful conduct" means any conduct which, when regard is had to the practice of traditional medical practitioners, is improper or disgraceful, whether defined in by-laws referred to in section thirty-three or not;

"member" means a member of the Council;

"Minister" means the Minister of Health or such other Minister to whom the Premier may from time to time assign the administration of this Act;

"Register" means the register of traditional medical practitioners established in terms of section seventeen;

"registered" means registered in the Register in terms of Part III of this Act;

"Registrar" means the Registrar of Traditional Medical Practitioners appointed in terms of section sixteen;

(2) For the purposes of this Act-

"practices of traditional medical practitioners" means every act, the object of which is to treat, identify, analyse or diagnose, without the application of operative surgery, any illness or body or mind by traditional methods.

PART II

2 ESTABLISHMENT OF COUNCIL AND FUNCTIONS AND PURPOSES THEREOF

(1) There is hereby established a council to be known as the Traditional Medical Practitioners Council, which shall be a body corporate and shall, in its corporate name, be capable of suing and being sued and, subject to the provisions of this Act, of performing such acts as bodies corporates may by law perform.

(2) The function and purpose of the Council shall be-

- (a) to supervise and control the practice of traditional medical practitioners;
- (b) to promote the practice of traditional medical practitioners and to foster research into, and develop the knowledge of, such practice;
- (c) to hold inquiries for the purposes of this Act;

(d) to make grants or loans to associations or persons where the Council considers this necessary or desirable for, or incidental to, the attainment of the purposes of the Council.

COMPOSITION OF COUNCIL

(1) The Council shall consist of twelve members of whom -

- (a) one shall be the chairman who shall be appointed by the Minister after consultation with the Association;
- (b) one shall be the vice-chairman who shall be a person who, except in the case of the first Council, is a registered traditional medical practitioner, who has practiced as a traditional medical practitioner for not less than five years and who shall be appointed by the Minister;
- (c) five shall be registered traditional medical practitioners who shall be appointed by the Minister;
- (d) subject to the provisions of section five, five shall be registered traditional medical practitioners who shall be elected by the registered traditional medical practitioners in the prescribed manner;

Provided that, in the case of the first Council-

- (i) the Minister may, for the purpose of paragraph (c), appoint any five persons who have practiced as traditional medical practitioners;
- (ii) the Association may, for the purpose of paragraph (d), appoint any five persons who are members of the Association.

CONDITIONS OF OFFICE OF MEMBERS.

(1) A member shall hold office for a period of three years:

Provided that, in the case of the first Council-

- (a) three of the members appointed by the Minister, other than the chairman or the vice-chairman, who are designated by the Minister, shall retire in two years;
- (b) three of the members appointed by the Association, who are designated by the Association, shall retire in two years.

(2) A member shall-

- (a) hold office on such conditions; and
- (b) be paid out of the funds of the Council such remuneration and allowances, if any: as the Minister may in each case fix.

- (3) A retiring member shall be eligible for reappointment or re-election as a member.

APPOINTMENT OF MEMBERS ON FAILURE OF ELECTION.

- (1) If the registered traditional medical practitioners fail, neglect or refuse for any reason whatsoever to elect all or any of the members referred to in paragraph (d) of section three or to fill a vacancy in terms of paragraph (a) of subsection (1) of section nine, the Minister may appoint to the Council the number of members which the registered traditional medical practitioners have failed, neglected or refused to elect or may appoint a member to fill the vacancy, as the case may be.

- (2) A member appointed by the Minister in terms of subsection (1) -

- (a) shall, except in the case of the first Council, be a person who is a registered traditional medical practitioner; and
- (b) shall be deemed to have been duly elected to the Council.

DISQUALIFICATION FOR APPOINTMENT AS MEMBER

No person shall be appointed or elected as a member and no person shall be qualified to hold office as a member who -

- (a) has, in terms of a law in force in any country -
 - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
 - (ii) made an assignment to, or arrangement or composition with, his creditors which has not been rescinded or set aside; or
- (b) has, in the period of five years immediately preceding the date of his proposed appointment or election, been convicted -
 - (i) within the Republic of South Africa
 - (ii) outside the Republic of South Africa of an offense by whatever name called which, if committed within the Republic would have been a criminal offense;

and sentenced to imprisonment for a term of six months or more without the option of a fine, whether or not such sentence has been suspended, and has not received a free pardon; or

- (c) has, in the period of five years immediately preceding the date of his proposed appointment or election, been found guilty of improper or disgraceful conduct.

7 VACATION OF OFFICE

A member shall vacate his office and his office shall become vacant -

- (a) one month after the date he gives notice in writing to the Minister of his intention to resign his office or after the expiration of such shorter period as he and the Minister may agree; or

- (b) thirty days after the date he is sentenced by a court to imprisonment referred to in paragraph (b) of section six after conviction of an offense referred to in that section;

Provided that, if during the said period of thirty days an application for a free pardon is made or an appeal is filed, the question whether the member is to vacate his office shall not be determined until the final disposal of such application or appeal, whereupon the member shall forthwith vacate, and his office shall become vacant, unless he is granted a free pardon, his conviction is set aside, his sentence is reduced to a term of imprisonment of less than six months or a punishment other than imprisonment is substituted; or

- (c) if he becomes disqualified in terms of paragraph (a) of section six to hold office as a member; or

- (d) thirty days after the date he is found guilty of improper or disgraceful conduct:

Provided that, if during the said period of thirty days an appeal is lodged in terms of section twenty eight, the question whether the member is to vacate his office shall not be determined until the final disposal of such appeal, whereupon the member shall forthwith vacate his office, and his office shall become vacant, unless the decision of the Council finding him guilty of improper or disgraceful conduct is set aside; or

- (e) if he is required in terms of section eight to vacate his office; or

- (f) if he is absent from two consecutive meetings of the Council of which he has had notice without the permission of the Council; or

- (g) if, being a member who is required to be registered, he ceases to be registered.

8 MINISTER MAY REQUIRE MEMBER TO VACATE OFFICE OR SUSPEND HIM

- (1) The Minister may require a member to vacate his office if the Minister is satisfied that the member-

- (a) has been guilty of improper conduct as a member; or

- (b) has failed to comply with the conditions of his office fixed by the Minister in terms of subsection (2) of section four; or

- (c) is mentally or physically incapable of performing his duties as a member.

- (2) The Minister may suspend from office a member against whom -

- (a) criminal proceedings have been instituted for an offense in respect of which a sentence of imprisonment without the option of a fine may be imposed; or
- (b) disciplinary proceedings are instituted by the Council; and while that member is so suspended he shall not carry out any duties as a member.

FILLING OF VACANCIES ON COUNCIL

- (1) On the death of, or the vacation of office by, a member who is -
 - (a) a member elected in terms of paragraph (d) of section three, the vacancy shall be filled by an election held in the prescribed manner:

Provided that, if the remainder of the period for which the member whose office has been vacated would otherwise have held office for less than six months, it shall not be necessary to hold an election and the Council may, if it thinks fit, co-opt a registered traditional medical practitioner to fill the vacancy;

- (b) a member appointed by the Minister or the Association in terms of section three, the Minister or Association, as the case may be, shall appoint another person to fill the vacancy;

and the person so elected, co-opted or appointed, as the case may be, shall hold office for the remainder of the three-year or two-year period, as the case may be, for which that member would, but for his death or the vacation of his office, have continued in office.

- (2) If any member is granted leave of absence by the Council, the Council may, if it thinks fit, co-opt a registered traditional medical practitioner to fill the vacancy during the absence of that member.

VICE - CHAIRMAN TO ACT FOR CHAIRMAN

If the chairman of the Council is unable to exercise the functions of chairman by reason of illness, absence from the Republic or other cause, the vice-chairman shall exercise the functions and power and perform the duties of the chairman.

MEETINGS AND DECISIONS OF COUNCIL

- (1) The Council shall hold its first meeting on such date and at such place as the Minister may fix and thereafter the Council shall meet for the dispatch of business and adjourn close and otherwise regulate its meetings and procedures as it thinks fit:

Provided that a meeting of the Council shall be held at least twice in each year.

- (2) A special meeting of the Council -

- (a) may be convened by the chairman at any time;

- (b) shall be convened by the chairman within twenty-one days of the receipt by him of a request in writing signed by not less than six members and specifying the purposes for which the meeting is to be convened.

- (c) six members shall form a quorum.

- (3) All acts, matters or things authorised or required to be done by the Council shall be decided by a majority vote at a meeting of the Council at which a quorum is present.

- (4) At all meetings of the Council each member present shall have one vote on a question before the Council and, in the event of an equality of votes, the person presiding at the meeting shall have, in addition to a deliberative vote, a casting vote.

VALIDITY OF DECISIONS AND ACTS OF COUNCIL

- (1) No decision or act of the Council or act done under the authority of the Council shall be invalid by reason only of the fact that-

- (a) the Council did not consist of the full number of members for which provision is made in section three; or

- (b) a disqualified person acted as a member of the Council at the time the decision was taken or act was done or authorised.

FUNDS AND ACCOUNTS OF COUNCIL

- (1) The funds of the Council shall consist of-

- (a) all fees and other moneys payable to the Council in terms of this Act; and
- (b) such other moneys and assets as may vest in or accrue to the Council, whether in the course of the exercise of its functions or otherwise.

- (2) The accounts of the Council shall be audited at least once in each calendar year by an accountant registered in terms of the relevant Act.

ANNUAL GENERAL MEETINGS OF COUNCIL

- (1) The Council shall at least once in each calendar year convene a general meeting.
- (2) The Council shall give such notice of the annual general meeting as the Council deems fit.
- (3) The Council shall submit to the annual general meeting called in terms of subsection (1) a report setting out the activities of the Council since the previous annual general meeting:

Provided that the provisions of this subsection shall not apply to the first general meeting held in terms of this section.

COMMITTEES OF COUNCIL

- (1) The Council may—
 - (a) establish committees to assist the Council in the exercise of its functions under this Act; and
 - (b) appoint such registered traditional medical practitioners as it may consider expedient to be members of a committee referred to in paragraph (a).
- (2) The Council, with the approval of the Minister, may assign to a committee referred to in subsection (1) such of the functions of the Council under this Act as the Council may consider expedient.
- (3) The Council shall not be treated as having divested itself of any function assigned to a committee referred to in subsection (1), and the Council may vary or revoke any decision of a committee made in the exercise of that function.
- (4) The Council may appoint a legal practitioner entitled to audience before a magistrate's court to advise the Council in the exercise of its functions under this Act or a committee of the Council referred to in subsection (1) in the exercise of any function assigned to it in terms of subsection (2).

ART III

REGISTRAR AND REGISTER OF TRADITIONAL MEDICAL PRACTITIONERS

REGISTRAR

- (1) The Minister, after consultation with the Council shall appoint a person to be the Registrar of the Council.
- (2) The functions of the Registrar shall be—
 - (a) to be the secretary to the Council in which connection he shall, on instructions from the chairman of the Council, convene meetings of the Council and any committee thereof and maintain the records of any such meetings; and
 - (b) to carry out any other duties imposed on him by or in terms of this Act or by the Council.

REGISTER OF TRADITIONAL MEDICAL PRACTITIONERS AND CERTIFICATES OF REGISTRATION

- (1) The Registrar shall establish a Register of traditional medical practitioners.
- (2) It shall be the duty of the Registrar—
 - (a) to enter in the Register, in relation to a registered traditional medical practitioner, his name, address and date of first registration and such other particulars as the Council may from time to time determine;

- (b) to make in the Register any necessary alterations in the name, address or other particulars of a registered traditional medical practitioner;
- (c) to delete from the Register the name of a registered traditional medical practitioner who dies;
- (d) when required to do so by or under this Act—
 - (i) to mark in the Register the registration of a person or, as the case may be, the suspension from practice of a registered traditional medical practitioner; and
 - (ii) to delete from the Register the registration of a registered traditional medical practitioner; and generally, in connection with the Register, to comply with the provisions of this Act.
- (3) Where the Registrar deletes from the Register the name of a registered person, he shall enter in the Register a record of the reason therefore.
- (4) If, in the performance of the duties imposed upon him by or under this Act, the Registrar—
 - (a) registers an applicant, he shall issue to him a certificate of registration;
 - (b) deletes from the Register the name of a registered person or marks in the Register the suspension from practice of a registered person, he shall, if possible, notify him in writing accordingly.
- (5) On an application by a registered person the Registrar may issue to the person a duplicate certificate of registration—
 - (a) if he is satisfied as to the identity of the applicant; and
 - (b) on production by the applicant of an affidavit certifying that the certificate of registration has been lost or destroyed; and
 - (c) on payment by the applicant of the appropriate fee, if any, prescribed.

