

WITCHCRAFT AND THE LAW IN ZIMBABWE*

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THE DEPARTMENT OF SOCIOLOGY has been in existence since the establishment of this university. I am, therefore, in a happy position of having behind me the work of my predecessors, Professor J. Clyde Mitchell and Professor D.H. Reader and others who have worked in my department over the years. Their solid and penetrating research and publications have brought sociological studies here to a very high level. Because the Sociology Department has been in existence for a long time, I will not give you a formal description of the content of this subject which, I believe, is now widely known; instead I will focus narrowly upon one area of sociological research—witchcraft and the law in Zimbabwe.

The subject of witchcraft continues to create controversy here and in many other parts of the world. Whenever discussion on this issue begins people usually fall into two groups. In the first group are those who say witches do not exist, and in the second group are those who say witches do exist. I suspect that this is the position today.

In Zimbabwe this difference of opinion extends to the courts of law. There is conflict on the subject of witchcraft between the traditional courts and the formal courts.¹ Traditional courts agree that witches exist while the formal courts say witches do not exist. My object is to attempt to resolve this conflict between traditional courts and formal courts. In doing this I shall draw together some of the important points about witchcraft that have been made, not only by sociologists and social anthropologists, but also by traditional medical practitioners and the courts of law. My material will be drawn mainly from Zimbabwe for three reasons. The first reason is that witchcraft ideas are not universal, although they are widespread, but belief in witches does exist here. Secondly, whether anyone ever tries to be a witch and actually performs witchcraft is a question that has to be separately determined in each society that one studies. We have information on this matter in Zimbabwe. The third reason is that my main emphasis, as I have already indicated, will be on the two different approaches to the problem of witchcraft taken by the courts in Zimbabwe.

Traditional courts, as I have already pointed out, accept the view that witches exist. In the past, once an individual was found guilty of practising witchcraft, he or she was sentenced by the court. The sentence took various

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¹ At present traditional courts apply customary law. Any village headman can hold a court to try to solve conflict within his community. If the headman cannot solve a case it is taken to a ward headman or sub-chief. The highest court in the traditional legal system is the Chief's court. The formal legal system consists of the District Commissioner's court, Magistrate's court and the High Court. These courts apply the law of Zimbabwe although District Commissioners' courts apply or attempt to apply customary law as well. There is also a Court of Appeal for African civil cases and the Appellate Division.

forms. In extreme cases the witch was beaten or even killed. Other witches were ordered to leave the village and had their houses destroyed. Ostracism was the mildest form of punishment. Some witches were cured. In such a case a doctor was ordered to neutralize or eliminate the evil spirit that possessed the witch.

Although many traditional courts as well as family gatherings still try certain cases of witchcraft, legally they are no longer permitted to do so. According to the law of Zimbabwe such cases must be referred to the formal courts. Cases of witchcraft now come under the Witchcraft Suppression Act (Cap. 73), originally passed in 1899, which has remained unchanged to this day (see Appendix).

The Witchcraft Suppression Act is regarded by the traditional courts as a very unjust piece of legislation because the aim of the Act is not to punish witches but those individuals who name others as witches. In 1899 the legislature made it clear in the Act that, although certain people may genuinely believe in witchcraft, it regarded the whole practice of witchcraft as a pretence and a sham, something which in actual fact has no real existence at all. Thus in the Act witchcraft is referred to as 'so-called witchcraft'. The Witchcraft Suppression Act is aimed at five categories of persons. Firstly, any person who names or indicates any other person as being a witch is guilty of an offence. The second category of persons affected by the Act are persons referred to as 'witch-doctors'; any person who names or indicates any other person as being a witch and is proved at his trial to be by habit and repute a 'witch-doctor' or witch-finder faces a heavy sentence. Thirdly, it is an offence to employ or solicit any other person to name or indicate thieves and other wrong-doers by means of witchcraft; similarly, a person who employs someone to advise him or any other person how by means of witchcraft such thieves or wrong-doers may be identified, commits an offence. The fourth group of persons affected by the Act are those who claim to have a knowledge of witchcraft or of the use of charms; it is an offence to advise someone how to bewitch any person or animal or to supply someone with what the Act calls 'pretended means of witchcraft'. Lastly, anyone who, 'on the advice of a witch-doctor or witch-finder or any person pretending to have the knowledge of witchcraft or the use of charms, or in the exercise of any pretended knowledge of witchcraft or of the use of charms, uses or causes to be put into operation such means or processes as he may have been advised or may believe to be calculated to injure any other person or any property, including animals, shall be guilty of an offence' (section 7). In other words anyone attempting to practise what the Act refers to as 'so-called witchcraft' is also guilty.

Thus officials of the formal courts of Zimbabwe see their job as eradicating the belief in witchcraft which some people hold. To them the witch does not exist, and any person who purports to locate him and render him harmless is the real public enemy.

This is not to say that officials of the formal courts agree completely with the Witchcraft Suppression Act. Some African lawyers, for example, appear to have some doubts in their minds concerning the correctness of the Act. In one case an individual, whom I shall call John, was sentenced to twelve months' imprisonment with hard labour for accusing another person of being a witch. The woman accused of witchcraft by John became so unhappy that this brought her to a point

where she actually contemplated taking her life. This factor influenced the magistrate in passing sentence. John's counsel, an African, was not happy with the sentence passed by the magistrate. He asked that the case be referred to the High Court. In his submission to the High Court, John's counsel argued that in arriving at his conclusion the magistrate attached insufficient weight to the element of witchcraft in the case. The counsel went on: 'Had the accused's imputation been baseless, it is unlikely that the complainant would have contemplated so drastic a step as suicide'. This submission by counsel angered the judge of the High Court. The judge pointed out that the implication of those words was clear. The counsel, said the judge,

is suggesting that the imputation made might well have been justified and that this court should not pay too much attention to the misery she has suffered as a result of it. I find it disturbing that such a submission should have been made by Counsel in this court. I hope that I shall not again hear a submission of this nature from Counsel. This submission indicates the hold which witchcraft has in this country and the need for deterrent sentences to stamp out the attendant evil practices.²

