

The Customary Law and Cultural Practices of the Mahlalela Lineage

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ABSTRACT: *The objectives of the study are to provide broader knowledge and basic truth about the customary law and cultural practices of Mahlalela lineage. They further help the lineage to rediscover its cultural identity, fundamentals principles of human life, norms, morals, and customary rules that govern relationships at various levels of society. The clan's heritage and indigenous knowledge are recovered, honoured and protected. The significance of the study is to provide a research information about the customary law, genealogy and traditions of the clan. The succession plan of the clan which is hereditary will be discussed in relation to its socio-cultural domains. The historical order of incorporation of all Swati nation is categorised into Bemdzabuko (Fission), Emakhandzambili (Progenitors) and Emafikamuva (Late comers). The ethnic background, clan hierarchy and national roles are significant in this study.*

KEY WORDS: *Customary law, Genealogy, Heredity, Indigenous knowledge and Succession.*

I. Introduction

The real life situation of a society is reflected by its beliefs, behavior and customs. This is a study of the ethnographer, which deals with the cultures of the people. The assumptions of ethnography are epistemological when viewed that social reality is revealed in natural settings from the viewpoint of the cultural group. The knowledge of social realities emerges from the joint work engagement of the researcher and the cultural group. Cultural practices involve spatial and temporal settings, human lives, thoughts, feelings, rules, triumphs and tragedy. This is the study that uses interactions with participants to create analytic frameworks that are empirically grounded. Its interaction needs formulation and reformulation as well as testing and retesting. Customary law is the significant law that is controlling the lives of the society like their property, marriages and right to inherit.

II. Research Methodology And Theoretical Underpinning

Data are gathered through interview, official documents and media reports. Oral tradition is a living museum of the whole stock of socio-cultural output stored up by people who had no written records. Old people, as primary source, are custodians of tradition and culture and they are regarded as providers of the reliable information. Oral evidence and literature study are both approaches that are expected to authenticate and validate this research work. The cultural process is viewed from the contents of dynamism, heterogeneity and conflictual notions.

III. Background And Genealogy Of Mahlalela Lineage

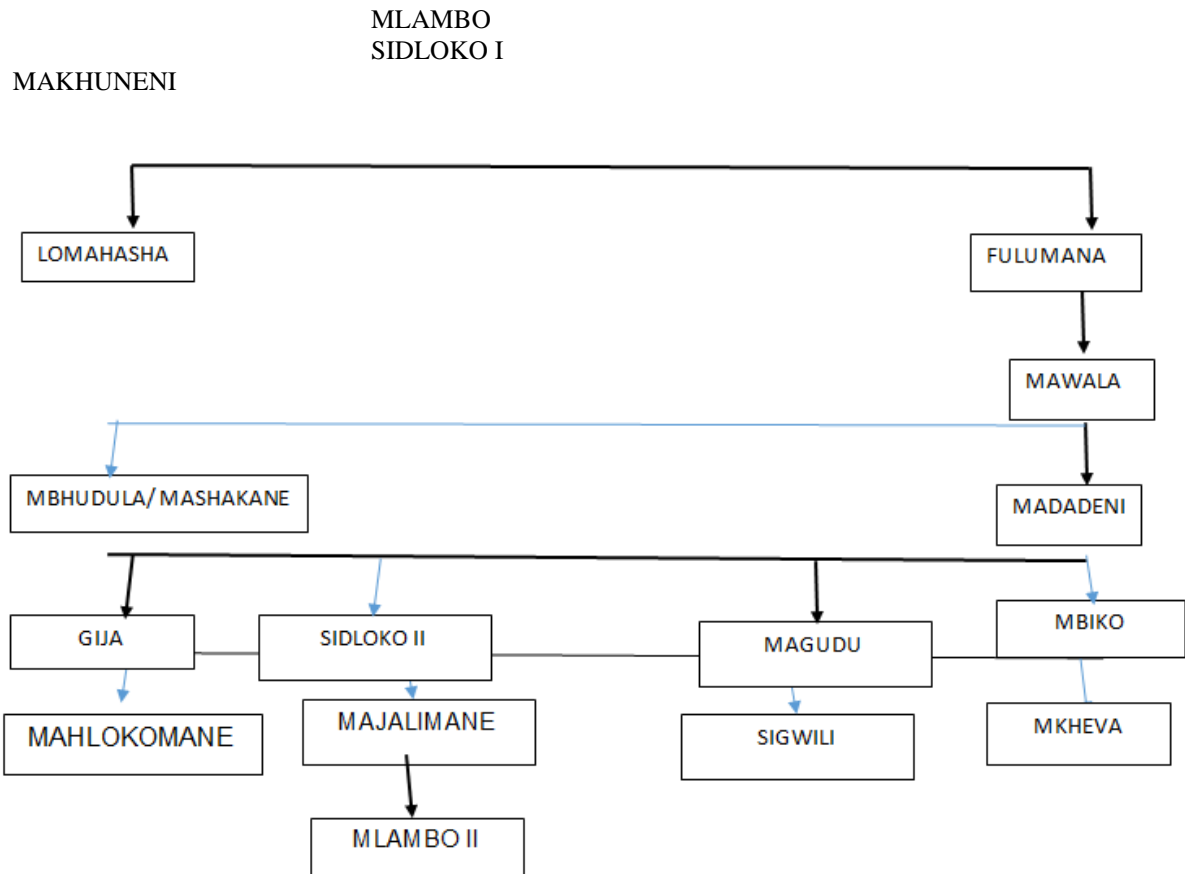
Martin and Nakayama (2013:133) give this view on cultural group history:

