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Research Article

The 2008-2009 Gambia Inquisition: Old Wine in a New Bottle

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ABSTRACT

This article examines an inquisition order issued by a former president of The Gambia, who hired witch-finders to eradicate alleged wizardry within the country. It presents a legal analysis, drawing comparisons with historical experiences from Europe, Africa, and Colonial America. The Age of Reason influenced the development of the English Law of Evidence, ultimately leading to the cessation of witchcraft inquisitions in England. However, this legal and ideological shift did not extend to colonial and postcolonial African states, largely because of distinct sociological factors. Consequently, the repugnancy clause in English law is inappropriate for addressing witchcraft-related cases in African contexts. The Gambian President's actions, similar to the European and Colonial American witch-hunts in the past, were driven by ulterior motives that prioritized personal authority over the rule of law. This dynamic, coupled with the complicity of state agencies, has undermined the constitutional framework. The analysis shows that practices conflicting with constitutional principles render any legislative or judicial endorsement of such practices unconstitutional. By bypassing existing legal frameworks, the President's approach mirrored the European inquisitions of the Mediaeval Era. This study underscores the importance of reevaluating African history through indigenous perspectives to develop alternative approaches to contemporary challenges, such as witchcraft accusations, while addressing the broader implications of historical legacies.

Keywords: Witchcraft, The Gambia, Inquisition, Witchcraft Litigation, Religion

Introduction

An unprecedented witch-hunt occurred in the Gambian settlements of Kanilai and Sintet in 2008 and 2009 allegedly under the directive of the President of the Republic. Within a year, the campaign spread to neighbouring villages and some communities near Banjul, the administrative capital. The events escalated into the abduction of an estimated 1,000 individuals. Public officials at the headquarters of The Gambia Armed Forces, National Intelligence Agency, The Gambia Police Force, and The Gambia Fire and Rescue Service, among others, were reportedly complicit in enforcing the presidential order (Reuters, 2009). The ruling party, backed by its local militia and security personnel, facilitated compliance by municipal council administrators, security officials, villagers, and victims (Amnesty International, 2009b). The operation targeted marginalised members of society, particularly the elderly, and two notable exceptions: a pregnant woman and a student. All those accused

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of practising witchcraft were forced to consume a hallucinogenic concoction allegedly to determine their guilt or innocence (Penny, 2022; The Guardian, 2009).

President Yahya Jammeh (1994-2017) is reputed for his devotion to mystical practices (News 24, 2011). Armed with state power, he allegedly authorised the witch-hunt that he had conceived to cleanse the entire Gambian society of witchcraft. After his ouster from office in 2017, the Truth, Reconciliation, and Reparation Commission (TRRC), established by his successor to investigate various allegations against his former administration, dedicated several public hearings to communities affected by the witch-hunt campaign. This afforded victims the opportunity to share their accounts of the events. Conducted in line with the commission's victim-centred approach, the hearings sought to understand the nature, severity, and range of violations endured by the victims—violations that disproportionately affected the impoverished members of the society (New York Times, 2009; TRRC Reports V.11).[1] However, the former president, who remains in exile, did not testify before the commission, leaving his perspective unexamined.

During the hearings, it was revealed that the Inquisition[2] was authorised following the death of the president's aunt, an incidence attributed to supernatural causes (TRRC Reports V.11; VIII). Her demise necessitated the invitation of the witch-finders to start a duty of cleansing Kanilai, (president's village) of wizardry. In the process, an elderly man was compelled to consume the aforementioned concoction. Although the potion did not produce the anticipated effect on the elder, he was extrajudicially executed, purportedly on the President's order. As the bush telegraph had it, the deceased man had been marked to attain the rank of Chief Wizard of the district in the nocturnal realm.[3] To achieve his rank, it was mandatory for him, in the spirit world,[4] to consume a person of high standing in the community—making the president himself a prime target. Following the elder's death, the Inquisition spread to the neighbouring village of Sintet, where the inquisitors caught the inhabitants off guard with the rhythm of their macabre drumming. During this time, they used a mirror as part of their frantic efforts to identify witches and wizards.

In the process of identifying their culprits, they confiscated *jujus*[5] while a witch-hunter fired gun shots whenever one of these items was discovered. A follow-up expedition was conducted in the settlement during which, analogous to the prior occasion, some people were

1 For the TRRC report see http://www.moj.gm/downloads.

2 A papal court, established around 1232 during the tenure of Pope Gregory IX, operated primarily in Northern Italy and Southern France to suppress heresy but later became infamous for its use of torture. In 1542, the papal Inquisition was revived to curb the spread of Protestantism and eventually evolved into a central institution of the papacy.

