

'KITHITU, THE OATH OF JUSTICE.'

**A DOCUMENTARY FILM ON DIFFERENT 'TRUTHS' ON AKAMBA MOST
FEARED OATH.**

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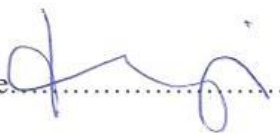
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DECLARATION

This research project report is my original work and has not been submitted for examination or award of a degree in any other university.

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This research project report has been submitted for examination with our approval as the university supervisors.

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ABSTRACT

Kithitu, the oath of the Ancients is a powerful and most fear Oath any man can take among the Akamba people of Kenya. This study on Kithitu investigated first, the origins of oath of justice and the mystery behind it. Second, when, why, who and how it was used, thirdly, it's impact on social, cultural and economic being on the Akamba people and lastly, to find out if there is an exit plan in the event that it is struck.

There are two main research methods that were employed to carry out this investigation, first, a questionnaire that was distributed to 10 individuals carefully selected based majorly on their in-depth understanding or practice of the Akamba traditions.

Secondly, Interview sessions with four individuals who had an encountered with the oath in one way or another. These were the scholars who have done tremendous research on the Akamba traditions, the victims who suffered the wrath of the oath, the strikers who struck the oath of the ancients against someone and the administrator of Kithitu, who is believed to be a custodian of the oath of ancients.

This research is geared towards documenting a very controversial and mysterious oath that played a key role in the Akamba justice system, in the hope that it may trigger a conversation on how justice system was applied among different tribes of Kenya and the way it shaped a society.

CHAPTER ONE

INTRODUCTION

1.1 Background of the study.

Africa is believed to be the origin of modern man, but with its rich history and diverse cultures, we lag behind in documenting our history and culture especially with the use of electronic media. Documentary filmmaking is a sub-category of non-fiction film that tells stories, make assertions or observations about the real historical world rather than fabricated world of fiction film(Nichols, *Speaking Truths with Film*). By use of documentary film, this study is set towards documenting a very unique justice system among the Akamba people, a dreaded and lethal oath that was administered as a last resort to find justice. Kithitu, is believed to be the most powerful oath any man (In tradition African setting, women were not allowed to take oaths because the women and children were considered as part of the property of a man).This was so because, the working of the oath of justice Kithitu, was so mysterious that nobody could understand it, this way, it was incorruptible, uncompromising and deadly. It needed *Mundu Mue* “chosen one” to administer it.

The believe that a particular kind of people have special powers and knowledge to intervene the spirit world on behalf of their society, which may be for good charm, success, protection, to seek revenge, justice or even cause misfortunes, sickness, change of direction in another person’s life or even death to them or their entire family, is one of the reasons why in Africa, the world of spirituality has a deep influence in their day to day living. The supernatural world is believed to impact a great deal of human world in that, all that is beyond the human understanding, leads them to seek answers and guidance from the supernatural world. In an attempt to find answers and guidance, different societies conducted special ceremonies in accordance to the need at that particular time, these ceremonies could either involve the whole society, a family or just an individual. During this special occasion, be it communal or just an

individual affair, a definite procedure was followed by both the head of the ceremony and the attendees, each had a role to play for the event to be successful. In the event that there is a dispute, between individuals or clans or families, an elaborated ceremony could be conducted to either broker peace, find justice or place a curse. These activities were part and parcel of many African cultures and they were interwoven in their way of life.(Jackson)

In Kenya, the Akamba people occupy the Eastern and Lower Eastern counties of Makueni, Machakos and Kitui, they were mostly herders, long distance traders and master wood carvers. Interestingly, The Akamba people lived a simple life, where people interacted with each other in a variety of overlapping roles which clearly shows up in many areas of their culture and is most evident in their power structure. They had no supreme leader, no indigenous chiefs not even a tribal council, but in each local community known as *Utui*, they could govern themselves. An *Utui* had a *Nzama*, or a council of elders loosely constituted to attend to any urgent matter, like hearing cases and rendering decisions. (Oliver, 1965). Unfortunately, the *Nzama* had no clear leadership nor a clear line between members and non-members, which could lead to disagreement between elders on which elder should attend or not attend a session. Furthermore, the *Nzama* had no powers to force anyone to attend trial or abide by their decision. But in the event that a party to a dispute does not agree to the decision of the *Nzama*, they were asked to swear an oath on the Kithitu, which was loosely translated as cursing oneself and their bloodline.

To understand Kithitu, one has to connect it to the problem of law and order, especially in situations where justice may be served/sold to the highest bidder or a situation where no one takes responsibility, for example, a mysterious death, under these circumstances, It may be assumed that justice can be defeated by the powerful and mighty in a society but beyond the realm of humanity nothing can be hidden. For this reason, the oath of justice, Kithitu, was one

that could drive shivers down the spine of many Akamba people. Its powers were brutal and mightier.

Once Pluto said 'Might is right' which expresses the fundamental idea of order, where the mighty dictate to the underlings what is right or wrong and what they cannot have or do and tell them what to do or else they could suffer unpleasant repercussions (Ndeti, 1971). In Kambaland, Kithitu is considered the most powerful oath a person can take, by doing so, an individual must be absolutely sure of his truth, otherwise the repercussions of making a mistake are very costly. In the event of a dispute and there being no clear agreement between the two parties, or one of the parties does not agree with the outcome of case, then, the *Nzama*, will ask the parties to swear an oath on Kithitu(Thomas). If one of the parties is on the wrong, they suffer the wrath of Kithitu, death! Not only does it kill the taker of the oath, but goes down to his entire family and his property, including his animals and crops. This leads us back to the phrase 'Might is right' and the fact that the Akamba people are 'aware' of this power.

In his article, the institution of Kithitu and question of human justice among the Akamba, Professor k. Ndeti points out several facts about Kithitu

First, Kithitu works in very mysterious ways, this is evident by the fact that, "Its potency and affective power lies in the myth of its ignorance, it is a well-known fact that the fear of the "unknown" abounds in every soul, therefore, nobody can claim they know the working of Kithitu, if one knew the exact formula of Kithitu, it would lose its psycho-moral effects and would not be held in such high respect."(Ndeti, 1971)

Secondly, in many Africa cultures, Women and children were not allowed to take oaths for whatever reason. This was because women were regarded as outsiders and couldn't be entrusted with matters affecting the lineage or family destiny. To many, this may sound oppressive but when it comes to matters Kithitu, it gave the woman a window of opportunity

to save her children whenever a Kithitu oath was struck against her husband. Akamba woman could have a secret child (*Mwana wa Kithitu*) with a man not sharing her husband's bloodline. This was for protection just in case her husband's bloodline falls in the path of a Kithitu oath.