This conflict on the subject of witchcraft between the traditional courts and the formal courts is due to a number of reasons. The first reason concerns the definition of witchcraft. In the Witchcraft Suppression Act, witchcraft is defined as, 'the throwing of bones, the use of charms and any other means or devices adopted in the practice of sorcery'. As a matter of fact, this definition, which has remained unchanged to this day, says nothing about witches and witchcraft. Throwing of bones is not necessarily done to identify or drive out witches, as many court officials now realize.³ Throwing of bones is a means of divination, that is to say, a means by which a diviner or medical practitioner determines, or attempts to determine, who or what caused an illness or other misfortune complained of by an individual or a group. Another widely employed means of divination in traditional medical practice is spirit possession. Illnesses or misfortunes are not always attributed to witchcraft. There are other possible causes of illness such as ancestor spirits, angered or aggrieved spirits, bacteria and germs. Once the cause of the illness is discovered, treatment may be with medicines, ritual, or a combination of medicines and ritual. In some cases no medicines or ritual may be recommended.

Many charms have nothing to do with witchcraft. A large part of the traditional healer's practice is concerned with prescribing remedies and preventive charms. Some of these charms confer or are believed to confer immunity against specific types of illness or to protect the individual against misfortune. Other

² *Timothy Chivanga v. S*, Judgment No. A.D. 149/21 : Crim. Appeal No. 646/71. I would like to thank the Attorney-General, Mr Brendan Treacy, who allowed me to read records of witchcraft cases in his custody. I am also indebted to Dr M.F.C. Bourdillon, Dr A.P. Cheater, Mr A. Hodza, Mr J. Kumbirai and Professor M. Gelfand for discussing certain aspects of witchcraft and sorcery with me.

³ Tredgold, J. (as he then was) pointed out that 'it is not every aspect of the practice of witchcraft which is punishable under chap. 46. It is only certain practices which endanger human life or affect property', *Rex v. Maposa* 1943 S R 194.

charms confer or are believed to confer positive benefits such as physical strength, attractiveness to the opposite sex and other desirable qualities. There are other charms that are believed to protect an individual or a group of individuals against witchcraft.

Another source of misunderstanding in the field of witchcraft was the failure on the part of the legislators to make a distinction between witchcraft and sorcery. Both terms are used interchangeably throughout the Witchcraft Suppression Act. But these are two different concepts. A witch is defined in social anthropology as a person in whom dwells a distinctive and inherent evilness, whereby he harms his fellows in mysteriously secret ways. Often it is thought that the witch need merely wish to harm his victim and his witchcraft then does this, or it may be enough for him merely to feel annoyance or jealousy against someone for the power to set itself in operation without his being aware of the fact that it has done so. Witches are thought able to do extraordinary things which are beyond the capabilities of ordinary human beings. They are thought capable of travelling great distances at night, or of having the ability to turn themselves into hyenas, or of going out in spirit and killing a victim while their bodies remain at home in bed.⁴

While witchcraft is seen as something intrinsic to the person, to his soul or his personality, sorcery is intrinsic to these entities, being merely a technique or a tool employed by an individual under certain circumstances. Recourse to sorcery is always on a deliberate, conscious, voluntary basis. A sorcerer may cause illness or kill his fellows by blowing medicine towards them; by putting poison in his victim's food, drink or tobacco; or by concealing the poison or the poisonous objects on a path where the victim will pass.

The Shona or Ndebele term for a witch has also led to misunderstandings in the practice of law. *Muroyi* or *umthakathi* means a witch, a sorcerer, a poisoner, a person who fails to carry out the necessary rituals for his dead relatives, a person who commits an anti-social act or even just a troublemaker.⁵ Thus when a Shona or Ndebele person accuses another person of witchcraft, he may well be right, because in society there are troublemakers; there are people who commit anti-social acts such as incest; there are people who burn or attempt to burn other people's property secretly at night; there are people who fail to carry out the necessary rituals for their dead relatives, and so on.

The two types of courts recognize these social aspects of witchcraft accusation.⁶ Traditional courts, for example, know that sometimes it is not helpful to try and prove whether an individual accused of witchcraft is in fact a witch. They have discovered from experience that in many cases it is more useful to examine the events that led to the accusation of witchcraft and to attempt to

⁴ J. Middleton and E.H. Winter, *Witchcraft and Sorcery in East Africa* (London, Routledge & Kegan Paul, 1963), 3.

⁵ When pressed to make a distinction between a witch and a sorcerer, the Shona and Ndebele usually describe a witch as one who operates at night and a sorcerer as one who operates during the day.

⁶ The formal courts have now ruled that merely calling a person a witch is not an offence. For example, a witch-doctor who indicates any other person as a witch commits no offence unless he also imputes to such person the use of non-natural means in causing any disease in any person or animal or in causing any injury to any person or property, *Rex v. Nyomoceke* 1947 (3) S A 9 (S.R.).

solve the social problems involved. I observed in one traditional court where I worked that many people who came to the court to accuse others of witchcraft were not seeking a legal decision on the matter. They came to the court to look for assistance in resolving their social problems. Although formal courts also recognize the social functions of witchcraft accusations, no attempt is usually made to identify and to try to solve the underlying social problems.

Accusations of witchcraft are almost always preceded by tension and conflict within the household, village or community. This tension may be the result of conflict over succession, or may come from misunderstandings over the distribution of family wealth or some other dispute. Tension created in this way then finds expression in accusations of witchcraft, especially when other avenues of expression are sealed off, or costly, so that the 'witch', that is, the person causing the trouble, can be publicly identified and dealt with.

Those who accuse one another of witchcraft or sorcery are people who ought to like each other but in fact do not. There is tension between them. When such a tension becomes insupportable, the only ways to resolve it are reconciliation or rupture.⁷ Reconciliation can be achieved in three main ways: by discussion at the family or village level, by asking for forgiveness, or by going to court. Where reconciliation is not preferred, an attempt is made to break off relations altogether. Relations may be broken off by techniques such as divorce, by leaving the neighbourhood, or by an open legal challenge. If this does not give satisfaction or is inappropriate, the individual may resort to sorcery or witchcraft. There are instances where legal mechanisms for settling a dispute are lacking; then sorcery or witchcraft becomes the only possible form of action.