3 It is a place believed to be host witches and wizards at night.

4 It is a make-believe abode of spirits, demons, and other similar entities.

5 "An object that has been deliberately infused with magical power or the magical power itself; it can also refer to a belief system involving the use of juju. Juju is practised in West African countries such as Nigeria, Benin, Togo, and Ghana, although its assumptions are shared by most African people." See https://www.britannica.com/topic/juju-magic

identified as witches/wizards. Only in Kanilai and neighbouring Sintet were expeditions carried out in 2008, during which victims were paraded in village squares. They were compelled to drink another potion that was ostensibly intended to be the cure for their supposed witchcraft illness.

Some members of the public opined that the inquisitors were recruited from Guinea Conakry. The following year saw intensification of the inquisition. With the backing of members of the Armed Forces, the Police Intervention Unit (paramilitary), and a number of conventional police officers, the expedition engulfed the settlements of Essau and Barra, where members of the State Guards (elite armed forces personnel) and some other military officers were conspicuously active. The unfolding events were video-taped and allegedly transmitted to the president. Similar to the events at Sintet and Kanilai, the suspects were subjected to ritual cleansing, entailing the mandatory consumption of herbal brews, in addition to being imperilled to other traditional sacramental rituals.

The deployment of state equipment, including vehicles and detention facilities, in commuting inquisitors, collaborators and victims during the exercise authenticated accusations of government complicity. At the police headquarters, the ritual was said to involve taking a traditional oath of allegiance to the president by police personnel. Besides, the team, especially the security forces, confirmed the widespread belief of state backing by the fashion in which they compelled the compliance of Municipal Council personnel, security officers, and villagers to execute their instructions. Unlike the Sintet and Kanilai events, where the inquisitors wore black, they donned red garments on various occasions and embellished with numerous traditional religious symbols, including headpieces decorated with animal fur, bells, cowrie shells and mirrors that hinted at potential supernatural powers. The witch-finders were also equipped with accessories such as horse tails, calabashes, horns, drums, etc., and paraphernalia—tools they used to identify their victims, whom they transported in vehicles with government plate numbers to undisclosed locations. Consequently, many villagers deserted their abode permanently, seeking refuge in neighbouring Senegal (Jobe Musa, 2009; News 24, 2009; The Nation Newspaper, 2009; TRRC Report, V.11: 1-4; The Sunday Morning Hearld, 2009; United Democratic Party, 2009).

Enforceable Gambian customary laws must align with the common law repugnancy test. Hence, it is perplexing that a president, despite the complexities involved, would prioritise enforcing an antiquated traditional justice system over an existing legal framework to address what is purportedly witchcraft. This article explores the persistence of the witchcraft conundrum in The Gambia, drawing on comparative evidence and examples from other regions. The study also examines the rationale behind the Gambian president's decision to prioritise the rule of man over the rule of law and the likely reasons for state officials' complicity. This describes how the *modus operandi* of the witch-finders was facilitated by the deployment of state apparatuses.

The advent of colonialism, which abrogated indigenous inquisitions, created a vacuum that was later filled by anti-witchcraft movements. It is this void that the Gambian President sought to fill by circumventing the judicial framework. To place the president's actions in a historical context, the article provides a background on the cultural politics of the Colonial Gambia, including its customary beliefs and fears of wizardry. This explains why the practise was treated with caution.

Historical accounts from England, Spain, and Colonial America, along with laws such as Witchcraft Acts and practices such as inquisitions, demonstrate that witch-hunts were often driven by hidden agendas. These campaigns served as a means to purge societies of undesirables.

The examination of court cases and decisions from some Anglophone African jurisdictions exhumes the defects in the justice delivery system and why witchcraft-related issues are not adequately addressed by the existing judicial system. The European Age of Reason, a precursor to the Common Law of Evidence, and its accompanying empirical epistemological viewpoints terminated the Inquisition in England. However, the legal system bequeathed the former English colonies, including The Gambia, proved inadequate in enforcing the law to address the metaphysical aspects of the witchcraft conundrum.

Against the background of the historical antecedents from other regions, coupled with the subtle tensions among the three religions and the shortcomings of the existing legal system, The Gambia President adopted a strategy that had been effective in comparable situations elsewhere. This study highlights the importance of revising postcolonial African legal systems, as the problems associated with witchcraft trials stem from the imposition of Western ideas and practices on communities whose cultural identities are a blend of both African and European influences.

Anti/Witchcraft as a Cross-cultural Phenomenon

The belief in witchcraft, which attributes mysterious misfortunes to paranormal entities, closely parallels other faith systems. However, akin to religion, witchcraft lacks a singular definition, partly because it is bereft of a coherent and codified set of rules encapsulating and espousing its practices and beliefs (Diwan, 2004, pp. 354-355). Attempts to define the practise is fraught with difficulties, partly because the deeds constituting witchcraft vary across cultures and societies. Certain practices may be acceptable in one context while being considered repugnant in another. Local vernacular descriptions bear more credibility than paraphrased interpretations of the concept and its associated practices. Hence, any attempt to define witchcraft through a deciphered language will at best approximate the envisioned idea. This explains why when some African expressions and ideas are translated into European languages, their precise meanings often appear misleading or inauthentic.

