

18 *DIVISI* WITCHCRAFT IN CONTEMPORARY ZIMBABWE: CONTEST BETWEEN TWO LEGAL SYSTEMS AS INCUBATOR OF SOCIAL TENSIONS AMONG THE SHONA PEOPLE

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INTRODUCTION

In the African continent, many observers have noted that witchcraft and social tensions go hand in hand. This study uses *divisi* and its bearing on social relations. *Divisi* is a type of witchcraft understood as an enhancer of agricultural production in Zimbabwe. It is common among Shona people in poor rural areas, which are largely dependent on rain-fed agriculture. So the research study was shaped by the notion of occult economy² credited to John Comaroff, an anthropologist. The Shona people are the largest indigenous ethnic group in Zimbabwe. The term Shona embraces the following five major dialects which are: Karanga, Zezuru, Ndau, Manyika and Korekore.³ This work on *divisi* discovered that agricultural heightening is powered by practising incestuous relationships, particularly between parents and their natural children who are popularly known as *vana vembeu* (children of the seed). I contend that *divisi*, an anti-social practice, has serious repercussions. It breeds conflicts and causes a social security risk.

Resolutions to these social tensions are barricaded by the ambivalence of the current Constitution of Zimbabwe Amendment (No. 20) Act of 2013 on witchcraft, despite the standing beliefs among the Shona people on its reality. There is no legal protection for the victims, since offenders (*divisi* witches) escape conviction. The traditional legal system is effective in stamping out witchcraft, but this has steered serious conflicts in communities. It should be emphasised that, as a calamitous phenomenon among the Shona people, *divisi* is not only a legal dispute, but also a religious, cultural, social and psychological issue that calls for urgent redress.

To that end, the study reported here examines the effects of contest between common law and customary law. To get at these issues, I utilised analysis and qualitative design, which necessitated a systematic collection of data by penetrating the cultural realities of Shona people in the face of *divisi*'s impact. Information was

- 1 Department of Philosophy and Religious Studies, Great Zimbabwe University.
- 2 Occult economy is the utilisation of real or imagined magical means for material ends, especially agricultural production. These embrace a wide range of phenomena, from "ritual murder", the sale of body parts and the putative production of zombies, to pyramid schemes and other financial scams. In the context of this study, it will be incest. And they have led, in many places, to violent reactions against people accused of illicit accumulation of grain and livestock.
- 3 Humbe BP. 2017. "African Traditional Religion in Post-Colonial Zimbabwe: A Sustainable Heritage for Water Resources Management", in Green MC, Hackett RIJ, Hansen L and Venter F (eds). *Religious Pluralism, Heritage and Social Development in Africa*. Stellenbosch: African Sun Media, 206.

gathered using interview and observation techniques in field work. The sampled population denoted the Shona linguistic groups located in Manicaland, Midlands and Masvingo Provinces of Zimbabwe. The empirical findings demonstrate the power of indigenous religion to rationalise a phenomenon that has previously been understood almost solely through a socio-cultural lens.

WITCHCRAFT CONUNDRUM IN ZIMBABWE

Right from the onset, it is imperative to acknowledge the view of Gordon Chavhunduka, a Zimbabwean sociologist, traditional healer and former president of the Zimbabwe Traditional Healers Association (ZINATHA), that the subject of witchcraft continues to create controversy, not only in Zimbabwe, but in many other parts of the world.⁴ The source of misunderstanding of witchcraft hinges on its definition. This is mainly due to Westernisation and Christianisation. This foreign influence has generated division of opinion over the real existence of witchcraft, especially in Zimbabwe. In the first group are those who maintain non-existence of witches, and in the second group are those who say witches do exist.⁵ Then there are those who think that if witchcraft exists, it should be dealt with using the common law (formal courts), while some uphold that witchcraft is a religious problem and should be dealt with using traditional law (traditional courts).

Denial of witchcraft's reality was evinced by the colonial constitution, which enacted the Witchcraft Suppression Act of 1899. Further, the colonial regime's misunderstanding of witchcraft was captured in the constitution's definition of the term. According to Chavunduka, in the Witchcraft Suppression Act, witchcraft is defined as "the throwing of bones, the use of charms and any other means or devices adopted in the practice of sorcery".⁶ One loophole associated with this definition is that this act of throwing of bones known as *hakata* is a mode of divination utilised by traditional practitioners to diagnose problems brought to them by people. Using *hakata*, they find the cause of deaths, illness, or other misfortune complained of by an individual. The above conception of witchcraft, as captured in the Witchcraft Suppression Act of 1899, inculcated the destruction of one of the tenets of African traditional beliefs, thus disenfranchising indigenous African people of their religious bedrock.