OFFENCES IN CONNECTION WITH REGISTER

- (1) A person who—
 - (a) makes or causes to be made an unauthorised entry or alteration in, or deletion from, the Register or a certified copy thereof or extract therefrom or on a certificate of registration; or
 - (b) procures or attempts to procure for himself or another person registration or a certificate of registration by means of fraud, a false representation or the concealment of a material fact; or

- (c) makes or causes to be made in connection with an application for registration a false declaration in a document used for the purpose of establishing his identity; or
 - (d) wilfully destroys or injures or renders illegible or causes to be destroyed, injured or rendered illegible an entry in the Register; or
 - (e) without the permission of the holder, wilfully destroys, injures or renders illegible or causes to be destroyed, injured or rendered illegible a certificate of registration; or
 - (f) forges or utters, knowing the same to be forged, a document purporting to be a certificate of registration;
- shall be guilty of an offence and liable to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

REGISTER AS EVIDENCE

- (1) A certificate under the hand of the Registrar-
 - (a) of the entry of the name of a person in the Register shall be *prima facie* evidence that the person is a registered traditional medical practitioner;
 - (b) that the name of a person has been deleted from, or does not appear in, the Register shall be *prima facie* evidence that the person is not a registered traditional medical practitioner;
 - (c) that a registered traditional medical practitioner has been suspended from practice as such for a period specified in that certificate shall be *prima facie* evidence that the person has been suspended from practice for that period.

PART IV REGISTRATION

20 APPLICATION FOR REGISTRATION

- (1) Any person who wishes to be registered shall apply to the Registrar and shall submit with his application-
 - (a) the appropriate fee;
 - (b) such information in relation to his application as he deems fit or as he may be required by the Registrar, on the directions of the Council, to supply.
- (2) The Registrar shall refer any application for registration made to him in terms of subsection (1) to the Council.

COUNCIL MAY GRANT OR REFUSE APPLICATION FOR REGISTRATION

- (1) The Council shall consider every application referred to it in terms of subsection (2) of section twenty and after due inquiry -
 - (a) if satisfied that the applicant possesses sufficient skill and ability to practice as a traditional medical practitioner and is of good character, shall grant the application and direct the Registrar or register the applicant;
 - (b) if not satisfied in terms of paragraph (a), shall refuse the application.
- (2) The Council, in granting an application for registration, may where appropriate, direct the Registrar to record in the Register the qualification of the applicant concerned as a spirit medium.

HONOURARY TRADITIONAL MEDICAL PRACTITIONERS

- (1) Notwithstanding the provisions of this Act-
 - (a) the Minister, after consultation with the Council and the Association, may direct the Registrar to register as an honorary traditional medical practitioner, with or without the qualification as a spirit medium, any person who, by reason of his special standing as a traditional medical practitioner, deserves to be so registered;
 - (b) it shall not be necessary for any person who has been registered in terms of paragraph (a) to pay the registration fee or annual fee in terms of this Act;
 - (c) a certificate of registration issued to a person who has been registered in terms of paragraph (a) shall reflect that he is an honorary traditional medical practitioner.

APPEAL AGAINST REFUSAL TO REGISTER

- (1) Any person who is aggrieved by the decision of the Council not to register him may appeal against such decision to the Minister who may-
 - (a) confirm the decision of the Council; or
 - (b) remit the matter to the Council for further consideration and with such directions or advice as he deems necessary; or
 - (c) direct that the applicant concerned be registered; and the decision of the Minister shall be final.

DELETIONS FROM REGISTER

- (1) The Council may direct the Registrar to delete from the Register-
 - (a) the name of any person who-

EXERCISE OF POWERS BY COUNCIL AFTER INQUIRY

- (1) At the conclusion of an inquiry held in terms of section twenty-five, the Council may, if it decides that the registered traditional medical practitioner has been guilty of improper or disgraceful conduct or is grossly incompetent or has performed any act appertaining to the practice of traditional medical practitioners in a grossly incompetent manner -
- direct the Registrar to cancel the registration of the registered person; or
 - order the suspension of the registered person for a specified period from practising as a traditional medical practitioner or performing any act specially pertaining to the practice of traditional medical practitioners; or
 - impose such condition as it deems fit, subject to which the registered person shall be entitled to carry on the practice of a traditional medical practitioner; or
 - order the registered person to pay a penalty not exceeding five hundred rand, which penalty shall be payable to the Council; or
 - order the registered person to pay any costs or expenses of, and incidental to, the inquiry; or
 - censure the registered person; or
 - caution the registered person and postpone for a period not exceeding three years any further action against him on one or more conditions as to his future conduct, including the conduct or nature of his practice during that period.
- (2) If at any time the Council is satisfied that during the period of any postponement in terms of paragraph (g) of subsection (1) a registered person has not complied with the conditions imposed in terms of that paragraph, the Council, after giving reasonable notice to the registered person concerned, may decide further to do one or more of the things specified in subsection (1).
- (3) The Council may extend for any period determined by it the period of operation of, or withdraw, or in any other manner amend, any order made in terms of paragraph (b) and (c) of subsection (1).
- (4) A person who has been suspended in terms of paragraph (b) of subsection (1) shall be disqualified from practising as a traditional medical practitioner and his registration shall be deemed to be cancelled until the period of suspension has expired.

EXERCISE OF DISCIPLINARY POWERS ON CONVICTION OF OFFENCE

- (1) A registered person who has been convicted within or outside the Republic of South Africa whether before or after the date of his registration, of an offence by a court of law shall be liable to be dealt with by the Council in accordance with the provisions of this Act if the Council is of the opinion that such offence constitutes improper or disgraceful conduct.

- (i) has failed to pay the appropriate annual subscription;
- (ii) has requested that his name be so deleted;
- (iii) has been found guilty of improper or disgraceful conduct in terms of this Act;
- (b) any entry which is proved to the satisfaction of the Council to have been made in error or through fraudulent representations or concealment of material facts or in circumstances not authorised by this Act;

- (2) A certificate of registration issued to a person whose name has been deleted from the Register shall be deemed to have been cancelled on the date of the deletion and the person concerned shall be deemed not to be registered with effect from that date.

PART V DISCIPLINARY AND OTHER INQUIRIES

25 INQUIRIES BY COUNCIL

- (1) Subject to the provisions of this section, the Council may hold inquiries into an allegation that a registered traditional medical practitioner—
- has been guilty of improper or disgraceful conduct; or
 - is grossly incompetent or has performed any act appertaining to the practice of traditional medical practitioners in a grossly incompetent manner.
- (2) Before exercising its powers referred to in subsection (1), the Council shall cause to be served upon the person concerned a notice setting out the allegations against him and the Council shall afford the person concerned a reasonable opportunity of being heard; either in person or; if he so wishes, by a legal representative:

Provided that, where the person concerned is by reason of mental disorder or defect legally incapable of representing himself, the Council may apply for the appointment of a *curator ad litem* and the notice referred to in this subsection shall be served on such curator.

- (3) The powers, rights and privileges of the Council in an inquiry referred to in subsection (1) shall be the same as those conferred upon a commission by the Commissions Act, and the provisions of subsection 1 (b), (3) of section 1 and section 2 to 6 of that Act, shall *mutatis mutandis*, apply in relation to an inquiry and to a person summoned to give evidence or giving evidence at an inquiry.

- (4) The Council shall, in any inquiry held by it in terms of subsection (1), record the proceedings and any evidence heard by it and the decision made by it and the reasons therefor.

- (2) The Council may, if it thinks fit on proof before it of a conviction referred to in subsection (1) and without hearing further evidence, deal with the convicted person in accordance with the provisions of this Act:

Provided that the convicted person shall be afforded an opportunity of tendering in writing or in person or by his legal representative, as he may elect, an explanation to the Council in extenuation of his conduct.

- (3) Subject to the provisions of the Criminal Procedure Act if, after the termination of proceedings before a court of law in the Republic of South Africa—

- (a) it appears to the court that there is *prima facie* evidence of improper or disgraceful conduct on the part of a registered person, the court shall direct that a copy of the record of the proceedings or a copy of such part of the record of such proceedings as is material to the issue shall be transmitted to the Council; or
- (b) the Council requests that a record of the proceedings before a court of law or part of such record be supplied to it on the grounds that it is of direct interest to the Council in the exercise of its functions under this Act, the registrar or clerk of the court shall transmit to the Council a copy of the record of the proceedings or a copy of such part of record of the proceedings as is material.

28 APPEALS TO MINISTER

- (1) Any person who is aggrieved by the decision of the Council in terms of section twenty-six may appeal against such decision to the Minister who may—
- (a) confirm, vary or set aside the decision of the Council; or
 - (b) remit the matter to the Council for further consideration with such directions or advice as he deems necessary.

29 IMPROPER OR DISGRACEFUL CONDUCT

- (1) The Council may, under by-laws made in terms of section thirty-three of this Act—
- (a) define what in the case of a registered traditional medical practitioner shall constitute improper or disgraceful conduct; and
 - (b) provide for the manner in which complaints or charges against a registered traditional medical practitioner may be lodged; and
 - (c) provide for any other matters incidental to the investigation of, and inquiry into, complaint against a registered traditional medical practitioner.
- (2) If any registered traditional medical practitioner has counselled or knowingly been party to the performance of any act in respect of which an unregistered person has been convicted of an offence under this Act, the conduct of such traditional medical practitioner shall, for the purpose of this Act, constitute improper or disgraceful conduct.

Provided that the provisions of this subsection shall not be construed as exempting such registered traditional medical practitioner from prosecution in a court of law for any offence which such conduct may constitute.

- (3) The by-laws referred to in subsection (1) shall not be deemed to limit the general power conferred on the Council to inquire into allegations of improper or disgraceful conduct not covered by such by-laws and to impose any penalty under this Act on any person guilty of such conduct.

PART VI GENERAL

30 PRACTICE OF TRADITIONAL MEDICAL PRACTITIONER

- (1) Subject to the provisions of this Act, it shall be lawful for a registered traditional medical practitioner to engage for gain in the practice of traditional medical practitioners.

- (2) Subject to the provisions of subsection (4) and (5), any person who, not being registered as a traditional medical practitioner—

- (a) for gain practices or carries on business as a traditional medical practitioner, whether or not purporting to be registered; or
- (b) pretends, or by any means whatsoever holds himself out, to be a registered traditional medical practitioner; or
- (c) uses the title "Registered Traditional Medical Practitioner" or any name, title, description or symbol indicating or calculated to lead persons to infer that he is registered as a traditional medical practitioner in terms of this Act; shall be guilty of an offence and liable to a fine not exceeding two thousand rand or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

- (3) Subject to the provisions of subsections (4) and (5), any person who, not having the qualification of a spirit medium recorded in the Register in relation to himself, uses the title "Registered Spirit Medium" or any name, title, description or symbol indicating or calculated to lead persons to infer that he has such qualification registered in relation to himself in terms of this Act shall be guilty of an offence and liable to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding two years or both such fine and such imprisonment.

- (4) The provision of—

- (a) paragraph (a) of subsection (2) shall not apply to any person who is registered in terms of the Medical Dental Practitioners Act.
- (b) paragraph (b) and (c) of subsection (2) and subsection (3) shall not apply to any person who is not ordinarily resident in Republic of South Africa and does not purport to be registered in terms of this Act.

- (5) The provisions of subsection (2) and (3) shall come into operation on such date as the Premier may fix by notice in the Gazette.

31 DESIGNATION OF TRADITIONAL MEDICAL PRACTITIONER

- (1) A registered traditional medical practitioner shall be entitled to describe and designate himself-
- (a) by the title "Registered Traditional Medical Practitioner" or by the initials "R.T.M.P."; and
 - (b) if the qualification of a spirit medium is recorded in the Register in relation to himself, by the title "Registered Spirit Medium" or by the initials "R.S.M."
- (2) An honorary registered traditional medical practitioner shall be entitled, in association with the appropriate titles and initials referred to in subsection (1), to use the title "Honourary" or the abbreviation "Hon."

32 RECOVERY BY COUNCIL OF COSTS, FEES AND OTHER AMOUNTS

- (1) The Council may by action in any competent court recover -
- (a) any cost or penalty ordered in terms of Part IV of this Act to be paid by a registered traditional medical practitioner or former registered traditional medical practitioner; or
 - (b) any fee payable in terms of this Act by a registered traditional medical practitioner or former registered traditional medical practitioner; or
 - (c) any other moneys or other property that may be payable or due to the Council by any person.

