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J.S.P. Marlangoako.

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Courts of law and procedure of the Swana

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Courts.

1. Lineage Court
2. The petty chief's Court
3. The Chiefs Court

1. The lineage court tries cases and gives judgment in cases of that particular lineage. If the people have complaints or cases they take them to the court of their lineage. If they fail to give judgment in a case, that case is taken to the petty chief's court and again if that court fails to decide the case, it is taken to the chief's court. In this court, the final one, there are no two ways about it judgment must be given.

2. The petty chief's court tries cases and gives judgment in cases of a particular village only. If a person's case was tried in a lineage court and that court failed to decide it, it goes to the court of the petty chief and if it cannot be concluded there, it goes to the chief's court. If people get involved in a fight which results in bloodshed and injuries, they are not brought before the lineage court or the petty chief's court for trial, such a case is tried by the chief. Matters which go to the lineage court for trial, are disagreements and disputes, they are the same cases which go to the petty chief. If the people who have a dispute are dissatisfied with the trial of their case, their case goes to the chief so that they may be contented.

(Actual Case) Modise vs Maditlokoa.

Modise had married Maditlokoa, and after their marriage Modise went to the European towns to work. He stayed away for a very long time. Afterwards Maditlokoa returned to the home of her parents, she had despaired of her husband. While she was at the home of her parents, she gave birth to a child born to another man. When that child was already two years old, Modise came home. On his arrival, he found that his wife

had gone away to her home. When he asked his mother why Maditlokoa had gone away, his mother told him that Maditlokoa said that you paid no attention to her, and you also remained away from her for a long time in the European towns while you gave her nothing. Modise told his paternal uncles that he wanted Maditlokoa. His uncles told him that Maditlokoa had gone to the home of her parents and they said follow her, we had married you to her but she eventually went away because you neglected her. Modise went to the home of Maditlokoa. When he arrived there, he told his people-in-law why he had come there. His fathers-in-law told him that Maditlokoa had had a child by another man. Modise told them that he wanted Maditlokoa and he did not want to hear anything else. When the story of her husband was told to Maditlokoa, she kicked up dust and said "Modise stayed away for a long time in the European towns, he neglected me and he was not giving me anything". Modise was told that Maditlokoa would have nothing to do with him. Modise just said "I want her". The case was then taken to the lineage court for trial. Modise was found guilty for leaving his wife for such a long time. The judgment was that he should pay three goats. Modise said. They told Maditlokoa to leave the home of her people and go with her husband. When they arrived at Modise's home, Maditlokoa told her husband that she had no more love for him. One day Maditlokoa went away to her people's home. Modise followed her and when he arrived, he told his people-in-law what Maditlokoa had said to him. His fathers-in-law said that since she has come back after we had told her to go with you to your home, the way is now open to you to go to the petty chief and he will decide, now that she has come back whether we were wrong or not by ordering her to go with you to your home. Modise then went to the chief of the Mosidi and explained to him how the wife had left him. The next day, they went to the court in order that the court should

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hear the reason for his wife's return to her people. The petty chief found fault with Modise just as those who had decided the case previously. He said that he concurred with their judgment in which they ordered him to pay three goats. Now the petty chief also found fault with 'aditlokoa for returning to her parents' home after she had been ordered back to her husband who had been fined by the lineage court for staying away from her for a long time. She was sentenced to five strokes with a light stick, with an order to go with her husband to his home.

Molaru.

(Actual case) A man by the name of Jeremia once lent his paternal uncle an ox to help him to plough. When his uncle had finished ploughing, he sold that ox for two young oxen. Jeremia had gone to the European towns where he remained for two years before he came back to his home. One day as he was walking about, he came across his uncle's son herding oxen. Jeremia asked him where the ox was which he had lent his uncle. The little boy told him that his father had sold it for two young oxen, and he even pointed those young oxen out to Jeremia, and said it is this one and that one. Jeremia then went away. One day he went to his uncle to tell him that he would need the ox he had lent him. His uncle told him that he had sold it for young oxen. Jeremia told him that he wanted them. His uncle pointed out one to him and said that there was no other. Jeremia stood in wonder. He asked the little boy and said "By the way you showed me this ox and that one." The boy said "Yes those are the ones." The old man denied the boy's statement vehemently and said that one is not the same one. Jeremia asked the little boy whether or not there was any young ox which had one astray. The little boy said there was none, they were all there. The old man