Since Mediaeval Europe, witches are believed to have mystical powers, either through a contract with the devil or other metaphysical abilities. The beliefs in wizardry are, to some

extent, multifaceted. A cursory engagement with the subject reveals its indistinctness (Hiebert, 1999, pp. 62-63). The glut of meanings is more confusing than helpful as every society maintains its own characterisation (Magoola, 2013, p. 105). A common denominator is the belief that paranormal forces can be used to gain personal gains or inflict harm on victims. By way of explanation, belief in witchcraft spans an inestimable spectrum of ideas, practices, and motivations, but a common acceptance is that with witchcraft one can either inflict damage or gain advantage through imperceptible mystical means (Diwan, 2004, p.354). In some milieux witchcraft practitioners are also thought to be people with an intrinsic power through which they detach their life essence from their bodies to covertly associate with others of their kind for evil purposes. In general, witchcraft is condemned in most cultures when evil clandestine supernatural powers are employed through numinous means (Bernard and Dickson, 2014).

Fortunes and misfortunes are attributed to witchcraft, depending on individual perceptions. It is held that its practitioners are endowed with infinite ability to accomplish improbable feats, irrespective of distance. On the constructive side, it is held that witches/wizards have control over danger and astound thieves so that they are apprehended. They can animate inanimate objects, foretell the future, effect healing, fruitfulness, or precautionary drives. Some Africans esteem the positive applications of witchcraft for civic good, such as treating ailments, offsetting bad luck, defusing evil power, guarding farms, facilitating the wellbeing of relatives and livestock, and ensuring good health and prosperity. Hence, some people enthusiastically get fortified. Concomitantly, they can destroy one's health, consume souls, wreck calamities, and instigate enduring agonies. Correspondingly, divorce occurs sparingly in traditional settings due to the indelible social scars it incises in communal conscience; witchcraft practices happen to be one of the causes of its occurrence (Mbiti, 2002, p. 145). In addition, accusation hinders marital obligation because impotence, sterility, and barrenness can result from witchcraft (Magesa, 1997, p. 120). What makes it exceedingly abominable is its contravention of the African tenet of life preservation (Magoola, 2012, p. 99). It is believed to cause untimely death, infertility, protracted gestation periods, assorted failures, and many other areas where it limits a person's achievement (Akrong, 2007, p. 59; Bongmba, 2007, p. 114). As a moral imperative, notwithstanding its admixture of constructive and destructive supernatural potentials, most scholars regard it as abhorrent. Witchcraft potential may be acquired at birth through amulets, herbal concoctions, figurines, invocations, body incisions, or consumption of indiscernible spiritually contaminated foods with witchcraft potion (Bernard and Dickson, 2014). Consequently, it is a craft that can neither be condemned nor endorsed *in toto* because its different aspects are either beneficial or disgusting.

Witchcraft accusation blemishes not only an accused person but also his entire lineage and consequently jeopardises its relationship with others in a community. Suspects are assumed to be guilty until their innocence has been convincingly established. Hence, the charge is not treated with levity on any occasion. Relational breakdown in an African community is the initiation of social death. Since unity is *Sine qua non-to* peaceful cohabitation, witchcraft is the most sacrilegious of sins; hence, its practitioners are perceived as the worst criminals for

causing disunity. Therefore, facilitating communal death. The demise of filial relationships also occurs. Even if an accused is ultimately absolved, his/her reputation and even those of future filial generations remain tainted indefinitely in the remote perception of the community (Magoola, 2013). Paradoxically, instances abound of some who vehemently condemn the practice, but having cause to look up to its practitioners for assistance in times of necessity.

Efforts aimed at annihilating craft and allied practices predate the advent of colonial rule. Among the documented examples in West Africa is the pre-colonial indigenous tactics that were in vogue in Sierra Leone until the close of the nineteenth century. These strategies mirror similar efforts in diverse parts of 20th-century Eastern and Central Africa, exertions examined by anthropologists (Marwick, 1997; Richards, 1935; Willis, 1970). Unlike the witchdoctors who craft defences against witchcraft, anti-witchcraft campaigners fundamentally aim at fortifying society to achieve a holistic eradication of evil. Their activities address the problem as an all-encompassing communal threat. Various transient and recurrent campaigns designed to stamp out the pernicious practices often dissipate after a short period of time when failing to meet public expectations. For not being confined to precise settings, the activities of anti-witchcraft campaigners, similar to those patronised by the Gambian President, crisscrossed ethnic, regional, national and international boundaries. As their foremost objective is a somewhat mass sacramental cleansing, when they arrive in a village, they commandingly line up the residents and proceed with the intuitive identification of culprits. In the process, all confiscated witchcraft paraphernalia are visibly destroyed as a manifestation of the witch-finder's competence. Acknowledged culprits are, in most cases, humiliated but are, on some occasions, spared death and banishment. In some instances, villagers are administered a sacramental treatment to shield the innocent from potential attacks and to thwart the effort of those who have been cleansed from backsliding (Bonhomme, 2013, p.1).