Maya Angelou once said "You can't really know where you are going until you really know where you are from", I couldn't agree more, it is imperative that for anyone to understand where they are or where they are going, they have to know their history. History of a people has been passed from one generation to the next through many forms, in Africa, it was through, storytelling sessions, music and dance, but as time passed and modernization set in, many historical information or lessons were passed to the younger generation via formal learning institutions, which had both advantages and disadvantages. One of the major disadvantages of formal learning institution especially in Africa, it lacked weight in Africanism, it is therefore important that, as Africans we make an effort to share and have a discussion around different aspects of our past, present and future lives. With the coming of globalization, information can be shared across the globe through many mediums of communications.

Documentary films can be described as a non-fiction motion picture that is intend to "document reality". Documentary films have two distinctive characteristics, one, it has strong elements of realism, this is well portrayed when a documentary filmmaker goes out to the locations in search of stories, issues, events and people, they would then record actual footage whenever possible or enact what took place, they conduct interviews to get the real stories, the stories that they get out there is disseminated to the rest of the public. Secondly, it creates awareness and calls for action to the masses, As Kahana remarks, "when documentary compels our attention or addresses us in certain ways ... it evokes forms of public subjectivity and civil interaction that transports viewers beyond the immediate context of viewing." It can impact and destabilize the social imaginary such that "an audience comes to understand itself as an agent of change." (Kahana, 2016)

Documentary filmmaking has a long history that dates back in early days of filmmaking, media historian Erik Barnouw's book, *A History of the Nonfiction Film*, establishes a prehistoric period of documentary, one in which visionary filmmakers blazed a trail toward *Nanook*, along lines virtually identical to the principles laid out in Grierson's early essay "*First Principles of Documentary*." Following Grierson's dictum that documentary tells "the essential story of the location," (Kahana). During early days of filmmaking, most of the shooting was done on stage and in studios, but the first principal of documentary is that it is done on location, *Nanook of the North* (also known as *Nanook of the North: A Story Of Life and Love In the Actual Arctic*) is a classic example, and the first full length documentary film made in 1922 by Robert J. Flaherty. Since then, documentary filmmaking has grown in leaps and bounds and became one of the most popular genres of the art of filmmaking, a perfect platform to share our stories and cultures by Informing, educating and entertaining the masses, as well as giving voice to the voiceless.

There are different types of documentary films, these includes, fully narrated documentaries, which have direct mode of addressing issues and use of voice overs to help make sense on the issues raised. We have 'Fly on the wall' which is the direct opposite of fully narrated documentaries, they let the audience make sense of what they are observing and be the witnesses to the events that is taking place. They have no or almost no narration. We then have the mixed, which is the hybrid between the fully narrated and 'fly on the wall' documentaries and tend to employ both whenever necessary, it combines interviews, observations and narration. This type of documentary is more appropriate for our project as we will employ elements of narration, observation and interviews to bring forth our arguments.' self-reflective documentaries tend to be more about the host. Docudramas rely heavily on re-enactments of events based on the facts and finally docusoaps which gained popularity with the coming of

social media, they follow the daily lives of people, they follow no particular topic, most of them are low budget.

1.2 Statement of the problem

The institute of Kithitu has been in existence among the Akamba since time immemorial and has been touted as a true justice system. However, this oath of justice is said to work in very mysterious ways and is deemed to be very deadly. In many Africa cultures, oaths are only taken by men, who by default are considered to be the ‘carriers of a family’s name’ with this comes a heavy responsibility, that can easily prove to be fatal especially when the issue of Kithitu is in play.

In the Akamba culture, Kithitu was a reserve of men, because it was applied to serious disputes, like issues of land and animals, we must note that in older African cultures, women and children never owned any property, in fact they were considered as part of the property of a man, therefore any issues concerning property was again, the reserve of men. whenever a dispute arises between two men, and they both swear on Kithitu, woe unto the one who is on the wrong, not only will the oath affect the taker, but his entire bloodline and his property. This begs the question, if this is an oath of Justice, why then does it have to destroy several generations of the taker and his properties? Secondly, what choice does the rest of the family members have, especially the women, young adults and children who are voiceless and silent participants of the Kithitu?

This documentary is an example of such a concern and a move to hear different “truths” on the oath of justice, Kithitu. Hopefully to document a justice system that is believed to be incorruptible, uncompromising and brutal, yet shaped the way people lived.

1.3 Objectives

In order to understand this oath of justice well, this documentary has two objectives:

- i. To record and document audio visually the differing ‘truths’ and understanding of the oath of justice, Kithitu.
- ii. To use documentary film form to trigger a conversation on different African justice systems that were incorruptible yet ruthless and how they shaped a society.

1.4 Hypothesis

- i. Kithitu, the oath of Justice is a myth that was told so many times that the Akamba people started believing in it and in reality, it may not exist.
- ii. The believe that Kithitu oath was capable of destroying lives especially of the innocent members of family helped shape the cultural, social and economic being of the Akamba people.

1.5 Justifications

As the world is continuously turning into a global village, cultures, traditions and customs are rapidly taking shape to suit the current situations, with this paradigm shift of life, old ways are quickly replaced by new ways. The gap becomes lack of documentation of the past practices especially in Africa where most of these cultures are quickly replaced by new and imported ones, our heritage as Africans is getting lost and soon there will be no trace of its existence unless it is documented.

There are a good number of attempted by many African scholars to write and document about past African ways of life and how the new changes has impacted the Africans, which in itself is a very good step in the right direction. However, this mode of documenting has its fair share of limitation. One is that, only the people who are literate and can access the writings are able

to benefit from the information, leaving a huge majority of the Africans who are illiterate or cannot afford to buy or access the information from the book. Secondly, most of these writings tend to lock out the 'real' person from the picture and thus becoming more of a reported kind of information than a first person 'truth'. It is therefore important to note that, this information about many different aspects of African cultures is fast getting lost in the wind unless something is done to save it. For the above reasons, it is justifiable to audio visually record and document every aspect of African culture and tradition, which can now days be accessed through any gadget anywhere in the world. With improvement in technology and globalization, it has become easy to share, exchange and access information throughout the world.as well as preserving our history, as the say the internet never forgets. H.F. Hodge, a United States Army officer of the late 19th and early 20th centuries once said "*freedom is realizing you have a choice*" it is therefore imperative of us as African to choose to tell our stories or to let it varnish in thin air.