got annoyed with little boy. Jeremia then left them and he went back to his home. The next morning he went to them again before the cattle were driven out of the kraal. On his arrival he told them point blank that he had come to take them by force. His uncle was confused and did not know what to do. Afterwards Jeremia then told him that he was going to the petty chief so that he should come himself to take them away because you have refused to allow me to take them. Jeremia left and went to Mokgosi, the petty chief of the Mago-dielo section. He explained to him how his uncle Gobueamang had refused to hand his oxen over to him. Mokgosi then said to Jeremia, "Go and call him and come together with him tomorrow". The next day, Jeremia came with his uncle and he told the people at the kgotla how he lent his uncle an ox and how his uncle sold it, and how the little boy had shown him the young oxen when he came across him while he was herding them. The people found his uncle guilty for selling an ox which he had borrowed after finishing his work. Mokgosi fined him a goat and ordered him on top of that to pay Jeremia the young oxen in accordance with the little boy's statement. In the evening when the oxen came home, Jeremia went there to fetch them. When he got there, his uncle still showed him only one, and he said he did not have the other one. When Jeremia left him, he went to inform Mokgosi that his uncle had refused to hand over the second one. Mokgosi's judgment was that he should take the case to the chief. He left for his home. Early the next morning he went to the chief and explained the case between him and his uncle and how his uncle had refused to hand the young oxen over to him. The chief told him to call his uncle and Mokgosi so that they should come and explain how they heard and decided the case. The following day Mokgosi, Jeremia and his uncle went to the

chief. Jeremia explained to the people at the chief's kgotla how he had lent his uncle an ox. When he finished, Mokgozi was then asked what his judgment was in the case against the man. When he had finished explaining how he heard the case and how he gave his judgment, the chief then asked Gobusamang whether Jeremia had lent him the ox to go and plough with it. He admitted that he had lent him for the purpose of ploughing. The chief then fined his uncle a beast and the goat which Mokgozi had fined him and that he should hand over the young oxen which the boy had pointed out to Jeremia. The chief sent out young men of a certain age group to go and bring Gobusamang's cattle in order that he should hand over the young oxen to Jeremia immediately. When the young men of the age group arrived with the cattle, the chief called the little boy to pick out those young oxen. When he had picked them out, the chief then picked out a big ox from the grove and slaughtered it. It was consumed at the kgotla. A man was sent to fetch the goat and hand it over to Mokgozi at his kgotla. Mokgozi also slaughtered the goat, the people of his village ate it. They were glad and said Jeremia was kind hearted as he had given them meat which they might not have had. The people who tried Jeremia's case are: Mokgozi, the petty chief, Komane, Bedi, Ramolome the assistants of Mokgozi in the trial of cases. These men became assistants by their knowledge of hearing cases. That is why in the trial of cases, you find them to be the most prominent people. It is not that they have any relationship with the chieftainship. Secondly these men never absent themselves from the kgotla. Always when there is a discussion, you will find them there at the kgotla, to listen and to help those who are inexperienced in speaking. When there is a case to be tried, Mokgozi notifies them the night before so that if they have any work they wish to perform, they should put it aside

in order to come and help him. But whoever fails to attend, is not blamed for that, those who manage to attend and take part in the trial enquire into all the aspects of the case and give judgment as they think it to be in accordance with justice. If they come to no definite decision, Mokgoei will tell the plaintiff or complainant to take the case to the chief and to tell the chief how the proceedings were conducted. The chief will ask Mokgoei together with those who heard the case or dispute to be present on the day of the trial.

Bedi Magodielo.

Chief's Court. The chief's court tries cases of theft, witchcraft, death and others. But these are not tried by the courts of petty chiefs or by the lineage courts. If a person is a wizard, he is taken straight to the chief and he is the only one to see what he can do with him. The same thing happens with a thief. For swearing another man, a person is brought before the lineage court for trial. He can be taken to the chief's court as well. But if he is a sorcerer, he is brought before the chief's court only.

