

Review

Defining witchcraft-related crime in the Eastern Cape Province of South Africa

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In the South African context, criminal acts that are associated with beliefs in witchcraft have illustrated the complexities that emerge in the relationship between crime and culture. Witchcraft beliefs continue to play an important role in the lives of many African communities. However, when these beliefs manifest themselves in the harming of others, either through perceived supernatural means or through violence perpetrated against alleged witches, issues of crime add another dimension to the social and cultural context of African communities. In the north-eastern parts of the Eastern Cape Province in South Africa, crimes associated with witchcraft beliefs have occurred relatively frequently, yet the South African Police Service (SAPS) in these areas has been ineffective in addressing these crimes. In this article it is argued that a clear definition of witchcraft-related crimes is needed to assist in dealing with these cases. Such a definition should be holistic, meaning that local perceptions of witchcraft as a crime should be taken into account, along with violence and other more obvious criminal acts. The article is based on a critical engagement with anthropological and other relevant literature, including the author's own doctoral research study of witchcraft-related crime in the Eastern Cape province of South Africa.

Key words: Witchcraft-related crime, Eastern Cape Province, Mpondoland, South Africa.

INTRODUCTION

In 2001, the police found the murdered and mutilated body of a mother from Mount Frere in the Eastern Cape Province. She had had her facial skin removed, as well as her genitalia, breasts, hands and feet. She was a victim of a suspected *muti* murder, whereby a person is killed for the purpose of removing his/her body parts for use in African traditional medicine (*muti*). In January 2006, two elderly women were killed in Gengqe, a rural village in the Eastern Cape, following the deaths of four boys who were struck by lightning in December 2005. The women were killed because of suspicions and rumours in the community that they had "sent" the lightning to kill the boys (Petrus, 2009: 120). These incidences are examples of normal "punishable" criminal offences where the belief in witchcraft was a motive. However, there are also examples of incidences where witchcraft itself was allegedly used to harm or kill other people. In June 2008, in a village near the town of Port St Johns in the Eastern Cape, three people died after drinking traditional African beer at a social gathering (Petrus, 2009: 120). Although the same beer was drunk by most of those who attended the gathering, these three "victims" were the only ones affected by the beer. This

led to suspicions that they were killed by witchcraft. Also in 2008, in a village in the town of Mqanduli, a young woman committed suicide for no apparent reason. Again, witchcraft was suspected to be the cause (Petrus, 2009: 120).

These incidences refer to criminal activities that are linked together by one common denominator: the belief in ideas and practices that can be called "witchcraft". The linking of criminal acts to the belief in witchcraft can result in a specific category of crimes that can be called "witchcraft-related crimes". Although the examples mentioned are fairly recent, that is all occurring after the year 2000, this in no way implies that these kinds of activities are a recent, that is, post-twentieth century phenomenon. Within the African context, witchcraft-related crime has become a feature of most postcolonial African states, of which South Africa is no exception (Delius, 1996; Osei, 2003; Hund, 2003; Comaroff and Comaroff, 1993; Niehaus, 1997; 2001; 2003a; 2003b; Jensen and Buur, 2004; Comaroff and Comaroff, 2004).

Within the post-apartheid South African state, the law enforcement system is faced with numerous challenges. One of these is the development of an effective method

for dealing with witchcraft-related crimes (Hund, 2003; Petrus, 2006; 2007). Witchcraft-related crimes have been occurring at an alarming rate over the past few decades across various regions of South Africa. However, it was not until the mid-1990s that the seriousness of the witchcraft-related crime phenomenon became a matter of national interest. The witch hunts and killings that occurred in the country's former Northern Province (now Limpopo Province) during the 1990s exposed the state's inability to deal with witchcraft-related violence (Mavhungu, 2000; Hund, 2003; Petrus, 2006). Although the state appointed a Commission of Inquiry into Witchcraft Violence and Ritual (*muti*) Murders in the (former) Northern Province (the Ralushai Commission) in the 1990s, which subsequently published its report in which it outlined recommendations to address witchcraft violence in the province (Ralushai et al., 1996) very little progress has been made. According to Ashforth (2005: 10-11), one reason for this lack of progress is that 'Witchcraft tends to surface in public discourse in South Africa only when reports of witch killings arise...Witchcraft is then taken to be a "problem" insofar as it pertains to the killing of innocents – a "human rights issue" in the current parlance'.