In the course of my research, I have noted that there is a widespread understanding among the Shona people that use of charms is synonymous with the practice of witchcraft, and I have argued that there is a need to correct a misconception ingrained in many people's view about the use of charms.⁷ A person acquires charms to protect his or her family from danger, to protect his property and livestock from intruders. This is known as *kuromba*. Some also use *kuromba* to protect their spouses

4 Chavhunduka G. 1980. "Witchcraft and the Law in Zimbabwe", *Zambezia* VIII(ii):129.

5 Chavhunduka, "Witchcraft and the Law in Zimbabwe", 129.

6 Chavhunduka, "Witchcraft and the Law in Zimbabwe", 129.

7 See Bhila F. 2017. "Witching hour has no legal time", *The Sunday Mail*, 9 July.

from adulterers. In genuine African spirituality, *kuromba* is very positive and socially acceptable. The influence of Christianity and Westernisation has resulted in people branding everything associated with *kuromba* as negative. For example, most Christians from the mainline and Pentecostal churches view traditional or sacred practitioners as witches, because they use charms obtained through *kuromba*, but this is not the truth. Traditional practitioners are very important people whose role is cherished in indigenous Shona communities; they are not witches. Every community in rural areas has a traditional practitioner. Their role is clarified by David Beach, a historian of Zimbabwean indigenous people, who describes them as true doctors, psychiatrists and political scientists.⁸ Sacred practitioners are regarded as reservoirs of indigenous knowledge systems and vicars to cultural motifs; they are double-faced insofar as they police relations between and among human beings and the patrons of the spirit world.⁹ It is *kuromba*, which enhances their capabilities to execute the abovementioned duties. A traditional practitioner can produce harm, but only where punishment is deserved. For instance, he or she can bring suffering, ruin and death to the person who refuses to honour his debts or the man who steals another man's wife. Such retribution is well appreciated by the society and not regarded as witchcraft,¹⁰ for it brings justice and social order in communities.

In sharp contrast to *kuromba*, is *hurombwa*. It is a practice of acquiring charms or medicine to cause misfortune, illness, harm and destruction to property or human life. Witchcraft can be understood as synonymous with *hurombwa*, whereby an individual uses harmful medicines, charms, magic and any other means or devices to cause any illness, misfortune or death in any person or in causing any injury to any person. The harmful medicines, charms and magic are understood as *gona* or *makona*. The Shona are aware of people who use *gona* in *hurombwa* in their day to day lives. A person with *hurombwa* is known as *muroyi*, and is considered to be a witch no matter how he practises his witchcraft, or *uroyi*. Such a person is dangerous; therefore, his behaviour causes social tensions. Their commission of anti-social acts, including the abominable acts of incest noted above, is the reason why Michael Gelfand, an anthropologist of the Shona people, calls them, enemies of society.¹¹ In Zimbabwe, as in many African societies, it is common to hear of witchcraft (*uroyi*) being used as an explanation for people's deaths, crop failure, livestock failing to reproduce, examination failure, misfortunes in securing employment and daughters failing to attract bride price.

At the same time, there are also situations where the Shona attribute people's success to witchcraft. Extreme success politically or economically is likely to result in suspicions of witchcraft among the Shona of Zimbabwe.¹² This is not peculiar

8 Beach DN. 1994. *The Shona and their neighbors*. Cambridge: Blackwell.

9 Ranger TO. 1967. *Revolt in Southern Rhodesia, 1896–7*. London: Heinemann, 18.

10 Gelfand M. 1970. "UNHU – The Personality of the Shona", *Studies in Comparative Religion* 4(1):42.

11 Gelfand, "UNHU – The Personality of the Shona".

12 Bourdillon MFC. 1998. *The Shona Peoples*. Gweru: Mambo Press.

to Zimbabwe, as the same belief is found to exist in other African countries, such as Cameroon, where power, wealth and success are viewed as the result of occult powers. This is grounded on the conviction that people have to succeed up to certain “normal” levels. When their success goes beyond the “normal” levels, they are often charged with the use of occult powers, since the occult is often associated with the unusual, the extraordinary or the realm of the supernatural.¹³

In a bid to understand the nature of African traditional religion in modern society of Zimbabwe, the theme of witchcraft is very central. This is the reason why the re-emergence of witchcraft in public discourse in postcolonial Africa has been inevitable.¹⁴ This is evidenced in Zimbabwe, where the indigenous people have not been flaccid receivers of the 1899 Witch Suppression Act by pushing for a repeal of the law. So, intense negotiations resulted in the amendment of the Witchcraft Suppression Act, which took effect in July 2006, thereby acknowledging the existence of witchcraft in Zimbabwe, which had been calculatingly restrained by the successive colonial regimes. It replaced the provisions of the Witchcraft Suppression Act and reformed the criminal law on the question of witchcraft.