Anti-witchcraft movements were considered to be inherently associated with the start of colonial dispensation (Parker, 2004, p. 394). This is not entirely correct, given the effort expended by the colonial authorities in places such as Sierra Leone. The colonial administration stamped out what they perceived as a crude traditional form of justice in combating witchcraft and allied activities. Cases related to these colonial activities are central to the proceedings of a Special Commission Court set up in Sierra Leone in 1912, as the government felt it necessary to address the unacceptable and savage dispensation of justice (Beatty, 1915, pp. 5 - 27). This period was during which a bonanza of pernicious incidents, such as ritual murder, plagued the society. This shows that efforts to check for witchcraft antecedes colonialism. Historians have made known that 20th-century movements are a continuum of pre-colonial traditions as they span across colonial and post-colonial times (Bonhomme, 2013, p. 2).

Colonialism and its concomitant rule inspired the rise of new campaigns after the prohibition of the traditional modes of witchcraft control, notably the widespread pre-colonial trial by ordeal that was in vogue in Sierra Leone. Anti-witchcraft movements merely filled the chasm created by the suppression of pre-colonial poison ordeals and similar practices.

Hence, colonialism caused a shift from traditional judicial trials, controlled by local headmen centred on reprimand, to more popular movements focused on acknowledgement, therapy, and cleansing (Bonhomme, 2013, p. 2). This explains the action of the Gambian president, who contracted the witch-hunters (anti-witchcraft movement) from a neighbouring African country to cleanse his country of witchcraft.

Witchcraft literature shows that the potential of the practice is present in all climes; hence, over the ages, various societies have conducted diverse forms of inquiry. Although witchcraft inquests were no longer in vogue in Europe during the advent of European colonial rule in Africa, Chapter 37 of The Gambia Criminal Code states: "Any person who use any kind of witchcraft, … or pretends from his skill or knowledge in any occult science to discover where or in what manner anything supposed to have been stolen or lost may be found, is guilty of a misdemeanour."[6] However, the underlying reasons behind the Gambian President's resolve to issue directives for a witch hunt present thought-provoking themes that invite critical engagement and deeper reflection. Given that postcolonial African republics inherently inherit aspects of colonial legal frameworks, legislation outlawing witchcraft inquiries in England remains legally binding in The Gambia.

Anti/Witchcraft in the West

Witches/wizards have consistently stirred passions and apprehension in different climes over times (Stabell 2010, p. 460). Circa 700 BC Bible verses that made references to the craft and associated practices and in some instances, stipulated severe punishments include Exodus 22:18, Leviticus 20:27, Deuteronomy 18:10-11, I Samuel 115:23, II King 9:22, II Chronicles 33:6, Micah 6:12, Nahum 3:4, Acts 8:9 and 10, Galatians 3:5 and 6:20.

From the sixteenth to the seventeenth centuries, credulous witchcraft beliefs clogged the minds of the English public and other parts of Europe. Disease, death, theft, and other calamities were attributed to the craft, a menace to the common good. At the start of the reign of Henry VIII (1491-1547) draconian laws were called for to protect citizens against dangers believed to be posed by the Devil (Lauren, 2019, p.9). Several reasons motivated Elizabeth I (1533-1603) to enforce the laws enacted by Henry VIII, her predecessor. Firstly, the appointment of John Jewel as the Bishop of Salisbury, an ardent believer in the evil of witchcraft. Second, on her enthronement, there were murder plots against her deploying the witchcraft stimulus. Finally, her advisers felt the necessity for the stronger enforcement of the laws. These instigated more people to trade accusations among themselves, as little evidence was needed to secure conviction (Macfarlane and Sharpe, 1999, p.53).