In this article, the author argues that an additional problem hampering efforts to effectively deal with witchcraft-related crimes is the lack of a clear definition of witchcraft-related crime, especially for law enforcement structures. Difficulties in defining this type of crime are the result of a lack of a holistic understanding of witchcraft and the socio-cultural context in which it exists. Holistic, as it is used here, refers to the inclusion of the perceptions and beliefs of local communities regarding witchcraft.

Firstly, the article briefly critically outlines how witchcraft-related crime is understood in terms of the South African Witchcraft Suppression Act (1957). Secondly, the article suggests a holistic definition of witchcraft-related crime in the Eastern Cape, based on the author's ethnographic data obtained from research participants in Mpondoland. As indicated earlier, a holistic definition of witchcraft-related crime is one that would include the socio-cultural beliefs of communities regarding witchcraft beliefs and practices. As is shown throughout the article, local communities' perceptions and beliefs may often be ignored by official state law enforcement officials. Consequently, law enforcement officials tend to focus exclusively on what they would consider or define as the "actual" crime, which may be acts of violence perpetrated against alleged witches. However, ignoring the socio-cultural context of witchcraft creates the problem of an ethnocentric, Western-biased definition of witchcraft-related crime. This can then alienate local communities from law enforcement officials, thereby hampering their efforts to effectively address all facets of the complex phenomenon of witchcraft-related crime.

The legal definition of witchcraft-related crime in South African anti-witchcraft legislation: The witchcraft suppression act (No. 3 of 1957)

During colonialism in Africa, problems were created for indigenous communities after colonial rulers attempted to impose European definitions and understandings of witchcraft beliefs and practices on these communities. In various colonies throughout Africa, these attempts culminated in the creation of colonial legislation that suppressed and outlawed beliefs and practices that the colonial lawmakers deemed to be witchcraft (Holland, 2001; Petrus, 2009: 131). For the colonists, indigenous communities had to be discouraged from following "irrational" beliefs as these were viewed as obstacles to Western modernisation and development. Colonial legislation outlawing beliefs and practices linked to witchcraft were thus inspired by Eurocentric values and understandings of rationality and witchcraft.

The witchcraft legislation of South Africa and that of the former Northern Rhodesia (now Zambia) show marked similarities in how Europeans understood and defined witchcraft and witchcraft-related crime. In Section 1 of the South African Witchcraft Suppression Act (No. 3 of 1957) it is stipulated that 'Any person who...professes a knowledge of witchcraft, or the use of charms...shall be guilty of an offence...where the accused has been proved to be...a witchdoctor or witch-finder...'. (*Statutes of the Republic of South Africa*: 601). This clause is similar to that found in the Northern Rhodesian Witchcraft Ordinance (No. 31 of 1952) which stipulated 'Whoever shall be proved to be...a witch doctor or witch finder shall be liable upon conviction to a fine...' (Reynolds, 1963: 166). In both cases, there is no distinction between practitioners of "good" magic, such as diviners and herbalists, and practitioners of "evil" magic, such as witches and sorcerers (Mavhungu, 2000: 128). For the colonial lawmakers, all those who professed knowledge of the supernatural were grouped together as alleged practitioners of witchcraft. In addition, both forms of witchcraft legislation also outlawed the practice of consultation with diviners and herbalists. In Section 1 of the Witchcraft Suppression Act (No. 3 of 1957) it was stipulated that 'Any person who employs or solicits any witchdoctor...or any other person to name or indicate any person as a wizard...shall be guilty of an offence...' (*Statutes of the Republic of South Africa*: 601). Similarly, the Witchcraft Ordinance (No. 31 of 1952) of Northern Rhodesia stated that 'Whoever employs or solicits any person to name...any person as being...a witch...shall be [held] liable...' (Reynolds, 1963: 167).