(Actual case) A woman. A certain woman was once caught practising witchcraft. She had sent a grand-child. When the people caught the child it said that it was sent by its grandmother. They took the child to its grandmother with the medicine it was carrying. The child showed them its grandmother and the medicine. The next morning they went to the chief. When they arrived, they reported to the chief how they found the child together with the medicine she was carrying. The chief took the medicine from them and he called the witchdoctors to come and throw their divining bones. After they had thrown their divining bones, they told the chief that this medicine made the people of one family to fight with each other. When the chief had heard what the witchdoctors said, he sent for the woman sorcerer together with the people who caught her, and the men of the village only, with no women in their midst except that woman only. When they had gathered together, the chief told them about a woman sorcerer who had been brought to him and how she had been caught. All the men said, "Chief forgive her as it is the first time she has been caught, if she gets caught again, then we shall sentence her to death or drive her out of the village. The chief listened to what the men said but he sentenced her to pay three head of cattle. She was pleased with this, the men ate them

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at the kgotla. They burned the medicine with fire. That woman has never been caught to this day, but the people are afraid of her because she has been branded a wizard.

(Actual case) Komane once upon a time assaulted his wife Mapike. When Mapike ran away, she went to the chief and told him about the assault on her by her husband. Komane was fined a beast because his wife had made a mistake, she should have gone to the lineage court or the court of the petty chief first before coming here. Komane paid the beast and it was eaten at the kgotla. If a petty chief tries people who are not his subjects, he has the right to listen to the manner in which they try the cases. If he wishes to speak he does so, he is not stopped. The petty chief tries any case that is brought to him. But a case of witchcraft or theft is sent to the chief. The petty chief does not go into that at all, it is only the chief alone who sees to the hearing of it. If a petty chief has tried a case and it is committed to the chief for trial, the petty chief also goes to the chief to hear what the chief says and also to explain how he tried the case.

Punishments: The petty chief fines a man a goat and not a beast. The maximum for a petty chief is two or three goats. The chief is the one who fines a person a beast or beasts if the case is a serious one, or if a person is obstinate or if he is head-strong when told anything. The petty chief has power to try a person of the chief's family at his court if he is accused. Or if one of the chief's family has a case with one of the petty chief's subjects. The chief never complains about the petty chief for having tried one of the royal family even if he gets information that that has taken place. The chief will be pleased because in that way they will be afraid of doing wrong on the subjects. If a person is tried at the kgotla, the judgment is given by the



petty chief or the chief. After the people have spoken, the chief stands up and he says, "The court must remain silent, we find this man guilty because he has said this or he has done that. We find him a beast or two or three goats". When he has said this, he tells him to go and fetch them. When they arrive they are slaughtered and all of them are consumed. The petty chief or chief should give judgment in his court. At the lineage court, the old men of that lineage give judgment. They are the fathers of the people who are in charge of their particular sections and their children.

#### Meehaka.

#### Procedure when legal actions are instituted (Pego ea Melato).

When a person has a legal action against another person and he desires to take it to court, he tells his elder or younger brother that he is taking legal action against so and so, and that he wants it to be heard at the lineage court or the petty chief's court or the chief's court. After he has told him, he will instruct him to go and report him. They both go but the person who is instituting the action does not speak. The spokesman will be the one who accompanies him. When the spokesman has finished speaking, the person who is instituting the action will then be asked whether or not the facts are as stated by the spokesman. Even if it is a woman, she must get a man who is her next-of-kin to report her at the kgotla. If that is not done, her action cannot be accepted in any court if it is not stated by a man who is accompanying her. It is because they sometimes bring actions which are of no importance, which could be discussed and settled in the family. This means that if one informs the other about his action, the other one must consider whether or not it should go to court. If it should, it will go and if it

is not worth the trouble, they will just settle it amongst themselves and end it there. If a legal action has been reported to the chief or to the court of the petty chief, he is the one who fixes the date of the hearing. All the people will hear in court how the action arose. It is there where each one will hear who are concerned in the action. The petty chief or the chief know how the action arose, but the plaintiff is questioned and it is he who tells the people what he wants at the court. We Betswana, have no time at which we cease to hear legal actions. We hear cases at all times when one brings a legal action but we fix a date of hearing. If a person appears on that date, we fix another date and if he does not appear on that date it does not mean that his action will never be heard. It will be heard on another date when no other actions have been brought to the court. The man who brings a legal action to the court should, after having been given the date of hearing, go to inform the man against whom he has brought the action of the date on which they are required to appear. On the date fixed for the hearing, many men come to listen to the proceedings and the judgment, and whether there is fairness in the hearing or bias. If legal proceedings have been taken against a person and he refuses to appear in court, and if he still refuses when some one is sent to ask him to appear, judgment is given against him because he refuses to come to court. His punishment will be a severe one so that he may realise that he is nobody. If he has cattle, they will take most of them and eat them. If he has no cattle, he will be thrashed at the court until he realises that he is nobody. If a person brings an action to the court or if an action is brought against him, he comes with his witnesses. The person who brings an action to court, must on reporting that he wishes to do so, mention his witnesses as well, so that they should be known. If he fails to