33 BY-LAWS

- (1) The Council may make by-laws prescribing all matters which by this Act are required or permitted to be prescribed or which, in the opinion of the Council, are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act, or the regulation of the practice of traditional medical practitioners.
- (2) By-laws made in terms of subsection (1) may provide for-
- (a) the fees which shall be payable by applicants for registration and the annual fees which shall be payable by traditional medical practitioners so long as they remain registered;
 - (b) the issue of certificates of registration and the fees in connection therewith;

- (c) the cancellation of certificates of registration of traditional medical practitioners who are no longer registered and the delivery of such certificates to the Registrar for that purpose;

- (d) the deletion from the Register of entries made in error or through fraudulent representations or concealment of material facts or in circumstances not authorised by law;

- (e) the notification to the Registrar of changes of address and prescribed particulars of registered traditional medical practitioners;

- (f) the maximum or minimum scale of fees that may be charged by registered traditional medical practitioners.

- (3) By-laws made in terms of subsection (1) shall be submitted to the Minister for his approval and after such approval shall be published in the Gazette.

- (4) The fees to which the provisions of paragraph (a) and (b) of subsection (2) relate shall be paid to the Council.

We also propose the following structure for the National/Provincial Traditional Healer's Association so as to unite all traditional healers into one body and to promote traditional medicine and practice including research into traditional medicine and methods of healing.

NATIONAL TRADITIONAL HEALERS ASSOCIATION CONSTITUTION

1. NAME

The name of the Association shall be the National Traditional Healers Association, hereafter referred to as "the Association."

2. AIMS AND OBJECTS

- (a) To unite all Traditional Healers into one body.
- (b) To promote traditional medicine and practice.
- (c) To promote research into traditional medicine and methods of healing.
- (d) To supervise the practice of traditional medicine and prevent abuse and quackery.
- (e) To co-operate with the Ministry of Health, other ministries and organisations that are involved in the field of health.
- (f) To preserve and promote beneficial aspects of African culture.

- (g) To co-operate with the traditional health profession in other countries.

3. MEMBERSHIP

- (a) Membership of the Association shall be open to all traditional healers including spirit mediums and faith healers.
- (b) On enrolment each member shall pay a joining fee fixed by the National Executive Committee from time to time.
- (c) Annual subscription fees shall be fixed by the National Executive Committee from time to time.
- (d) Each member shall be supplied with a membership card and a certificate.
- (e) Membership of the Association may be lost through:
- (i) Resignation.
 - (ii) Expulsion.
- (f) On resignation or expulsion no refund will be made of:
- (i) Joining fee.
 - (ii) Subscription fees.

4. THE NATIONAL EXECUTIVE COMMITTEE

- (a) The Association shall have a National Executive Committee of 25 members.
- (b) Each Province shall elect 3 members to the National Executive Committee.
- (c) The chairman of the National Executive Committee shall be the President of the Association.
- (d) The President shall be elected by delegates at a congress of the Association.
- (e) The President shall appoint, from among members of the National Executive Committee the following national officers and their deputies where necessary:

- (i) Vice President
- (ii) Secretary for Administration
- (iii) Secretary for Finance
- (iv) Secretary for Legal Affairs
- (v) Secretary for Education and Research

- (vi) Secretary for Culture

- (f) The President shall appoint from among members of the National Executive Committee a Secretary for each Province.
- (g) Members of the National Executive Committee shall be elected every five years.
- (h) The National Executive Committee shall have power to establish other executive posts as may be necessary from time to time.

5. MEETINGS

- (a) The National Executive Committee shall hold meetings at such times and at such places as the Executive Committee shall deem convenient.
- (b) The quorum for the meetings of the National Executive Committee shall be at least one third of the members of the National Executive Committee.
- (c) All the decisions of the National Executive Committee shall be on a simple majority vote of those present at a properly constituted meeting.
- (d) Disciplinary powers of the Association shall be exercised by the National Executive Committee.
- (e) The National Executive Committee may appoint a manager and such other employees as it considers to be necessary or desirable.

6. DUTIES OF NATIONAL OFFICERS

- (i) PRESIDENT

He shall be the head of the Association.

He shall ensure discipline and order in the Association

He shall be the chief spokesman for the Association.

He shall ensure adherence to the Association's policy by all officials and members and is empowered hereby to suspend from office any person who acts or speaks contrary to the rules of the Association

- (ii) VICE PRESIDENT

He shall assist the President in his duties and assume the responsibilities of the President in the latter's absence.

- (iii) SECRETARY FOR ADMINISTRATION

He shall be responsible for running the Association under the direction of the President.

(iv) **DEPUTY SECRETARY FOR ADMINISTRATION**

He shall assist the Secretary for Administration in his duties and assume the responsibilities of the Secretary for Administration in the latter's absence.

(v) **SECRETARY FOR FINANCE**

He shall be in charge of the Association's financial affairs under the direction of the President.

(vi) **DEPUTY SECRETARY FOR FINANCE**

He shall assist the Secretary for Finance in his duties and assume the responsibilities of the Secretary for Finance in the latter's absence.

(vii) **SECRETARY FOR LEGAL AFFAIRS**

He shall be the chairman of the Disciplinary Committee.

(viii) **DEPUTY SECRETARY FOR LEGAL AFFAIRS**

He shall assist the Secretary for Legal Affairs in his duties and assume the responsibilities of the Secretary for Legal Affairs in the latter's absence.

(ix) **SECRETARY FOR EDUCATION AND RESEARCH**

He shall be in charge of Educational and Research Programmes under the direction of the President.

(x) **DEPUTY SECRETARY FOR EDUCATION AND RESEARCH**

He shall assist the Secretary for Education and Research in his duties and assume the responsibilities of the Secretary for Education and Research in the latter's absence.

(xi) **SECRETARY FOR CULTURE**

He shall be in charge of Cultural Affairs under the direction of the president.

(xii) **DEPUTY SECRETARY FOR CULTURE**

He shall assist the Secretary for Culture in his duties and assume the responsibilities of the Secretary for Culture in the latter's absence.

7 FINANCE

- (a) The funds of the Association shall consist of all fees paid in terms of regulation referred to in Section 3, donations and other moneys and assets as may vest in or accrue to the Association.

- (b) All moneys shall be deposited in a bank approved by the National Executive Committee.

- (c) The Accounts of the Association shall be audited annually.

- (d) Signatories to Association banking accounts shall be the President, Secretary for Administration and Secretary for Finance.

- (e) A member of the Association shall be paid from the funds of the Association such allowances as the National Executive Committee may fix to meet any reasonable expenses incurred by him in connection with the business of the Association.

DISTRICTS AND BRANCHES

- (a) The Association shall establish Districts and Branches and organs with Executive Committees consisting of:-

- (i) Chairman
- (ii) Vice Chairman
- (iii) Secretary
- (iv) Vice Secretary
- (v) Treasurer
- (vi) Deputy Treasurer
- (vii) Organising Secretary
- (viii) Deputy Organising Secretary
- (ix) Secretary for Security and Welfare
- (x) Deputy Secretary for Security and Welfare
- (xi) Two Committee Members

- (b) Each Branch shall consist of at least 30 members.

- (c) Each District shall consist of at least 4 Branches.

- (d) Branch and District Executive Committee shall be elected every five years.

CONGRESS

- (a) The congress shall be held every five years at a place and date decided by the National Executive Committee.

(b) The Congress shall be composed of delegates as follows:-
(i) All members of the National Executive Committee.

(ii) All members of Traditional Medical Practitioners Council.

(iii) All members of District Executive Committees.

10 DISCIPLINE

(1) Disciplinary offences shall include:-

(i) Fraud or misappropriation of funds;

(ii) Failure to abide by the constitution;

(iii) Performing any act pertaining to the traditional healing profession in a grossly incompetent manner.

(iv) Improper conduct or disgraceful conduct or conduct which, when regard is had to the profession or calling of that person, is improper or disgraceful.

(v) The sale of medicine in open spaces such as road sides and unauthorised market places;

(vi) The sale of medicine by unqualified persons;

(vii) Any other offences listed by the Traditional Medical Practitioners Council.

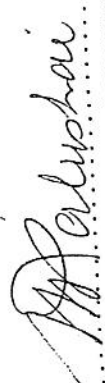
11 AMENDMENT TO THE CONSTITUTION

Amendment to this constitution shall be by two-thirds majority of those members present at the congress.

12 DISSOLUTION

The Association may, by a resolution passed by two-thirds majority of members at a special conference called expressly for that purpose, resolve that the Association be dissolved. All properties and funds of the Association, after meeting all liabilities shall be distributed in such a manner as shall be determined by the conference.

Signed at Pietersburg on this day the 8th of January 1996.


1. PROF N V RALUSHAI (CHAIRMAN)


2. PASTOR M G MASINGI (SECRETARY)


3. PROF J A VAN DEN HEEVER


4. MR M E MPHAPHULI


5. BRIGADIER M W MOKWENA


6. MR D MATSHANE


7. ATTORNEY P N VELE NDOU

APPENDIX 1

LITERATURE CONSULTED

The following materials were studied:

Newspapers

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SOWETAN: 18 July 1989 "Anger over ritual death"

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SOWETAN: 3 October 1994 "Muti killers 'held'"

SOWETAN: 8 February 1995 "Man kills for body parts to get rich"

SOWETAN: 28 February 1995 "People who fear the sign of rain"

SOWETAN: 22 March 1995 "Woman nearly lost her tongue"

SOWETAN: 27 March 1995 "16 youths face murder charges"

SOWETAN: 6 April 1995 "Four elderly villagers burnt alive"

SOWETAN: 13 April 1995 "Man held for ritual murder"

SUNDAY TIMES: 19 March 1995 "Town in uproar over ritual killings"

SUNDAY TIMES: 28 May 1995 "Armed with a Bible the clerics cash in on muti"

SUNDAY TIMES: 28 May 1995 "Pastors in muti shock"

SUNDAY TRIBUNE: 19 March 1995 "If something bad happens, the people must sniff out the witch - when fate has bloody hands"

THE STAR: 12 January 1984 "Axe-wielding tribe's man hunts for two witches"

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TIMES (PIETERSBURG): 3 April 1992 "Severe punishment for witchcraft"

TIMES (PIETERSBURG): 7 April 1985 "Partially blind in court after man's death"

TIMES (PIETERSBURG): 17 February 1995 "Community Leaders address rally on witchcraft"

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R v Mpanbuni - 1932 E.D.L. PH H 195
R v Nywelluna - 1928 TPD 66
R v Tomani - 1946 (2) PH H 321 (T)
S v Biyana - 1938 E.D.L. 310
S v Bhuma - 1981 (2 SA 839 (A)
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S v Masina and others - 1990 (4) SA (A)
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Statistics

A STATISTICAL OVERVIEW OF CASES WHICH WERE REPORTED AND SUBSEQUENTLY PROSECUTED IN THE FORMER VENDA

1. DZANANI

Murder

Eight murder cases were reported. See Annexure "A"

Malicious Injury to Property

Only one case of malicious injury to property was reported from Tshiendeulu village. See Annexure "B"

Indicating Another Person as a Wizard

Seventy six cases were reported. See Annexure C"

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2. MUTALE

Arson

Five cases of arson were reported. See Annexure "D"

Murder

Eight people were killed in separate incidents in one night by the same group. See Annexure "E"

Indicating Another Person as a Wizard

Only one case was reported. See Annexure "F"

3. TSHITALE

Arson

Five cases of arson were reported and five suspects were arrested. See Annexure "G"

Murder

Four cases were reported and forty three people were arrested. See Annexure "H"

Indicating Another Person as a Witch

Eighteen cases were reported and many people were arrested. See Annexure "I"

4. THOHOYANDOU

Assault

Four cases of assault were reported and ninety eight people were arrested. See Annexure "J"

Arson

Eight cases of arson were reported and one hundred people were arrested. See Annexure "K"

Extortion

Only one case of extortion was reported and thirty five people were arrested. See Annexure "L"

Kidnapping

One case of kidnapping was reported and nine people were arrested. See Annexure "M"

Murder

Nine people were killed in nine separate incidents. See Annexure "N"

Malicious Injury to Property

Three cases of malicious injury to property were reported and sixty people were arrested. See Annexure "O"

Indicating another person as a Wizard

Twenty six cases of indicating another person as a wizard were reported and sixty seven people were arrested. See Annexure "P"

Public Violence

Two cases of public violence were reported at Tshitereke village and fifteen people were arrested. See Annexure "Q"

5. VUWANI

Arson

Fifteen cases of arson were reported in which nine people were killed in separate incidents. See Annexure "R"