Witchcraft is very much alive in the average Zimbabwean’s everyday life.¹⁵ The media in Zimbabwe is awash with issues of witchcraft practice, an indication that it is a reality. What is intriguing is the manner in which these witchcraft stories are reported to make listeners, viewers and readers convinced that witchcraft is anti-life and unprogressive. The practice of witchcraft is widely glared upon in Zimbabwe, particularly in this study which depicts *mwana wembeu*, when a girl child is being used by her father in incest to enhance agricultural production. Controversy surrounding this practice is evinced socially, legally and religiously, so it is practised secretly. From the research, it was noted that, denial of witchcraft creates an environment in which it can flourish underground.

DIVISI WITCHCRAFT

The term *divisi*¹⁶ might have come from the Shona verb *kutiva*, which means dipping. This dipping might have sexual connotations, for among the Shona, having sexual intercourse is also metaphorically understood as *kutiva*. Usually *kutiva* is used when referring to an abnormal sexual intercourse like incest and bestiality. *Kutiva* is also

13 Chireshe E, Chireshe R and Shumba A. 2012. “Witchcraft and Social Life in Zimbabwe: Documenting the Evidence”, *Studies of Tribes and Tribals* 10(2):166.

14 Dolan CS. 2002. “Gender and Witchcraft in Agrarian Transition: The Case of Kenyan Horticulture”, *Development and Change* 33(4):659-681.

15 See Bourdillon, *The Shona Peoples*.

16 In *divisi* witchcraft, a farmer can also make use of *Mubobobo*, a form of mysterious sexual conduct on unsuspecting victims done to enhance crop production or livestock. See, for example, Sibanda F. 2013. “Experiencing Sex via the ‘Blue Tooth’: Phenomenological Reflections on the Nature, Use and Impact of Mubobobo in Zimbabwe”, *Greener Journal of Social Sciences* 3(2):84-90. This would show the diversities of *divisi* anchored in magical sexual practices in Zimbabwe.

used when a man has unprotected sex with women whose conditions are regarded as distasteful, for example, women who are having their menstrual periods or who live with HIV/AIDS. *Kutiva* thus depicts the badness of such a sexual intercourse. In *divisi* witchcraft, it is an out-of-bounds sexual relationship between a man and his natural daughter (incest). This sexual practice works in conjunction with a crop field-enhancing magic. *Divisi* is powered by the desire to accumulate wealth. Wealth in indigenous Shona communities is very symbolic. In their understanding of soteriological belief systems, wealth is one of the criteria used to assess the attainment of salvation in African traditional religion. This is because indigenous Africans are strongly bonded to the earth.

Attributes of wealth are largely measured in agricultural production, as when a farmer owns large herds of livestock and full granaries of grain after every harvest. Such a prosperous farmer is known as *hurudza*.¹⁷ In the past, a *hurudza* formed part of the elite in Shona societies together with the *hombarume* (accomplished hunter) and the rain petitioners. In modern-day communities which have an agriculturally based economy, it is still prestigious to be a *hurudza*. An understanding of *hurudza* entails agropreneurship, and this is why *hurudza* create a quality of dauntlessness. The ordinary people are in awe of *hurudza*'s achievements.¹⁸ When revellers drink beer, it is very common to hear them quipping "*tohudzasa isu vana vehurudza*", meaning we are enjoying ourselves drinking beer, children of prosperous farmers. It is just a way of telling listeners and observers that the pleasure they are having is a result hard labour, since a *hurudza* is a hard worker.¹⁹ There are some peasant farmers who desire to become *hurudza*, even if it means enhancing their ability by use of *divisi*. Having sex with a daughter is meant to invoke the spirits of fertility in agriculture.

The benchmark of the *divisi* ritual is removal of virginity of the daughter by the father. He uses a piece of cloth to wipe some of the blood which comes out during the intercourse. After the intercourse the two make a *mhiko*, an oath symbolised by tying a knot using the blood-soaked cloth. It is an oath pledged for the sole purpose of getting a boost in agricultural production. The cloth is mixed with some medicine and placed in a container, usually a horn, which is tightly sealed and buried in the field, if for crop farming, or in the cattle *kraal*, if for livestock rearing. The horn and its contents transform participants of this ritualised sexual act to lead a charmed life. The horn and its contents constitute a *gona*. The ritualised sexual act is an expression of the bond that will prevail between the father and his daughter in *divisi* witchcraft, as well as to show the bond between the farmer and spirits. By burying

17 *Hurudza* is a term which is traditionally used to describe expert farmers. The term is just the same in singular and plural. The *hurudza* use their expertise to be the source of food and agricultural wisdom in their communities, especially areas which experience drought-related challenges.

18 Mabeza MC. 2017. *Water and soil in holy matrimony?: A small holder farmer's innovative agricultural practices for adapting to climate in rural Zimbabwe*. Mankoon: Langaa Research and Publishing CIG.