Some scholars, such as Hund (2003), have argued that the South African Witchcraft Suppression Act (No. 3 of 1957) actually contributed to the rise of witchcraft-related crime in the country. Since the Act sought to criminalise diviners and herbalists, as well as the practice of consulting them, African people were denied the right to

use conventional or “traditional” means of dealing with the problem of witchcraft. The Act thus failed to recognise the positive role of diviners and herbalists as the protectors of their communities. Consequently, African people interpreted the Act as protecting witches and sorcerers. They also resented the inconsistent application of the legislation as it seemed to favour suspected witches but not the witch hunters, which the colonial authorities regarded as criminals, but whom communities regarded as heroes (Mavhungu, 2000; Harnischfeger, 2003).

Some scholars have also criticised the Witchcraft Suppression Act (No. 3 of 1957) for failing to recognise the ontological status of witchcraft in the African world-view (Mavhungu, 2000; Kohnert, 2002; Harnischfeger, 2003; Minnaar, 2003; Niehaus, 2003). The Act frequently uses the word “pretends” when referring to a person claiming to be able to control supernatural forces (Statutes of the Republic of South Africa: 601). This suggests that the Act does not recognise the African definition of witchcraft as a reality as it is based on the Eurocentric colonial view of witchcraft as irrational superstition.

One factor that could have contributed to the problems of definition inherent in the Witchcraft Suppression Act (No. 3 of 1957) is the perceived ambivalence of witchcraft powers. Among the Xhosa-speaking people of the Eastern Cape Province, while the *isangoma* (diviner) and *ixhwele* (herbalist) are regarded as the antithesis to the witch and sorcerer, it is also acknowledged that these traditional healers can control the same supernatural powers used by witches and sorcerers. The popular perception among the Xhosa-speaking people is that if a person has knowledge of occult powers then such a person may well become involved in witchcraft. Diviners and herbalists can only combat the effects of witchcraft if they themselves have an extensive knowledge of it. The author's research in Mpondoland revealed that the majority of community research participants agreed that traditional healers were consulted in cases of suspected witchcraft. If witchcraft was diagnosed, clients would then be given protective medicines (*amakhubalo*) to combat witchcraft. However, the participants also agreed that traditional healers, particularly the *ixhwele*, may be involved in witchcraft. Consequently, practitioners of good magic could also be practitioners of evil magic if they use their knowledge and powers to harm. The distinction is governed by the intent or motive of the practitioner, whether to help or heal, or to harm or kill (Petrus, 2009: 134).

A further problem in defining witchcraft-related crime also arises in the following scenario. In some cases, a client who considers himself/herself to be a victim of witchcraft may request a diviner or herbalist to perform protective magic to counter the witch's power. If the alleged witch falls ill or dies as a result, it is possible that the witch's kin may accuse the traditional healer, as well as the client, of witchcraft. This could result in a possible

retaliation by the alleged witch's kin who may consult their own traditional healer to counter the “witchcraft” of the original client. The author found that among the Xhosa-speaking people of Mpondoland, retaliatory violence linked to witchcraft accusations and killings was a common occurrence in the mid-1990s. According to one research participant from the Port St Johns area, in places such as Tsolo, communities were ravaged by factional violence in the 1990s that was not only the result of accusations of stock theft, but also resulted from accusations and counter-accusations of witchcraft (Petrus, 2009: 135; Kohnert, 2002). In cases such as these, it becomes difficult to define witchcraft and to determine who the “witch” is. It is possibly as a result of these ambiguities that colonial legislation tended to generalise, often mistakenly, concerning issues related to witchcraft.