The history of each cultural group within a nation that includes the history of the group where originated, why the people migrated and how they came to develop and maintain their cultural traits.

The Mahlalela people came to their present area from a place called eShiselweni on the Phongola River in northern Zululand. In the 1670's they settled on the hill Emkhuwaleni in the Embuzini area presumably under Zembe. In 1680 they moved to a place called eBukhunkwini, in Mozambique. Later, they moved to Piggs Peak and Siteki districts in the Kingdom of Eswatini. In 1892 they settled in the Embuzini area.

Skeleton genealogy:

SIBANGAMSWANE
NZALELA
ZEMBE



(Adapted from Myburgh 1949)

IV. An Overview of Mahlalela History

Under Sidloko, the Mahlalela people moved to eBukhunkwini in what is presently known as Mozambique. Sidloko I was of advanced age when he passed on during the rule of King Mswati II. He became so old that he himself requested *euthanasia* from his people. His grave is in the eBukhunkwini forest.

Makhuneni was supposed to have succeeded at a place called Emalibeni that is Piggs Peak district of Kingdom of Eswatini. Owing to his father, Sidloko I's long reign, Makhuneni did not have the opportunity to succeed as inkhosi. Apparently, this predicament frustrated Makhuneni to such extent that he illegally enthroned himself and that is regarded as high treason which led to execution.

Lomahasha was born in 1825 at Emalibeni. He was a regiment of King Mswati's iNyatsi. The district of Lomahasha in Mozambique was apparently named after him. His involvement in army is noted in his participation in the 1864 Swati expedition which resulted in capturing Mabhedla who joined the Mapulana at Mariepskop. He further assisted Mawewe in 1862 against his brother, Mzila. He passed on in 1892 and buried at Embondvweni.

Lomahasha was assisted by his son Mbhudula in 1892. He apparently ruled three villages on the Embuzini plateau which are Embangwane, Nsalabasho and Elangeni. Magudu acted for two years. In 1935, Sidloko II became of age and took up his position. Sidloko II was born in 1909. He resided on the Embuzini Plateau at his village known as Enkanini.

After Sidloko II's death, Magudu acted for Majalimane. Majalimane passed away in 1966 without ever having been installed as Inkhosi. It is said that Majalimane became ill while working in the Mhlume plantations.