Heinrich Kramer and Jacob Sprenge, inquisitors of the Church, made a landmark contribution to the history of Inquisition by co-authoring *Malleus Maleficarum* in 1486. The work inspired inquisitors throughout Europe until the 1700s, during which approximately

6 https://www.policinglaw.info/assets/downloads/Gambian_Criminal_Code.pdf

40,000 to 100,000 people, mainly women, died due to witchcraft-related charges (Luna, 2003, p.7). Witch-hunting was rife under English monarchs who considered witches and witches were perilous in their realms. Long before James I ascended the throne in 1603, his works were among the outstanding witchcraft literature of Mediaeval Europe. A self-acclaimed demonologist who was subsequently famous as "the witch-hunter." His involvement in the political witch hunt shaped his life during the three years that transformed the Inquisition in Scotland and England by adopting demonology and using the Devil's pact as evidence to secure convictions. It is on record that he participated in torturing suspected witches and influenced their trials when they gained acquittal. He was the first ruler to validate demonology and witch-hunting. His widely acclaimed book *Daemonologie, in Forme of Dialogue*, was among the sources of inspiration for inquisitors (Carol, 1991; Kintscher, 1991; Peel and Southern, 1969, p. 33 and 67; Shearer, 2016).

Witchcraft was a felony under the English Witchcraft Act of 1542 until it was repealed in 1547. The Witchcraft Act of 1563 established capital punishment if a witchcraft suspect causes definite harm through the act. Another Witchcraft Act of 1604 extended that of 1563 until 1735 to stipulate the capital penalty without advantage of clergy; to anyone convicted of invoking malevolent spirits or acquainted with such deeds (U.K. Parliament, undated). Notwithstanding the prevailing apprehension, the anxiety dissipated in the 1640s due to political unrest instigated by a civil war that consumed much public concern. Consequently, during the 1600s, scepticism began budding following an evolving body of intellectuals (Lauren, 2019, p. 8) questioning the belief. Granted that witchcraft practices were still conspicuous in lawmaking, trials and persecutions, incidences of accusations plummeted due to political instability and mounting scepticism. Concerned individuals became vociferous while the public began to lose faith in the practise. In 1682, the execution of Devon Temperance Lloyd, Susanna Edwards, and Mary Trembles outside Exeter was possibly the last of its kind on English soil. The increasing scepticism was instrumental in the defeat of trials in England by 1717, when the last trial designed for the crime was held in Leicester.[8] The accused were usually underprivileged elderly women. Between 1560 and 1700, 513 witches stood trial, and 112 suffered death (U.K. Parliament).

The capital punishment passed on witches/wizards by the Spanish inquisitors, on the other hand, was a testimony to the draconian measures taken against some minority groups. The sheer number of people put to death during the exercises in diverse parts of Spain, and the concomitant circumstances, made it a glaring case of religion-based persecution. This, to a certain degree, differentiated it from what was obtained in England, where the exercise was orchestrated mainly for political reasons to protect the realm. For more than two hundred and fifty years, the inquisitors, for faith-based reasons, relentlessly hunted Spanish Jews and Muslims. Throughout the Inquisition in Spain, these disadvantaged groups strenuously and surreptitiously practised their faith in fear of persecution; measures that were at variance with the vantage situation of the Catholics (Vaughan, 2003).

At its inception, the Inquisition was tailored after that of the Mediaeval period as established by the Church in approximately 1184. The principal mission of the Mediaeval Inquisition mirror was to identify and discipline those charged with heresy. Although the qualities for being classified as an apostate varied throughout time, religious affiliation was virtually the sole parameter. The Church instituted the inquest as a jury to investigate baptised Catholics who were suspected of heresy (Edward, 1988, p. 57). Owing to fear, the Church forbade the commoners from nursing the impression that other superior powers existed apart from the Church and God. Hence, the Inquisition also persecuted witches for being classified among the heretics. The Spaniards were mostly Catholics, so the Church initially considered it pointless to dispatch inquisitors there at the inauguration of the Mediaeval Inquisition (Kamen, 1966, p. 43). However, finally, it arrived in Spain in 1238, during the reign of Pope Gregory IX, and the inquisitors collaborated with Spanish provincial rulers to capture the apostates.

The marriage of Isabella I and Ferdinand II in 1469, considered the beginning of modern Spain, unified a number of larger Spanish regions. Notwithstanding this, total unification did not occur until centuries later. The monarchs jointly ruled Castile, Aragon, Sicily, and Leon. Each region had its own government and feudal lords who were answerable to the two monarchs. With their union, Isabella and Ferdinand controlled much of the Spanish regions, making them more powerful than the feudal lords who ruled other regions. The years preceding the reign of Isabella I and Ferdinand II in Castile and Aragon were politically turbulent, leading the monarchs to devise ways to pacify the nobles and the commoners in the tempestuous area. Setting up their own Inquisition was a strategy adopted by the monarchs to unite the regions. Being devout Catholics, Isabella I and Ferdinand II chose to persecute Jews, Muslims, and heretics to protect their throne. By compelling people to convert and sustain a Catholic majority in the regions, the king and queen felt that their reign would be secured (Kamen, 1966, p. 43, Laura, 2016, p. 26).