Murder

Six cases of murder were reported and a large number of people were arrested. See Annexure "S"

ANNEXURE A

MURDER: 94/03/12 TSHIOZWI VILLAGE

CR 42/03/94

COMPL : FRANS MAVHANDU

ACCUSED : KUDZINGANO KUDZINGANA AND 11 OTHERS

MURDER : 90/03/04 MURALENI VILLAGE

CR 29/03/90

DECEASED: MUOFHE NELWAMONDO 84 YEARS OLD

ACCUSED: GODFREY MADONGO AND 18 OTHERS

MURDER : 90/03/04 MURALENI VILLAGE

CR 27/03/90

DECEASED : GEORGE DAVHANA 85 YEARS OLD

ACCUSED: STEVEN MULEYA AND 3 OTHERS

MURDER: 90/03/03 MAEBANI VILLAGE

CR 17/03/90

DECEASED: MAGOMENI SADIKI 80 YEARS OLD

ACCUSED: STEVEN MULEYA AND 3 OTHERS

MURDER: 90/09/30 GOGOBOLE VILLAGE

CR 71/09/90

DECEASED: ROBERT TSHIVHULI 68 YEARS OLD

ACCUSED: THEMBI TSHIVHULI

MURDER: 90/01/30 MAKHITHA VILLAGE CR 80-03-90 DECEASED: JOHANNES MASHAU 60 YEARS OLD ACCUSED: PETER RAMOVHA AND 24 OTHERS

7. MURDER: 90/04/07 PHADZIMA VILLAGE
CR 20/04/90
DECEASED: ALFRED GUBUZA BAYASEKELE 48 YEARS OLD
ACCUSED: PHUNDUI ZWA MAJOLA 24 YEARS OLD

8. MURDER: 90/10/06 MANDIWANA VILLAGE
CR 18/10/90.
DECEASED: MASAKONA TSEISA 70 YEARS OLD
ACCUSED: AUBREY MOKANENG AND 6 OTHERS

ANNEXURE B

1. M I TO PROPERTY : 90/12/31 TSHIENDEULU VILLAGE
CR 01/01/91
COMPL: FRANCE NETSHIKWETA 59 YEARS OLD
ACCUSED : DESMOND NEMAKONDE AND 30 OTHERS

ANNEXURE C

1. INDICATING : 90/03/15 MAEBANE VILLAGE
CR 54/03/90
COMPL: DORAH DZHAVHULI 27 YEARS OLD
ACCUSED : ABRAHAM LETLALO

2. INDICATING: 92/02/15 TSHIKWARANI VILLAGE
CR 75/02/92
COMPL: ANNAH RAVHUSIWANA 59 YEARS OLD
ACCUSED : NYAMUKAMADI MASINDI

3. INDICATING : DURING JANUARY 1992 ZAMENKOMSTE VILLAGE
CR 95/02/92
COMPL: ALILALI NETHONONDA 77 YEARS OLD
ACCUSED : ANNAH NEMUBVUMONI

4. INDICATING: 92/02/21 MADOMBID ZHA VILLAGE
CR 89/02/92
COMPL : ANNAH MUTHILO 32 YEARS OLD
ACCUSED : WILLIAM RAKHOKHO AND 1 OTHER

5. INDICATING : 92/07/18 TSHIKWARANI VILLAGE
CR 75/07/92
COMPL : SAMUEL T SEDU 51 YEARS OLD
ACCUSED : PETRUS MALUKA

6. INDICATING: DURING JULY 92
CR 11/08/92
COMPL: TSHINAKAHO SIKHWARI 60 YEARS OLD
ACCUSED: DERICKS RASINGWANA

INDICATING: 92/07/31 WARANI VILLAGE
CR 13/08/92
COMPL: MARIA MADALI 25 YEARS OLD
ACCUSED : MASAKONA NEDZAMBA

INDICATING: 92/08/23 GOGOBOLLE VILLAGE
CR 57/08/92
COMPL: TSHINAKAHO RAMALA 57 YEARS OLD
ACCUSED : APHEUS RAMALA

INDICATING: 92/08/23 MUDULUNI VILLAGE
CR 25/09/92
COMPL : MATODZI MAVHANDU 19 YEARS OLD
ACCUSED : MAVIS MOATSI

INDICATING: 92/09/25 TSHIOZWI VILLAGE
CR 46/09/92
COMPL: MARTHA TSHIVHULA 39 YEARS OLD
ACCUSED : ELISAH MUVHALI

INDICATING: DURING SEPT - 1992 MURALENI VILLAGE
CR 69/09/92
COMPL : SARAH MUTUWAFHETHU 61 YEARS OLD
ACCUSED : LIZZY MONANA

INDICATING: 92/09/03 MADOMBIDZHA VILLAGE
CR 22/10/92
COMPL: MAKWARELA MASIA 63 YEARS OLD
ACCUSED : MASINDI RAMABALA 20

INDICATING: 92/11/22 MAGAU VILLAGE
CR 22/12/92
COMPL : TSHINAKAHO MUTHAGELA 42 YEARS OLD
ACCUSED : JOHN LETLALA

INDICATING: 92/12/19 MAGAU VILLAGE
CR 32/12/92
COMPL : MAGRET FUNYUFUNYU 29 YEARS OLD ACCUSED : LIZZY MONANA

INDICATING : 92/12/19 MAGAU VILLAGE
CR 80/02/92
COMPL: KUTAMA SADIKI 50 YEARS OLD
ACCUSED : JOYCE MURASHA

INDICATING: 93/01/19 RAMANTSHA VILLAGE
CR 39/01/93
COMPL: DORAH MUKHITHI 46 YEARS OLD
ACCUSED : ALBERT MUTELE

7. INDICATING: DURING FEB 1993 MADOMBIDZHA VILLAGE
CR 102/03/93
COMPL : MURAVHA MABATHA 50 YEARS OLD
ACCUSED : BETHEL RABAKALI
18. INDICATING: 93/03/10 MADOMBIDZHA VILLAGE
CR 32/03/93
COMPL : FLORAH LEBALLO 35 YEARS OLD
ACCUSED : ELISA TSHIREDO
19. INDICATING: 93/03/11 MADOMBIDZHA VILLAGE
CR 36/03/93
COMPL: ELISAH TSHIREDO 40 YEARS OLD
ACCUSED : FLORAH LEBALLO
20. INDICATING : 93/03/16 MAEBANE VILLAGE
CR 52/03/93
COMPL: JOHANA MALUGANA 30 YEARS OLD
ACCUSED: SARAH SIOGA
21. INDICATING: 93/04/16 MAGAU VILLAGE
CR 84/04/93
COMPL : DYNA MOLOI 35 YEARS OLD
ACCUSED : SOPHY SELEKA
22. INDICATING: 93/05/31 TSHIOZWI VILLAGE
CR 02/06/93
COMPL : PHOPHI RAMAHALA 27 YEARS OLD
ACCUSED : CATHRINE MABASHE
23. INDICATING : 93/07/14 RAMANTSHA VILLAGE
CR 14/07/93
COMPL : JOYCE MUDONDE 29 YEARS OLD
ACCUSED : SAMUEL SIKHWIVHULU
24. INDICATING: 93/07/11 MADOMBIDZHA VILLAGE
CR 31/07/93
COMPL: MASINDI RAMABULANA 72 YEARS OLD
ACCUSED : MUKONDI MUYAVHA
25. INDICATING : 93/07/17 MADOMBIDZHA VILLAGE
CR 50/07/93
COMPL: PHOPHI RAMAHAILA 70 YEARS OLD
ACCUSED: ANNAH MULAUDZI
26. INDICATING: 93/08/07 MADOMBIDZHA VILLAGE
CR 28/08/93
COMPL: FLORAH KUTAMA 40 YEARS OLD
ACCUSED: VIOLET TSHITANGANO

1. INDICATING: 93/09/20 GOLOLE VILLAGE
COMPL: ESTER MADAKANO 43 YEARS OLD
ACCUSED: ANNAH MUDAU
2. INDICATING: 93/09/21 MIDORONI VILLAGE
CR 95/09/93
COMPL : FLORAH MATHIVHA 33 YEARS OLD
3. INDICATING: 93/08/22 MADOMBIDZHA VILLAGE
CR 98/09/93
COMPL: WILSON MUSWOB1 60 YEARS OLD
ACCUSED: ALPHEUS MUSWABI
4. INDICATING: 93/10/04 MAGAU VILLAGE
CR 34/10/93
COMPL: MERCY BEREDA 21 YEARS OLD
ACCUSED: GRACE LIPHASWA
5. INDICATING: 93/10/13 MAGAU VILLAGE
CR 69/10/93
COMPL : NYAMUKAMADI NDOU 75 YEARS OLD
ACCUSED : PERCY TSHIKUMBANA
6. INDICATING : 93/12/12 MAGAU VILLAGE
CR 43/12/93
COMPL: MUOFHE SINTHUMULE 69 YEARS OLD
ACCUSED : ALBERT RASIVHETSEHELE
7. INDICATING: 93-12-19 RAVELE VILLAGE
CR 61/12/93
COMPL: FRANCINAH SIKHWIVHILU 37 YEARS OLD
ACCUSED : JUSTICE MALOWA
8. INDICATING : 94/01/31 MAKHITHA VILLAGE
CR 08/02/94
COMPL : MATSAPULA RATSHIBAI 68 YEARS OLD
ACCUSED : STEVEN LIROTHOLI
9. INDICATING : 94-03-02 MAGAU VILLAGE
CR 55/03/94
COMPL : MARANDELA MAKANANISA 79 YEARS OLD
ACCUSED : ELISA MUTHAGELA
10. INDICATING : 90/03/04 MADABANI VILLAGE
CR 40/03/90
COMPL : FRANS MACHABA 65 YEARS OLD
ACCUSED : RICHARDT MAGWALA AND 3 OTHERS

APPENDIX 2

COURT CASES

INTRODUCTION

It would be a dull and monotonous world if all people thought alike; variety is the spice of life!

During the apartheid era, several hundreds of people were killed in the most brutal and uncivilised fashion on allegations that they practiced witchcraft. There was a big outcry in the communities but no one appeared to care or at least to understand why black people were going against black people. All that the government of the day could say was that blacks are known to be an uncivilised bunch and do not absorb education very easily. The Northern Province was all of a sudden the main point of focus, even by the international community. The world became curious about the witches of the Northern Province. A lot of questions were left unanswered. The Ministry of Safety and Security was inundated with calls from the international community, asking for an explanation.

Our courts were all of sudden flooded with cases of witchcraft and ritual murders.

As part of our brief, we have endeavoured to study almost all cases which are witchcraft related and ritual murders in the whole Province. It was quite an arduous task in view of the limited time that was afforded us. This section contains some of the cases which we thought were quite striking. In some cases, we have included photographs just to show the gruesomeness and the inhuman way in which people were being murdered (See Appendix 3).

We have thought it best to deal with the three former bantustans separately as their situations are to a great extent unique.

We have also divided the two areas under discussion, namely witchcraft related matters and ritual murders, so as to create a much more clearer picture.

We have also tried to make an analysis of the various situations.

2. WITCHCRAFT RELATED CASES IN THE FORMER LEBOWA (NORTHERN PROVINCE) EXCLUDING THE FORMER VENDA AND GAZANKULU.

Introduction

In view of the fact that proceedings in court are mechanically recorded, it is very difficult due to the limited time, to listen to all the tapes, or to have them transcribed so as to enable one to summarise them.

The commission has however tried to get information from police dockets at the various police stations.

The following is an example of a report made to the Matlala Police Station.

On 14 March 1994 at a village of Dibeng, a certain lady by the name of Marara Mabucla, was struck by lightning. This incident caused the villagers in the area to gather and discuss as to what could have caused the lightning to strike this old lady of about 70 years of age.

That afternoon, the villagers decided to call all eight diviners living in the area, to come and divine. The diviners were taken to the mealie-fields where lightning had struck, to divine there.

The eight member group of diviners were called to go and sit far away from the main group of villagers and were called individually to come and divine and sniff out a possible perpetrator. The villagers formed a big circle and a diviner would enter the circle, throw his bones and then give his or her verdict.

All eight diviners went to the circle and divined. The community had selected a person who acted as secretary to record the verdicts of each individual diviner.

The results of divining were as follows:

Three said that their bones see nothing.

Four said that their bones see a Lemba woman from the Venda tribe.

One, a Mrs Kgosiya Mohlake, said that her bones show her a man who was amongst the eight of the diviners present and she pointed out Mr Johannes Mpai.