The issue raised above continues to be a problem in the legal definition of witchcraft-related crime. This is illustrated in a case, as described by the author in his research, which occurred in an Eastern Cape village called Magcikini just outside the town of Port St Johns. An elderly woman from the village was killed in July 2008, allegedly because she had confessed to practising witchcraft (see Petrus, 2009: 100-103). According to research participants in the area, since 2001 the woman had been confessing to causing the deaths of several young people in the village. The woman had claimed to have magically infected several young people in the village with HIV, through the use of a witchcraft technique called *ukuthwebula*, whereby a witch has the ability to magically extract the life force or blood of a person. Apparently, the woman had also accurately predicted for how long the victims would live after being infected. She had claimed that those infected would not live past three months. After the three month period, several young people died after showing similar HIV/AIDS related symptoms (Petrus, 2009: 100). The claims to have been responsible for these deaths were made by the woman herself, apparently without being coerced or threatened to do so. These claims quite possibly led to her death. Those responsible for killing the alleged witch would have regarded her as being the real criminal in this case as she had voluntarily confessed to killing several people, some of whom could have been relatives of her killer(s). At the time of the research, the police, however, were investigating a case of murder where the deceased woman was regarded as the victim and not the culprit (Petrus, 2009: 101).

The above suggests that there is a need in South Africa for a review of the Witchcraft Suppression Act (No. 3 of 1957). In recognition of this need, in the Mpumalanga Province in the north of the country, the provincial government proposed the Mpumalanga Witchcraft Suppression Bill in 2007, in an effort to curb witchcraft-related violence which is also a challenge for law enforcement in the province. However, the problem of

defining witchcraft-related crime persisted. The South African Pagan Rights Alliance (Sapra) criticised the Bill as discriminatory in that it ‘...criminalises men and women who practise witchcraft or who claim to be witches’ (Petrus, 2009: 136). The chairperson of Sapra stated that ‘The [Mpumalanga Witchcraft] Bill seeks to suppress witchcraft and will imprison self-defined witches on the assumption of automatic inference of criminality.’ (*The Herald*, 1 August 2007). In this context, the witchcraft referred to is Wicca, the so-called “white witchcraft” popular among followers of the New Age religions. Wicca was the original Anglo-Saxon spelling of the modern English word “witch” (Osei, 2003: 9). One of the major goals of this religion is to remove what practitioners of the religion regard as the same stereotypical, negative association of Wiccans (practising witches) with Satanism that was done in sixteenth and seventeenth century Europe and North America: ‘Wiccans state that they are not Satan worshippers and try to disavow themselves from Satanism, at least not deliberately practising Satanic worship’ (Osei, 2003: 9). The major focus of Wicca is to recreate the mostly European pagan form of nature worship that was a feature of pre-Christian religious beliefs in Europe, and to adapt these beliefs to the contemporary, modern context (Osei, 2003: 9).

This view of witchcraft differs from the African definition of witchcraft, where it is defined as essentially evil. While Wicca is a belief that is held among minority groups in places such as Europe and North America, in Africa, witchcraft beliefs form part of the cosmological and religious beliefs of entire communities and societies (see, for example, Evans-Pritchard, 1937; Middleton and Winter, 1963; Crawford, 1967; Marwick, 1970; Pauw, 1975; Ashforth, 2000; 2005; Bond and Ciekawy, 2001). In these African communities, witchcraft is an inescapable reality and individuals and families take conscious steps to avoid becoming the targets of witchcraft. Witchcraft is not regarded as a fringe-religion or superstition, but is a real threat. As was the case in sixteenth century Europe (Macfarlane, 1970; Sebald, 1978), African societies believe that witches and sorcerers harm others through the use of evil or “black” magic, which exists either in the form of familiars, that is, animals or spirits that the witch can control and “send” to a victim to cause harm (psychic witchcraft), or in the form of medicines (sorcery) which can be used to harm or kill (Osei, 2003: 9-10). These differences in definitions of witchcraft between Wiccans and Africans illustrate that a clear, holistic and culturally sensitive definition of witchcraft and witchcraft-related crime is necessary for any legislation on witchcraft to be successful.