The distinction already made between witchcraft and sorcery is important because it can be demonstrated fairly easily that sorcerers exist in this society. Medicines used by sorcerers to harm other people are derived from plants that can be pointed out and examined. Nowadays some sorcerers use arsenic cattle dip, insecticides and other poisons. Thus when a Shona or Ndebele person accuses another person of witchcraft, in this case meaning sorcery, again he may well be right.

In Zimbabwe sorcery techniques fall into three broad types. First there are those techniques which involve the use of medicines or poisons. Here the sorcerer puts medicine or poison in the victim's food, drink, tobacco pipe, and so on. Formal courts, in fact, often investigate this type of sorcery, although these cases are not labelled as such. Where an individual had died and it is believed that a poison may have been used the courts usually make an attempt to discover the actual cause of death. In such cases formal courts usually rely on the post-mortem examination. Many people have been sentenced for murder or attempted murder, rather than sorcery or witchcraft, as a result of such investigations. Where the sorcerer has indicated to the police the plants or roots used to harm another individual, such plants or roots are sometimes tested in order to determine whether they are poisonous. But there are many sorcerers who escape conviction. One problem is that many subjects to such sorcery do not die in hospital and

⁷ U.P. Mayer, *Witches* (Grahamstown, Rhodes University, inaugural lecture, 1954), 8.

therefore no post-mortem examination is carried out before burial. Another problem is that many accusations of witchcraft or sorcery are made long after the death of an individual and as a result nothing suspicious may be revealed at the time of the post-mortem examination if it is attempted. The third problem, related to the previous one, is that many organic poisons are in any case hard to detect at post-mortem.

The second and third types of sorcery often do psychological rather than physical harm to those who believe in sorcery. The second type is where the sorcerer plants poison or dangerous objects on a path or in the victim's home so that people coming into contact with them become sick. The third type of sorcery techniques is of those which are said to operate at a distance without actual physical contact; an example is the *gona* in Shona country, which is usually an animal's horn with medicines in it. The *gona* itself is harmless, but it is an offence to use such a charm for the purpose of injuring somebody because through fear it can cause injury to persons or property or do psychological harm to those who believe that it possesses occult powers.⁸ Similarly poison or poisonous objects or harmless roots placed on a path or in someone's home sometimes do cause psychosomatic illness especially when coupled by threats. There are certain conventional phrases often used in the heat of an argument which are always construed as threats of sorcery or witchcraft and there are instances of persons who become sick as a result of being convinced that they have been so bewitched.

Let me summarize this first part of my discussion. When an individual in this society accuses another of witchcraft he may well be right, bearing in mind the Ndebele and Shona definitions of witchcraft. Firstly, he may be saying that the accused is a bad person who ought to be helped to conform, such as a wife who cannot be easily controlled by her husband; a man who is envious of others; a person who goes his own way despite the objections of neighbours; a person who refuses to meet important obligations to his kinsmen and so on. Secondly when an Ndebele or Shona person accuses another of 'witchcraft', he may in fact be referring to direct sorcery and again he may well be right. Sorcerers exist although they are perhaps not as numerous as we are led to believe. Lastly, a person who accuses another of witchcraft may be referring to 'indirect' sorcery, that is, medicines, poisons or strange objects planted somewhere with the intention of harming those who see them or come into contact with them. These are techniques which can injure or do psychological harm to those who believe in them.

I now turn to the 'real' witches, that is, those people who are said to eat corpses, dance naked in the fields at night and cause sickness, death and other misfortunes. This is the most controversial category in this broad subject of witchcraft and sorcery. Accepting a basic premise of Western academic thought, a premise expressed in many sociological and anthropological studies, the formal courts have taken the view that witchcraft is a myth; that witchcraft beliefs are based upon an essentially mistaken view of the world; that witches do not exist except in the minds of certain people. Professor E.H. Winter, an authority on

⁸ See, for example *R. v. Wirimayi* 1956 (1) S A 223.

witchcraft in Africa, has stated that, 'there is no reason to think that anyone does in fact practise witchcraft or even that anyone could practise it'.⁹ More recently another authority on African societies, Professor I.M. Lewis of London University, also declared:

I certainly do not believe in witchcraft. I make this declaration because one of my aims in this discussion is to show that we do not need to share other people's beliefs in order to understand them sympathetically: we can see the sense in beliefs even when we are convinced they are based on false premises.¹⁰

Thus in my discipline the study of witchcraft is almost exclusively the objective study of the beliefs which people have about the capabilities and activities of others and the actions which they take to avoid attack, or to counter attacks when people believe that they have occurred. This approach was clearly stated by Professor Philip Mayer of Rhodes University when he said:

Social Anthropology then, is concerned with finding out what is the basic reality underlying witchcraft ideas. When I say reality I do not mean physical fact. Even the most optimistic fieldworker does not expect to see anyone flying on those well-known broomsticks. The kind of reality we are searching for is social and psychological. The witchcraft belief, and the persecution of witches, are a response to social and psychological strains. The more exactly we can identify these strains, the better we can hope to understand the response.¹¹

The basic social and psychological realities underlying witchcraft ideas have been well documented by fieldworkers since the pioneering days of Evans-Pritchard.¹² It has been shown that accusations of witchcraft usually express areas of tension in social relationships. At times these accusations act as a force buttressing the moral code of society. Many studies have also emphasized the importance of witchcraft beliefs in explaining misfortune. The witchcraft idea is sometimes invoked as a concept for explaining the deeper or indirect causation of events which seem unnatural. Thus an individual who believes in witchcraft might attempt to understand by reference to it why for instance his child died suddenly.

In the few pages that follow I would like to examine other aspects of the witchcraft problem that lead to the continuing controversy in Zimbabwe between believers in witchcraft and the non-believers. In many societies witches are of various types and these types need to be separately examined. It is also important to make a clear distinction between the various concepts such as witchcraft power and the practice or attempted practice of witchcraft, between a psychic act and a physical act, between ritual and medicine.

In Zimbabwe there are three main types of witches. The first type of witch is one who is possessed or is said to be possessed by a spirit of a deceased member of

⁹ E.H. Winter 'The enemy within: Amba witchcraft and sociological theory', in Middleton and Winter, *Witchcraft and Sorcery in East Africa*, 280.