According to mythology of oral traditionalists, three Emalangeni brothers migrated with their people from a certain place called Embo. This was long time ago. Upon reaching a certain point, the senior eldest brother killed an elephant using a royal magic stick. After killing the elephant, the eldest brother and his followers decided to stay around in order to skin the elephant because they wanted some of its parts for the royal staff.

From henceforth, this group became known as Mahlalela. A second brother, instead of moving on also decided to join his eldest brother and explore the area. He was called Maziya. The third brother decided to move on. He was called Dlamini. According to the traditional information, the three brothers were all called Emalangeni

before they were separately named Mahlalela, Maziya and the Dlamini. The earliest inhabitants Emalangeneni are said to have lived in along the Lubombo Mountain.

It is evident in this background is that they inherited the present names after certain events, like the Mahlalela for killing and staying around an elephant. The Emalangeneni themselves established to autonomy of the Mahlalela and the Dlamini. This happened centuries ago, before the creation of states like the present day of Republic of South Africa, Mozambique and Kingdom of Eswatini. From time immemorial, when the senior traditional leader passes away, he is laid to rest in a cave.

Ginindza (1992:9) gives the idea of the historical incorporation of the various clans during their arrival according to three principles:

1. Bemdzabu (fission)
2. Emakhandzambili (those found ahead) or progenitors.
3. Emafikamuva (late comers).

She wrote that Emakhandzambili (progenitors) also includes members of the clans who migrated from kaTembe with the Dlamini but after climbing the Lubombo range, broke off and settled in the eastern Kingdom of Eswatini, mainly in Lomahasha area. She further says that these were the Maziya and the Mahlalela. Genealogically, the Mahlalela lineage related to the Dlamini royal house of the Kingdom of Eswatini. According to oral tradition, Mahlalela is the senior groups. This is also supported by the ritual avoidance of the rules. There is no evidence that the Mahlalela people was ever subjugated by other clans. This confirms their status as an autonomous group. There is no evidence that the Mahlalela subjugated other groups. Mahlalela status differs from that of traditional leaders who are subject to a senior authority.

Mahlalela area of traditional jurisdiction includes the Embuzini area in South Africa adjacent areas in Mozambique and Kingdom of Eswatini. The Mahlalela traditional ruler has the authority to appoint local leaders in these areas and to settle disputes among subjects in these areas. The constitution act of 1996, recognises in sections 211 (1) the institution, status and role of traditional leadership, according to customary law and subjects to the constitution. The remuneration of Public Office Bearers Act, 20 of 1998, provides for the remuneration of various categories of traditional leaders. Presently, the leader of the Mahlalela clan regarded as a chief, like the other chiefs who pay allegiance to the King of Kingdom of Eswatini.

The Mlambo Traditional Authority structure was arranged according to their traditional belief that inkhosi, traditional leader is the supreme authority of his people. The traditional leader makes ruling or decisions after consultation with the royal family. He protects his land and people. He supports the constitution of the country (RSA) as officiates at the traditional installation of other leaders in his area of jurisdiction. The category of the senior traditional leader is a headman who is the first level of arbitration when families engage in disputes that they cannot resolve. They administer cases falling within the level of their settlements and if not resolved, after such case to the senior traditional leader concerned. Is the messenger (mahlalesangweni). His role is liaising between the headman and the people.

The present royal kraal is at Ehlutweni, built by inkhosi Mlambo II. The royal kraals built by former emakhosi are all important because of their historical and cultural contributions. Customs require that each has to build his own royal kraal; he may build more than one, in fact as many as he would like. Royal kraal is referred to as umphakatsi. Sidloko built Embangwane, eBukhunkwini and eKufeni/eTjeni. Mbhudula built Embasheni and Enkanini. The Mahlalela surname is derived from the verb, *hlala* (sit). *Kuhlalela* (to seat for) used a perfect formative. The surname is explained through a myth that they settled at a certain place, waiting for an elephant to give a birth.