Defining witchcraft-related crime: Findings from the Eastern Cape

The practical problems of defining witchcraft-related

crime were alluded to by most of the research participants of the SAPS in Mpondoland, as was found by the author in his study. The police research participants argued that the SAPS could only charge someone who had accused another person of practising witchcraft. They referred to this charge as ‘imputing witchcraft’ (Petrus, 2009: 137) which, under the Witchcraft Suppression Act (No. 3 of 1957) stipulates that it is an offence to call someone a witch. However, when people came to the police to complain that they were being bewitched, the SAPS participants indicated that they could do nothing about such cases since they did not investigate witchcraft *per se* but only criminal acts as defined by South African law. Consequently, it was mostly those who accused others of witchcraft who were the most likely to be arrested and prosecuted, as well as those who resorted to assaulting or killing people on suspicion of witchcraft. In addition, the SAPS participants stated that there was no specific categorisation or classification of crimes as “witchcraft-related” in their criminal code list (Petrus, 2009: 137).

Perhaps as a result of the above, the author found that most of the community participants were dissatisfied with the manner in which the police dealt with witchcraft-related cases because, as they saw it, the police did not believe in witchcraft and therefore, by arresting the accusers, they were, in fact, protecting witches. This view was possibly a consequence of the perception by most villagers that witchcraft, in itself, was a crime, but it was not recognised as such by the police. Some community participants even complained about their traditional leaders who fined those who accused others of witchcraft and even took them to the police to be charged because they had no evidence, as defined in Western legal terms, to substantiate their claims (Petrus, 2009: 83). This was cited by some participants as a reason why people took the law into their own hands by setting up popular or “kangaroo” courts to sentence and punish suspected witches (Petrus, 2009: 83; see also Mavhungu, 2000: 118).

If the views, perceptions and beliefs of local communities are taken into account, then the combination of witchcraft beliefs and practices with criminal acts has created the phenomenon of what can be called witchcraft-related crime. This kind of crime could involve two kinds of activity, namely witch assaults or killings (which include accusations of witchcraft as these are usually the precursor to more violent physical attacks) and *muti* murders. But there is a third activity, namely the bewitchment of others. Presently, this activity is not recognised by the police since bewitchment cannot be proven in a court of law.

From the author’s research in the Eastern Cape, the inclusion of *muti* murder as a witchcraft-related crime may be somewhat uncertain as there was no uniformity among community research participants in Mpondoland as to whether *muti* murder should be regarded as *witchcraft*. Some participants considered *muti* murder

distinct from witchcraft because, in the former case, an individual needed *muti* (traditional medicine) made from human parts for his/her own purpose which, in most cases, was to become wealthy (Petrus, 2009: 95, 138). However, other participants felt that *muti* murder should be considered as witchcraft because it involved the killing of another human being. The argument of the latter group of participants made more sense because not only does the act of killing another person for his/her body parts show evil intention or motive, but it is also linked to supernatural beliefs, and could therefore be categorised as witchcraft which is defined by its evil intent (Petrus, 2009: 138). However, the perpetrators of a *muti* murder may not regard themselves as having committed a crime since the *muti* they may use may serve the purpose, as they believe, of bringing good fortune (see Petrus, 2007; see also Scobie, 1965). Thus, the victim does not die in vain but his/her life-force, encapsulated in the *muti*, will serve a positive purpose. What could also further justify the act of *muti* murder is the possibility that perpetrators may be acting under the instruction of a professional traditional healer, who either supervises the act of killing, gives advice on how it should be done or who instructs the killers as to the kind of victim and the kind of body parts that are required. Community participants in Mpondoland pointed out that although many of them believed that traditional healers were involved in these practices, people continued to support them because of their belief in the powers of these healers, a belief that strengthened the levels of trust that people had in their traditional healers (Petrus, 2009: 94).