19 Mabeza, *Water and soil in holy matrimony?*

the container with ritualised sexual blood, the girl child ensures fertility of the fields or *kraals*. The *gona* transforms the fields and *kraals* of the *divisi* farmer making them sacred. The aim of this incest ritual is to garner favour with supernatural powers of the spirits, by creating a formidable bond between the people performing the ritual and the spirits they invoke. More often than not, the daughter who is used for this agricultural ritual becomes the favourite child in the family. However, the resultant effect is that the favourite daughter might not get married because of *divisi*.

IS INCEST A CRIME IN ZIMBABWEAN CONSTITUTION?

The concept of incest is interpreted in different ways in Zimbabwe. One example where there is a variance between the common law and customary law is that, under common law, first and second cousins do not fall within the prohibited degrees of relationship, whereas under customary law it usually does. Common law perceives incest from a Western perspective. Because the customary law and the common law concepts of “incest” vary, this crime has been re-labelled “sexual intercourse within a prohibited degree of relationship”.²⁰ In the Zimbabwean Constitution, incest is a crime. In the context of this study, incest practised in *divisi* witchcraft is a crime; for there is sexual intercourse taking place between a parent and his natural child, whether born in or out of wedlock and whether the child is under the age of eighteen years or not. In this case, the father is guilty of sexual intercourse within a prohibited degree of relationship and liable to a fine up to or exceeding level fourteen or imprisonment for a period not exceeding five years or both.²¹

However, during field work, I discovered that, at family level and community level, there are no penal sanctions against any form of incest. Sexual relations with a daughter are spoken of as taboo, but no *divisi* farmer has served a sentence for committing this crime. It is simply despicable conduct that the culprits ought to be ashamed of as unworthy of fathers. Though elders of the communities maintain that it is a crime, it is difficult to deal with, because it is a secret ritual. There is strict observance of secrecy in this *divisi* incest practice. This phenomenon has to be understood in the context of traditional religion, where most of its rituals are secretly done. Being a secret ritual, it has a characteristic feature of creating an aura of being “set apart” from everyday life.²² A lot of people dread it, since it is not a socially accepted sexual act. In fact, *divisi* is an occult practice,²³ and its powers are greatly mystified. Its religious “mystery” includes particular beliefs about the power and presence of supernatural forces in the natural world, enacted in secret incest, where the social fact of mysterious powers is produced. The presence of “mystery” in incest ritual dimension is expressed in the etymology of the Greek

20 Criminal Law (Codification and Reform) Act, ch 9:23.

21 Criminal Law (Codification and Reform) Act, ch 9:23.

22 Murphy WP. “Geometry and Grammar of Mystery: Ancient Mystery Religions and West African Secret Societies”, 162. Online at: <https://scholar.lib.vt.edu/ejournals/ElAnt/V12N1/murphy.pdf>

23 See Chireshe et al., “Witchcraft and Social Life in Zimbabwe”, 164.

words, *mysteria*, *myein* and *myesis*, which convey the idea of “initiation”. In African traditional religion, it is a requirement for the initiate that “lips or eyes are closed”. For the initiate, it is obligatory to keep the lips closed and not divulge the secret that is revealed at the private ceremony. “Vows of silence are meant to ensure that the initiate would keep the sacred secret from being revealed to outsiders.”²⁴ This vow of secrecy is known as *tsindidzo yemhiko*.

From the research it was noted that, mostly it is the mother who helps in manipulating their daughter’s mind to have an incestuous sexual relationship with the father in secrecy. In Manicaland, a girl child used in *divisi* practices was told by her mother that incestuous relationships were common practice in all families in the community, though it was not publicised. Divulging the secret is tantamount to serious consequences to the life of the victim, such as madness and death. Death threats induce gullibility in the girl’s life. In Midlands Province, relatives and well-wishers of a child of the seed, engaged the victim in dialogue, finding out how she had been abused in this witchcraft practice. The girl sternly refused to say anything about the *divisi* incest and instead reported the matter to her parents. This angered her *divisi* parents and eventually fighting broke out between the victim’s parents and the well-wishers.

From a customary law perspective, incest is an injurious behaviour, which is a taboo among the Shona people. In Masvingo rural, I encountered two cases of children who were mental patients from birth, and the explanation I got from caregivers was that, they were born out of an incestuous relationship. Incest offends ancestral spirits, who can inflict punishment for breach of societal moral codes. Yet, this incest is a prerequisite in *divisi* practice. The idea of consciously having sex with a daughter in a community context which perceives it as a taboo, makes the people treat the practice as a form of witchcraft. Incest is conceived as a collective calamity, the consequences radiating outward, and if not constrained by ritual action, likely to inflict harm on the community’s livestock and crops. Humanness is a communal responsibility, and that is why calamities from ancestral spirits affect everyone in the community, it is a punishment for the whole defiled village or villages.