do so, they will no longer <sup>be</sup> required at the court. But the witnesses of the person against whom the action is brought, will be known by the court and the people for the first time at the court. If the witnesses fail to appear, then he has to defend himself without them. But if the parties disagree, then the witness will be required to come and testify the truth between the contesting parties. If they did not contest, the case was concluded without difficulty. To bribe a person to come and give false evidence in your favour is something that occurs, but it is a serious matter if one is found to have been bribed, the penalty imposed upon him is a very heavy one. If it is a petty chief or a member of the kgotla, he is dismissed by the chief immediately. Some of the members of the kgotla and petty chiefs were in the habit of being bribed at the kgotla. When the chief gave judgment against a person, they opposed him saying that he did not go into the case thoroughly. Judgment in such a case was given against an innocent person, the reason being that the guilty party bribed them.

Actual case of this type. Sopo Khunou. This man was once given money by another man to buy cattle for him. After Sopo bought them, he told the man that he had bought the cattle, they were six. When Sopo told the man, he was with his younger brother Sekepe. Sekepe was Sopo's witness that indeed Sopo showed him the cattle. When the man wanted to take the cattle, Sopo refused to hand the three over to him and said he had told him that they were three. The man said, "You told me that they were six man!" Sopo denied and the man went to call Sekepe to come and listen to what the man was saying. Sopo still refused with the cattle. Later this man took the matter to the chief, <sup>and</sup> reported that Sopo refused to hand over his cattle. The case was set down for hearing two days later. The man went to inform Sopo what the chief had said. When the

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man went to his home, Sopo went to the men of the kgotla and told them about the action the man was bringing against him. He gave them one head of cattle as a present, so that they should be on his side at the kgotla. They were pleased and told him that they would stand firmly in his favour. On the day of the trial the man and Sekepe told the court what Sopo had said, that he had said the cattle were six and he described their colours. When Sopo was questioned, he said that he had told them that they were three and not six as they say. The chief asked Sopo who his witness was. He said, "His witness was Sekepe". The chief asked Sekepe to tell him what Sopo had said how many cattle he mentioned. Sekepe said he told him that they were six. He described their colours. The members of the kgotla contradicted these men and said that they had misunderstood and that the cattle were three as Sopo stated. They told the chief that if he could accept the statements of these men and disbelieved Sopo's statement, he would be in the wrong. The chief did not decide the case on that day. He remanded it to another day, and said it would be heard four days later. The people then dispersed. The men of the kgotla all gathered together and they told those who did not know that Sopo had bribed them with one head of cattle. When they had heard this, those who were on Sopo's side after agreeing unanimously that they would oppose the chief's judgment, all dispersed. When they went away, one man by the name of lollo, a councillor also, went to tell the Chief that those men who are taking Sopo's side were bribed by him with a beast so that they should stand by his side. The chief said "Never mind, I shall meet them, they do not know me". On the day of the trial, the chief told the people that there was nothing more to be said, the case had been decided. Sopo was guilty, he must pay the six head of cattle and give them to the man. He must further pay six head

of cattle as well as the one with which he bribed the members of the kgotla so that we should eat them at the kgotla. The chief ordered some men to go and fetch Sopo's cattle. When they brought them, six were picked out and given to the man and seven were picked out and these were eaten at the kgotla. After the cattle had been eaten, the chief told the people that Sopo had bribed some of the councillors with a beast in order that they should decide the case in his favour. Now we shall dismiss them all from the kgotla and only one man will remain, the man who told me the story, but even this man, I will fine him a sheep so that he may not dream of accepting bribes from the people.