Although the Mahlalela clan has been inseparable with the Dlamini clan from time immemorial, it is evident that there is time where they broke away and took separate routes before the formation of Swati kingdom. The reformation and rebuilding of powerful, dexterity and versatility nation become apparent when the Mahlalela clan was categorised and classified as Emakhandzambili (progenitors).

V. Customary Law Of Succession

The Mahlalela customary law of succession is determined by different factors. The order of marriage plays an important role. If amongst the senior traditional leader's emakhosikati, a chief's wife is a princess from another royal family, then she will bear an heir to the throne. In this customs, it is used to be only one boy child from that issue. The Mlambo people would pay this queen mother's lobola (bridewealth). If the incumbent dies before marrying for the purpose of bearing a successor, then the royal family decides who the heir to the throne will be amongst the sons of the late incumbent.

In Mahlalela customs, the royal family is made up of sections called *emaguma*. A senior is in charge of each *liguma* (section). A senior prince who is the first offspring of the late chief's heads *emaguma* (sections). The offspring is known as *lisokanchanti*. The senior prince is the head of the entire royal family. He is also the spiritual head and makes decisions after deliberations by the royal family. He is the one responsible for the

announcement of the heir to the throne. The senior prince leads the royal family and the chief leads the people. The chief provides senior traditional leaders guidance on the proper use of the land for the generation to come.

VI. Installation Of Senior Traditional Leaders

All matters associated and linked to the installation control, regulation, management, orderliness and removal of Swati traditional leader are handled in accordance with *emasiko nemihambo yeMaswati* (Swati laws and customs). A senior traditional leader is formally authorised and endorsed senior traditional leader following a detailed and extensive process of selection by *lusendvo* (family counsel). The government have no role in installing, discipline or removing a Swati senior traditional leader. The government is only informed by the king as those powers are vested in the King only.

It is *lusendvo* (family counsel) that recommends a senior leader's installation to the *ingwenyama* (King). If he misbehaves in any manner, they will approach the *ingwenyama* (King) accompanied by the senior members of the local counsel and headmen, with the suggestion that the chief should be disciplined or even removed if that warrants removal. Swati law and customs prescribe and enforce senior traditional leaders that it is not the senior traditional leader that is installed, but the mother. Hence, the search for a chief's heir starts with establishing which wife is the senior among the chief's wives, who shall be the Inkhosikati (mother of the community). The consideration of who is the senior wife depends on a multiplicity of factors.

If the deceased senior traditional leader had two wives, one having been married as an ordinary lover (*singani*) and other having been offered to marry the chief by her family (*wekwendziswa*), then the latter's becomes the senior one and is expected to bore an heir. If the senior traditional leader had third wife whose surname is the same as that of his grandmother (Gogo), that the wife supersedes others in seniority. If there is a wife who is married through *kukhiwa* (to pick or pluck) then that wife takes a senior position. If among the senior traditional wives, one is the daughter of the king (a princess), she supersedes the other wives. If there is one wife, then the family will have to automatically accept that wife as future *Indlovukazi* (she-elephant).

The rules of succession of kings and chiefs among the Swati nation are very significant. Choosing of leadership among the Swati people is a very important and delicate process, unlikely any other political systems. There are no elections or campaigns that are conducted. Even if the family council knows who will be the next heir, they usually say: *Inkunzi isematfoleni* meaning that the next heir is still too young and is among other royal children. Even if the heir is identified it will never be publicly declared as a successor. This is done to protect the child from being murdered within the royal family. Members are afraid that he may be bewitched or poisoned.

The heir is also being defined by the birth position of the chief's wives according to the order of marriage. It becomes complicated because royal families are based on polygamy and the status of wives is clearly defined. It is noted that the heir to the throne is chosen according to his mother's status and Queen's mother is selected, based on her rank, by the royal counsel following the king's death. The king is always of a Dlamini surname. The king must be her only son and is expected to choose wives from various clans to ensure national unity.