1.6 Scope of the study

This study started its investigation by distributing questionnaire to different individuals with the aim of collecting primary data from them, this group was carefully selected from the sample society, they included the administrators of the oath, the families of the victims, the clergy, the provincial administration and some views from random people in the streets. Secondly, the study proceeds to cover a Kithitu ceremony, focusing on the process of administrating the oath. Lastly, I will interview victims of the oath, the administrators of the oath and those who have had to spell the oath to others.

1.7 Literature review

For many years, documentaries that were made about Africa were largely associated with wild animals, poverty stricken and suffering Africa, civil wars and political instability, of course, there must have been reasons for these ‘hot’ topics by mostly western filmmakers to take the front seat in the documentary world, unfortunately documentaries that were based on culture were few and largely focused on the ‘Bad’ cultures of the African people, ignoring the positive educative and informative cultures. These begs the question, is there nothing good from Africa that can be shared to the rest of the world? The answer is absolutely no, there is so much about Africa that can positively impact the world and make it a better place to live. But due to different factors, many that talk about Africa to the rest of the world paint it as a dark continent, a known phrase that was created by Western explorers and popularized by the British explorer Henry M. Stanley, ignoring a lot of good and beautiful cultures and people of the African continent. For example, a blog by National Geographic, list 50 interesting factors about Africa, what is interesting is that about 90% of the factors that they have listed, talk about the negative side of the continent and this is termed as ‘Interesting facts.’

Searching online for documentaries made about Africa will return amazing results, nearly half is about wild animals, for example, African wild cats, a very popular documentary series about the African wilderness, this is arguably one of the most popular programs around the world, produced by National geographic channel, which is a joint venture between The Walt Disney Company and the National Geographic Society, unfortunately this documentaries only focus on the lives of the wild animals, which to some extend is a good thing, especially when it comes to economics of it, but there has been a risk of portraying African as a continent where wild animals roam the streets. The other 50% is shared on topics of politics, civil wars, African leaders past and present, sufferings and diseases among other issues that affect the African people, a very small percentage focus on positive side of the continent. For example, an

awarding winning documentary, *An African election* (2011) directed by Jarreth J. Merz, is a documentary that focus on the behind the scenes of Ghana's election, unfortunately the focus is on the "complex political machinery of a third world democracy struggling to legitimise itself to its first world contemporaries, set against the backdrop of the 2008 presidential elections in Ghana." *Pray the Devil Back to Hell* (2008) directed by Gini Reticker, is a documentary that focused on social unrest in West African Republic of Liberia showing how the country was torn apart by civil war that left thousands either dead or displaced. *Mugabe and the White African* (2009) directed by Andrew Thompson and Lucy Bailey is a documentary about Michael Campbell a white, 75-year-old farmer living in Zimbabwe, who stands up for his rights against the Zimbabwean oppressive government and controversial land reform systems that had forced many white farmers out of the country. *Mobutu, King of Zaire* (1999) directed by Thierry Michel is a documentary film of former Republic of Congo strong man Mobutu Sseseko. *General Idi Amin Dada: A Self Portrait* (1974) directed by Barbet Schroeder who focus on former Ugandan dictator Idi Amin Dada in trilogy series titled *Trilogy of evil*. There is no shortage of documentaries on what is wrong about Africa, but it is extremely rare to get hold of a documentary that shines a positive light on Africa, yet in many ways Africa has a lot of positive sides, the cultures are spectacular, the people are warm and welcoming and there are many socio-economic opportunities that Africa can contribute to the rest of the world.

In conclusion, African filmmakers should be on the frontline to tell the rest of the world about our positive side, of course it is important to talk about issues that affect us, but more importantly it is about the Africa that is a dream of many Africans. The many misconceptions that are out there should be corrected, We, the African filmmakers should share our cultures and document them for present and future generations, talk about issues that affect us in a forum that is engaging and has an objective that corrects what is bad and maintains what is right, otherwise, if all the documentaries both by the western filmmakers and African

filmmakers portray African as a hopeless, backward and dangerous continent, it only portrays a bad image of Mother Africa and gives an opportunity to bad governance of the African continent, furthermore, there is a high chance that most of African cultures will be lost especially the good ones as every day, influx of new cultures from all over the world find their way in to Africa, African children should have an opportunity to choose and be schooled in African cultures.

1.8 Theoretical framework

This research was guided by three main theories, Ethnographic film theory, Classic Realism Theory and Social Cognitive Theory

i. Ethnographic Theory

Ethnographic films are described as non-fiction films whereby the focus is generally on local people and their cultures, it is primarily associated with anthropology. It is perceived as visual display of anthropological practice captured, recorded and disseminated as documentary films. Robert. J. Flaherty is said to be the father of ethnographic film when he recorded ‘Nanook of the North’. Flaherty captured the struggles of the Inuk man named Nanook and his family in the Canadian Arctic. as realistically as possible. (Kahana, 2016). Most of the Ethnographic films developed as an aid for research and focus more on the cultural and sociological aspects. This theory therefore becomes very important to this study, as the study will focus on elements of culture and sociology among the Akamba people.

ii. Classic Realism Theory

Writing in the early 1930s, Rudolph Arnheim suggested that films offered the possibility of "the mechanical imitation of nature" whereby the recorded and the real become indistinguishable in the eyes of the public(Nichols),10 years later, André Bazin, one of the strongest proponents of the theory of realism, came up with what he called “fundamental faith

in reality”(Nichols), whereby, the credibility of a film did not come from its verisimilitude but from reality between the photographic image and its object. This means that as we work on this project and as guided by this theory, we should be as faithful to what we are talking about as possible, with limited alteration to the whole event, information and people. Bazin goes ahead and identifies cinema as a ‘fulfilment of human craving for realistic representation’(Nichols) as documentary filmmaker, who work under the principals of documentary filmmaking, of simplicity, purity and transparency, this particular theory will guide the study to be faithful to the reality of the Institute of Kithitu and the culture of the Akamba people.