¹⁰ I.M. Lewis, *Social Anthropology in Perspective* (Harmondsworth, Penguin Books, 1976), 68.

¹¹ Mayer, *Witches*, 4-7.

¹² E.E. Evans-Pritchard, *Witchcraft, Oracles and Magic among the Azande* (London, Oxford, 1937).

the family who was also a witch; or a grandchild inheriting it from her grandmother and so on. The second type of witch is one who is possessed or is said to be possessed by a stranger or alien spirit. This kind of witchcraft may or may not become hereditary. A stranger or alien spirit is the spirit of a person from some other clan or tribal group who died uncared for, or perhaps was not properly buried according to custom. It is believed that the spirit of such a person may wander restlessly until it settles on someone. An individual possessed by an evil spirit, either an ancestral or an alien spirit, may or may not be aware that he is a witch. Usually when such an individual is possessed by the spirit he does whatever the spirit demands of him. The third type of witch is one who was sponsored by a practising witch. Any person can be made a witch by another witch. In this case the individual who wants to become a witch is given some medicine and also serves some sort of apprenticeship. Some later receive or claim that they have received from their sponsors an evil spirit for use at night.

Let me describe in some detail the activities of a sponsored witch because this type of witch has not been adequately studied in the past.¹³ A number of such witches in fact make confessions about their activities in church, in court, or during the course of investigations by police into the commission of criminal offences. In one case, for example, three women, Mazvita, Puna and Netsayi, were committed for trial on a charge of attempted murder or alternatively of contravening Section 7 of the Witchcraft Suppression Act.¹⁴ The charge was made as a result of the death of Mukozho, the husband of Mazvita. The three women admitted both at the traditional court and in the High Court, firstly, that they were witches, and secondly, that they bewitched Mukozho. They were, however, acquitted by the High Court.

Mukozho became sick about the beginning of October 1958. His stomach was swollen as well as his legs. By 4 December, he was very sick; his face was now swollen as well and he had open sores on his lips. He died on 8 December 1958. The three women told both the traditional court and the High Court that the death of Mukozho was planned by them at a meeting they held at the beginning of October. It was agreed at the meeting that each woman would prepare some medicine for this purpose. On the agreed date the three women went to the spot near the village where they always met before their evening excursions. One woman produced pounded roots of a bush which she said has no proper name but is known locally as *mushonga* (medicine) for bewitching. The second woman came with powder which she said was the ground skin of a snake, and the third woman produced a powder which she said was the heart of a lion. These medicines were mixed with beer and placed in an open calabash. I will let Mazvita describe how they bewitched her husband:

The three of us went to the hut where my husband was sleeping. He was on his left side and we turned him so that he lay on his back with his head

¹³ M. Gelfand, *The African Witch* (Edinburgh, E. and S. Livingstone, 1976), 25, and R. Crawford, *Witchcraft and Sorcery in Rhodesia*, (London, Oxford Univ. Press, 1967), 111, make the point that a person can be made a witch by another witch but they do not separately examine this type of witch.

¹⁴ *R. v. Mazvita and Others*: extracts from the record of the preparatory examination have been reproduced in more detail by Crawford, *Witchcraft and Sorcery in Rhodesia*, 49-56.

slightly to one side. Puna held my husband's mouth open and I made him drink. After he had drunk we laid him in the position in which we had found him. We covered him with a blanket and then left him. I remained with my husband. We did not do anything further. After four days I found that the deceased was ill.

Statements made by Netsayi and Puna were very similar to that made by Mazvita. Part of Netsayi's statement was as follows:

I live in the same kraal as Mazvita and Puna. I have been very friendly with these two women for the last two years. Early this year, 1958, Puna approached me and asked whether she could give me *mushonga* (medicine) to enable me to 'travel at night', that is, to be able to bewitch people. I agreed to do this and I was instructed to meet her and Mazvita at a certain place in the bush near the kraal in the vicinity of three trees . . . That same night after dark I went to the area of the three trees and there I met Puna and Mazvita. I was instructed to sit down with my back to one of the trees with my knees bent. Puna then approached me. I could see her rubbing something in her hands and this appeared to be a white ointment. She rubbed this ointment all over my face and as she did so she said she wanted me to accompany them in their night excursions so that we should be three.

Referring to the night when the three women said they bewitched Mukozho, Netsayi said:

The three of us entered the hut of Mazvita. Mukozho, the deceased, was lying on the floor asleep on his side. I assisted Puna in holding the deceased's body upright. It was then that I saw Mazvita with the billican lid which I now saw contained what appeared to be beer. She held this to the deceased's mouth and forced him to drink the contents. He appeared to be asleep. He drank all the contents . . . After the beer had been given to the deceased, Puna and I returned to our respective huts. After this night the deceased became ill.

On 12 December 1958, the three women indicated to police officers certain evidence in support of their submission. The police were taken to a stream near the village where they were shown three trees where the women said they always met before going on their night excursions. Each woman indicated to the police her own tree and stood near it. The police were also taken to a place in the bush close to the village where they were shown a plant which the women said was used for bewitching people. Another plant was also indicated to the police in a bush near the village but in the opposite direction to that previously taken. The police examined these various plants but reported that they were not poisonous.¹⁵ And nothing suspicious was revealed by the post-mortem on Mukuzho. There are many cases reported similar to the one that I have just described.

Advocate Crawford, who has examined many cases of witchcraft confession in the formal courts of Zimbabwe, discovered a number of similar features in

¹⁵ The first plant was identified as *Teramnus liabialis* (L.f.) Spring; the second as *Acalpha alenii* Hutch; and the third as of the *Dolichos* species. The women reported that the medicine for bewitching is prepared by taking off the outer skin of the main root, waiting until it becomes dry and then grinding it into powder which is then mixed with a fluid, Crawford, *Witchcraft and Sorcery in Rhodesia*, 56.

these accounts.¹⁶ The first interesting feature is that these witches tend to operate in groups. Secondly, many witches of the type already described say they use medicines to bewitch their fellows at night in much the same way as sorcerers do. The third striking feature of the evidence is the degree of corroboration between the various witnesses. Lastly, it may be asked why they confess at all. In the formal courts such persons are not forced to confess, since this sort of evidence is usually regarded as of doubtful relevance. Crawford writes: 'These cases [of witchcraft confessions] also raise the interesting problem as to why people should make a confession of witchcraft which, from its nature, cannot be objectively valid and which can attract only odium upon the person concerned.'¹⁷

We are not yet in a position to answer all of these questions satisfactorily. Many of the plants and medicines that people say they use at night to bewitch others have not yet been collected and examined. On the question of the high degree of corroboration in the evidence presented by witnesses, we cannot postulate a communal dream to account for this similarity between various witnesses' evidence. The more likely explanations, which need to be investigated, are that the witnesses told the truth, or that they exchanged ideas prior to their arrest.