Another problem in defining *muti* murder as a crime is that it has acquired various synonyms that can hamper efforts to accurately define it as a crime. Some refer to *muti* murder as "ritual murder" (see, for example, Mihalik and Cassim, 1992: 127-140 and Ralushai *et al.*, 1996). This term is inaccurate since the killing of the victim and the removal of body parts are not ritualised (Petrus, 2009: 139). If any ritual is involved, it may occur some time after the murder itself has occurred. *Muti* murder is also referred to as "occult-related crime", a term that has been used by the SAPS. The SAPS Objectives of the Investigation and Prevention of Occult-Related Crime by the General Detectives defines occult related crime as including criminal acts that emanate from beliefs in the occult, witchcraft, Satanism, mysticism, etc. Also included in this definition are *muti* murders (http://www.saps.gov.za/youth_desk/occult/occult.htm). However, in the *Objectives*, the focus is on Satanism-related crime. While the definition includes *muti* murder, the predominant focus on Satanism creates a misleading impression that *muti* murder is Satanism-related when, in fact, there are marked differences between these types of activity (Petrus, 2008: 139-149).

The mistaken association of *muti* murder with Satanism-related crime could be due to the similarities in the *modus operandi* of both crimes. In *muti* murder and

satanic 'ritualistic murder' (Perlmutter, 2004; Garrett, 2004: 62-67), there is evidence of victim mutilation, which mainly includes the removal of certain organs or body parts from the victim's body (Perlmutter, 2004; Petrus, 2008: 145). The organs that are removed seem to be similar in both cases. There is a preference for the head, tongue, heart and genitalia of the victim. However, this is where the similarities between these crimes end. The differences between these two types of crimes show a clear distinction. In satanic murder, there is evidence of ritual activity, suggested by the crime scene context that may have various indicators that a ritual was performed. These indicators may be satanic symbols or markers denoting the existence of a ritual space within which to conduct the ritual. The ritual itself may take place in the form of a sacrifice where the victim is murdered sacrificially as an offering to Satan (Perlmutter, 2004; Garrett, 2004; Petrus, 2008: 145), which is suggested by the existence of an altar of some kind, Holy Communion wafers and a chalice thought to be used in a parody of the Catholic Mass which Satanists refer to as the Black Mass, or the mutilated corpses of animals. These murders have a highly ritualised nature where the act of killing is itself part of the ritual act. *Muti* murder is different in that there is no evidence of ritual activity. There are no symbols at the murder scene nor are there any other indicators to suggest that a ritual has taken place. All that the police investigators are likely to find is the corpse of the victim with its organs removed. *Muti* murders are invariably associated with an African context, while satanic ritualistic homicides are predominantly found in white European contexts (Petrus, 2008: 145). These differences suggest that the interchangeable use of synonyms to refer to crimes of this nature can cause confusion and inaccuracies and therefore a clear definition is necessary.

Based upon the research carried out by the author in Mpondoland, it is proposed that the term "witchcraft-related crime" be used to refer to three types of activity, namely, witch killing (including accusations of witchcraft and assaults), *muti* murder and the act of bewitching others. A distinction, however, should be drawn between witchcraft accusations, assaults, killings and *muti* murder as *reactions to* witchcraft on the one hand, and the harming of others *through* witchcraft on the other hand. For these activities to be defined as crimes there must be evidence of evil intent. The former category of witchcraft-related crime may perhaps be easier to deal with in this regard. There is usually clear evidence in *muti* murder of evil intent. The same can be said for accusing another person of witchcraft without evidence or killing a person on suspicion of witchcraft. Murder is a crime and therefore no exception can be made for killing a person, regardless of religious belief or motive (Petrus, 2009: 141). In most cases of witch killings, assaults and *muti* murders, the police have physical evidence at their disposal. Successful investigations of these crimes,