The men who were dismissed	The man who remained	The new man
Pagele	Tollo	Amoe
Tumagole		Modisaadikhu
Kefeletsae		Rasethopa
Rathipa		Mantholoane
Diile		Meshaka

It was then that the people became aware of the reason why when the chief found Sopo guilty, the councillors opposed him.

Kentehitsoe.

Procedure in Court. The court sits at the Kgotla. All the men go there to listen to the court proceedings. Those concerned in a legal action sit in front of the people, they sit on the ground. The witnesses sit amongst the people, they will come when they are required. When a case against some one is heard, he speaks while he is sitting on the ground. But a person who wants to ask him a question stands on his feet. Only men attend the court, women come when they are witnesses or when an action is brought against them. Otherwise, they are not wanted at the court. When the court sits, no person or persons can be driven away. They have all come to listen and to see. A man who is driven away is one who interrupts or one who is a spy. If he refuses to go when he is driven away, an action is brought against him when the court adjourns, but his is not actually an action, he is just told that he is fined so much and he is not to say a word. Sometimes one person says something in court which makes the people to laugh, that is not prohibited but what is not required is to interrupt one when one is speaking. A person should speak until he has finished and if there is one who wishes to contradict him, he may stand up and contradict him when he has finished. When the court starts, the chief or petty chief announces briefly to the people that an action has been brought against so and so. After that, the chief then calls upon the person who has brought the action to explain it to the people. After that, his witness shall be called to corroborate him. When they have given their testimony, other people against whom legal action is brought will speak, followed by their witnesses. When they have finished, the chief now allows anybody who wishes to put a question to do so. When a person explains his case to the people, he explains it as he wishes even if he takes a long

time to explain, it does not matter. The point is that the people want the whole truth from him. Those who speak at a later stage, speak briefly. The same thing happens with the witnesses, they speak at length. There are other witnesses whom the court refuses. A woman cannot be her husband's witness if her husband has a dispute with another man or his son, it is assumed that she will tell lies. When the people have no question to ask those who are concerned in an action, the chief will now tell the people which of the contestants has lost the case. When the people come to court and they have a case, they are not sworn in to tell the truth. The court just believes that they will tell the truth. If the people in the court argue and disagree, the chief is unable to give judgment, the action has to be postponed to another day. The chief will then decide alone to find the guilty party. When the people come together again, he has already decided by himself. If he likes, he can tell the people to go over the case again. If he does not like, he just stands up to tell them who has been found guilty. In that case nobody can reply, they all agree with the chief's judgment. Judgment is given by the chief or petty chief. If the penalty is a heavy one, the men of the kgotla tell the chief that it is too severe and that it should be reduced. The chief will then decide whether to reduce it or not. If he agrees with them, he will reduce it.

Actual Case. Rangoedi and Modibe once had a dispute over an ox. They were brothers and Rangoedi was the eldest. While their father was still alive, he gave Modibe a cow so that he could look after it for him. After the cow had had two calves, it died. His father gave Modibe the heifer and the male remained with the cattle of Modibe. After the death of their father, Rangoedi told Modibe that as his father

had given him beast to look after and it was now dead, he must now take the remaining young ox. Modibe refused and said, "His father had given to him to look after. Rangoedi told him that it was not given to him, it was just said "Keep it for me". Keeping for me does not mean giving. Rangoedi took the case to the court of the chief and stated that his father had given his younger brother a beast to look after. Now after the death of his father Modibe refuses to hand over its young ox. His father gave him its heifer after the cow died. The chief told him that they should come on the third day. On that day, Rangoedi and his younger brother came to the court. The chief explained that Rangoedi had a dispute with his younger brother Modibe. Rangoedi explained to the people how his father had given his younger brother the beast. Modibe also explained how his father had given him the beast. After he had spoken, another man told Modibe that "Keep for me does not mean that it is given to you." If you have been looking after a beast for some one it does not mean that he will give you that beast. If it has no calf you get nothing. If it has a calf, it is then that consideration is given for looking after it. As your father gave you the heifer, you have got yours, the young ox is your elder brother's ox. The chief also stood up to corroborate the man who had spoken. After he had thus spoken, he told them that Modibe had lost the action and that he should give his elder brother the young ox. The court punishment was that he should pay a sheep, Modibe gave his elder brother the ox and also paid the sheep for the kgotla. It was slaughtered at the kgotla.