On the question of confessions, studies have tended to look for the reasons which might motivate a person to make a confession of witchcraft in a court of law, and a number of hypotheses have been advanced. One possibility is that people who confess to witchcraft are insane; they are emotionally unstable and thus attempt to vent their feelings of frustration by seeking to cause sensation.¹⁸ But the cases which I have examined indicate that the persons who made the confessions of witchcraft were sane. They were certainly considered sane enough to give evidence or to stand trial in the formal courts of Zimbabwe. Moreover, as I have already pointed out, such people tend to work in groups and the evidence presented by individual members of such groups is very similar in many cases. It is hardly possible, as Crawford has pointed out, that a group of persons should be similarly attacked by identical forms of the same mental disorder.¹⁹

Another possible explanation for voluntary confession is that people might say that they are witches in order to make others fear and obey them; that such individuals are attempting to build up a reputation as powerful individuals.²⁰ It is true enough that some persons say that they are witches in order to make others fear and obey them. I have met persons who fall into this category. After all, to be feared has many advantages. But an analysis of witchcraft confessions reveals many exceptions; some persons who have made such confessions were already important people of high and respected status. A third hypothesis concerning confession is that persons who confess to witchcraft are mainly women who want to enhance their status in the community.²¹ It has been argued, for example, that

¹⁶ *Ibid.*, 59-65.

¹⁷ *Ibid.*, 40.

¹⁸ See, for example, M.J. Field, *Search for Security* (London, Faber, 1960), 149.

¹⁹ Crawford, *Witchcraft and Sorcery in Rhodesia*, 60.

²⁰ See, for example, T.O. Beidelman, 'Witchcraft in Ukaguru', in Middleton and Winter, *Witchcraft and Sorcery in East Africa*, 62; Gelfand, *The African Witch*, 46.

²¹ Crawford, *Witchcraft and Sorcery in Rhodesia*, 61-2.

since a very high value is placed on the bearing of children in traditional African society, women who have lost children or are barren are therefore of little account. Confessed witchcraft might therefore raise their status in the community. It is also pointed out that in general it is very difficult for a woman in traditional African society to enhance her political or social position. Because of the few avenues open through which a woman can increase her status, the temptation must exist to enhance her reputation by calling herself a witch, thus earning the respect that fear brings. But again this explanation is not adequate. Some women who make confessions of witchcraft enjoy relatively high status in their families or communities. Witchcraft confessions have been made by the old, the young, widows, married people, the poor and the rich, women and men.

One hypothesis which in my view has not been adequately considered is that witchcraft, or at least certain types of it, is objectively valid.²² There is no doubt, however, that some people attempt to practise witchcraft. In addition to court hearings, it is well known that there are confession meetings at which people confess to witchcraft and even exhibit human bones, poisons, hair, fingernails and so on, which they say they have used. Moreover, as the activities of sponsored witches seem to indicate, witchcraft is not always a psychic act. The claim by some people accused of witchcraft that they ate people, that they have exhumed the body of the newly dead and eaten the flesh, has generally been dismissed in the past as fantasy or as a psychic act. Indeed there are many instances where the eating of flesh by witches is a psychic act. In one case three women who claimed to be witches told the court that they went at night to the grave of a man who died in their village, exhumed the body and cut off a piece of flesh which they took home where it was cooked and eaten. After this report the man's body was exhumed by the police and was subjected to a post-mortem but no trace of interference with the body was found.²³ This situation is explained among those who believe in witchcraft, by saying that when witches are possessed by certain spirits they can eat the flesh of a dead person but leave no visible signs of injury to the body. However, in another case the police confirmed that parts of the body had been eaten. In the case of a woman who was committed for trial at Tjolojo,²⁴ she told the court:

I am a witch, I bewitch people . . . I went with my sister Neiwa to the accused's kraal in the night when people were asleep. The accused came to call us. We went to the spot indicated by the accused. We found a dead baby, we cut the child in half at the waist. We left the lower portion of the body in the pit and covered it up again as we had found it. My sister and I took the upper portion of the child . . . On reaching my sister's kraal with the upper portion of the body we cooked it all and ate it. The bones were soft, we were able to chew them.

²² This consideration will neither invalidate the other kinds of explanation, nor will it adequately replace them. It seems to me that no single explanation covers all cases, since there is a considerable variety in the type of person and the type of confession involved.

²³ *R. v. Dawu* (extracts from the court records are found in Crawford, *Witchcraft and Sorcery in Rhodesia*, 45-9).

²⁴ *R. v. Zalepi* (committed for trial at Tjolojo, 2 Nov. 1959); see Crawford, *Witchcraft and Sorcery in Rhodesia*, 114.

The policemen who went to investigate this case reported that they recovered only the lower portion of the infant's body; the upper portion, said the police, was eaten by two women who stated that they were witches. In fact, cases of this nature are reported from time to time in the press of various African countries.

There is also no doubt that the power of the witchcraft idea often leads to illness or other misfortune. We now have many accounts of the effect of witchcraft beliefs. Many people become sick or die as a result of being convinced that they have been bewitched. Walter Cannon, who analysed this phenomenon in another society, came to the following conclusion:

A persistent and profound emotional state may induce a disastrous fall of blood pressure, ending in death. Lack of food and drink would collaborate with the damaging emotional effects, to induce the fatal outcome. These are the conditions which, as we have seen, are prevalent in persons who have been reported as dying as a consequence of sorcery. They go without food or water as they, in their isolation, wait in fear for their impending death. In these circumstances they might well die from a state of shock, in the surgical sense—a shock induced by prolonged and tense emotion.²⁵

Cases of witchcraft confession that I have examined seem to indicate that sponsored witches practise their art using methods of sorcery. The claim by some of these witches (or sorcerers who operate at night), that they fly at night, possess familiars, or keep hyenas for riding on their night excursions, may be a myth, but the claim that they sometimes use medicines or poisons to harm others certainly needs further investigation.