however, depend on various factors that could either hamper or assist investigations. The primary form of evidence in witch killings and *muti* murders, the corpse of the victim, may only be helpful to forensic experts if little time has lapsed between the murder and the discovery of the body. Decomposition of the corpse is a problem as this could affect the accuracy of the interpretation of the circumstances surrounding the death of the victim. This, however, is a difficult problem for the police because victims of *muti* murder, for example, are usually missing persons whose remains may only be found after a substantial period of time has passed. One reason for this, as participants in Mpondoland pointed out, is that *muti* murders are often carried out in secret. Another reason is that communities may be terrorised into withholding information about such murders from the police, thereby further hampering investigations (Petrus, 2009: 141).

Harming others through witchcraft is a more difficult crime to deal with. This witchcraft-related crime may refer specifically to the belief that certain persons have the ability to cause illness or death to others through witchcraft, and may be linked to witchcraft accusations and witch killings. A suspected witch may be killed because of his/her perceived use of psychic witchcraft, which involves the use of an agent or familiar, as well as spirits and natural phenomena such as lightning, and medicines to cause illness or death (Petrus, 2009: 141). A problem in this case is the difference in the understanding of evidence between the believers, usually the killers, who are also members of the village or community, and the police. The harming of someone through witchcraft is more difficult to prove by empirical means (Holland 2001: 49). Since the witch operates with psychic phenomena, physical evidence is lacking. In most cases, people refer to circumstantial evidence to accuse a specific individual of witchcraft. Usually this circumstantial evidence involves perceived expressions of jealousy or anger by one individual towards another, as was pointed out by participants in Mpondoland (Hunter, 1961: 308; Petrus, 2009: 142). If an inexplicable misfortune or death befalls the recipient of such ill feeling, then the expressor of the hostility may well be targeted as a witch. Also, the sudden death of a person, particularly a young person or child, also raises suspicions of witchcraft. It is difficult for the police, trained in Western methods of law enforcement and justice, to accept psychic witchcraft as a reality, simply because of the difficulties inherent in proving that someone actually does possess such powers. This is one reason why mob justice may occur as community members recognise the inability of state law enforcement structures to understand the ontological status of witchcraft. In many cases of such mob justice, the police may even be seen as part of the enemy. In such cases it becomes difficult to define exactly who the criminal is. The police view the executioners as the criminals and the alleged witch as the victim while the community may view

the killers as heroes and the witch as the criminal. The problem is in two contrasting views of witchcraft: one argues for the existence of witches, the other argues against it. According to Mavhungu (2000: 118), this dichotomy is particularly a problem in the South African judicial system: 'In South Africa, this difference of opinion extends to the present system of justice in the courts. Traditional courts agree that witches do exist, whilst formal courts say witches do not exist. African communities realize the inadequacy of state courts to deal with witchcraft cases and set up their own kangaroo (informal) courts to sentence witches'.

According to the author's research in Mpondoland, many community participants expressed their dissatisfaction with the manner in which the courts dealt with witchcraft cases. One example from a village in the town of Flagstaff illustrated this point. Participants indicated that in 1996 there was a case in which two women had confessed to having knowledge of how to bewitch others. Instead of dealing with them violently, the community took them to the local police station and laid a charge against the women.

When the case was addressed in the local Magistrate's Court, it was stated that 'there could be no case of witchcraft, but only the claim of knowing how to bewitch'. However, the women were not sentenced by the court, but upon their release they refused to return to the village as they had been threatened with death by community members. According to the participants who recalled this case, 'most of the community members were not happy with the outcome of the case because both women were not sentenced despite having confessed to what they had done before the magistrate and the community' (see Petrus, 2009: 143).