iii. Social Cognitive Theory

The saying that ‘Perception is everything’ has been applied in many contexts of our lives, this is a common phrase among the cognitivist, therefore, cognitive theory which states that when people observe a model performing a behaviour and the consequences of that behaviour, they remember the sequence of events and use this information to guide subsequent behaviour. Observing a model can also prompt the viewer to engage in behaviour they already learned. On the other hand, documentaries have been used in many areas of our lives to trigger behavioural change, the intersection between cognitive theory and documentary film offers a vital interpretation not only how we perceive reality through documentary, but also how we perceive it because it is documentary (Brylla and Kramer). The fact that the audiences have been prepared to accept documentaries as a representation of actuality, then it is easier for them to accept reality of documentary films compared to fiction films. The interplay between these levels means that documentaries have a greater potential than fiction films to impact our attitudes towards and interaction with the world, helping construct our social, cultural and individual identities.(Brylla and Kramer) Many cognitive theorists believe that without these thought processes, we could have no emotions and no behaviour and would therefore not

function. In other words, thoughts always come before any feelings and before any action. This study will be highly guided by this theory, because the documentary film that is the project is aimed to change people's perspective of the victims of the Oath of justice, from the interviews, the audiences will be given a chance to reflect on the issues at hand and decide whether it is true or not.

1.9 Methodology

The most important goal of a documentary is to report on topics or events with evidence, this may be accompanied by actual footage of what is happening and/or reconstructed footage of what took place, at the same time provide evidence or contrast with the interviewee's accounts of the same events. In this particular study, we are going to use mixed documentary category, which employ elements like, narration, interviews and both real footage or reconstructed footages, in cases where acquiring real time accounts of events may not be possible, we will reconstruct the events on the basis of the interviewee's information. It is imperative to have events reconstructed as it helps the audience to visualize what really happened or is happening.

This project relied on four elements of documentary film making to achieve its goal.

Observation as a key element that will place the audience right in the middle of the whole issue and as eye witness to the topic in discussion as well as it will be an evidence of the interviews.

Interviews are used to either support or contrast what the audience will be watching, this can be included as an on the screen (Seen interviewer) or be excluded (Unseen interviewer). In this particular documentary, will go the unseen way.

Mise en scene is a vital component of creating any believable story, it is also very important to make our stories as real as the position, the element of Mise en scene, puts us in the position of realism, this documentary is culturally based, Akamba people are known to be very rich in

culture. It is therefore very important and very relevant to include, set ups and locations, props and costumes that are associated with the Akamba people, which will help support our story.

Exposition in this documentary will be about the silent and unwilling participants of the ritual of Kithitu as our main argument points. Finally, this documentary will employ the use of narration, music, cutaway shoots and interpretation on non-English words

CHAPTER TWO

DOCUMENTARY FILMMAKING

2.1 Introduction

Documentaries bring viewers into new worlds and experiences through the presentation of factual information about real people, places, and events, generally portrayed through the use of actual images and artifacts.(Bernard).

The origins of documentary filmmaking still remains a matter that is subject to discussions, as it is unclear how or when it actually started, different theorists have come up with different ideas as to the origins of documentary filmmaking, however, if we take into account that documentaries should possess elements of actuality or realism, then we can safely say that any film shoot of real people (Not characters) in a particular location (not set) qualifies to be a documentary, short documentaries like the Arrival of the train(1895) directed and produced by Auguste and Louis Lumière, then Roundhay Garden Scene(1888) it is a cheerful clip that shows the Whitely Family house as they celebrate the new invasion of a camera that not only capture still photos, but is capable of recording moving pictures. In early 20th century, the events before the Battle of the Somme in 1916 which was made by a propaganda agency of the British government to document the battle of the Somme and promote war was viewed by tens of millions (Kahana) this early forms of films possess characteristics of what is known today as documentary films, but it was not until the production and the recording of Eskimos, in their day to day lives, that the term documentary was used, the documentary film was titled Nanook of the North by Robert Flaherty , this is a story of an Inuk man , Nanook, and his family as they travel, search for food, and trade in the Ungava Peninsula of North Quebec, Canada.

The documentary follows the day to day life of Nanook and his family, Robert introduces them as fearless heroes who survive harsh weather condition of North Quebec. The audience are

treated to the Inuit day to day way of life as they witness Nanook hunt down Walrus, build an igloo and perform other tasks. Robert Flaherty was hired as an explorer and prospector with a mission to learn about the Inuit people although not well conversant with using of a camera, he decided to have a few lessons on the use of a camera, he used his minimal skills to go and shoot the documentary. Unfortunately, after filming for 2 years, he accidentally drops a cigarette on the film stock which at the time was highly flammable, all the footage was lost. He never gave up, four years of sourcing for funds to go back on location and reshoot landed him with funding from a French fur company Re'veillion Freres. This time around he decided to concentrate on one particular family and have the story of Inuit to be told from their point of view. Many people accused Robert of staging the story of Nanook of the North, which is partly correct and partly wrong. Correct because, the first time he went on location to shoot, he followed day to day life of the Inuit people, and that was close to actuality of the lives of the Inuit people.

Documentary films genre is a genre that uses both the present and the past simultaneously to present one, by incorporating stock footage into present footage to make sense to the audience. Filmmaking is a visual art, and some of the events that may be of great interest in a documentary may have been lost, to reconnect the story, then it must be enacted. This fact, though partly loses the core meaning of realism, it is fundamental in making sense in the eyes of both the filmmakers and the audience, otherwise the story may be lost.

As discussed above, documentary film is a crucial part of film history, there are six different types of documentary films namely, Poetic documentaries, Expository documentaries, Observational documentaries, Participatory documentaries, Reflexive documentaries and Performative documentaries, each of this sub-genre serve its own purpose and is intended for a particular audience. It is a known fact that documentary films have over the years evolve to suit its reason for its existence. For example, early documentary films were mainly made by governments agencies for propaganda to try to convince their citizens to be on their side, a

perfect example is the Battle of the Somme, which was made by a propaganda agency of the British government in 1916 to document the battle of the Somme and promote war (Kahana). Many young people, out of passion joined the army to go and fight in the war, many of them lost their lives due to lack of experience in warfare. This is a perfect example of how powerful documentary films were used to propagate government ideas. Propaganda documentary and films are still made, but presently they are crafted carefully, this is due to different factors, one is that modernization has changed how people think and “question” what is presented to them unlike in the older days. Secondly, with the expansion and capability of how people can access information, it has become easier for the masses to seek and find different opinions on different topics, for example, while a government may propagate and promote ideas that may not be popular with the masses, by use of documentaries, civil groups may at the same time use the medium of documentary to fight the government idea, therefore the masses are at a better place to make an informed decision.