It remains for me to review briefly by way of summary and conclusion some of the implications of this discussion for the Witchcraft Suppression Act of Zimbabwe. Firstly, there is a need for a clear definition of the problem. As I have already mentioned, the terms 'witchcraft' and 'sorcery' are used interchangeably throughout the Act and at times the term 'wizard' is used to include both witches and sorcerers. The Witchcraft Suppression Act regards both witchcraft and sorcery as superstition. But sorcery is practised by some people in this society. Direct sorcery is easy to demonstrate, since the medicines used by sorcerers are derived from plants or other ingredients that can be pointed out and examined. A post-mortem examination is also an important source of evidence. The administration of sorcery medicine may be accompanied by ritual; the ritual itself may be harmless, but the medicine used may be real enough. Recently, for example, a woman who lives near Salisbury admitted in court that she was a witch. She killed a child with arsenic cattle dip. After poisoning the child she threw the bottle which had contained the arsenic into a hole. The bottle was subsequently found by the police resting on bones from at least two chickens. Some of the bones still had dried flesh on them.²⁶ No doubt a ritual was held and

²⁵ Walter Cannon, 'Voodoo death', *American Anthropologist* (1942), XLIV, 179. See also D. Mechanic, *Medical Sociology* (New York Free Press, 1968), 53, and R.M. Coe, *Sociology of Medicine* (New York, McGraw-Hill, 1970), 127.

²⁶ *R v. Sophie* (tried before the High Court Salisbury, 28 Sept. 1960), Crawford, *Witchcraft and Sorcery in Rhodesia*, 79.

was regarded as an essential element of the administration process. Sorcery techniques that are said to operate at a distance without actual physical contact can also cause injury to persons or property or do psychological harm to those who believe that they possess occult powers. It should continue to be an offence to use such charms or objects for the purpose of injuring others.

As regards witchcraft, three points may be made. The first point is that the claim made by some people that they fly at night, and so on, may be a myth, but it seems to me that a distinction should be made in these claims between the purely bizarre, in imagination and symbolic action, which can be associated perhaps with psychosis or an extreme form of cults of affliction, and intentions to cause harm, which should come under the cover of the law. The second point is that some people in fact attempt to practise witchcraft. Thus penalties should be provided for persons who are found to be in possession of any instruments or articles commonly used in practising witchcraft. The third point concerns what I have called sponsored witches. This kind of witchcraft is possible. Thus when an individual in this society accuses another of witchcraft, again he may well be right. There should be a law against witchcraft and sorcery, not only because many innocent people are accused by others of witchcraft or sorcery, but also because other people become sick or die as a result of the activities of certain people.

It seems to me that in dealing with cases of witchcraft and sorcery two important aspects need to be borne in mind; the cultural, social and psychological aspect and the legal aspect. The consequence to the person named as witch or sorcerer can be serious and it is the duty of the courts to protect individuals from violent or non-violent reactions that may follow. On the other hand many people who accuse others of witchcraft or sorcery are not seeking a legal ruling on the matter. The accusation may be a response to situations of anxiety and stress, or a means for the expression of social strains and tensions. At other times the accusation may be a means of social control or of social rupture, or a means of adaptation to rapid and disruptive social change.²⁷ These are not legal issues; they are cultural, social and psychological issues that nonetheless call for urgent attention. Traditional courts are usually able to deal with these cultural, social and psychological issues effectively.²⁸ This is because the main aim of a traditional court, wherever possible, is to reconcile disputing parties within the community and to restore social harmony, rather than merely to rule on the overt dispute which has been brought to court. The reason for this approach has been explained by a number of writers.²⁹ In traditional society a spirit of interdependence between members of local communities is dominant, and a split within a community threatens essential collective activities in social, religious, political and economic life. Consequently, the courts have as their primary aim the reconciliation of disputing parties rather than merely deciding on the legal aspects

²⁷ Middleton and Winter, *Witchcraft and Sorcery in East Africa*, 49.

²⁸ This is not to say that these traditional courts are always fair in settling such disputes.

²⁹ See, for example, J.F. Holleman, *Shona Customary Law* (London, Oxford Univ. Press, 1952), 42; A.L. Epstein, *Politics in an Urban African Community* (Manchester, Manchester Univ. Press, 1958), 211; M.F.C. Bourdillon, *Shona Peoples* (Gwelo, Mambo Press, 1976), 152; and G.L. Chavunduka, *A Shona Urban Court* (Gwelo, Mambo Press, Socio-Economic 14, 1979), 12.

of the case in terms of law. Thus traditional courts, as long as they continue to function, must be allowed to try those cases of witchcraft that require the reconciliation of the disputing parties for their resolution. Formal courts can, of course, also deal with the cultural, social and psychological aspects of witchcraft accusations by making use of anthropologists, psychologists, social workers or sociologists. The use of such specialists in our formal courts should be encouraged. Social workers are in fact already playing an important role in the legal process, particularly in cases involving juvenile delinquents.

Reconciliation of the disputing parties may not be an adequate solution in certain cases of witchcraft accusation. For example, in some parts of the country a person who is habitually surly, who builds his house in the bush far away from other people, who neither invites others to eat with him nor accepts invitations from neighbours to share their food or drink, is likely sooner or later to be accused of witchcraft or sorcery by someone.³⁰ He will be accused of witchcraft or sorcery because he is a deviant. Such accusations are likely to continue until the individual is encouraged to conform to accepted standards of social behaviour of that area, such as friendliness, good manners, hospitality and generosity.