A common misconception about witch trials was that women were frequent victims. Some male sorcerers, magicians, and entertainers whose deception commands fooled spectators so well that they believed they were endowed with actual paranormal powers were also accused. However, men were more likely to receive lighter sentences than women. This is evident from records that show higher numbers of women being executed (Monter,1990, p. 326). Spinsters were among the suspects in a region infatuated with the desire to hunt witches. In contrast to England, the Inquisition in Spain was designed to convert or kill Muslims, Protestants, and Jews, not to kill witches (Laura, 2016, p. 26).

In the New World, the witch hunt effectively started well after the Mediaeval Period. However, unlike the situation in Europe, accusations had no perceptible political motive nor was it calculated to favour any religious denomination or ruling oligarchy. Almost all accusations were based on spectral evidence or insinuations.

Midwife Joan Wright of Virginia was, in 1626, the first acknowledged person to be arraigned for witchcraft, after which fifteen others, also from Virginia, took a cue, but most of them were acquitted[7]. The English Witchcraft Act of 1604 was adopted in Maryland in 1635, and[8] South Carolina and Delaware followed suit in 1712[9] and 1719, respectively. Midwife Jane Hawkins was accused of the same offence in 1641 in Boston, Massachusetts (Hall, 2007), while The General Court of Massachusetts adopted Exodus 22:18, Leviticus 20:27, and Deuteronomy 18:10-11.[10] In consonance with Exodus 22:18; Leviticus 20:27; Deuteronomy 18:10, Connecticut passed the capital law in 1642: "If any man or woman be a witch…they shall be put to death."[11] In 1647, Alse Young was the first person to be put to death for witchcraft,[12] and in 1648, Mary Johnson of Wethersfield, Connecticut, was possibly executed in Hartford after an alleged forced confession.[13] The Colonies of Rhode Island and Providence Plantations adopted the statute: imposed the death penalty for the offence of witchcraft. It appears that no one was ever arraigned under this statute.[14] In 1648, healer and herbalist Margaret Jones of Massachusetts was the first woman to be hanged for practising witchcraft.[15] John and Joan Carrington of Wethersfield, Connecticut, were the first couple to be executed for witchcraft in the American colonies in 1651.[16] Between 1647 and 1697, of the estimated 42 witchcraft suspects in Connecticut, not less than 10 died (Podvia, undated).

In 1654, Katherine Grady, an elderly woman travelling on an English ship to Jamestown, Virginia, was hung by the captain for being identified as a witch who caused a storm at sea.[17]Another elderly woman, Mary Lee, was on a ship destined for St. Mary's City, Maryland, suffered the same fate in the same year. In addition, Elizabeth Richardson was hung in 1659 by the captain of a ship bound for Maryland for the same reason.[18]

Following the adoption of biblical injunctions around 700 BC by The General Court of New Haven, Eunice Cole from Hampton was convicted of witchcraft in 1856 and received a sentence of flogging and life imprisonment, ultimately dying in Boston Prison in 1680. In 1938, the residents of Hampton posthumously restored her full citizenship.[19] Elizabeth Garlick of East Hampton, New York, in 1658 was acquitted of being a witchcraft practitioner because the local magistrates were not "skilled in the science of demonology."[20]

7 https://www.whro.org/local-news/2022-10-26/the-witching-of-the-virginia-midwife-the-state-s-thorny-history-with-the-profession
8 https://www.chesapeakebay.net/news/blog/witch-stories-from-around-the-watershed
9 https://erenow.org/common/america-bewitched/12.php
10 https://www.lib.uchicago.edu/about/news/the-salem-witch-trials-a-legal-bibliography-for-halloween/
11 https://studylib.net/doc/8113153/witchcraft-laws-and-trials--salem-and-beyond---dcba
12 https://connecticuthistory.org/alse-young-executed-for-witchcraft-today-in-history-may-26/
13 https://www.wethersfieldhistory.org/articles/connecticuts-witch-trials/
14 https://core.ac.uk/download/pdf/56384224.pdf
15 https://www.thoughtco.com/margaret-jones-biography-3530774
16 https://www.jud.ct.gov/lawlib/history/witches.htm
17 https://encyclopediavirginia.org/entries/witchcraft-in-colonial-virginia/
18 http://www.ancestoryarchives.com/2013/11/the-case-of-quaker-elizabeth-richardson.html
19 http://www.hamptonhistoricalsociety.org/gcole.htm
20 https://studylib.net/doc/8113153/witchcraft-laws-and-trials--salem-and-beyond---dcba

