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Property. Tswana law relating to property.

Household Goods: The household goods belong to wife and husband, the majority belong to the wife, they are under the wife's control. The husband also controls them but he has no right to give them away to other people. A person cannot come to ask property belonging to the household from a man. He or she must ask from the woman. When a house is built, it is not built for the man. The husband builds for the wife, to live in it and to control it together with the goods in it. Frocks and skin mats belong to the woman, little wooden bowls, pots, water pots and chisels belong to the woman. The husband has no control over them. The husband buys these articles, he does not control them, when he has bought them, they are his wife's. It is the inheritance of her children. The husband does not go near them, even if he happens to die, the frocks will be taken by the (girls) mothers, things like pots, water pots, chisels, they belong to the children, they are left untouched to wait for them to grow. Even if their father may marry another woman, these are untouched, they just remain there until they are used by the children when they are grown up. The woman also, when these articles are under her control, she shares the control with the husband, when a person asks for a water pot, she must inform her husband that someone has asked for the water pot. The husband will say "The goods belong to you, do what you think best". The wife will then either give the person the article or refuse with it. A woman cannot refuse a person something without telling her husband because the next day the person may tell the husband of this woman that he had asked something from his wife and she either gave him or refused. This would offend the husband. He would realize that the wife just does as she likes.

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Goods belonging to the husband are controlled solely by him, the wife does not share their control, articles like trousers, axes, assegais, ricas and yokes. If the husband dies, these things are the property of his children, but the trousers are taken by his brothers, they divide them amongst themselves. The other articles are given to the children who will use them when they are grown up. If their mother happens to be married by another man, their father's goods are theirs. This man does not touch them, they are left in the care of their grandfathers until such time as they are found fit to use them. It is when some of them are married already, then their grandfather will call them together with their mother and tell them about these goods in the presence of their mother and say "Here is the property of the father of the children, now that they are married, they may take them and make use of them, but the man who has married their mother does not come near this property and he has no say whatever in them.

Actual case.

Nthone had married Madithhokoa, they had two children, a boy and a girl, Kobedi and Mosidi. One day Nthone was bitten by a snake, he fell ill and eventually died. After his death, Ranthone the trousers of Nthone and divided them between Nthone's younger brothers. He did not touch any other articles, he left them alone. But Ranthone was looking after the wife of Nthone, tilling for her and doing everything for her. During a certain year Madithhokoa was married by another man by the name of Ramotsamai. After marrying her, he did not pay dowry for her Ranthone went to Ramotsamai, and said to her, "Man of the Bathaku tribe, I have nothing to say except that since you have married this woman, I am taking taking away the belongings of Nthone, to keep

then on behalf of his children, so that some time in the future when they are grown up, I should hand them over to them, and so that there should be no trouble between them and the children you will have by Madithhokoe. I am thankful that you are marrying this woman. Look after her for me. "Kobedix was already a big man but Mosidi was still very young. She remained with her mother. Kobedi went away with his grandfather. They took all the cattle except one which would provide Mosidi with milk while she was living with her mother. They also took the riems and the axe until Kobedi became a man big enough. After Kobedi was married, Ranthone called Madithhokoe the mother of Kobedi and he said, "Mother of Kobedi, remember now that Kobedi is married, he must now provide for his wife and his sister Mosidi. Here are his father's cattle and the riems, the axe and the assegai. I am handing them over to him in your presence". Madithhokoe then said "Father I do hear you, Kobedi is the one who should take care of his sister Mosidi". Ranthone produced the axe, the riems and the assegai and he handed them over to Kobedi. Kobedix and his sister clasped hands (thanked). He pointed out the cattle too to Kobedi, his sister and Madithhokoe their mother. But they continued to remain in the cattle kraal of their grandfather. Mosidi returned to their house with her mother she occasionally went to see her brother and her grandfather.

On a certain year, Mosidi got married and the dowry cattle were taken by Kobedi because it was he who was her brother, but Kobedi gave one to his maternal uncle because his maternal uncle was the one who ate the heads of slaughtered cattle of his sister's children. Kobedi did not provide for the children of his mother, he said they were not the children of his father, but he did give his mother what he was able to give her, (frocks).

A Dwelling House.

A dwelling house belongs to the wife, the kaffir corn belongs to the wife nobody else can control it, that is to say that it is she who gives the children food. If a person comes to ask for kaffir corn, he must ask from the wife and not from the man. The wife is the one who should tell her husband. Even if it may be so, the authority rests with the wife, if she does not want, nobody can do anything. When a woman has taken a journey, the children should wait for their mother, that is to say that their father will tell them that in the absence of your mother I am powerless. Everything is in her hands. The cattle kraal belongs to the husband, the wife has no control over it, but the husband also, cannot sell a beast without telling the wife. Although he tells his wife, that does not mean that she will have anything to say, he merely informs her so that she should know what the husband has done. A dwelling house is the inheritance of the last born son or daughter, the cattle kraal as well. The elder sons will build their own houses wherever they like. Sometimes cattle are bought with kaffir corn, the cattle belong to the husband and his wife, it is their joint possession as they are bought with kaffir corn. But those which are earned by the husband's labour are his sole property. Cattle bought with kaffir corn, female children are given some of the calves, because their mother also laboured, kaffir corn belongs to her and it is under her control, she worked in the lands. The cattle earned by the husband belong to the male children. The female children can be given from them if their father wishes to do so. It means that the woman had nothing with her when she came to her husband on their marriage. That is why the female children get nothing of the cattle.