DIVISI AND SOCIAL TENSIONS

From the charges laid against *divisi* farmers, villagers complained that they were mysteriously awakened during the night to do manual work on *divisi* farmer’s fields. The work ranged from weeding the crops to watering the fields. Fields of *divisi* farmers in Buhera, which is an arid region with no swampy areas, were observed to be always moist throughout the farming season though there were no rains. Nonexistence of weeds made the *divisi* crops grow strong and fast. Villagers criticised this witchcraft practice for causing fatigue and serious back aches due to the laborious work in which they were involved. Because of the backache, some claimed that they had become incapacitated to have sexual relations with their partners. This created serious social tensions.

24 See Murphy, “Geometry and Grammar of Mystery”, 162.

When it was harvest time, one of the serious accusations levelled against *divisi* farmers was their mysterious power to take grain from neighbours' fields and granaries. It was noted during one of the witch-finding ceremonies that, *divisi* farmers used *gona* to draw grain from neighbours' fields during and after harvesting. Some complainants even lost their grain when it was heaped on the thrashing place.²⁵ This theft was complex to understand since it was not physically done. On several occasions, the victims did not take this loss lightly, leading to eruption of conflicts. I attended a traditional court session in Manicaland, where the accused justified his action of beating and burning the granaries of a *divisi* farmer who happened to be his neighbour, arguing that his neighbour's witchcraft was causing perennial hunger for his family. However, the matter later spilled to formal courts, which could not find evidence that the *divisi* farmer was stealing grain through unnatural means.

There have also been problems with livestock production in communities with *divisi* farmers. Their magic makes it a challenge for production to take place in neighbours' *kraals*, while the *divisi* farmers' herds kept on swelling. Almost everyone who has bought livestock from a *divisi* farmer for breeding purposes has had serious challenges; either the cattle died or succumbed to deadly animal diseases. The situation could only be brought to normalcy when the seller performed some rituals. The rituals were performed using cow dung from the *kraal* from which the cattle came. At Nechikowa area, the *divisi* farmer simply struck the diseased beast using a wiping stick, and instantly health was restored. There have been cases of mysterious cattle, sheep and goat deaths under unclear circumstances. According to Francis Pasi,²⁶ a Shona traditionalist in Midlands, there were conflicts amongst villagers, after children attending livestock claimed that some of their cattle had disappeared when they mixed with the alleged *divisi* farmers. Bearing in mind the importance of cattle, the communities have been in severe social tensions. On commercial grounds, butcheries supplied cattle by *divisi* farmers had serious losses after consumers complained about the inedibility of the beef. At a certain abattoir in Manicaland, the butcher and his workers spent about two days failing to slaughter an ox, which the butcher had unknowingly purchased from an alleged *divisi* farmer. Later they were advised to consult the owner, who came and just said in a low voice to the ox, *iwe bvuma kuurayiwa* ("You, accept to be killed."). But consumers were not comfortable buying the meat.

As for the girl child, it was realised that *divisi* farmers use *mitimwe*,²⁷ which are objects perceived to possess mystical, spiritual and therapeutic powers after being

25 A thrashing place might be a flat outward part of a granite *rock* that appears above the surface of the surrounding land. Thrashing of the grain is done communally, so after harvesting, villagers bring their grain to a communal thrashing place.

26 Francis Pasi is an ethnographer who studied witchcraft among the Shona people.

27 *Mitimwe* are more common among girls and women. It is important to emphasise that, the use of *mitimwe* among women depends on how the charm is ritualised. In some cases, *mitimwe* are ritualised to work as sexual stimulants. In that case, they are meant to arouse sexual feelings in women. However, the *mitimwe* are also tied around children's waists, necks and wrists irrespective of sex.

ritualised. The *mitimwe* are in the form of strings which are normally tied around the girl child's waist and they are usually transmitted to the child by the mother. They act as protective elements but are also understood to have the potential to determine human personality.²⁸ The study discovered that most of the Shona people who have *mitimwe* are endowed with high moral standards of behaviour, as expected by their communities. Sekai, a *divisi* girl child who has *mitimwe* around her waist and neck, thinks that *mitimwe* ward off men who might want to propose love to her.²⁹ Besides, the charm serves to reduce her erotic desire as long as she is wearing it. In the event that circumstances have required the *divisi* girl to move away from home, for example, to seek for job opportunities in urban areas, the *mitimwe* makes the girl dream of her father having sex with her. This ensures production of the crops and animals back home. Sekai's aunts and uncles have confronted Sekai's parents many times demanding an explanation for why she was failing to marry. This raised some tensions in the family.