Maforaga.



What laws applied: The laws which apply are those of the olden times, they are still observed. When a person is brought before the *kgotla* for trial, again and again, you will hear an old man saying, "The law of our fathers says". A man is never tried unless he is told how his fathers applied the law.

(Actual Case). A certain man by the name of *Maouthe* once caught the goats of *Serobo* eating kaffir corn in his lands. When *Serobo* was about to take the goats to their owner, he thrashed their herd boy. When the boy reached home, he told his father how he had been thrashed by *Serobo*. His father got very angry, and sent his younger brother to the chief to report the assault on the child by *Serobo*. The chief said, "Bring the child here together with *Serobo*, so that he may come and explain why he had hit the child". The father of the child brought the child and *Serobo* also came to the court and he stated that he had assaulted the child because he had not stopped the goats from entering his kaffir corn land. The chief asked him whether the child did not have a father or mother and why he assaulted the child. The chief told him that according to Tswana custom, if a child has done wrong, it is taken to its parents, they will know what to do with it. You are guilty for assaulting the child, the correct thing could have been to take it to its parents. The punishment that will be meted out to you is seven strokes with a switch, so that you may not do such a thing again. When damage is done by one person to another, he takes him to his people or to the chief. We shall know how to deal with him.

(Actual case). Two girls once had a fight, they were *Mosidi* and *Modutoane*. *Mosidi* broke the clay pot of *Modutoane*. When *Modutoane* arrived home her mother got very angry.

She went to the home of Moridi and there she broke the pot which Moridi had been carrying. Moridi's mother went to the chief's place, she sent another man to inquire what she should do if a woman comes to her 'lapa' to break her clay pot. She said that when her child was fighting with mine, mine broke her child's clay pot. The chief said to this man, "Go and call those women together with their children and tell them to be at the court the next day. When they arrived at the court the next day, the chief told the people that one woman broke the clay pot of another woman. The chief called upon the woman to tell the people at the kgotla why she broke the clay pot. She stated that she had broken it because the other women's child had broken her child's clay pot. The chief asked her if she was paying her own back by so doing. The woman said "no". The chief said she had committed an offence by breaking the pot of another woman without bringing her to court. She was ordered to pay two goats, which were eaten at the kgotla. She was warned not to do such a thing again.

Khunou.

Verdict costs. Verdict costs are given by the chief or petty chief only at the court, and not by all the people. After a person has stated his case, and after he has been questioned by those who wish to put questions to him, the chief will then tell the kgotla to listen to his verdict. If the verdict is a heavy one, the men of the kgotla will say, that the chief's punishment is a severe one. In that case the chief may then (withdraw) (reduce) the punishment. If the verdict is a light one, the councillors do not say anything. When the verdict has been pronounced the person concerned should immediately go to fetch the payment. If it is a person who gave another person a lot of trouble, immediately

after the verdict, people are sent to go and fetch what he is going to make his payment with. He is not allowed to go and fetch it personally. When the people come driving his cattle, the chief will just pick out one head of cattle and slaughter it. They return the others to him. The slaughtered one is eaten at the kgotla. When the meat is dished out, he is the first person to be given, so that he may give it up as lost for good. If a person has been given time until the next day to bring his payment and he fails to do so, people are sent to get it from him by force.

#### Tshukudu.

Appeal to a higher court: When judgment has been given against a person in the court of the petty chief, and he is not satisfied with it, he takes his case to the chief on appeal. He asks to be allowed to appeal to the higher court. The petty chief will allow him to do so. When he has appealed to the chief, the men who were with the petty chief when he tried his case must be present when the case is heard at the chief's court. The chief will call upon the appellant to state his case. After he has done so, the chief will ask the petty chief whether he made exactly the same statement to his court. The chief will then go into the case to see what verdict he would give. If judgment is given against him, he must pay what he was ordered to pay at the petty chief's court and what he is now going to be ordered to pay by the chief. When a case of this nature is heard, it must start all over again so that each and every one should hear clearly what the reasons are for the appellant's dissatisfaction.

(Actual case). Johannee once had a dispute with his maternal uncle over a field belonging to his grandmother.