Produce.

All the Kaffir corn that is reaped from the lands belongs to the wife and her family. But although the kaffir corn is under the wife's control, she must always make a report to her husband anything she wants to do with the corn. If her mother's people starve and she wishes to give them, she must inform her husband. She can then give them as much as she wants to give them. If she chooses not to give them, she may do so. She will say to her husband there is no kaffir corn and the husband will not say anything. It means he has no control over the kaffir corn.

Slaves.

You do not often find slaves. Some people did have slaves. They found them going astray having lost contact with their people. These people just lived with those people who could provide them with food. They lived with them and worked for them as their servants. Slaves were not bought as in fact a human being is never sold. The chief had servants but not slaves. He asked the people to come and help him when there was work to be done. After that he sent them away and got others and so on. They did not stay permanently with him. When the time they have lived there expires, they just go away. Sometimes they just tell him that they are tired, and perhaps they go away to do their own work. He will let them go, and he will go and find others to replace them. If a person is brought into subjection after a war, that person belongs to the chief, he will stay at the chief's place. Sometimes he even gets married during his stay there. He does not stay with ordinary people. Those then are the chief's slaves who do not go anywhere else. They cannot be sold.

Domestic animals.

Cattle: They belong to husband and wife, but they are under

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the husband's control, he has the power to do anything he likes with them. If a husband dies and they have cattle, they are taken by the father of the deceased, it is he who looks after them. The woman will also be under the guardianship of her father-in-law. The woman does not control cattle, she only controls household goods. If the husband dies and they have no children the cattle belong to the deceased husband's father. He will divide them among his children. If a child is given a head of cattle, it belongs to it in name, it is his father's. His father does what he likes with it. The child has no say. If a man has male children, he gives them cattle but they are his, he does what he likes with them. These children will control them when they are married, when their father has given them to them. It is then that they have control over them. Before they are married, the cattle belong to the old man even if he has given them to them. If a man has only a daughter, those cattle are taken by the daughter when she is married. It does not mean that she is going to exercise control over them, they are hers in name. That is to say cattle were paid as dowry for her now those with which he comes from her peoples' home, are not hers. The man who married her does what he likes with them, no one is going to say a word. Female children are never given cattle, that is to say that they must produce cattle (cattle must be paid as dowry for them), that is why cattle are never marked out and given to them. Sometimes a man is given cattle by another to look after them on his behalf (mafisa) not that he is given as a present. He looks after them, benefits from milking them. He has no authority to do as he pleases with them. The owner takes them away whenever he desires without asking anybody. He just tells him that "I want the cattle now". When a man keeps lent cattle, he is not their owner. That is why the Batswana have a proverb which says "When a man continues to milk

'mafisa' cattle, he should always keep a watch on the footpath to see if the owner is coming. If a man has cattle, they are his property, he has the sole control over them even his younger and elder brothers have nothing to do with them they are his only. He does what he likes with them. If he wishes to slaughter, he does so, if he wishes to sell, he does so, he gets permission from nobody. But when a man keeps cattle for another man (mafisa), he has the right if there are oxen, to inspan them and work with them, he cannot however, sell them or slaughter them, the right he does not possess.

Lost Cattle (Matinela).

There are some cattle which go astray at times. Wherever they get to, they remain there amongst other peoples' cattle. These cattle, even if they may stay at the cattle-posts of other people and not at the cattle posts of their owners, they have no right to do as they wish with them. After two years the chief summons a regiment of young men to go and search for the cattle that have gone astray. When they are brought, an announcement is again made that all whose cattle have gone astray should come and inspect them in order to find theirs. The unclaimed ones are taken by the chief, they become his property. He has the right to possess them because they were unclaimed when the announcement was made for all to come and find theirs. He does what he likes with them. If a head of cattle is lost and it stays in a man's cattle kraal, he looks for its owner, by making inquiries from the people or at the cattle-posts. If it happens to die while it is with his cattle, he makes a report to the chief. Its meat is taken to the "kgotle" and the men eat the meat there.

sheep, Goats and Dogs. They also belong to men, they are under the control of the man. A woman has no power over them. The

man does what he likes with them. They are marked out for children and are given to them. They have no control over them, they are theirs in name only. They are under the control of their father, he sells them, slaughters them as he pleases.

They are just like cattle, and there is no difference as far as that is concerned.

Pigs and Fowls. These are the property of the wife. The husband has no control over them. But the wife cannot do what she likes with them without telling the husband. If she wants to slaughter a fowl, she must tell her husband, but she will slaughter it herself and not the husband. The husband stands afar and comes nowhere near. He is only given its meat to eat. If a person asks to be given a fowl, by the wife, she informs the husband if she wishes to give it to that person. Then she can give it as she pleases. The same applies to pigs.

Lands and Gardens. The land belongs to the chief and tribe. It belongs to the tribe because the chieftainship of a chief is dependant upon the tribe. If he has no subjects then he is no chief at all. The chief sees to it that all the people have lands to plough. Fields belong to each and every woman who is married, they are under the control of the wives and their husbands jointly. They are the inheritance of their children. If they wish to exchange with the others, they do so as they please, the chief has no say in that. If they wish to sell them to other people, they are at liberty to do so. The land belongs to the chief and tribe. The chief cannot sell it without consulting the tribe. Similarly, the tribe cannot sell it without the consent of the chief.

Melato Ratshitswana.