It is one of the soteriological beliefs among the Shona indigenous African people that at a ripe age one should marry and have children. Marriage brings dignity to a woman; she assumes a new name and receives respect from the community. The mere fact of leaving her maiden family starting a new family is a societal expectation. In Rudyi village, a 43-year-old woman with no prospects of marriage was labelled as wife of *divisi* by villagers. The stigmatisation grew when accusation of participating in *divisi* witchcraft circulated. She was marginalised and treated as a social misfit. There is, apparently, a big social gap between the "normal girls", and the alleged "abnormal girls" in their mainstream society.

The above scenarios are examples of what drove communities to consult and engage traditional leaders to solve these witchcraft problems, which have become hive of social conflicts. In Gokwe, for example, serious conflicts rose due to these witchcraft accusations, which were responded to by counteraccusations from the accused. Revenge and defence on the part of the offenders and offended, respectively, resulted in the use of lightening and sorcery to harm and kill each other.

LEGALITY/ILLEGALITY OF *DIVISI*

Under Zimbabwean law, it is clear that *divisi* is illegal and that any person who engages in any practice knowing that it is commonly associated with witchcraft shall be guilty of engaging in witchcraft if, having intended thereby to cause harm to any person, such practice inspires in the person against whom it was directed a real fear or belief that harm will occur to that person or any member of his or her family. Such a crime is liable to a fine not exceeding level ten or imprisonment for a period not exceeding five years or both.³⁰

28 Maposa RS and Humbe BP. 2012. *Indigenous Religion and HIV and AIDS Management in Zimbabwe: an African Perspective*. Saarbrücken: Lambert Academic Publishing.

29 Interview with Sekai Hoto by BP Humbe in Zaka District, Zimbabwe, 15/12/2017.

30 Criminal Law (Codification and Reform) Act, ch 9:23.

Agriculture powered by *divisi* is unconstitutional, since the method used is abusive to girl children's rights. There is physical abuse, which is also associated with psychological harm. The girl is given death threats to avoid divulging the secret incest ritual. The farmers are allegedly getting rich at the expense of children's rights. However, since the girl child, who in this case should be the complainant, cannot report the abuse she is enduring, the law cannot be applied to solve the problem, leaving a gap to be addressed by customary law. In communities governed by traditional or customary law, those who practise *divisi* are ostracised by the community, because there is a belief that prevalence of *divisi* has serious repercussions, for example, occurrence of natural disasters like drought, floods, pests and diseases. So, witchcraft is illegal and should be stamped out. But the biggest problem comes in the context of the law, which states that a court shall not take judicial notice of any practice that is said to be commonly associated with witchcraft.

In the absence of empirical evidence, it is very difficult, if not altogether impossible, for instance, to convince a modern court of law that a peasant farmer's neighbour used *divisi* to steal grain and cattle. The accused witches have remained immune from prosecution, since criminals are convicted in formal courts on the strength of available evidence. Evidence considered legitimate may be in the form of witnesses or of tools or weapons used in the commission of the alleged crime. Two brothers in Chivi accused their uncle of practising *divisi* witchcraft, which was causing serious misfortunes in their family. The uncle made a police report, and the offenders failed to present palpable facts to justify existence of witchcraft practices by their uncle. The court ruled in favour of their uncle. This is because any person who, groundlessly or by the purported use of non-natural means, accuses another person of witchcraft, shall be guilty under the law for accusing someone of being a witch or wizard.³¹

WHY SHOULD CONFLICTS BE DEALT WITH BY TRADITIONAL COURTS?

One of the impediments in dealing with *divisi* practices is that the modern society has treated *divisi* as superstitious. Maybe this is because narratives of witchcraft are not in tandem with modern scientific investigation methods. To effectively manage witchcraft issues, it is imperative to give precedence to African traditional religion's mode of operation. Disputes emanating from witchcraft accusations have been successfully dealt with at traditional courts. Before trial, the conflicting parties are instructed to consult traditional or sacred practitioners for establishment of truth on the matter, accompanied by the chiefs' representatives. Usually they consult at least three different sacred practitioners. The commonly used methods of detecting witches in Zimbabwe include divination either by spirit possession or the throwing of bones.³² A sacred practitioner may identify a witch by divining the spirit

31 Criminal Law (Codification and Reform) Act, ch 9:23.

32 See Chireshe et al., "Witchcraft and Social Life in Zimbabwe", 164.

within the witch. When the throwing of bones is done by the sacred practitioner, the direction in which the bones fall to the ground indicates to the diviner who the witch is.³³ The representatives of the chief act as witnesses with regard to the outcome of the traditional practitioners' divination utterances.

