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S. Naaz

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1-5. unpotted offences. translated
Kxatha Law on certain legal words & offences
(homicide, slander, adultery, theft, damage, rebellion)

If a person committed an offence he was fined a beast, a sheep or a goat. If an offence was committed by a chief, nothing was said except that the country was at fault. The chief was a person who was never brought before the 'kgotla'. People of the olden times said that a chief was faultless, as they just said that it was the country that went wrong. If a person belonging to the Mosetlha tribe went over the boundaries of the Mmakau tribe unknowingly he was forgiven, it was said that he had not done the purposely. If it was a person belonging to the Mmakau tribe who by reason of being annoyed went over the boundaries, the men at the 'kgotla' fined him a beast. A certain man of the Matebele tribe under chief Mfatla who lived in Magagola's village, told lies at the kgotla and said that he had no cattle when he noticed that the people were taking out cattle to buy land at Lebotlwane. One person testified that he did own them but he had rent them to another man's cattle-post. He again refuted this testimony. For telling lies at the kgotla, the men at the kgotla fined him a beast. Young men were sent to fetch it at the other man's cattle post where they had been sent. According to the custom of the olden times, if a man committed an offence with a sense of fear and not with impunity, he was just reprimanded by the chief.

If a man's wife fought with the wife of another man and was found guilty by the kgotla, when the case was heard there, that man is bound to pay what the 'kgotla' demanded in order to free his wife.

If a man's son killed a beast purposely at the grazing place in the veld and the case was taken to the kgotla, the

chief will make him pay that is the father, two head of cattle one for the 'kgotla' and the other to replace the one killed by the herd boy. If a person was travelling and happened to see cattle or sheep entering another man's cultivated land and he passed without stopping them he committed an offence. On the other hand too, if he stopped them, he committed an offence. According to both customs there is a proverb which says "O molato ke nase ya morate, wa e bona wa e feta, wa e bona wa e kgora, o molato".

If a man had servants or younger brothers and one of the servants or brother laid a trap for people on the footpath with thorns, the men at the kgotla would catch hold of him and cause him to lie down in order to be beaten with a switch. That was the end of the case. If a person had failed to inform another about an accident which is within his knowledge and that of others, that person who forgot to give information was fined a sheep or a goat. If a herd boy let cattle into corn land, only the owner of the cattle was fined.

In the area of chief Mfatla Malla, a certain man once blocked a footpath which passed near his cultivated land without having obtained an order from the chief. This man whose totem was a duiker, was fined a sheep when he was brought before the kgotla, for blocking the footpath of the Matebele chief.

Once upon a time, when the herd boys were at the grazing place, they thought of mischief, and placed thorns on the path to cause the people of Modikela-a-Moboya to be pricked by thorns. The boys belonged to the Mfatla tribe. They plucked thorns as they went along and then they dug

little holes along the footpath along which the Modikele people were to travel. They covered these thorns in the footpath. While these youths were digging in the thorns in this manner, they were being seen by a man of the odimola family whose tribal totem was the porcupine. In the afternoon he went to report the matter to the chief. The boys were called to the kgotla and were made to lie down for a beating at the kgotla and that was the end of the matter.

When the Bakgatla of Mmakau were at Tlatlane of Ramadi, young men of the Matlakana regiment (mophato) caught a sheep in the veld while herding cattle and ate it. The sheep belonged to a man whose tribal totem was an ox. A report was made and the boys were called to the kgotla. They paid the sheep with their bodies.

At the village of Mfatla, while the boys were herding cattle in the vicinity of Hamaritsana Hill, near the Mokolo River, they were enticed by wild fruit and allowed twenty head of cattle to go astray and they went into the cultivated land of an old man of the Mtladi family and they destroyed all the crops. The old man reported the matter to the chief and the boys were called to the kgotla where they were given a beating and that was the end of the matter. On another occasion they ate the sheep of a man whose tribal totem was crocodile and this time too they were beaten at the kgotla.

The Crime of Murder.

According to the custom of the people in the olden times, if a man killed another man, he was tied up and the chief ordered that he should be taken out of the village to be killed. If a man was surrounded by a number of men and was attacked with sticks and in self defence he killed one of

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them, that was not an offence. That man was never killed. One man of the Matsila clan whose tribal totem was a crocodile and who lived in the area of Chief Mfatla, had brothers who were ploughing at the home of his mother-in-law. They had agreed on ploughing two acres only. This agreement was definite. When they finished the two acres, he said that they should plough one more. The other refused and said they had finished their job. They started to quarrel seriously and the three tackled the one. He ran to his hut to get a stick and then he ran after one of them. As this one was loosening the riem which fastened the door and was in the act of entering the hut, the stick which was thrown at him struck him on the head causing a wound from which he eventually died. His father reported the matter to the chief. The tribe of chief Mfatla lived at Tsiditsane at that time. The people of the olden times of the tribe of Mmakau, of the Matsila of Kgomo testified and confirmed the fact that if a man killed another man by mistake and not intentionally, in the custom of the olden times he was never done anything. The men only said "the nose does not smell" and the chief let him free, saying "the word of two outweighs that of one person".

If a man committed adultery with the wife or sweetheart of another man, and was caught, the man took an assegai and stabbed him and took possession of something belonging to him as proof when he goes to the chief. When he gets to the chief's place, he informs the chief through a messenger. Even if he killed him with an assegai, the chief never said anything. He had run away to the mountains of Thaba Tshweu. The case was heard and the men said that he was escaping from the assegais. His father wanted to see him killed but he

failed because he was beset by three strong young men. If
 the had caught ~~the~~ him, they could have killed him. If a man
 killed another person purposely, he was also killed according
 to the custom of the olden times. That was because he did
 the killing intentionally. If was only right that he follo-
 wed the one who was dead.

12 If a man caught a wizard in the night time, he killed
 him if he so desired. He would report the matter to the chief
 the following morning. That man was never found guilty be-
 cause the wizard was a wicked person it did not matter even
 if he was killed.

During the time of Chief Tshela edi of Motlhasedi when
 he lived at Talepe with his tribe. Among his tribe there was
 a death of male children. The chief became suspicious. He
 medicated and finally decided to work out a plan.

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