After this pointing out, the writing was on the wall for Mr Mpai, as the crowd immediately decided to kill him. The crowd then stoned him and set him alight.

A group of people were later arrested and their case is still pending before the court in Pietersburg.

Observation

This case teaches us one thing for certain, and that is: divining bones are completely unreliable.

Secondly, we are of the opinion that it is essential to illustrate how the belief in witchcraft has manifested itself in some of the court proceedings.

Supreme Court Cases

In *S v Dikgale* 1965(1) SA 209 (A) the deceased was a "witch-doctor" feared by the community for his suspected ability to bring about misfortune to others by means of lightning.

On the fateful day he met the accused and they had a conversation. At that stage rain started to fall. The deceased went away and lightning struck. The accused claimed to have seen smoke all over the head of the deceased. They then called upon other members of the community and the deceased was then killed.

The Appellate Division held that where the accused are convicted of murder, and the only probable reason why they treated the deceased and committed the crime was that they believed that he was a bad and dangerous witch-doctor, then this must be an extenuating circumstance, even if witchcraft did not affect the accused or their near relatives.

In *S v Mampa and two others* (1986 unreported) the accused from Matge village were found to have murdered Kate Mokone, who was burned alive at Mafete on 20 January 1986, after she was accused of being a witch.

Mr Justice Kumbleben held that in this case the facts convincingly proved that the appellants' belief in the occult powers of the girl was genuine, as was their fear that she presented a real threat to them and members of their families. On the question of sentence, the judge said that the men's conduct was prompted by deeply-held beliefs and genuine fear. Their conduct was therefore not regarded by themselves, or by the community in which they live, as morally reprehensible.

Mr Justice Kumbleben said a sentence of 10 years would be appropriate.

In *S v Maenetja and 8 others* (1989 unreported) the state alleged that the 9 accused were jointly responsible for the deaths of Mr Chemist Rakgoale and Mr Solomon Shai, who were identified by a witch-doctor as *wizards* and who caused the death by lightning, of two young women.

A rope with a large noose was tied to the branch of a tree by accused no. 1. The latter tied the noose around the necks of the two victims, who were made to stand on three large stones. They were executed when the stones were removed.

In *S v Mojaipelo* 1991 (1) SACR 257 (T) the accused, a 23 year old woman with one child, had been found guilty of murdering a woman by hitting her on the head with a spade. It appeared that the hut in which the accused was at the time of the incident was struck by lightning. The accused then ran out of the hut, picked up a spade and attacked the deceased, who happened to be walking past the house. She thought the deceased was a witch who was responsible for the lightning striking the house. The court took into account that the accused believed in witchcraft, but was of the opinion that it was the court's duty to point out to the accused and her tribe that their belief was unjustified. In the light of the circumstances the court imposed a sentence of three years imprisonment, half of which was suspended for five years.

It is clear from the facts of the case that the deceased was not found on the premises, but happened to be walking past the house. What is not clear from the facts of the case is in what state the deceased was found by the accused, that is, whether she was naked, or doing something to show that an act of witchcraft has been committed, or was to be committed.

MATLALA: CASE NO CC 19/91 (CR 94/12/89) ACCUSED: SAMUEL MAZIMBI (25)

The accused arrived home from work and started to look for an instrument with which he could kill his sister-in-law. He found a panga with which he chopped her several times to death. According to the accused, his sister-in-law was a witch, and that she wanted to kill him, and bewitched him to become a zombi to work for her.

SENTENCE: The accused was convicted of murder and sentenced to 16 years imprisonment.

MOTETEMA CR NO 77/03/90 STATE V TAU MOSES MATLALA AND SIX OTHERS

SUPREME COURT CASE NO CC 201/92

Main Events:

The daughter of one Dhiwayo was killed after she had been struck by lightning in the village of Mokganyaka, in the Neko District.

On 20 March 1990 at about 16h30, the village bell rang, summoning people to attend a meeting at the headman's kraal.

Tau Moses Matlala, a man in his late sixties, stood up and addressed the gathering. He informed the crowd that he and some other people had visited a diviner who had informed them that the people who were responsible for the death of Dhiwayo's daughter, were Caroline Thunago and Lettie Kgare. The old man was supported by the sister of the girl who had been struck by lightning. Kgadi Dhiwayo her brother, Mikay Caiphus Dhiwayo, confirmed the witch-doctor's findings.

Another villager stood up and informed the crowd that she had also consulted a different diviner of Tafelkop, who identified Caroline Thunago as the witch.

Tau Moses Matlala then informed the crowd that the best way to deal with witches was to kill them. The two elderly women were then taken and caused to sit in front of the crowd.

Some young boys went and collected a five litre container of petrol.

Caiphus Dhiwayo then doused both women with petrol. The group then started attacking them with an assortment of weapons and they were subsequently set alight.

The two women were later taken to hospital, but as they had suffered first degree burns, they both died some four days later.

Moses Matlala and the other accused were found guilty of both murders. He was given an effective fifteen years jail sentence. The other accused were each sentenced to twelve years effective imprisonment.

Observation

Members of the family of the girl killed by lightning were the ring leaders of the whole attack on the alleged wizards.

Magistrates Court Cases

1992

BOCHUM: CASE NO 1088/92 (CR 12/11/92) ACCUSED: VICTOR MATHOLE (18)

The complainant (30 years of age), in this case was approached by the accused and Michael Sebela. The accused alleged that she had killed their mother. The accused and Michael Sebela said that the complainant and her husband should be burnt on Sunday because they were witches.

She informed Chief Sekgamela who advised her to lay a charge at the police.

SENTENCE: 3 months imprisonment.

1993

BOCHUM: CASE NO 1389/93 (CR 102/11/93) ACCUSED:

1. M.J. SEPANELA (30)
2. M.M. SEPANELA (34)

Accused no 1 approached the complainant (42 years) and requested her to give her a photo which she wanted to enlarge. The complainant told accused no 1 that she has sent the photo to her husband.

Accused no 1 then called the complainant a witch and that she also kept *zombies* in her house and that she is going to use the photo to change the complainant into a *zombie*.

Three days later the complainant was visited by accused no 2 and was accused that she intended killing accused no 1 (the younger sister of accused no 2) with the photo.

SENTENCE: The two accused were each sentenced to R200 or 50 days imprisonment.

NOTE: This is an example of a friendship which went sour.

BOCHUM: CASE NO. 1353/93 (CR 46/08/93) ACCUSED: MARA THAMAGA (35)

The complainant (45 years), and the accused were selling fruit when the accused started accusing the complainant of being a witch, and that the accused will, by means of witchcraft, cause the complainant to be hit by a car. The accused threatened to burn the complainant with tyres because she is a witch.

NOTE: From the information in the file it seems as if the accused suspected the complainant to be having an affair with her husband.

The accused was found not guilty and was discharged.

BOCHUM: CASE NO. 31/93 (CR 101/7/93) ACCUSED: CM MAOPELO (52) AND M MAPELO (30)

The two accused in the presence of other people accused the complainant (35 years), of being a witch who crawls into their houses during the night. It was also alleged that the complainant had changed her husband into a *zombie* by using medicine (*muti*) which the complainant received from her mother.

Accused no 2 was convicted of *crimen injuria* and sentenced to R60 or 60 days imprisonment suspended for 3 years.

BOCHUM: (CR 84/08/93) ACCUSED: EVELYN LEGODI

The complainant (47 years), was drinking tea with her employee, the accused, when she noticed that the accused had medicine (*muti*) in her hand. She was under the impression that the accused wanted to poison her. She asked the accused about the *muti* and the accused said that it is the black part of bread.

The accused was not charged.

NOTE: The possibility of embittered labour relations in this case is not excluded.

BOCHUM: CASE NO 532/93 (CR 57/05/93) ACCUSED: JOHN MATOBA (23)

Both the accused and the complainant were at a *kgoro* meeting, when the accused told the *kgoro* that the complainant had given him some poisonous liquid and that the complainant was a witch. (The complainant is 54 years of age)

The accused alleged that the complainant had poisoned his beer. The accused was hospitalised but his hospital file was never produced at the *kgoro* meeting to establish what was the cause of his ailment.

SENTENCE: 3 months imprisonment.

BOCHUM: CASE NO 857/93 (CR 04/06/93) ACCUSED: WILHEMINAH MOKGAWA (53)

The accused alleged that the complainant (46 years), went to a witchdoctor to learn how to bewitch people. The complainant went to the headman who referred her to the police.

The accused was found not guilty.

BOCHUM: CASE NO 849/93 (CR 61/06/93) ACCUSED: FREEDY RASEBETJA (41)

The accused requested the community at Mohodi New Stands to attend a *kgoro* meeting. According to him the reason for the meeting was to accuse the complainant of practising witchcraft, because she culled the police to come to Mohodi and then ran away. The complainant is 64 years of age.

At the *kgoro* meeting it was decided that the complainant should be burned.

The case was withdrawn at the complainant's request.

NOTE: The possibility exist that the complainant was suspected of being a police informer.

BOCHUM: CASE NO 1289/93 (CR 15/10/93) ACCUSED: PAULINA SEMENYA (34)

The accused called the complainant (40 years) a witch everytime she met the complainant. The accused said that she saw the complainant drinking from a wolf in the street.

SENTENCE: R250 or 90 days imprisonment.

BOCHUM: CASE NO 1410/93 (CR 11/10/93) ACCUSED: MERRIAM LEBHOHO (27)

The accused and the complainant (27 years), shared a room. The accused however moved to a separate room. The accused then approached the complainant and called her a witch because she stole a receipt belonging to the accused.

The accused was found not guilty.

NOTE: This is a case where a friendship went sour.

BOCHUM: CASE NO 1429/93 (CR 28/11/93) ACCUSED: MMASEJA MANYELO (58)

The complainant (53 years), overheard the accused saying that the accused picked up a shoe belonging to a certain Mrs Mogoshi and that she intended using the shoe to bewitch the said Mrs Mogoshi so that she will cry night and day. The complainant also told ladies at a liquor party that she had killed two snakes at her place and that the snakes were sent by the accused. The case was withdrawn.

NOTE: Statements of the two ladies to whom the allegations were made, were not obtained by the police. It is clear from the investigating diary that despite instructions from the Lieutenant to obtain the said two statements, his instructions were simply ignored.

1994

BOCHUM: CASE NO 1481/94 (CR 75/11/93) ACCUSED:-

1. J.K. TSIANO (49)
2. P.K. MAPHAKELA (48)
3. S MOTSHOLANE (21)
4. P. MPHAKA (19)

The complainant (71 years), attended a meeting at the headman's kraal. The reason for the meeting was to try and establish who the witches were at the village.

The four accused alleged that the complainant was a witch. They told the meeting that a witch-doctor told them that she was a witch. The four accused and other members of the community then damaged two of the complainant's houses and she and her family were told by the community to leave the village.

The four accused were found not guilty.

NOTE: A statement from only one other witness was obtained and according to his statement he only saw the complainant when she was leaving her kraal and she then told him what happened. This case was not properly investigated.

BOCHUM: CASE NO 502/94 (CR 89/01/95) ACCUSED: ANNANIAS SEANEBO (22)

The accused visited the complainant (32 years), at her kraal and in the presence of the complainant's mother-in-law, without any reason or motivation, called her a witch.

Case was withdrawn.

NOTE: The reason for the accusation apparently was that the accused was unhappy because the complainant welcomed his sister-in-law with great enthusiasm and that he received a cold reception.

BOCHUM: (CR 142/02/94) ACCUSED: ALBERT MANAKA

The complainant (76 years), was having a school committee meeting at her house. The accused who is a member of the school committee requested the complainant to give him money in his capacity as a member of the building committee.

The complainant told the accused that she cannot give him money without the authorisation of the members of Bensig, as the money belonged to them. The accused became angry and called the complainant a witch.

The State declined to prosecute.

NOTE: It is obvious that the accused was angry and upset because the complainant did not want to give him the money belonging to the Bensig community.

BOCHUM: CASE NO 556/94 (CR 63/03/94) ACCUSED: JOSEPH MABALALA (28)

The accused approached the complainant (75 years), in his kraal and accused him of cutting the accused's hair during the night. The complainant denied it and was then called a witch by the accused. The accused also said that it was the complainant's intention to kill him. The accused then assaulted the complainant.

The accused was convicted of assault with the intention to do grievous bodily harm.

SENTENCE: R300 or 2 months imprisonment.

NOTE: In his statement to the police the accused admitted that he has referred to the complainant as a witch.

BOCHUM: CASE NO 144/94 (CR 83/04/94) ACCUSED: K W MOLELE (53)

The complainant (43 years), was visited during the night by the accused. The accused without any motivation called the complainant a witch and alleged that the complainant had caused the death of many people. The accused also alleged that the complainant was going around with zombies.