Kings or chief's wives themselves were extremely ambitious for their sons to be introduced as the next heir. As a result, hatred and murder developed among the royal families. Cold war within the family members maybe manifested in accusation of witchcraft, intensive aggression among the royal families, and eventually these leads to hot war, where arms and shootings can take place.

Sometimes, the family council will send them away from their homes to stay in a far distant place where they will not be known, until the heir is grown up. They will come back when the heir is ready to take over the leadership, however, this process of conflict is called, *umbango*. Kuper (1980:88-89) says this about the status of wives who give birth to their heir:

In certain cases, one wife is married when the man is well on in years according to a ritual that leaves no doubt as a superior status in her harem. Prominent men, chiefs and especially the King, are expected to contract a marriage of this kind, in order, no doubt as to her superior status in her harem. Prominent men, chiefs and especially the king, are expected to contract a marriage of this kind, in order, no doubt that the identity of the heir maybe unquestionable.

Sometimes issues related to who will be the next heir were left unattended until late in a reign, a chief died before a declaration was made. Kuper (1980:88) supports as follows:

However, except under special circumstances, as successor to a polygamist is not known publicly during his father's life time. The Swati unlike some other Southern Bantu do not automatically accept the first wife as the great or main wife. It is usually only after the death

of the husband that a council chooses the heir by determining which of the wives of the deceased holds highest rank.

A chief or a ruler might be drowned, poisoned or any other form of killing in which will show no evidence that the person has been intentionally murdered, however, this usually happened when the current ruler is old and no longer be able to perform challenging duties of the state and nation. Civil rights are reflected in this kind of governance. In the cases:

Firstly, a chieftaincy is achieved through the concept of “Royal Bloodline”. Inheritance is not voted for. The succession to power depends on the claimant being in the rightful relationship to the previous chief. Secondly, it is believed that the particular chief is deemed sacred. God and ancestors had chosen him to rule and they are the only figures that could remove him from the position. This is the divine right of king and chiefs. The chief could influence everything, including fields, weather, crops even the entire life of human being. Thirdly, senior officials (*tindvuna*) are appointed by them. They rule various sections through the control of officers loyal to them. Therefore, the form of leadership and governance is sustained by the law of participation and compliance. Respect is the fundamental Swati values and sustained the relationships between kings, chiefs, councillors and the entire population.

Kasenene (1993:91) supports that non-material culture includes beliefs, values, norms, customs and habits that are mainly used by rulers to justify their designs. He further states that for example, in Kingdom of Eswatini cultural values facilitates obedience to rulers. He emphasizes respect for one’s senior as the most important value among the Swati. All Swati chiefs accord great respect and are generally closer to their subjects. Therefore, during national assemblies, it becomes extremely difficult for ordinary people to be seen opposing a chief. They prefer to compromise in order to reach a common goal and to maintain their good relationship with the particular chief in power.

Basically, it is known that the chief of a particular territory had a right to appoint any resident of non-hereditary as *indvuna* (senior officials). This happens because, the Swati people occupy the huge hectares of land known as *sifundza* domain into which the chiefdom territory was to be divided for administrative purposes. Senior officials are therefore, ultimately accountable for almost everything that happens in each *sigodzi* (section) come into being with the movement of population into a new area with the aim of settling there permanently.

The significant role of (*tindvuna*) councillors is noted that they are also responsible for certain duties that are delegated to them by chiefs. He further relates that they have authority and power to make and implement difficult decisions over all who lived within their domain. They are making sure that they are always available to their chiefs and working to the best of their ability, and ensure that the tribe is assisted in every angle of their need. The senior officials are accountable to their chiefs and expected to serve their subjects or subordinates as well.