Mary Wright of Oyster Bay, New York, was arrested in 1660 and sent to Massachusetts, where she remained for trial but regained freedom. However, she was convicted of being a Quaker and banished from the colony.[21] Mary Barnes of Farmington in 1663 was the last person to be hanged for practising witchcraft in Connecticut.[22]

Salem, Massachusetts, hosted the most celebrated witchcraft trials in the United States between February 1892 and May 1893. Of the 200 suspected witches, 19 were executed by hanging while one was pressed to death and others died in prison custody.[23] In 1957, Massachusetts expressed regret for the trials.[24] Winifred Benham of Wallingford in 1696 was the last person to stand trial for witchcraft in Connecticut and was acquitted.[25] In 1706, Grace Sherwood of Princess Anne County, Virginia, was convicted of witchcraft.[26] It is unclear whether she served gaol time but Tim Kaine, Governor of Virginia, officially pardoned her on July 10, 2006.[27] Maryland's last witchcraft trial took place in 1712, during which Virtue Violl of Talbot County was acquitted.[28]

"If history is important, it is [imperative] to get it right" (Heagney, 2014). The manner in which societies responded to allegations and motivations of witchcraft and its suppression in pre-colonial Africa differed from the responses witnessed in Europe and America. This is primarily caused by the stark cultural differences. Inquisition was not introduced to Africa by Europeans. Although there were some similarities, they were dwarfed by the scale on which witch-hunting was executed in Europe. African societies had local brands of the practise which colonialism abrogated for being repugnant to the European concept of natural justice. In pre-colonial Africa, intrinsically, Inquisition was not politically motivated, but it was to a high degree imperceptibly flavoured by religion. Nevertheless, the African models bear some similarities to American and European models for being spiced with spectral evidence and confessions under duress.

Two West African Scenarios

The Sierra Leone brand of Inquisition attracted the attention of the colonial administration. Witchdoctors[29] were highly esteemed in the community, and they accumulated substantial wealth from their practise (Beatty, 1915, P. 24). Membership of the practise is in most cases, restricted to family lines; hence, its secrets are inherited. Only one member of a family

21 https://hoydensandfirebrands.blogspot.com/2012/07/witches-of-new-york.html

22 https://www.thoughtco.com/margaret-jones-biography-3530774

23 They were laden with weights and stones until the victim either gave in and entered a plea or succumbed to suffocation. https://www.smithsonianmag.com/history/a-brief-history-of-the-salem-witch-trials-175162489/

24 https://www.smithsonianmag.com/smart-news/last-convicted-salem-witch-is-finally-cleared-180980516/

25 https://thechoatenewstest.choate.edu/2018/10/26/witchcraft-buried-wallingfords-history/

26 https://encyclopediavirginia.org/primary-documents/the-case-of-grace-sherwood-1706/

27 https://www.nbcnews.com/id/wbna13807874 https://encyclopediavirginia.org/entries/sherwood-grace-ca-1660-1740/

28 https://www.washingtontimes.com/news/2004/oct/10/20041010-102416-3747r/

29 "A person in some societies who cures people using traditional magic or medicine." See https://dictionary.cambridge.org/dictionary/english/witch-doctor

practices it at the same time, although he may have aides who are generally his relatives. Some witchdoctors could trace their ancestry back to antiquity. Practitioners are often skilled herbalists, with a rudimentary knowledge of surgery, who claim to cures by applying witchcraft. They are also versed in the medicinal properties of certain herbs that the devil dislikes, which, if administered to the sick, could disgust and cast out the devil. A patient is believed to have been possessed by a devil, and it is the business of the witchdoctor to cast it out. It is believed that the devil can be caught and bottled, after which it is up to the patient to decide whether to destroy it, or to allow its release and propitiate it with offerings, and by such means transform it into an approachable devil, which he can make use of to harm someone else. Witchdoctors are employed by chiefs or other married men to determine whether any of their wives illicitly satisfy their elemental urges. Additionally, they are put to use to identify the perpetrators of crimes and the location of hidden stolen properties (Beatty, 1915). J. K. Beatty's account theorises that members of the Sierra Leonean society engaging in anti-social activities such as cannibalism, possessions of 'bad medicine', ritual murder, nefarious spectral events, etc. are accused of witchcraft and it is the witchdoctor's duty to fish them out for appropriate disciplinary action. However, to curtail the extraordinary class of crime committed by the witchdoctors and their collaborators, the colonial authorities felt that an exceptionally drastic legislation was necessary, and a bill entitled the Human Leopard Society Ordinance, 1895, was passed as Ordinance No. 15 of 1895 (Beatty, 1915, p. 6).

Another skill of the witchdoctors is nullifying oaths. When an oath is taken upon a *juju*, the oath-taker can be absolved from the consequences of breaching the vow by employing the services of a witch-doctor, who, for a fee proportionate to the efficacy of the *juju* will get it neutralised. They do this through certain rituals performed with other witchcraft medicines (Beatty, 1915).