Where the legal aspect of the case is more important than the cultural, social and psychological aspect, the case should be dealt with by the formal courts.³¹ Traditional courts are not suited for this role. Methods of detecting a witch or a sorcerer which are commonly used, such as the boiling water test, divination either by spirit possession or the throwing of bones or the poison ordeal, are very unsatisfactory. Such methods often lead to the punishment of innocent individuals. In the boiling water test the accused person is normally instructed to remove an object from a pot of boiling water. If no injuries result the person under suspicion is deemed innocent. The other common method beside divination is the poison ordeal. Here ritual is involved in the preparation of the poison. If a person to whom the poison is administered vomits the poison she is believed to be innocent but if she retains the poison she is defined as a witch.

The last important problem is that of controlling witches and sorcerers. The suggestion that the only solution to the problem is the abandonment by people of their beliefs in witches and witchcraft makes no sense. It is as if one were to tell a physician engaged in public health work that he could eradicate malaria merely by denying its existence.³² Many people in Zimbabwe do not see the problem as one of eliminating the ideas but one of eradicating the witches and sorcerers. As we have seen they are right, at least in part. The Witchcraft Suppression Act has undoubtedly removed the most dramatic dangers to life and liberty. Diviners and others are now more cautious about imputing witchcraft out of fear of prosecution, and court proceedings have consequently become infrequent. But the Act has also brought other problems in its wake. The main effect of severe sentences has been to drive the practice of witchcraft underground. Many diviners, for example, when faced with a case of witchcraft are reluctant to name the witch for

³⁰ Middleton and Winter, *Witchcraft and Sorcery in East Africa*, 52.

³¹ In fact many traditional courts already make the distinction between the legal and the social aspects of a witchcraft case. See, for example, Chavunduka, *A Shona Urban Court*.

³² Middleton and Winter, *Witchcraft and Sorcery in East Africa*, 288.

fear of prosecution but they do indicate to the patient who the witch is, in a way which leaves no doubt in the patient's mind as to his identity. The diviner indicates someone in general without specifying a name. For example, he says, 'one of your co-workers', 'one of your neighbours', 'one of your wives', and the patient fixes on some definite person, whom he already thinks has reason to wish him harm.³³ The suspect is then pursued as a private enemy by his victim or self-styled victim.

As I have tried to point out in this discussion, we are still unable to answer a number of questions concerning witchcraft and sorcery—questions relating to types of witches, the kinds of medicines that people say they use in bewitching others, the reasons for the confessions that some people make in the courts of law, and so on. In fact it is difficult at the present time to decide whether Ndebele and Shona witches are indeed witches or sorcerers.³⁴ It could be that those who claim to operate at night all use medicines and plants in much the same way as sorcerers do. This inability to answer some of the questions adequately is, in my view, due to three main factors: the need for a discipline boundary, professionalism, and specialization. When Professor Mayer said social anthropology was concerned with the social reality of witchcraft and not with the physical fact,³⁵ he was demarcating a field of study. Every anthropologist or sociologist uses this procedure to isolate a manageable amount of data in order to proceed with his own research and analysis. This means cutting off a manageable field of reality from the total flow of events by putting boundaries round it, both in terms of what is relevant to his problems and in terms of how and where he can apply his techniques of observation, interview and analysis. As Gluckman said:

every anthropological study of a tribal society begins from the fact that rain falls in certain quantities at certain times, and this affects the growth of crops and grazing and therefore social life, but no enquiry is made into what determines the rainfall and the growth of crops. Anthropological studies of factories take for granted that there is machinery, but they do not worry about how it works, though they are concerned with how the technological process affects social relations.³⁶

In other words, certain events are taken for granted as given facts and the field worker proceeds with his research and analysis. Thus in the field of witchcraft, sociologists and social anthropologists have largely confined themselves to a study of beliefs in witchcraft and sorcery, the function of these beliefs in

³³ S. Epstein, 'A sociological analysis of witch beliefs in a Mysore village', in J. Middleton (ed.), *Magic, Witchcraft and Curing* (New York, The Natural History Press, 1967), 136; G.L. Chavunduka, *Traditional Healers and the Shona Patient* (Gwelo, Mambo Press, 1978), 14.

³⁴ Sister Mary Aquina, who worked among the Karanga of Zimbabwe, writes: 'a female *murayi* is believed to be a woman who is possessed by a witch *shave*, a spirit which shows her medicines, *muti*, to harm people. All *varoyi*, both men and women, are believed to work through such charms, never through the mere intention to cause evil. The Karanga, therefore, often equate witchcraft or sorcery with poisoning. This means that even female *varoyi* are not strictly speaking witches but sorceresses', 'A sociological interpretation of sorcery and witchcraft beliefs among the Karanga', *NADA* (1968), IX, v, 50.

³⁵ Mayer, *Witches*, 2.

³⁶ M. Gluckman, *Closed Systems and Open Minds* (Edinburgh, Oliver & Boyd, 1964), 163.

social life, the tensions and conflicts which lead to witchcraft accusations, and the pattern and nature of these conflicts. In fact, one anthropologist stated recently that:

Sociologists are interested in sorcery and witchcraft beliefs in so far as these act as social sanctions controlling anti-social behaviour. Because sociologists are exclusively concerned with the effects of these beliefs on the social life of the people, they do not discuss the question whether or not witchcraft and sorcery beliefs correspond to metaphysical realities. They leave such discussions to theologians.³⁷

There is a danger in using this approach, particularly where, as in the case of witchcraft and sorcery, there is an absence of research by other specialists. Drawing a boundary at a particular point on a continuum can create paradoxes; it can lead to polarization of knowledge, mirror identifications, and endless repetitions of mistaken views.³⁸ In fact, Professor Gluckman³⁹ was aware of this danger. Where the sociologist, in the absence of research by another specialist, nevertheless has to make a judgement on some complex issue in order to proceed with his analysis, he should be careful that he does not build more of his analysis on the judgement than it can warrantably carry. Thus, although we can now say many significant things about witchcraft and sorcery, and have many explanations and theories about witchcraft and sorcery that make sense, the reserving of judgement and the open-mindedness of which Professor Gluckman speaks, in my view, make for greater exactness in scientific inquiries. No professionals of any discipline should be content with the mere logical consistency of a theory at a given moment in time.