2.2 Poetic Documentaries

Were first seen in the 1920s, this sub-genre of documentary films was poetic in nature and focused on experiences, images and showed the audience the world from a different perspective, they are abstract and loose with narrative. The poetic sub-genre can be very unconventional and experimental in form and content. The ultimate goal is to create a feeling rather than a truth. (Nichols)

For filmmakers who work on the poetic documentaries, they offer valuable lessons in experimenting on all elements of documentary filmmaking by finding creative compositions, challenging creative juxtapositions and different forms of cinematic storytelling. Examples of poetic documentaries films are *Coal face* (1935) directed by Alberto Cavalcanti. *Time* (2012) done by Jamie Leigh of Basic Leigh Films, *The Trail of Happiness* (2017) directed by Dawood

Murad, The Pearl Button (2015) directed by Patricio Guzmán Fata Morgana (1971) directed by Werner Herzog and Welt Spiegel Kino (2005) Directed by Gustav Deutsch.

2.3 Expository documentaries

Have a specific point of view about an issue and a narrator is used to speak about it as supporting images, footages and views from different people are recorded to emphasize on the subject on the screen. Expository documentaries are what many people consider a “true documentary” They rely heavily on research and more often than not, to strengthen their point, usage of stock footage, archival footage and re-enactments of historical events are common this is to support an argument about a particular subject. The main objective of expository documentary is to present a strong argument to the audience and try to convince them to believe in or agree with a certain argument, classic example of expository documentary is Nanook of the North (1922) directed by Robert Flaherty a silent film that presented a glimpse into the life of Nanook, an Inuk, and his family. City of Gold (1957) Canadian documentary film by Colin Low and Wolf Koenig, chronicling Dawson City during the Klondike Gold Rush and Africa Blood and Guts, directed by Gualtiero Jacopetti, and Franco Prosperi This documentary shows the violence that occurred in much of the African continent during the 1960s. As many of the countries in Africa were transitioning from colonial rule to other forms of government, there were often violent political upheavals. The film shows clips of revolutions in Zanzibar and Kenya in which thousands were killed. The violence is not only political; there is also extensive footage of hunters and poachers slaughtering different types of wild animals.

2.4 Observational documentary

Is about everyday life and is as realistic as possible with minimal intrusion of what is happening, it is also known as *cinéma vérité*, direct cinema, or fly-on-the-wall. This style of documentary filmmaking originated in the 1960s majorly due to advance in portable film equipment. It is a documentary style that borrows a little bit of poetic documentary film and

expository documentary film. The term “observational documentary” was first coined by documentary theorist Bill Nichols in his 2001 book, *Introduction to Documentary*. The main objective of observational films is to give voice to all sides of an issue by offering access to most important and mostly private moments of a subject. Examples of observational documentary are, *Strong Man*, (2009) Directed by Zachary Levy, an observational documentary film about stainless Steel daily life, who performed incredible feats of strength but, as he reaches middle age, he struggles with career disappointments and difficult personal relationships that force him to confront his own weaknesses.

Waiting for Fidel (1974) Directed by Michael Rubbo is a documentary about a group of filmmakers who had scheduled an interview with Fidel Castro, unfortunately Fidel failed to appear, the three filmmakers salvaged their project by filming post-revolutionary Cuba crisis. *Behind a Presidential Commitment* (1963) Directed by Robert Drew is a documentary about President John F. Kennedy and his brother, Attorney General Robert Kennedy, work to get two black students enrolled at the University of Alabama despite Gov. George Wallace's ban.

2.5 Participatory documentaries

Includes the filmmaker within the narrative, this might be as minor as a filmmaker taking the role of an interviewer by asking question that help direct the interviewee or give cues from behind the camera or is majorly participating and directly influencing the actions of the narrative. By their very nature, every documentary film is a participatory ,this has created some debate on exactly how much a filmmaker’s participation can be regarded and be labeled participatory, thus earning the title Participatory documentary ,example of participatory documentary is, *A Journal of Insomnia*(2013) web documentary directed by Guillaume Braun, Bruno Choinière, Philippe Lambert, Thibaut Duverneix, *Sherman’s March* (1985)Directed by Ross McElwee, *Chronicle of a Summer* (1961)Directed by Edgar Morin and Jean Rouch among others.

2.6 Reflexive documentaries

Just like participatory documentaries share one particular similarity, they both include the filmmaker in the narrative; however, reflective documentaries do not explore an outside subject, but focus more in capturing the filmmaker in the process of filmmaking, the main objective is to create a relationship between the filmmaker and the audience pushing the audience to reflect on their perceptions and re-analyze their notions of truth. The reflexive documentary does not attempt to provoke intense emotional responses from the audience but encourages thoughtful consideration of the material. Since the subject matter is often the process of documentary filmmaking itself, a cinematographer will shoot behind-the-scenes style footage of the entire film production process, including editing, interviewing, and post-production. A classic example of this sub-genre is the 1929 silent documentary, *Man with a movie camera* by Soviet filmmaker Dziga Vertov.

2.7 Performative documentary

The documentary film is about the filmmaker's involvement with his or her subject by sharing their personal experience or relationship with the subject. This documentary style emphasizes the filmmaker's involvement as they are the point of focus of the film, conversing with subjects and analyzing information, the filmmaker shares his own feelings and experience to obtain his objective, which is to get an emotional response from the audience and drive forward their objective. Example of performative documentaries are like, *Fahrenheit 9/11* (2004) Directed by Michael Moore, *Drifters* (1929) Directed by John Grierson, *The Thin Blue Line* (1988) Directed Errol Morris.

Over the years documentary filmmaking has come out as a very unique way of telling stories and sharing information, some of these sub-genres share characteristics and can be confusing, as to which is which, but at the end of the day, a documentary filmmaker is at liberty to choose

the best sub-genre to tell their story. For this particular study, it was necessary to adopt a mixed method approach to achieve the desired goal.