If the accused is found to be a witch by the diviners, evidence of witchcraft practices is provided before the traditional courts. During court sessions, charms, utensils, medicines used by *muroyi wedivisi* to collect grain from people are visible and can be pointed out and examined. In some cases, the traditional practitioner is brought to attend the traditional court giving testimonies making use of objects like mirrors, with attendants having a glimpse of the alleged *divisi* witchcraft activities on the mirror. Traditional leaders can effectively make use of proof of the existence of witches through personal confessions made in traditional courts. Cases of infants refusing to breastfeed from their mothers are cited in everyday life as evidence that the mothers are witches. Very often the mothers confess their witchcraft and this results in their babies sucking.³⁴

Vana vembeu who attempt to marry have challenges with their babies refusing to breastfeed. The moment they confess that they are wives of *divisi*, their husbands divorce them. Diviners prescribe remedies and preventive charms against *divisi* witches in various communities. The medicines are believed to have the power to counter the effects of witchcraft. Protective medicines in Zimbabwe may be administered on the body, the yard of a household's victim or items to be protected including *kraals* and fields. In Chipinge, traditional healers talk of *hoko*, which is an anti-witchcraft peg placed at the centre of the homestead to function as a repellant to witchcraft.³⁵

At gatherings like funerals, traditional leaders have a chance to address issues which affect villagers. One of the methods they use is *kurova bembera*, also known as claim making. They inform the audience that there was a *divisi* practice which had become rampant in their communities and the offenders should desist from practising it, lest face severe punishment. This method is meant to protect the dignity of the criminals and accord them a chance to revise their behaviour in an amicable way. *Kurova bembera* has been viewed as a diplomatic way of dealing with witchcraft issues, since anyone involved in witchcraft matters becomes a social misfit. Alleged witches who failed to change their behaviour were ordered by traditional leaders to vacate their villages and their homesteads were demolished. The southern part of Buhera, is dominated by people from Chipinge who were dumped because of witchcraft practices. In Midlands Province, *divisi* witches have been relocated to Gokwe and that resulted in naming the community in which they reside Gandavaroyi (territory of witches).

33 See Chavhunduka, "Witchcraft and the Law in Zimbabwe".

34 See Chireshe et al., "Witchcraft and Social Life in Zimbabwe", 165.

35 Chireshe et al., "Witchcraft and Social Life in Zimbabwe", 169.

As an expression of dissatisfaction – due to the Western and colonial understanding of witchcraft in postcolonial Zimbabwe – there has been an emergence of a cult of witchcraft-finding referred to as *tsikamutanda* (literally, step on the stick), based on the use of magic sticks to identify witches mainly among the Shonas. The witch-finders are also known as Gaurani and Tungatu. They use non-natural means to cleanse the villages of witchcraft practices. Witchcraft practices, such as using *divisi*, are successfully dealt with by these witch-finders. Usually traditional leaders, such as chiefs or village heads, sanction or initiate witch-hunting, because they regard it as an essential social service. The operation of these occult practitioners often takes place at a communal level, hence the involvement of traditional leaders. The *tsikamutandas* claim to have power to cleanse witches or witchcraft, as well as to protect the innocent from future misfortune by neutralising witchcraft.³⁶

At a witch-finding ritual ceremony at the homestead of Mhandu, a *divisi* farmer, there was a *gona* horn which was breathing, decorated with some beads of white, black and red colour. Samples of all grain seeds grown on the fields in Mhandu's community, including maize, sorghum, millet, rapoko, and more were stuck on the *gona*. When a witch-finder Gaurani and his assistants tried to catch it, at first it vanished from everybody's sight seeking refuge in granaries. After they eventually caught it, it was thrown into large flames of fire, which again proved difficult, since it could jump out of the fire. Later it burst, followed by a stinky smell which lasted for several hours. The majority of the people who attended this *divisi* witchcraft cleansing ritual were victims who happened to be Mhandu's neighbours. They claimed that since Mhandu started using *divisi*, they had been experiencing crop and livestock failure in their community. This trend of crop failure became prevalent even though there was normal to above normal rainfall in their agricultural season. However, in Kudakwashe's view, though Mhandu was using *divisi*, he was very philanthropic. Mhandu rescued a lot of starving families using grain from his granaries, which never showed signs of subsidence. The major reason why this witch-finder Gaurani was invited to address conflicts caused by Mhandu's witchcraft shows that the belief in *divisi* occult powers is deeply rooted in Zimbabwe. Regardless of their levels of education, religion and social class, Zimbabweans generally tend to believe that a realm of the occult exists and regularly interacts with the physical sphere of existence. In spite of modern education, it is very difficult to eradicate this belief.