SENTENCE: R300 or 3 months imprisonment half of which was suspended for a period of 3 years.

NOTE: The accused and the complainant are neighbours. The complainant's wife, in her statement, stated that the accused told them that she and her husband must bring their daughters back.

BOCHUM: (CR03/06/94) ACCUSED: LORRAINE MOLOTO

According to the complainant (30 years), the accused came to her in her kraal and alleged that she gave the complainant's mother muti but that she did not know how the muti works.

The accused could not be traced by the police.

BOCHUM: CASE NO 663/94 (CR28/06/94) ACCUSED: MARIA MAOTO (38)

The accused came to the complainant's (34 years) kraal, she had a knife in her hand. The accused said that the complainant was a witch because she obtained a Spaza Shop through her witchcraft practices. The accused also alleged that the complainant's mother was killed by the complainant through witchcraft.

The accused was found not guilty.

NOTE: From the statements in the file it seems as if there was a quarrel between the two ladies.

1995

BOCHUM: CASE NO 80/95 (CR 133/08/95) ACCUSED: ELISA BOLOKA (48)

The accused accompanied by her daughter and a certain man came to the complainant's (32 years), home and accused the complainant of bewitching the accused's daughter. She however did not say how the complainant bewitched her daughter.

The matter was withdrawn by the State and referred to the tribal court.

NOTE: The prosecutor does not have the authority to refer such cases to a tribal court.

BOCHUM: CASE NO 80/95 (CR 66/01/95) ACCUSED:-

1. ROSINAH NYAKU (58)
2. ELIPHUS MABIASELA (49)
3. PHINEAS MAKGWASHANA (55)
4. MAGGIE MABITSELA (70)
5. LISBETH MPASEKETSE (24)
6. ALBERT MPASEKETSE (20)
7. MARGARET MABITSELA (34)
8. CHRISTINAH MPASEKETSE (36)

The complainant (60 years), was at her elder brother's kraal when a group of youths came and informed her that they overheard her whispering that she is going to give a certain Albert Mbaskete a cigarette containing muti (medicine) with the intention of killing him. The youths then accused her of being a witch and that they are going to kill her. The elderly people however intervened and begged the young people not to kill the complainant.

The young people nevertheless went to the complainant's home and damaged her house. They also placed her belongings in the road and instructed her to leave the village.

Lisbeth Mpaseketse (accused no 5), made the following statement to the police:-

I am the accused in this case. I admit to having accused the complainant of being a witch because she had bewitched my brother Albert and she even told us that she killed Mmaphophi Sephuma and one Mr Mongalo and Nyaka. She further [said] to us that she is able to kill a boy and she further urinated in my parental hut.

Some of the other accused had made more or less similar statements to the police.

All 8 accused were found not guilty.

BOCHUM: CASE NO 139/95 9CR 93/01/95) ACCUSED: PETRUS MASAKANA (42)

The complainant went to the accused's house to ask the accused's wife for a lift. The accused told the complainant that his wife is not home and that she will be back later. The accused requested the complainant to sit on a bench and wait until the accused's wife returned home.

Later people arrived at the accused's kraal and he said to the complainant that the people are there to come and look at a witch (the complainant).

The complainant reported the incident to the chief's court, but the chief's court failed to resolve the problem. The complainant then reported the matter to the police.

The accused was found not guilty.

NOTE: It is possible that the accused's accusation might have been inspired by jealousy.

BOCHUM: (CR 129/1/95) ACCUSED: BEAUTY MAMABOLO (15)

The complainant (77 years), went to a certain kraal where he was told that two boys and one girl were struck by lightning on their way to school. The complainant and his wife then left for another kraal where a group of young boys and girls arrived. Three of the youths then tried to force the complainant to accompany a group of youths to a certain place.

The complainant refused. The youths threatened to assault the complainant. Fortunately the accused's son arrived on the scene and the mob dispersed.

Nobody was charged.

BOCHUM: CASE NO 199/95 (CR 27/02/95) ACCUSED: M B MASHILO (41)

According to the complainant (27 years), the accused arrived at her place and accused her of taking the urine of Lorraine Mashilo (the daughter of the accused) and that the said Lorraine Mashilo is now sick. The accused also alleged that the complainant had "poured blood of unknown animals". The accused alleged that she had been bewitched by the complainant. The accused did not stop with the accusations and the complainant decided to report the matter to the police.

The accused was found not guilty.

NOTE: The matter was resolved by the families before it was reported to the police. The matter was however reported to the police because the complainant did not stop with her accusations.

BOCHUM: CASE NO 344/95 (CR 112/3/95) ACCUSED: M S MOKGADI (21)

The complainant (25 years), was in her parental home together with her ex-boyfriend when they were approached by the accused. The accused said she wanted to talk with the complainant's ex-boyfriend in private. The complainant indicated that the accused can talk to her ex-boyfriend in her presence.

The complainant's ex-boyfriend then left, but the accused remained behind. The accused then told the complainant that she is a witch and that the complainant had bewitched a book belonging to one Mahlodi Thusakgale.

The complainant reported the matter to her guardian who advised her to lay a charge with the police.

NOTE: Once again jealousy might have played a role in this case.

The accused was found not guilty.

BOCHUM: CASE 397/95 (CR 45/04/95) ACCUSED:

1. ELISA RABOSHAKGA (39)
2. MARIA MALEFO (63)

The complainant's (55 years), daughter gave birth to a boy in the Pietersburg hospital. The mother of the child died a few days after the birth.

The complainant then heard rumours that his wife (accused no 1), and his mother-in-law (accused no 2), were telling people that the complainant caused the death of his daughter with a Zionist stick.

The complainant confronted the two accused concerning the rumours and they insisted that he is a witch and should be killed because he had bewitched his daughter.

The complainant tried to resolve the matter by requesting some of their relatives to intervene.

Both accused were found not guilty.

1991

MALEBOHO: (CR 15/02/91) ACCUSED: SOLOMON MAJIE (42)

The complainant (38 years), attended a funeral, during the ceremony the accused (the priest), accused the complainant of having struck the deceased with lightning which had caused her death.

The deceased (young girl), was impregnated by the complainant's son. He also said that the complainant killed the deceased with lightning because he did not want to pay damages for the impregnation of the deceased girl.

The prosecutor declined to prosecute.

MALEBOHO: CASE NO MB 122/91 (CR 13/04/91) ACCUSED: ANDRIES NKABADIMO (66)

The complainant (85 years) was at her home with her granddaughter when the accused started calling her a witch from the fence. She enquired from the accused why he refers to her as a witch, but he did not respond.

The case against the accused was withdrawn. Reasons unknown.

MALEBOHO: CASE NO MB 130/91 (CR 16/04/91) ACCUSED: MAVIS RAKGORORO (27)

The complainant (64 years), went to the kraal of the Rakgoropos' to deliver a message. After she had delivered the message she returned to the ploughing fields. After some time the accused approached the complainant in the ploughing fields and told her that she is a witch.

She further said that the accused had killed her uncle and that she intended killing her late uncle's son as well. The accused further threatened the complainant that they were going to kill her.

The accused was convicted of contravening Sect 1 (a) of Act no 3 of 1957 (The Suppression of Witchcraft Act).

SENTENCE: Cautioned and discharged.

MALEBOHO: CASE NO MB303/91 (CR 23/09/91) ACCUSED: QUEEN MOTLAPEMA (15)

The complainant (40 years), and her sister were at home when the accused arrived and told the complainant's child that the complainant had killed her younger brother.

The complainant reported the incident to the father of the accused. The father did not do anything about the matter and she then reported it to the police.

The accused was found not guilty and was discharged.

NOTE: Earlier the younger sister of the accused was assaulted, or, rather given a hiding by the complainant.

MALEBOHO: (CR 31/09/91) ACCUSED: CARVINE MANAMELA (23)

The complainant (16 years), was in her parent's kraal with two young boys when the accused arrived. The accused then hit her with a saucepan and accused her and her mother of being witches.

The accused later came back and apologised. The mother of the complainant as well as the complainant, decided to withdraw the charge.

NOTE: The reason for the quarrel was that the complainant failed to return two berets belonging to the accused.

MALEBOHO: CASE NO MB264/91 (CR 42/08/91) ACCUSED: JOSEPHINE RASEKGANYA (35)

The complainant (35 years) was in her yard at Taabosch when the accused, who is her next door neighbour, told her that she is a witch. She said that the complainant has sent a "tokoloshi" to destroy her family. She further accused the complainant of being in love with her husband.

The accused was found not guilty and was discharged.

NOTE: It is obvious that jealousy was the cause of the accusations.

MALEBOHO: CASE NO MB 267/91 (CR 28/08/91) ACCUSED: ANDRIES LESIBA (50)

The complainant (61 years) and her children were at their kraal when the accused arrived. The accused then accused her of killing his son. He also informed the complainant that he had been

pointed out by the traditional healers. The complainant replied that both of them should go to the traditional healers, but the accused refused. The accused further told the complainant that if he is to be killed by the accused's son, it will not be his fault.

SENTENCE: R400 or 4 months imprisonment. R300 or 2 months suspended for a period of 3 years.

MALEBOHO: CASE NO MB 217/91 (CR 2/07/91) ACCUSED:

- (1) JOHANNA MASENA (38)
- (2) MMASETLA BOTSWANA PULEDI (82)
- (3) ELISA MAHLADISA (83)

NOTE: Note the age of accused no 2 and 3.

The complainant (30 years), visited her mother-in-law who was ill. On her arrival she found accused no 1 and 3.

Accused no 1 and 3 decided to consult a witch-doctor to try to establish what was the cause of her mother-in-law's illness. They then fetched accused no 2 (the witch-doctor).

The witch-doctor had a leather bag containing knuckle bones (*ditaula*). He requested the 6 people present to pay him R10 for his services. One Dafoma gave him only R5.

The witch-doctor then took his knuckle bones and threw it on the floor. After reading the bones he said it was the complainant who was bewitching her father and mother-in-law. Accused no 1 and 3 then said that for a time they had suspected that the complainant is a witch.

NOTE: This is one of the few cases in which the witch-doctor was also charged and brought before court.

All 3 accused were found not guilty and were discharged.

MALEBOHO: CASE NO MB 185/91 (CR 12/06/91) ACCUSED: LINAH KAOTA (46)

The complainant (65 years), was in her kraal when the accused told her that she is a witch. She also accused the complainant of sending her zombi to go and fetch the accused's water. She also used other insults. There were no other people who had witnessed the accusations.

The accused was found not guilty and discharged.

MALEBOHO: CASE NO 176/91 (CR 52/05/91) ACCUSED: FLORA NKAPENG (18)

The complainant (30 years), went to fetch water at the water taps when she asked the accused why she referred to her, at a previous occasion, as being a prostitute. A fight then ensued between the two and the accused called the complainant a "witch-doctor" and threatened to inform the comrades so that they could kill the complainant.

According to the accused the complainant took her plastic container with 20 litres of water away from her, and she then threw a stone at her, striking her on the hip. She further stated that the complainant wanted to hit her with a stick.

The accused was found not guilty and discharged.

MALEBOHO: CASE NO 28/91 (CR 65 /12/90) ACCUSED: RUFUS SEBOLO (18)

The complainant (60 years), received a report that the accused had referred to her as a witch. He told certain people in the village that the complainant had *zombies* who worked for her and that she had bewitched many people at Taaitbosch.

The accused agreed with the above-mentioned evidence of the complainant.

SENTENCE: 3 months imprisonment.

MALEBOHO: CASE NO 12/91 (CR 43/01/91) ACCUSED: PHILLEMON MASILO (23)

The mother of the accused requested the complainant (50 years) to come to his kraal. She arrived accompanied by three other people. On her arrival she found the accused, his wife and his mother at the kraal. They all were seated in the lapa of the kraal.

The accused then stood up and accused the complainant of being a witch. He said that she had bewitched him and that is the reason for his mental illness. He threatened to kill the complainant within the next two weeks.

Apparently the accused went to a witch-doctor for treatment of his mental illness. The witch-doctor had told him that Mma Elisa Setata had stolen his underwear and that she had used that to bewitch him.

The accused was found not guilty and was discharged.

NOTE: No statement was obtained from the witch-doctor.

MALEBOHO: CASE NO 50/91 (CR 192/02/91) ACCUSED: MARIKY MPHATENG (39)

The complainant (41 years) was at his kraal when he was called by the accused who alleged that he was a witch. She further told the complainant that she had seen him during the night while he was naked.