CHAPTER THREE

KITHITU, THE OATH OF JUSTICE -THE FILM

3.1 Introduction

The concept of the documentary film was born during a lunch meeting with my former professor, Mr. David Mulwa, I had asked Mr. Mulwa for an appointment to discuss matters of art, specifically how we can make a film based on his book *Flee mama flee* in the process, he told me about Akamba oath known as Kithitu, that was lethal and could wipe out an entire bloodline if not stopped. I immediately got interested, one, because as an African filmmaker, I have always wanted to focus on stories from our cultures, secondly, many African stories and cultures have never been documented as visual/audio arts, the ones that are available and are very scarce, and from the western point of view, this was a great opportunity to tell our stories from our point of view. A little more research revealed how important and feared the Kithitu was, with scholars like prof. K. Ndeti writing extensively about it in his journal titled, *The institution of kithitu and question of human justice among the Akamba*, the oath was so important to the Akamba people that it was incorporated in the court system as written by Anthony E. Thomas in his journal titled, *Oaths, Ordeals, and the Kenyan Courts: A Policy Analysis*. What is more interesting about the oath of justice is that, it is a shared phenomenon among the African tribes, for example, the Luo have *chira*, and the Kikuyu have *ethathi* both considered lethal and deadly, in conclusion, it is said that Words have the power to wound and to heal in all language communities, literate and non-literate, but in Africa's oral culture, in which mythical thinking prevails, and in which speech is essentially behavioral, words have the power to kill, even as they have the power to placate forces of aggression or set aside disputes.(Durand).

3.2 The Story

In every society there are rules, regulations and cultures that particular society follow and practice. These rules and regulations govern the society on how to conduct themselves in relation to their environment, their property and their neighbors. As far as human beings are concerned, going against these set of rules and regulation could attract stiff and sometimes deadly consequences.

The Akamba people occupy the Eastern and lower Eastern part of Kenya in the counties of Makueni, Machakos and Kitui. Initially, they were mostly herders, long distance traders and master wood carvers, but with the coming of European settlers, Christianity and modernization, a lot has changed and most of what was part and parcel of their day to day living has been overtaken by the new cultures imported from far and wide, other factors like interaction with other communities, intermarriages and new religions have contributed immensely in changing their way of living. But with all these changes, the Akamba just like many other African societies still hold on to some of the cultures associated with the society.

With new laws and a new way of life imposed on most African communities, it was difficult for many African communities to denounce their own rules and regulations, as the Colonial government enforced there new laws and way of life on Africans, many African communities lived with both the rules and regulations, they tried to adapt the new way of life from the colonial masters as well as keep their own cultures, traditions and laws. One of the most secretive tradition was the use of oaths for various reasons, for example, to plead loyalty to the tribe or for dispute settlement. Though the colonial government came and imposed to the Akamba people just like any other community in Kenya and at large Africa their new set of laws, many Africa people would still apply their own laws to find Justice. Some of this set of laws still apply to date. The Akamba people were mostly governed by a council of elders, who were tasked to perform leadership roles and guide the community. One of the major roles was

to settle disputes among warring factions, this could be land issue, animal ownership issues and any other issue brought before them. One of the ways was the admission of an oath, there were different kinds of oaths for different purposes, for example, Oath of secrecy to maintain family and community secrets, oath of justice to proof innocence or guilt of a person.

In Kambaland ,they had several oaths, but the most feared and was taken as the last option was KITHITU which was ranked one of the most deadly and lethal oath to take, The oath was believed to work in very mystical ways as both the accused and the defendant could be subjected to the oath and whoever was guilty, regardless who requested to have it performed could suffer serious consequences. Furthermore, the oath is believed not only to affect the doer of the mistake but would wipe out his or her whole family.

3.3 The voice-over scripts

To many people the term Kithitu may not ring a bell in their minds but to the majority of the Akamba it is the most dreaded and deadly oath any man can dare take because it can easily wipe out his entire bloodline if he is on the wrong.

My mission is to locate the genesis of the oath of Justice.....Join me as I as I travel to the heart of Akamba land to find out what is this Kithitu, how is it made, how does it work and why is it the most fear oath among the Akamba people.

My chat with Mr. Julius Mutuku, left me with more questions than answers ,if the oath of Justice is so dangerous and mysterious why was it administered and by who and why was it very important to have it among the Akamba people, I travel to Enzou, Mutomo, kitui county, my mission is to seek answers from Mr. Mweka , owner and administrator of the Oath of Justice....Kithitu...

So, what exactly is Kithitu and how does it work? If this Oath is as lethal and deadly as it is said to be, is there a way out of it after it has been struck?

There is no doubt that Mzee Mueka has strong believe in what he is doing, leaving Enzou I head back to Emali, Tutini to meet with Mzee Kituilu....a man who went to great heights to strike a Kithitu oath.

Through my interpreter, I wanted to know where he went to seek this oath of Justice....

Seven people are believed to have lost their lives when Mzee Kituilu struck the oath against the man who grabbed his younger brother's land and cattle...

Unknown to many who lose their loved ones reportedly through the powers of the oath of Justice, there is always an air of anger and bitterness that surrounds the justice system as it is believed to work behind-the-scenes catching its victims by surprise.....and throws them into the world of the unknown.

Finding out a possibility of a Kithitu oath sometimes comes at a very high cost, most of the time people have already lost their lives.

As I pick a piece here and another one there to fill into the mystery of the Kithitu, two things become very clear,.....one, to those that believe in the oath of Justice, it is a true and deadly justice system....two, Nobody really can claim that they fully understand Kithitu and it's working...and there lies it's all truth.....the powers of Kithitu lies in its mystery.....

3.4 Pre-Production

The first stage of any production is the pre-production phase, for this project, I consulted widely and I was privileged to have access to Makueni county culture office, through the director, Mr. Mulonzya, I was introduced to Mr. Julius Nzomo, director and founder of Akamba Cultural center and Museum, who guided me on fact finding mission as well as arranged a meeting with my interviewees. There were more than ten people who were willing to talk about the Kithitu, but I narrowed them down to just four, who fit well in the criteria that I wanted to follow while telling this story. These included, Mr. Julius Mutuko Muindi, Director and founder of Akamba

cultural center and Museum, Mzee Mueka Mulu, owner and administrator of Kithitu, Mzee Kituilu Nzomo a man who struck the oath against someone who had grabbed his younger brother's land and cattle, Mr. Francis who lost ten family members after his younger brother was part of a gang that broke into someone's shop and stole goods prompting the owner to strike the oath against their family and Mwalimu, whose family suffered the wrath of Kithitu after a land dispute between family members ended by one of the family members seeking justice of Kithitu, seven people lost their lives.