Delius and Michelle (2009:121) support that chiefs ruled with the help of trusted councillors and headmen drawn from wider and often ethnically diverse communities on the basis of the age, rank and skills. He further writes that a councillor or headman are political representatives of his locality. According to Myburgh (1949:53), some officials are in command of the regiments on service when they do work for the chiefs, such as tilling his fields or building his huts. Most of them perform political duties, advice the chief on political matters such as how to run the court of the chief. They are also responsible for making decision relating to public life and involve in the settlement of dispute emanating between their subjects. Each chief has a court, in which cases are heard, with appeal to the chief.

Such council is imperative because it acts as a court of law. Everyone who is present would be bound by decision taken. In such council, people will differ, sometimes in an informal place, even under a tree. Issues will be deliberated until a consensus is reached. Decision taken must be translated until consensus is reached. Cases are discussed by councillors who are present in the particular meeting, and the chief is to pronounce the verdict. Myburgh (1949) further supports this when he says all the Swati cases are heard at the headquarters by the *indvuna* on duty, an appeal lies with the relevant chief and final appeals formerly went to the Swati king. If the suspect is found guilty, the court will impose a fine of cattle on that particular person where his stock will be confiscated as a form of *inhlawulo* (fine)

In addition, during the process, the most respected, intelligent, eloquent, individual form of the part of the committee. Most of the men are those close to the chief, in particular those who spend long time in the royal kraal, gaining experience from each other. The role that is played by mothers (queens) in political affairs is so imperative that they are held in high esteem. Kasenene (1993:94) maintains that the king’s mother is the most important person in the kingdom. He further states that she has her own estate and plays an important part in the day to day running of the country as the king’s chief adviser.

The Mahlalela clan is one of the largest lineage that is found in Southern Africa. There are documents that are reflecting the history of the area, primarily because it has been ignored for quite some time. Oral evidence suggests that this clan is dated back to the period of the Nguni arrival in Southern Africa. The population within this area comprises different ethnic and cultural groups. The largest language in the area is

Siswati. Other spoken languages in the area that are code-mixed and code-switched are Xitsonga and Portuguese.

The main religions are Christianity and African tradition. Its economy is agrarian of which the staple crop is maize meal. Main crops include sugarcane, mangoes, papaya, citrus fruit, banana and avocados. Land irrigation system is almost popular one, especially among middle class group. Most of the people are relying on borehole system as a source of water.

According to Ginindza (1992:09), the Swati nation is of relatively recent historical origin, its beginning date from the 1760's and 1770's when the Dlamini clan together with its followers inhabited Southern Africa. He says that from that period, the Dlamini's gradually forged the Swati nation from groups and individuals of varied ethnic backgrounds namely: Nguni, Ntungwa, Sotho and Thonga by conquest and diplomacy. The Swati state was consolidated during the reign of Mswati II (1840-1865) and Swati king comes from lineage of the Nkhosi Dlamini clan.

VII. Conclusion

Despite the mythology that the Mahlalela, Maziya and Dlamini are biological brothers, there are plenty folkloric domains that are supporting that folk assertions. They do not marry each other. They share the folk stories, folk praises and folk sayings. They share the traditions, language and cultural practices. They are governed by the same geographical, geopolitical, socio-cultural and socio-historical phenomena. In their clan praises, they all share Mlangeni (you of the sun) and *wena lowacedza Lubombo ngekuhlehetela* (you who scoured the Lubombo range in your flight.) both Mahlalela and Maziya further share a specific praise name Mcanco (climber), derived from the word, *canca* (to climb), referring to the clans that climbed the Lubombo maintain range.

VIII. Recommendations

It is recommended that a further research on history of Mahlalela lineage be urgently instituted to determine their principality as eastern Nguni domain. Their geographical area in three countries, namely: Kingdom of Eswatini, Mozambique and South Africa needs a vivid surveillance and international boundary delimitation. Their language Siswati is fully acknowledged, but their linguistic domains such as dialects, ethnolects and sociolects need to be highlighted to broader Siswati language. Their acculturation and enculturation in their indigenous area need a research and alignment in the indigenous knowledge system and to broaden the micro and macro linguistics of Siswati language.

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