The accused, on the other hand, stated that she only said that the complainant came to her kraal without wearing any clothes.

The accused was found not guilty and was discharged.

MALEBOHO: CASE NO 80/91 (CR 230/02/91) ACCUSED:-

1. ALBERT MASIPA (31)
2. SIMON MOKGALUSHI (36)
3. STEPHEN MASIPA (40)

Accused no 3 burned the deceased's hut. The deceased (65 years), had, however, fled to the house of his son. The deceased had locked himself in the kitchen of his son's house. Accused no 1 and 2 broke the door and entered the house. Accused no 3 stabbed the deceased on his neck with a spear. Accused no 1 then chopped the deceased also on the neck with an axe. The two accused then pulled the deceased to his kraal where they put the body in the hut and set the hut alight.

Accused no 1 and 3 are brothers and both of them testified that they had killed the deceased because he had killed their late father by means of witchcraft.

In his statement to the police accused no 2 admitted that he had also set the hut alight. It is not clear from the evidence how the deceased bewitched the father of accused no 1 and 3.

Accused no 2 was found not guilty and was discharged.

Accused no 1 and 3 were convicted of:-

1. Murder
2. Arson
3. Malicious damage to property.

SENTENCE: The charges were taken as one for purpose of sentence. Both the accused were sentenced to 6 years imprisonment of which 3 years were suspended for 5 years.

MALEBOHO: CASE NO 64/91 (CR 22/02/91) ACCUSED:-

1. ALBERT MAILULA (69)
2. WILLIAM MAKGATHO (55)
3. GRACE MAKGATHO (43)

The complainant (28 years), was summoned to the 'kgoro' (court) while the 'kgoro' was in session. The 3 accused stood up and told the court that the complainant was a witch and that she had struck Mr Johannes Selobela with lightning.

A member of the audience said that a "witch-doctor" should be consulted to clarify the issue. This proposal was not accepted and the complainant was instructed by the 'kgoro' (court) to leave the area.

According to the evidence of the witness Annah Selobela, who also attended the 'kgoro' meeting. Accused no 1 stood up and said that the complainant must leave the area because she was a witch and that she was the one who had struck her house with lightning.

All 3 accused were found not guilty and were discharged.

MALEBOHO: CASE NO 216/91 (CR 03/07/91) ACCUSED: WILSON KOKO (20)

The accused was arguing with one Salome Boloka concerning cold food, when the complainant (25 years), interfered. The accused then stood up and hit the complainant on the mouth with an unknown object. The complainant's grandmother then pushed the accused out of the house, but he later came back and told the complainant that she had bewitched him and that he wanted to kill her.

The accused was found not guilty.

NOTE: It seems as if this was just an ordinary quarrel concerning the cold food.

MALEBOHO: CASE NO 166/92 (CR 24/03/92) ACCUSED: SAMSON MOLEPE (29)

The complainant (56 years), was in her kraal together with 4 other people when they saw the accused assaulting his wife. One of the 4 people went to separate the accused and his wife. The accused then came to the gate of the complainant's kraal.

He pointed a finger at her and told her she was a witch and that she was the cause of the quarrel between him and his wife. He also accused her of administering *muti* to his wife.

The accused was found not guilty and was discharged.

NOTE: This was a dispute or argument between neighbours.

MALEBOHO: CASE NO 447/92 (CR 90/11/92) ACCUSED: ROSINA MPHATENG (63)

The complainant (55 years) in this case was forced to go to the hut of the accused. At the hut of the accused it was alleged that it was the complainant who had set the accused's hut alight. This was denied by the complainant. The complainant was then accused of setting the accused's house alight by striking it with lightning.

The accused disappeared and a warrant for her arrest was issued.

MALEBOHO: (CR 04/12/92) ACCUSED: JEREMINAH MPHAGO (21)

The complainant's (60 years), sister-in-law died and she went to the deceased's house after she had received the message of her death. There were quite a number of people at the deceased's house.

The accused (the daughter of the deceased) arrived some time later, because she had gone to fetch wood in the veld. The accused then alleged that it was the complainant who had caused the death of her mother. She however did not say how and why.

The version of the accused was that he had asked the complainant to leave her mother's home because he had never visited her late mother during her illness.

The prosecutor declined to prosecute.

MALEBOHO: CASE NO 1493/92 (CR 83/11/90) SUPREME COURT CASE NO CC 173/92
ACCUSED:-

1. JEFFREY MOKGOBU (21)
2. JOHANNES MOKGALUSHI (19)
3. DANIEL MOLAPU (19)

One Emmanuel Mohlape fell ill and died. Before his death he told one Wilson Mohlape that the deceased (62 years), in this case had bewitched him. A group of youths met at the football ground and decided to go and kill the deceased. The group consisted of 30 or more youngsters. They confronted the deceased, who ran away.

Some of the young people were armed with knobkerries, some with bottles and the rest with all kinds of dangerous weapons. Accused no 1 stabbed the deceased with a spear. After the deceased was killed the group of young people left the scene of the crime.

SENTENCE: The 3 accused were each sentenced to 5 years imprisonment, which was wholly suspended for 5 years.

NOTE: Originally 13 people were charged but the case against 10 of them was withdrawn on the instructions of the Attorney-General.

MALEBOHO: CASE NO MB 182/92 (CR 92/02/92) ACCUSED: LINKY MAEWASHA (22)

The complainant (34 years), was at her kraal when the accused called her to come to the fence. The complainant stood up and walked to the fence. The accused said to the complainant that it is long that she was looking for the "witch".

She further said that the complainant set fire to her kraal during the night. These words were uttered in the presence of witnesses.

SENTENCE: R200 or 4 months imprisonment.

NOTE: The accused apparently had an affair with the complainant's boyfriend.

MALEBOHO: CASE NO MB 15/92 (CR 17/01/92) ACCUSED: SAMUEL MAKOBELA (34)

The complainant (32 years), was at home with the accused. Both of them were seated on the floor when the accused told the complainant to refrain from bewitching him. He also threatened to shoot her with a fire-arm if she does not stop bewitching him.

The accused overturned his vehicle at one stage and he blamed the complainant for the accident because of her witchcraft practices.

The accused's explanation was that he once dreamt that the complainant took some clothes to a grave and these clothes belonged to him. The following day he was involved in a car accident.

He further stated that he threatened to shoot the complainant because he was frightened that she might kill him by means of witchcraft practices.

The accused was found not guilty.

MALEBOHO: CASE NO 164/92 (CR 10/04/92) ACCUSED: JOSEPHINE SEHLAKO (40)

The complainant (27 years), was on her way from Taaibosch to London when she met the accused and two other people. The accused told the complainant that she must not bewitch her daughter. She also said that the complainant must allow the accused's daughter to give birth without bewitching her.

The abovementioned words were stated in the presence of 3 witnesses.

The accused was found not guilty and was discharged.

MALEBOHO: (CR 62/09/92) ACCUSED:

1. CHARLES CHIPU (26)
2. NORMAN SEPAOLA (21)

The complainant (37 years), was preparing breakfast for herself when she was approached by the two accused who told her that she was a witch. She asked them why they accused her of witchcraft. The only response she got was that they started swearing, referring to her and her mother's private parts. Her cousin intervened and the two accused left.

The prosecutor declined to prosecute because the complainant could not be traced to be subpoenaed for court.

MALEBOHO: CASE NO 244/92 (CR 686/06/92) ACCUSED:

1. SHEPARD KOPA (17)
2. DAVID MANKGA (17)
3. JERRY MOSENA (40)
4. PETRUS TLOU (14)
5. ALPHEUS MANTJI (15)
6. JOSEPH KGALUSHI (17)
7. DAVID MAKOBOLOLO (17)
8. GLORIA SETHOSA (32)

The complainant (60 years), was at Makgato walking on the road when he was confronted by a group of youths. One member of the group told the rest that he was a witch and that he was selling brains of crocodiles.

The complainant was then assaulted with fists, stones, booted feet and open hands. One of the mob also stole R450 from his pocket.

Some of the members of the group then put a car tyre around his neck and threatened to burn him. He started to scream for help and a man arrived on the scene who told the mob not to burn him.

The complainant reported the matter to the kraal of the headman, as he had sustained serious injuries.

The charges against the accused were withdrawn because the police could not trace the complainant to subpoena him to attend the trial.

MALEBOHO: CASE NO 168/92 (CR 16/04/92) ACCUSED: WILLIAM MOKGOSU (62)

The complainant (74 years), was busy chasing her goats into the kraal when the accused approached her and stood next to the fence of the kraal. He then accused the complainant that she was a witch and that she killed people at Molefji. The accused threatened to kill the complainant and burn her house.

The accused was convicted of contravening Section 1(a) Act 3 of 1957 (indicating another person as a witch).

SENTENCE: R200 or 4 months imprisonment.

MALEBOHO: (CR 44/10/92) ACCUSED: MAELISA RASEWAYO (58)

The accused allegedly came into the complainant's (56 years), kraal and accused the complainant that she and a certain Eliza had bewitched her daughter. She further stated that her daughter who is mentally retarded sometimes screams, calling out their names.

The complainant asked the accused whether she was sure that they had bewitched her daughter. The accused responded in the affirmative because her mentally retarded daughter always calls out their names.

The prosecutor declined to prosecute.

MALEBOHO: (CR 45/10/92) ACCUSED: MAELISA RASELAYA (58)

The accused approached the complainant (40 years), and accused the complainant that she wants to kill her child because she is a witch. The child is mentally retarded. The complainant asked the accused why she says that she is a witch and the accused said it is because her daughter always calls out the name of the complainant.

The accused further said that the matter should be resolved between families.

NOTE: The daughter of the accused is now a psychiatric patient.

The prosecutor declined to prosecute.

MALEBOHO: CASE NO 439/92 (CR 14/11/92) ACCUSED: ANNAH MOKGALUSHI (45)

The complainant (60 years), was at her kraal with her husband. The accused stood at the gate of the kraal and shouted to the complainant that she has a red vagina and that she was a witch. She also alleged that the complainant had killed her child. She did, however, not say how and why.

NOTE: (1) The accused and the complainant are neighbours.

(2) There was a quarrel between the two neighbours.

SENTENCE: R150 or 3 months imprisonment wholly suspended for a period of 3 years.

MALEBOHO: (CR 08/03/93) ACCUSED: MATOME MAKALELA

The complainant (47 years), was at a night vigil when the accused arrived there. The accused then told the complainant that last mentioned had killed the accused's brother Johannes Makalela.

This Johannes Makalela was killed on the Reef. The complainant then told the accused that he was not a witch and had not killed his brother.

It seems the complainant's son and the accused's brother were involved in a fight.

No arrest has been made.

NOTE: According to information in the police file the brother of the accused was killed on the Reef by so-called *tsotsis*.

MALEBOHO: (CR 08/07/93) ACCUSED:-

(1) MAKOMA MOHLAPE (19)

(2) TIM MASHAMELA (23)

The complainant (20 years), went to the sports ground where she met the two accused. Accused no 1 alleged that the complainant visited her place of residence during the previous night. This was denied by the complainant and the two accused then accused her of practising witchcraft. Accused no 1 threatened the complainant that he was going to call a group of youths to burn her.

The prosecutor declined to prosecute the two accused.

MALEBOHO: (CR 25/04/93) JACOB RAMOLONO

The accused alleged that the complainant (51 years), was a witch and that the two of them should go to the *induna* and ask him for a letter of permission to go and consult a witchdoctor, to find out whether the complainant was a witch.

The *induna* informed them that he does not have the authority to give such a letter and the accused and the complainant then left the kraal of the *induna*.

The complainant at a later stage made a withdrawal statement because the accused is a relative of her's.

MALEBOHO: CASE NO 121/93 (CR 29/04/93) ACCUSED:-

- (1) JOSEPH MOSENA (26)
- (2) DAVID RASEBOLA (23)
- (3) CATHRINA CHUENE (36)
- (4) JOHANNA MOSENA (33)
- (5) SALVINA MTHIMKULU (42)
- (6) JOYCE MOLEA (23)
- (7) LUCY MOLEA (25)
- (8) VELI MOLEA (25)
- (9) SAMUEL SELEPE (30)
- (10) SOPHONTA MOSENA (27)

The complainant (46 years), was at a wedding feast when it was reported to her that some of the people from Mosena were busy damaging her house and assaulting her son. When the complainant approached her home she was chased by a group of people who threw stones at her. When they caught up with her they kicked her with booted feet and hit her with fists. They accused her of striking their child with lightning.

They also told her that she was a witch and threatened that they were going to burn her house. Two policemen arrived on the scene and intervened.