Film production can be a very expensive venture, especially when it comes to hiring of equipment, I was privileged to be allowed to use department of Literature equipment under the supervision and guidance of Dr. SP Otieno and Dr. Tom Odhiambo who were instrumental in guiding me on how to package and tell the story. Using my savings, I was able to travel and stay in Makueni and Kitui counties for three nights while shooting the videos and conducting the interviews.

3.5 Production

During the actual photography, I met with my Contact person, Mr. Julius Mutuko Muindi and his assistant Benson, together we traveled to the heart of Makueni county to start the process of production. I made sure I had all the necessary equipment, the camera with batteries fully charged, SD cards with enough space to record more than 500GB of data, lights and sound equipment. During the pre-production phase I had streamlined my questions to suit each individual that I was going to interview. My shot list was going to run between close ups and medium shots, basically due to the sensitivity of the story I was carrying out, I wanted the viewers to be focused on the issues the interviewees were talking about, Occasionally I could record some cut a ways for the purpose of fulfilling the story and cutting on the monotonous of talking heads and use establishing shots to establish the geography of the area. First day, I travelled to Makueni county, Emali sub-county, Tutini village, where I interviewed Mzee

Kituilu Nzomo and Mwalimu respectively, the second day I travelled to Kaliini sub location of Kyemundu location, where I interviewed Mr. Francis, that afternoon I travelled to Iteta sub-location, Mbitini location where I interviewed Mr. Julius Mutuko at the Akamba culture and Museum. The last day we traveled to Kitui county to meet with the administrator of the Oath, Mueka Mulu, in his shrine, whereby he demonstrated how the process of administering the Kithitu oath is carried and I also got an opportunity to interview him, that same evening I travelled back to Nairobi to start my post production process.

3.6 Interviews

In this documentary film, I set out to have more understanding of the oath of ancients, Kithitu, Akamba dreaded oath that was administered as a last resort to a dispute that has since been hard to resolve. My major objective was to know the origin of the oath of ancients and how different people relate to it in the process of finding out about the origins of the oath, I was able to get more incites of the working of the oath, the reason why it was dreaded by the Akamba people and the fact that it is like a double edge sword, once struck against someone, the oath will not only punish the individual, but as well as his family or bloodline. In this case, it is about male members of a society, this was mainly due to the fact that in most African societies, women were considered as property of a man and thus they could not take an oath.

The data I collected was mainly from interviewing four people, the first person, a scholar who had conducted different researches on the oath comes from the same community. Mr. Julius Mutuko Muindi, the founder and director of Akamba cultural center and museum. Mr. Muindi was very instrumental in informing me of different Akamba cultures, specifically about different oaths of the Akamba people and how, when, why and to whom they were used on. Different Akamba oaths were used for different reasons to different people and by different people. For example, Mr. Muindi talks of an Akamba oath known as Mumma, which was used to solve small disagreement here and there at home and the impact was not as much on the

person the oath was struck against. But when it comes to major disagreements, like land disputes, death by witchcraft or by murder, theft of property like cattle or household goods and the offended feels strongly that they want the persons or persons involved punished which in this case of striking Kithitu is death to the person and seven members of their family, the offended was at liberty to go the an administrator of the oaths and request for the oath to be struck against the person/s who were involved. He emphasized on the seriousness of the Oath of Kithitu and why it was only taken as the last resolution after the rest have failed. The consequences of striking this oath are dare, therefore it cannot be done for the sake of doing it. The person striking the oath must be absolutely sure of the accusations he is making against another person, it was not necessary for them to have knowledge of the offender, as some situations it was possible to know the offender but some situation it was not possible. Therefore when someone decides on striking the oath, they must be absolutely sure because the oath is like a double edged sword, when struck against known or unknown offenders, it is lethal and “Kills” up to seven members of the same bloodline, in a duration decided by then offended, it may be seven at once or in seven days every day or in 7 months or even seven years, but in the event that the offended is wrong, falsely or mistakenly accuses someone and strikes the oath against them, they stand to be punished in the same measure as they had wished. It was therefore strongly discouraged to rush and strike the oath.

The oath of the Ancients, Kithitu, had a window of hope, if it was struck against someone and they suspect that the sudden turn of events in their life was as a result of the oath, they would approach the offended party and make peace with them. If not, they continue to suffer the wrath of the oath.

Mr. Muindi affirmed to me that the oath of the ancients did exist since time immemorial and that it was used to serve justice to both parties. He also affirms that the oath was so lethal and

before one was allowed to strike it, they were informed of all the consequences that involves it. The end result of striking the oath was nothing else than death.

To collaborate what Mr. Muindi said, I had an opportunity to talk to Mzee Kituilu Nzomo, at the time of this interview, Mzee Nzomo was estimated to be 103 years old, he is one of the most respected and senior Kamba elders who never converted to any other foreign culture and traditions. He confirmed to me that despite coming of the colonizers, formal education and Christianity, he never embraced any of them, by choice, he decided that he will live and die a Kamba. As a young man, he vividly remembers when he had to strike the oath on someone who had grabbed his younger brother's land and cattle. After numerous cases both at the local council of elders and the "Whiteman's" courts, the offender arrogantly won them or outrightly refused to give up the properties. Mzee Kituilu had enough of the back and forth on the case, he told the offender he was going to strike the oath on him, the man told him he could strike it on his head and nothing was going to happen, It was later discovered that the offender had protected himself from Kithitu's harm. Eventually, Mzee Kituilu travel to the Nyamwezi's of Tanzania who share ancestry with the Akamba and he finally succeeded in having his justice. The offender's family started perishing one by one and because none of them could come to seek forgiveness from Mzee Kituilu, he swore never to stop the effect of Kithitu to that family until they all perish. Mzee Kituilu was instrumental in this research work due to his experience as someone who did struck the oath against someone and watch them die one after the other an as the most senior person in the group that I interview, his sentiments added a lot of value in the whole research process.

What I garnered from Mzee Kituilu was that the oath of the ancients was about justice and it does not respect money, power or individual status. He also pointed out that at times some individuals may seek protection from the oath by "Protecting themselves" with some charms,

in this case, if a strike is not strong enough, then there may be no effect, but he insists that for justice to be served, then there is no distance far enough to stop you from finding justice.