A further complication in the difficulty of proving that someone can be harmed through witchcraft may occur when the alleged witch confesses to the crime. In the case of the witch of Magcikini Village (referred to earlier), although there was no physical evidence that the woman could have used witchcraft to infect the victims with HIV, she confessed to the crime of her own volition. None of the community research participants from the village could explain why the woman suddenly decided to confess as, according to them, she was not forced to do so. In communities such as this where the belief in witchcraft is widespread and accepted as a reality, a confession may be enough evidence to convince people that the confessor was, indeed, involved in witchcraft. In her analysis of witchcraft among the amaMpondo of the Eastern Cape, Hunter (1961: 309) found that the confession of someone accused of witchcraft constituted valid grounds for belief in witchcraft: 'Those who have themselves practised sorcery, or who know admissions of sorcery to be true, are therefore liable to believe that witchcraft is also practised. Witchcraft with familiars cannot occur, yet there are occasional confessions of practising witchcraft'. From the perspective of law

enforcement, however, this kind of evidence would not be as easily accepted as proof of the guilt of the confessor, mainly because the police and the courts do not believe in the reality of witchcraft, and therefore assume that it cannot be proven. In the author's research, all of the SAPS research participants stated explicitly that the police do not investigate witchcraft but investigate crime. A crime can be proven as there is evidence that can be used to support an arrest and conviction if a person is guilty of committing a crime. With witchcraft, however, there is no evidence that can be used to prove, in a court of law, that someone is a witch.

CONCLUSION

It cannot be disputed that the judicial challenges of dealing with witchcraft-related cases are linked to the law enforcement challenges of dealing with these cases. However, the issue of witchcraft and the courts opens another related debate that is beyond the scope of this article. This debate would, among other things, critically engage with issues such as the role of traditional healers in state courts as expert witnesses in testifying during witchcraft cases; the legal authority of traditional authorities and traditional courts to rule on witchcraft cases; and the level of interaction between traditional and state courts regarding witchcraft-related cases (see, for example, Fisiy and Rowlands, 1989; Geschiere, 1997; Geschiere and Fisiy, 1994; Fisiy and Geschiere, 1990; Fisiy, 1998). For the purpose of this article, it suffices to say that the starting point for addressing witchcraft-related crime must be the development of a holistic definition of such crime. This article has proposed a definition of witchcraft-related crime that distinguishes between witchcraft accusations, witch assaults and killings and *muti* murder on the one hand, and the act of bewitchment, or harming someone through witchcraft, on the other hand. It is argued that, based on the author's findings in Mpondoland, the act of witchcraft by one person against another should be recognised as a crime. A clear definition is necessary in order to avoid the confusion of witchcraft-related crime with other similar types of crime. Since contemporary law enforcement methods pertaining to witchcraft are still mainly informed by the Witchcraft Suppression Act (No. 3 of 1957), the need for a new definition of witchcraft-related crime that moves away from the Eurocentric definition of the Act, is crucial to assist the police in developing more effective methods in dealing with these crimes. This is especially important regarding the harming of someone through witchcraft which is not presently considered a crime under the said legislation.

The definition of witchcraft-related crime proposed in this article is significant as it can make both a theoretical and practical contribution to the understanding of witchcraft-related crime. From a theoretical perspective,

while the study of witchcraft in Africa and South Africa has long been an area of interest to anthropologists (see, for example, Evans-Pritchard, 1937; Hunter, 1961; Hammond-Tooke, 1962; Middleton and Winter, 1963; Geschiere, 1997; Niehaus, 1997; 2001), there have been very few studies on witchcraft-related crime (Petrus, 2009). Consequently, there is, as yet, no anthropological definition of witchcraft-related crime. This article has sought to propose a definition of witchcraft-related crime that contributes to the existing scholarly literature on the topic. In addition, the article also makes a more applied or practical contribution by suggesting how the proposed definition could be used within the context of law enforcement in South Africa. It has been shown that not only does witchcraft-related crime continue to be a problem in contemporary South Africa, but also that law enforcement structures often find it difficult to deal with cases of this nature. The definition of witchcraft-related crime proposed here is intended to create awareness regarding the importance of the social and cultural contextual factors that may affect perceptions of witchcraft-related crime, and that the beliefs of local communities should be taken into account by law enforcement officials.

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