NOTE: This matter was, before the above-mentioned incident took place, reported to the Chief.

Accused' nos 4 - 10 were found not guilty.

SENTENCE: Accused nos 1 - 3 were found guilty of contravening the Lebowa Act on Witchcraft, section 1(a) Act 2 of 1992 and were each sentenced to 6 months imprisonment, wholly suspended for a period of 3 years.

MALEBOHO: (CR 53/04/93) ACCUSED: SETSHENE MAMOLEKA (63)

The accused approached the complainant (41 years), at her kraal and said to her that she understands that the complainant wanted to see her. She said to the accused that she actually wants to see the grandchildren of the accused because they had insulted her sister-in-law. The accused then alleged that the complainant had killed her mother-in-law so that she could get the pension for her lame sister-in-law.

The accused also accused the complainant of placing a snake in her brother-in-law's shoe to prevent him from visiting their kraal. She also said that the said brother-in-law will never succeed in finding a job, because he has been bewitched by the complainant.

The prosecutor declined to prosecute.

MALEBOHO: CASE NO 107/93 9CR 69/3/93) ACCUSED:-

- (1) ALBERT MASELA (34)
- (2) DEFENCE MACHAKA (43)

The complainant (31 years), was in her kraal when the two accused arrived. Accused no 1 accused her of causing the death of one Philimon Hlapa. Accused no 2 assaulted her. Accused no 1 accused her of practising witchcraft and that she had bewitched the deceased Philimon Hlapa. He then assaulted the complainant. Both of them then left the kraal of the complainant.

SENTENCE: Accused no 1 was convicted of accusing the complainant of being a witch and sentenced to R300 or 3 months imprisonment.

Accused no 2 was convicted of assault common and sentenced to R60 or 60 days imprisonment.

MALEBOHO : (CR 72/03/93) ACCUSED: SARAH MAMADI (27)

The complainant (30 years), was at her kraal with her husband when the accused arrived. The accused asked the complainant why she was after her. The complainant asked her why she was saying so. The accused responded by alleging that the complainant was responsible for her daughter's illness because she had bewitched her. The accused then threatened to kill the complainant.

The prosecutor declined to prosecute.

MALEBOHO: (CR 11/01/93) ACCUSED: COSTANCE MFEKO (25)

The complainant (50 years), was passing next to the house of the accused when she heard somebody calling her a witch. The complainant stopped and confronted the accused and asked her whether she was referring to her. The accused answered in the affirmative and also alleged that the complainant had killed many people.

The version of the accused, however, differed from that of the complainant. According to her, the complainant said that the complainant herself is an old witch and that she will kill the accused.

The prosecutor declined to prosecute.

MALEBOHO: CASE NO MB 16/93 (CR 21/01/93) ACCUSED: ISAAC MAKOBOLLOLO (47)

The complainant (60 years), went to the accused to collect the R30 he owed her. She asked the accused for the money but he refused to give it back. He then pushed her out of his house and called her a witch. He later repeated the allegation in the presence of her husband.

SENTENCE: The accused was convicted of contravening Section 1(a) of the Witchcraft Suppression Act, (Act 3 of 1957) and sentenced to R250 or 3 months imprisonment, wholly suspended for 5 years.

MALEBOHO: CASE NO MB 26/93 (CR 27/01/93) ACCUSED:

- (1) ROSINAH MABOTJA (24) (2) JACKSON MAIFO (35) (3) SILENCE SELOMO (41)

The complainant (60 years), was a member of a group of people who gathered in a bush to discuss the incident in connection with the striking by lightning at Monokwane's kraal.

Each family agreed to contribute R10-00 to consult a witchdoctor to divine to find out as to who was responsible for the lightning. Accused no 2 and 3 collected an amount of R650. Accused no 1 stood up and alleged that it was the complainant who had sent the lightning.

Accused nos 2 and 3 were both found not guilty.

SENTENCE: Accused no 1 was convicted of accusing a person of being a witch - thereby contravening section 1(a) of the Witchcraft Suppression Act, (Act 3 of 1957), and sentenced to R300 or 3 months imprisonment, half of which was suspended for a period of 3 years.

MALEBOHO: CASE NO 449/93 (CR 84/10/93) ACCUSED: RICHARD NGOEPE (28)

The complainant (20 years), was at the home of the accused together with his family. The complainant was the girlfriend of the accused. She went to his room and put her child on his bed. The accused then said to the complainant that she must leave because he is no longer in love with her. She said he must give her money to enable her to travel to her home at Rustenburg. He then assaulted her and threatened her with a fire-arm and called her a witch.

The accused disappeared and a warrant for his arrest was issued.

NOTE: This is a case of where a love affair went wrong.

MALEBOHO: CASE NO 59/93 (CR 35/01/93) ACCUSED: MAMOYAHABO MAREMAGAO (61)

The complainant (41 years), was working on a car when the accused called the complainant and said 'Kwela'. She said he is a wizard, and that he had killed children with lightning.

She called him by his private parts and said "marethe a gago", meaning "your testicles" which is derogatory. She also accused him of stealing money from the school.

SENTENCE: R400 or 6 months imprisonment wholly suspended for 5 years.

NOTE: Three school children were struck by lightning which caused their deaths.

MALEBOHO: (CR 06/06/94) ACCUSED: ANNAH SEBOLA (44)

The son of the accused was sent to the complainant (43 years) to tell her that the accused said that she and a certain Annah Lehaka were witches. The two of them went to the house of the accused and confronted her concerning the allegations. The accused said she would take them

to a witch-doctor to prove his allegations. The Taaibosch community then met and concluded that they had no proof that the complainant was a witch and that she must report the matter to the police.

The prosecutor declined to prosecute and instructed that the matter should be referred to the tribal court.

NOTE: We want to reiterate that the prosecutor has no power to refer such a matter to a tribal court

MALEBOHO: CASE NO 433/93 (CR 30/12/93) ACCUSED: MARTHA LEBEPE (75)

A certain Mr Kobe came to the house of the complainant (29 years), and told her to come and collect her stone from the house of the accused. He further said that her stone is causing a "tokoloshe" and that the accused cannot sleep.

The complainant told Mr Kobe that she had never thrown a stone at the house of the accused.

A tribal meeting was called to solve the problem. The meeting decided that a "witch-doctor" should be consulted, but the accused refused. She then again accused the complainant of witchcraft in the meeting.

SENTENCE: R300 or 3 months imprisonment.

MALEBOHO: (CR14/11/93) ACCUSED: WILLY MATHEKGAKA (27)

The complainant (43 years), was reporting for duty at Bergveld, when the accused approached him and accused him of being a wizard and that he wanted to kill him with lightning when they are on duty. He also said that he is not afraid of the complainant.

The prosecutor declined to prosecute, despite the fact that a witness overheard what the accused said.

MALEBOHO: (CR 60/11/93) ACCUSED: GETRUDE SERUMULA (27)

The complainant (29 years), found the accused crying and asked her what the problem was. She said that the complainant had insulted her by saying that she must take along her child whenever she goes to the river. The complainant explained that she only meant they must play under the tree. The accused then said to the complainant that she must not kill her child and she further alleged that she hated the complainant's child. She further accused the complainant of bewitching her mother and also said that her child was seriously ill because the complainant had bewitched her.

The prosecutor declined to prosecute.

MALEBOHO: (CR 07/11/93) ACCUSED: FRANCE MPHATENG (38)

The complainant (36 years), was on duty at Taaibosch together with the accused. The accused suddenly started to accuse the complainant of practising witchcraft. She asked the accused why he accused her of witchcraft. The accused then threatened to assault her with an axe.

The accused, on the other hand, alleged that the complainant pointed a finger at him and said that she does not want to see him, as when she sees him, she feels like vomiting.

The prosecutor declined to prosecute.

NOTE: This is an example of an ordinary quarrel between co-workers.

MALEBOHO: CASE NO REGIONAL COURT 501/93 (CR31/11/92) ACCUSED:

1. NORMAN MOKGOBU (30) 35
2. PIET SEHATA (44)
3. GEORGE MAKGOBU (23)
4. FRANS MOKGOBU (20)
5. NELSON MALEKA (20)
6. TROT MALEKA (20)
7. ROCKMAN SEHATA (21)
8. STEPHEN MAPUTLA (15)
9. ALBERT MANOKWANE (21)
10. JIMMY MARAKALALA (23)
11. PHINEAS MOEKETSI (30)
12. CAIPHUS MAPUTLA (20)
13. WILLIAM MODIBANE (30)
14. SIMON MAOKA (18)
15. GEORGE KGOTLANE (17)
16. ELIOT MALEKA (19)
17. MAYOR MAPUTLA (20)
18. JACOB MAIFO (20)

The complainant (59 years), was at her kraal when a group of male youths arrived. In her presence they then assaulted a certain Mr Sehata. They accused him of striking Mr Mokgobu's kraal with lightning. The group of youths then kicked her door with booted feet. They damaged her door as well as her gate.

The accused were convicted of malicious damage to property.

SENTENCE: The accused were all cautioned and discharged. In terms of section 300 of the Criminal Procedure Act, Act 51 of 1977 accused numbers 1, 3, 6 and 11 were ordered to pay the complainant R175 damages. If the one pay, the others to be absolved from payment.

NOTE: The R175 was for the damage to the door and the gate.

MALEBOHO: CASE NO MB 39/94 (CR 41/12/93) ACCUSED:

1. ELIZABETH MPOLOBOSHO (36)
2. JOSEPHINE MPOLOBOSHO (15)
3. MARGRET MPOLOBOSHO (9)
4. NELLY MPOLOBOSHO (12)

The complainant (28 years), was standing in her garden when the accused started throwing stones at her. The assault took place immediately after accused no.1 had called her a witch and said that she wants to bewitch her brother-in-law.

She also accused her of bewitching her brothers and her son. She also said that her *rikoloshi* took her money and maize meal and that the house she is building is paid for by the money her *rikoloshi* has taken from accused number 1.

The charges against accused number 3 and 4 were withdrawn. The reason being that they are, due to their age, presumed to be *doli incapax*.

Accused no 2 was found not guilty and was discharged.

Accused no 1 was convicted of assault (common)

SENTENCE: R90 or 3 months imprisonment.

NOTE: It is disturbing to note that children aged 9, 12, and 15 also participated in the incident.

MALEBOHO: (CR 48/08/94) ACCUSED: JOHANNES SESHOTI

The complainant (45 years), and other members of her family were at their kraal when the accused arrived.

They asked him where the firewood was. Elisa Seshoti told him that the firewood was not chopped and that he must go and chop it. He then turned to the complainant and called her a witch.

He further said that the complainant and three other women had bewitched him. He threatened to stab her with a knife.

The prosecutor declined to prosecute.

NOTE: This is a case where the word *witch* is used as mere vulgar abuse and not in the context that the complainant has supernatural powers.

MALEBOHO: CASE NO MB 181/94 (CR 18/07/94) ACCUSED: RUFUS MOKOALA (48)

The complainant (51 years), was a member of a group of people who were discussing the appointment of the new headman. The headman was appointed in place of the late Lazarus Somono.

Out of the blue the accused pointed his finger at the complainant and told him that he must keep quiet because he was a wizard and that he had caused the death of the late headman by giving him goat meat.

SENTENCE: R300 or 3 months imprisonment wholly suspended for a period of 3 years.

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MALEBOHO: (CR 07/06/94) ACCUSED: ANNAH SEBOLA (44)

The accused told the daughter of the complainant (54 years), that her mother had killed the younger daughter of the accused. The accused however did not state how or why.

The prosecutor declined to prosecute.

MALEBOHO: (CR 24/04/94) ACCUSED: PHINEAS MOKAKO (32)

The complainant (50 years), was taken to a prophet by the accused and some other people because they suspected that he was practising witchcraft.

The prophet, with the name of Matlakane, told the group of people that there was no one who had bewitched Godfrey Relejtane.

Despite the prophet's verdict the community insisted that the complainant leave the area.

The prosecutor declined to prosecute.

NOTE: Godfrey Relejtane's son is mentally disturbed and his family suspected that witchcraft was the cause of his illness.

The prophet said that the mentally retarded son was not bewitched and that he must go back to his kraal and pray to his godfather.

The witch-doctor placed a mat on the floor and requested the 4 clients to sit on the mat and ordered them to face in the same direction.

The four did so and he gave each of them two tablespoons of his medicine, which, according to him, would let them see the cause of the death of the late Samuel Mohale.

He further placed a white cloth in front of the four persons to form a screen on which they would see the person or persons, if there are any, who had killed or bewitched the said Samuel Mohale.