When his grandmother was still alive, Naoane lent her his field. When Johannes was married, his grandmother gave him the field to plough. After the death of his grandmother, Naoane told Johannes that that field was his and that he had just lent it to his grandmother to plough. "I now want it back", said Naoane. Johannes told him that the field was given to him by his grandmother, he was therefore unable to give it to his uncle Naoane. Naoane now went to the court of petty chief Dibetsoe and told him that Johannes refused to give him his field. Dibetsoe said, "Come both of you to-morrow so that we may decide whose field it is". They went to the court the next day and Dibetsoe told the kgotla what Naoane's complaint was. Dibetsoe called upon Naoane to state his complaint to the kgotla. Naoane said that he claimed the field from Johannes, which he had lent to Johannes's grandmother while she was still alive to plough. After Johannes got married, his grandmother gave him this field to plough it for his wife." When Naoane had finished his statement, the chief then called upon Johannes to state why he would not hand the field over to Naoane. He stated that the field was given to him by his grandmother, it was his own as it had been given to him. Dibetsoe asked Johannes whether he knew that the field did belong to Naoane. Johannes said, "That I know, but it has now been given to me." Dibetsoe asked Naoane whether he knew about Johannes being given the field by his grandmother. Naoane admitted that he knew. Dibetsoe told Naoane that he had made a mistake because he knew that about the fact that Johannes was given the field but he raised no objection at that very time. Now the grandmother is dead and no further truth can be ascertained, the person who gave away the field no longer lives and you Naoane, you neglected the question of this field whilst the grandmother was still alive. Now the field belongs to

Johannes, we further order you to pay a goat. Naoane said, "I quite understand, but will you allow me to appeal?" The appeal was allowed and he took it to the chief and explained all the particulars, and how the case ended in the petty chief's court. The chief said, "Come all of you to-morrow so that we may consider your complaint." The next day they came to the court. The chief informed the kgotla the complaint brought in by Naoane, and they called upon Naoane to tell the court personally. When Naoane had finished his statement which was the same as he made in the petty chief's court, Johannes was then called to explain the manner in which the field was given to him. When these two had made their statements, the chief asked the councillors if they had heard what Naoane and Johannes had said. They said, "We have understood and we have no arguments to offer, the fault lies with Naoane because, at the time the field was given to Johannes, he did not raise any objection". The chief stood up and he too supported the councillors. The verdict was that Naoane should pay a beast and the goat which he was ordered to pay by Dibetsoe, and with regard to the field, the verdict was also that it belonged to Johannes. When Naoane had paid the beast and the goat, the beast was eaten at the chief's court and the goat at the kgotla of Dibetsoe.

Jeremia.

The Chief's Court. The chief's court is the same as that of the petty chief. When it opens, the chief tells the people that this man, is the person who has brought the case here. Then the chief will call the man to explain his claim. The chief asks then calls upon the witnesses to testify what they know. After that anyone who wishes to question the parties concerned in the dispute is allowed to do so. The chief will thereafter pronounce the verdict. A case which is brought for the first time to the court and a case which has been tried at the court of the petty chief, both are the same. No case can be accepted in the chief's court if he is not there personally. He must be present. It is then that the matters will go straight as they should be. After a person has been tried, it is the chief who tells the people the verdict. Sometimes an argument arises between the chief and the councillors, if the punishment is a severe one. In that case, the councillors will tell the chief that the punishment is severe. He will then consider reducing it. It is not often however, that you will find that the councillors saying that the chief's punishment is severe.

Mothibedi.

Execution: When the verdict has been pronounced against a person, he is given a date on which to bring the payment. If a person strongly contested the case or was obstinate, as soon as the verdict is pronounced, men are sent to go and fetch his payment immediately. If he did not argue such a lot in the court, he is given time to bring his payment himself. If a person has been fined in court, and he refuses to pay, the chief will send men to go and fetch his cattle so that they may be eaten at the kgotla. They will leave some for him according as they wish. If the punishment is that he should be given strokes with a switch, he lies down at the same time, no time is wasted. That means, if the chief says, "We find you guilty, and you must get so many strokes", that man must get up and lie down for receiving them. If the chief does not deliver the strokes personally, he picks out one of the councillors to deliver the strokes in his stead. We have not yet sentenced a person to death. We rather give him a severe thrashing. To sentence one to death has not yet happened. If a person is a persistent wizard, we rather expel him from our village. He must not be seen again in our village.

Motshelo.