The oath of justice was not only administered to those that the offender knows, sometimes it was struck against people who would do wrongs in secrecy. There are situations like theft, murder and so on, in these cases, the offended would go round the village and inform the village that he has been offended by someone and they should come out and seek forgiveness, if they will not, then they will face the wrath of the justice of the oath. Most of the cases, the offenders stay mum, hoping that it was only a threat. In the event that the oath is struck, the results are always devastating and deadly.

Francis Wandolo Wakatolo, who lost 8 members of his family at ago was a victim of these secret striking of the oath of justice an event that is still fresh in his mind even though it has been over a decade since it took place. Francis confesses that his brother who at that time was involved in criminal activities was among a group of young people who broke into a local shop and stole from the owner. The following morning, the owner devastated by his loss, went round the village asking those who broke into his shop to return the goods least he takes action against them, there was no response. Most of the villages had no idea that the thieves lived among them, but this came to pass when a group of family members traveled to a nearby town for a relative's wedding. On their way back, the vehicle they were traveling plunged into a valley and killed 8 members of the same family, something that shocked the whole country as it was a breaking news to most media houses.

Reality sunk in when it was time to lay the deceased to rest, the 8 coffins lined up there before the whole village, according to the words of Mr. Wakatolo, they immediately knew that this was not a natural happening but acts propagated by human beings. After the burial, the elders met and word was sent to find seer who would interpret the happening. Word from the seer confirmed that indeed, what happened to the family was the works of the oath. The task was

now to find the person responsible for striking it, it was later confirmed that the local shopkeeper struck the oath against the thieves who stole from his shop. There was reconciliation between the two parties, the shopkeeper refused compensation offered by the family and opted to just cleanse the family of the curse on the other hand, the family came to realize that some of their family members were among a group of young men who stole from a local shop. After the cleansing, there was agreement that nobody in the village should ever use the oath against another and if they do the oath will strike them back.

What I concluded from this part of my conversation with Mr. Wakatolo, whose family was hit by the oath of justice the oath is that ,most of the victims who get to pay the price are innocent and quiet participants of the oath by virtue of bloodline, the price is paid by blood relatives who most of the time are not aware of atrocities committed by their relatives.

Mr. Wakatolo brought forward a very important addition on the conversation when he pointed out that most of the time the oath is done in secrecy and gets the victims unawares, the results are always devastating and deadly. The only way to find out the truth or the cause is by the family to consult with elders who in turn seek the services of a medicine man.

Medicine men played many different roles among the Akamba people, they were trusted to “see” the unseen for the community and help to solve mysteries beyond “normal” human understanding. After the death of 8 members of Mr. Wakatolo’s family perished in a greasily accident, they sorted the services of a local medicine man who informed that, that was the works of a Kithitu oath. It was later found out that the shopkeeper had struck the oath against one of their family members. To “remove” the effect and the curse from the family, the striker of the oath must agree to cleanse his victims, some will want to be compensated before they cleanse their victims, but in this case the shopkeeper didn’t want any form of compensation, which was seen as some guilt on his side especially having caused the loss of 8 people’s lives. A reconciliation meeting was held and both parties agreed to reconcile and put the matter to

rest. Another agreement was that the use of the oath was not to be struck against any local for whatsoever reason, this was after the shopkeeper feared that the same measure maybe used as a revenge on him.

Mr. Muindi had earlier on pointed out that there are many different types of oaths/ curses that were used for different reasons and by different persons. Kithitu, the oath of the ancient, by its share powers was one of the oaths that were never performed at home by just anyone but had very special procedure which was performed by a specific person at specific time.

Mzee Mueka Mulu has been administering the Kithitu since he was a young man, he said that to be a healer or a medicine man is not a matter of choice but it is something you are born with. He claims that when he was born, he was holding a piece of hair which his grandmother said was a sign of a medicine man. Since then he was raised up as a medicine man.

One of his core duties as a medicine man is to administer the oath of justice, Kithitu. Mzee Mueka Mulu points out that the oath of the ancients is not something that you do at will, even for him as a medicine man, it is a heavy duty to attend to, this is mainly because once struck, its end result is death and because of this, the process of striking the oath takes days to finalize with very strict terms and conditions. There are many checks and balances that prevent misuse of the oath apart from that, in the event that the seeker of the oath is on the wrong, then the consequences are dire.

3.7 Post-Production Process

After four days and three nights of traveling and shooting, I started the process of post-production, the first step is to preview all the footage I have and sort them according to interviewee, next is to put the footage on the timeline, am more conversant with the adobe premiere pro 2020,an editing software that I was trained on and I have been using for some years, there are many styles of editing, I generally edit scene by scene before putting it all

together, on this situation, I edited as per an interviewee before re-arranging according to how I wanted the story to flow. The next process was to make sure the sound was clear and good to listen to, put in some sound track to create mood and feeling, then finalized with color grading and rendering the video.

3.8 Conclusion

As I concluded this research, it has become clear to me that, the origins of the oath of justice was unknown to all the people I talked to, but the reason was clear, that the oath of justice was given to Mkamba by the 1st Kamba man, who handed it down to the rest of the Akamba. The main reason for the oath was to provide an avenue for justice that was uncompromised and incorruptible whose main goal was to bring death to anyone who offended someone and refuse to take responsibility. It was a very important instrument of justice among the Akamba people that up to date is still operational. Though the origins are unknown, its presence was felt and its powers had such an impact that was never forgot easily. It was also made clear that by the fact that among the Akamba people, women and children were never allowed to take an oath, Kithitu was a man's affair, which made him fully responsible for his family. Due to this fact, to protect her family, a woman would sire a child outside her marriage (*Mwana wa Kithitu*) as a defense mechanics just in case her family is struck by the oath. It is therefore important to note that, Kithitu played a major role in the Akamba nation in shaping their cultural believe and interactions, their spiritual welfare and how they connected justice to the spirit world and the impact to had on their economic status. Common to most African cultures, the power of the word and the path to justice are connected to the spirit world, which is believed to be incorruptible and fair but brutal to those found guilty. Secondly, To the unsuspecting, the oath is a myth and a silent killer, that is often mistaken for fate or life's natural course, much to their loss. On the other hand, to the believers, it is a mystery that nobody can explain nor understands but believes in it. Lastly, as much as the oath is dreaded and believed to be lethal, it provides

for an exit to those that repent gaining the support and the trust of the majority of the Akamba people.

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