I am arguing that sociologists and anthropologists must, where necessary, shift from the social to the physical aspects of the problem under investigation. Where these physical aspects of the problem fall outside the competence of the sociologist or social anthropologist, co-operation with other specialists should be attempted. Shifting our analysis to the physical reality of witchcraft and sorcery will not invalidate the sociological analysis itself but it may help us and the general public to understand more fully some of the puzzling aspects of the society in which we live. This approach is beginning to bear fruit in the field of traditional medicine, for example. In the past, traditional medicine appeared to many people to be a hotch-potch of odd plants and roots. Thus the activities of traditional medical practitioners were distrusted to such a degree that attempts were made by both the Government and Christian churches to suppress them. Thanks to the work of some sociologists, social anthropologists and medical

³⁷ Sister Mary Aquina, 'A sociological interpretation . . .', 47. Consider also her following statement: 'The use of *chitsinga* (by sorcerers) has important social consequences. Since only the person who has revenged himself through it can cure the sickness which it has caused, the victim must come to him politely and submissively, without accusing him in any way, and beg him to withdraw his *chitsinga*. This the sorcerer usually promises to do for a payment of some \$4 to \$6. This means, that the person who revenged himself must be reconciled with the victim before a cure can be effected. Sorcery, therefore, brings social tensions to the surface and enables people to settle their differences', *ibid.*, 50.

³⁸ R. Holland, *Self and Social Context* (London, Macmillan, 1977), 272.

³⁹ Gluckman, *Closed Systems and Open Minds*, 164.

scientists, we now know that traditional medical practitioners cure a number of illnesses. The traditional system of medicine is beginning to be taken seriously by both researchers and members of the public. Medical sociologists are no longer content with demonstrating the logical consistency of traditional medical beliefs and practices; some now examine the physical reality of traditional medicine and practice as well.

The subject of witchcraft will undoubtedly continue to create controversy; what I have attempted to do, by introducing a new perspective and explanatory framework, is to ensure that those who engage in this debate do not continue to treat it as something which is too obvious to warrant systematic investigation.

Appendix

THE WITCHCRAFT SUPPRESSION ACT

*To suppress the practice of pretended witchcraft
(18th August, 1899)*

Ord. 14 1899

1. This Act may be cited as the Witchcraft Suppression Act (Chapter 73).

Short Title.

2. In this Act 'witchcraft' includes the 'throwing of bones', the use of charms and other means or devices adopted in the practice of sorcery.

Interpretation of term.

3. Whoever imputes to any other person the use of non-natural means in causing any disease in any person or animal or in causing any injury to any person or property, that is to say, whoever names or indicates any other person as being a wizard or witch shall be guilty of an offence and liable to a fine not exceeding two hundred dollars or to imprisonment for a period not exceeding three years, or to whipping not exceeding twenty lashes or to any two or more of such punishments.

Punishment for imputation of witchcraft.

4. Whoever, having so named and indicated any person as a wizard or witch, is proved at his trial under section three to be by habit and repute a witch doctor or witch finder shall be liable, on conviction, in lieu of the punishment provided by section three to a fine not exceeding five hundred dollars or to imprisonment for a period not exceeding seven years or to whipping not exceeding thirty-six lashes or to any two or more of such punishments.

Punishment for imputation of witchcraft by habitual or reputed witch doctor or witch finder.

5. Whoever employs or solicits any other person—

- (a) to name or indicate any other person as a wizard or witch; or
- (b) to name or indicate by means of witchcraft or by the application of any of the tests mentioned in paragraph (b) of section eight or by the use of any non-natural means any person as the perpetrator of any alleged crime or other act complained of; or
- (c) to advise him or any other person how by means

of witchcraft or by any non-natural means whatsoever the perpetrator of any alleged crime or other act complained of may be discovered; shall be guilty of an offence and liable to a fine not exceeding fifty dollars or, in default of payment to imprisonment for a period not exceeding six months.

6. Whoever, professing a knowledge of so-called witchcraft or of the use of charms, either as a witch doctor or witch finder, advises or undertakes to advise any person applying to him how to bewitch or injure any other person or property, including animals, and any person who supplies any other person with the pretended means of witchcraft, shall be guilty of an offence and liable to the punishments provided by section four.

7. Whoever, on the advice of a witch doctor or witch finder or any person pretending to have the knowledge of witchcraft or of the use of charms, or in the exercise of any pretended knowledge of witchcraft or of the use of charms, uses or causes to be put into operation such means or processes as he may have been advised or may believe to be calculated to injure any other person or any property, including animals, shall be guilty of an offence and liable to the punishments provided by section four.

8. Whoever—

- (a) by the exercise of any witchcraft, conjuration, use of charms or of any other unnatural means pretends to discover where or in what manner any property supposed or alleged to have been stolen or lost may be found or to name or indicate any person as a thief or perpetrator of any crime or any other act complained of; or
- (b) in the pretence of discovering whether or not any other person has committed any crime or any other act complained of, applies or advises the application or causes to be applied to such person the 'boiling water test' (that is to say the dipping by such other person of any of his limbs or portion of his body into boiling water), whether such dipping is voluntary or compelled, or administers or advises or causes the administration of, to such other person, with or without consent, any emetic or purgative;

shall be guilty of an offence and liable to the punishment provided by section four.

9. Any money, animal or other thing received by any person by way of payment or reward for or in respect of any exercise or pretended exercise of so-called witchcraft or of the use of charms, or for or in respect of advising any person as to any mode or method of bewitching or injuring, by non-natural means, any other person or property, including animals, or for or in respect of indicating any person who by non-natural means is supposed to have

Punishment for witch doctor or witch finder practising witchcraft or supplying witchcraft materials.

Punishment for applying means or processes of witchcraft for injury of persons or property.

Punishment for the naming or indicating of thieves, etc., by witchcraft, charms, etc.

Money, etc., received as payment or received for practice of witchcraft, etc., shall be deemed to have been received by fraud, and punishment for such fraud.

bewitched or injured any other person or any property, including animals, or for or in respect of the performance of any of the acts mentioned in section eight, shall be deemed to have been obtained by fraud, and the person so receiving such money, animal or other thing shall be liable to be prosecuted for fraud and to suffer such punishment as is by law provided for such offence.