However, the Constitution of Zimbabwe prohibits witch-finding. So, the government has issued stern warning to anyone who operates as a witch-finder. Given the vulnerability of victims of *divisi*, most notably the girl children used in the ritual, it is not fair to let witchcraft cases go unchecked. Instead of just banning this cult, Saul Gwakuba Ndlovu, an analyst of African culture, argues that "the government must do research on powers of *tsikamutandas*".³⁷ Some *tsikamutandas* are charlatans,

36 See Chireshe et al., *Witchcraft and Social Life in Zimbabwe*, 167.

37 Ndlovu SG. 2016. "Government must do research on powers of *tsikamutandas*", *Chronicle*, 15 December.

criminals who masquerade as witch-finders, but it is advisable for the government to accept that some *tsikamutandas* are genuine witch-finders. In any case, why not pass a law which requires one to be thoroughly tested, in order to be certified as a qualified *tsikamutanda*? Ndlovu suggests that national laws must effectively mete out correctional punitive measures against those who practise harmful magic against others.³⁸ How are these witches going to be identified? To identify such people, the state must research thoroughly to be able to distinguish a witch or wizard from a traditional medical practitioner. Ndlovu suggests that we should not bury our heads in the sand by denying the existence of witchcraft. The state should, instead, actually fund and run scientific centres that can establish and maintain data about witchcraft, its sources of strength, its motivation, its aims and objectives, its practitioners, their *modus operandi* and its disadvantages and benefits to society.³⁹

An approach that merely suppresses witchcraft-finding, without trying to understand a social, cultural, political or economic practice among the Shona and other African communal societies, drives it underground, turning it into a worse danger to society than one that openly analyses and exposes it.⁴⁰ That is because some aspects of the practice may be harnessed and utilised for the good of the people at large. For example, it was noted that, through the *gona*, in times of drought, or in drought stressed regions, *divisi* has capacitated the farmers to adapt to the environment. They can study the rainfall patterns well and make informed decisions of what to grow and the time to grow. These farmers are known to help in enhancing food security in their communities. Their communities count on them for purposes of *kushunza*, or procurement of grain in times of scarcity. Besides, the grain they produce is used to brew beer, which is an important resource for ritual performances. Each time traditional rituals are performed, traditional beer should be available for purposes of libations, rain-making ceremonies, bringing-back ceremonies and installation of chiefs.

CONCLUSION

The law is meant to avoid social tensions, but it is also fueling social insecurity, in a way, since it does not consider that witchcraft is a religious phenomenon. There is no legal protection for the victims, since offenders (witches) escape conviction. The Constitution of Zimbabwe provides immunity to *divisi* witches by forbidding the use of non-natural means to resolve crime or delict. Thus, a person commits a crime if they, by the purported use of non-natural means, intentionally indicate someone as the perpetrator of a crime or delict. Many observers and commentators have noted that witchcraft and social conflicts go hand in hand. The victims are female children and neighbours who mysteriously lose their grain and livestock. Therefore, social tensions and insecurity of civilians can be managed if the law

38 Ndlovu, "Government must do research on powers of *tsikamutandas*".

39 Ndlovu, "Government must do research on powers of *tsikamutandas*".

40 Ndlovu, "Government must do research on powers of *tsikamutandas*".

incorporates indigenous religion and culture to protect the dignity of girl children, who are used as mere means by families with *divisi*. Michael Gelfand appeals to us not to be too closely tied to Western terminology in our interpretation of the facts of witchcraft practices in Africa.⁴¹ This does not necessarily mean that the better-known hypotheses of the purpose or function of witchcraft beliefs in Africa are not correct. Many of them are rational and reasoned explanations of witchcraft and probably apply to many territories in Africa.

Purportedly, climatic changes in southern Africa have resulted in serious food shortages, especially on subsistence level. However, *divisi* is widely seen as a way to address food security in hunger-stricken Shona communities. There are some who view *divisi* as an imaginary phenomenon yet its characteristic nature impacts their work ethic. This is expressed in the proverb “*mushonga wedivisi kushanda*”, meaning *divisi* witchcraft does not exist, but hard work is the panacea to agricultural success. This is based on the understanding that a *divisi* farmer spends most of his time working in the fields. This philosophy of *divisi* has inculcated a spirit of hard work for self-sustenance among the rural agricultural communities. What is also greatly appreciated is the wisdom possessed by the *hurudza* in agricultural their activities. In a very positive manner, a lot of households adopt the belief that hard work is the only means to attain bumper harvest in agropreneurship. In times of drought and hunger, *divisi* farmers help their communities to manage starvation. If the *divisi* farmer interferes with the crops and livestock of others, in a way what he gains make up for the lost to others. Usually fairness in distribution of the grain is determined by the gravity of hunger being experienced by particular households begging for food. Also when time for a new agricultural season approaches, seeds are acquired from the *divisi* farmers. Besides free distribution, *divisi* farmers usually sell their agricultural produce to those in need, particularly in form of barter trade which is convenient to rural poor villagers. Most of the *divisi* farmers are identified as philanthropists who actively participate in giving grain handouts to beggars, popularly known as *vapemhi*. This consolidates the *divisi* farmers’ social status in the context of tension between vulnerability and food security.

41 See Gelfand, “UNHU – The Personality of the Shona”.