In The Gambia, the fear of witchcraft was intensified by the measures the colonial administration adopted to outlaw both the craft and the traditional measures taken to check the practise. Most Gambians adhere to the Islamic faith, though many engage in non-Islamic practices in a syncretic manner. Of the myriad of mainstream beliefs, wizardry was, and remains, a grave concern. The craft infers a person who metaphysically attacks and devours others, often unwillingly, due to an innate supernatural power he/she inherits from his/her mother. Most Gambians think that it threatens the community and threatens their social well-being. The pervasive fear is articulated in the intricate safety measures implemented to protect against possible attacks. Of the prohibitions and fortifications resolutely deployed at most life-cycle rites, the greatest number is envisioned to keep witches/wizards at bay (David, 1959, p. 263).

A Gambian fairytale encapsulates the origins of witchcraft. God instructed the first inhabitants of earth, while embarking on a protracted journey, that they would come across two lakes: the first is filled with blood, and the second is filled with water. God counselled them that they would be thirsty before reaching their destination, but they should not drink the

first lake. Some disobeyed God and drank from it, and thereafter, the procreation of witches/wizards started among the disobedient travellers (David, 1959, p. 264).

Communal loathing for witches/wizards is soothed by the belief that the trait is inherited at birth; nevertheless, for fear-induced precautionary measures, they are socially ostracised. Something inside witches/wizards compels them to spiritually eat people involuntarily. It is also believed that they sometimes regret their deeds. They save for the spells they cast on people; they are normal people. To launch attacks, it is believed that they transfigure into animals, especially in nocturnal habitats, and even into figurines. A popular belief was that witches inflict attacks by poisoning foods through imperceptible means (David, 1959, p. 267). The poison metaphysically facilitates access to the desired body part of the victim. Hence, one will neither accept, let alone consume the food, drink, water, nor smoke the cigarettes of a suspected witch. Most accounts relating to specific spells cast an allusion to food poisoning. Likewise, it is somewhat frowned upon to visit a sick person at night because of the fear that the visitor could be a witch, a group believed to lurk around sick persons at night (David, 1959, p. 268). Another method of attack is placing imperceptible magical snares on footpaths known to be traversed by prospective victims. For being invisible to normal persons, the intended prey falls ill after either crossing the object or if his/her shadow gets in contact with the indiscernible object (p. 268). The spirit of a person is believed to reside in their shadow. Hence, any harm done to it is equivalent to hurting the physical component of the victim. Assisting anyone to put a heavy load on their head is considered dangerous because the fellow may be a witch who could steal one's internal organs and cart it away in the load (p. 268). "An eclipse, whether of the sun or moon, is supposed to be effected by witchcraft" (Park, 1858, p. 224). These reasons made the wearing of various amulets customary.

The traditional solution to a witchcraft attack, which was outlawed by the colonial administration, was a family affair. Upon a witchcraft victim naming their assailant, their family members will challenge the accused and seek to force him to free his spiritual influence over the victim, typically after delivering a notable beating with short bamboo sticks. (David, 1959, p. 268). This connotes that the witch would have to return the part of the body he had taken and perhaps supply antidotes to boost his recovery. Occasionally, stonehearted witches/wizards refuse to give up their prey despite the beating. The case would become irredeemably bad if the witch had already eaten the body parts (p. 268). Traditional pre-colonial reprimands involving capital punishment, being sold into slavery, or banishment were proscribed (p. 269). In any event, social pressure may necessitate an identified witch or wizard to voluntarily quit the community. The Gambia Protectorate Ordinance of 1894 took cognisance of native laws and customs in outlawing obnoxious pernicious practices considered being incompatible with English law (p. 269). Therefore, the blame for the increasing number of suspected victims of witchcraft and associated practices fell on the colonial government, as it became untenable to accuse or penalise those engaged in witchcraft for fear of legal repercussions. However, an imperceptible aspect of the conundrum that eluded the attention of the colonial administrators was religion.

Religion and Witchcraft

The definition of religion is as contentious as that of witchcraft (Durkheim, 1995, p. 44; Geertz, 1993, p. 87; James, 1984, p. 226; Taylor, 1920, p. 424). For those affiliated to Christianity, religion connotes an "organised, rigid and structured hierarchy, rather than emphasis on the spiritual validity of finding one's own path" (Wigington, 2018). Some analysts view witchcraft as a religion, involving the application of magic and rituals within a spiritual milieu, fostering a deeper bond with the divine figures of their belief. Conversely, others regard it as "a skill set than anything else." This imply that the craft can be used for both religion and skill (Wigington, 2018). The multiplicity of definitions implies a philosophical undertone that deciphers the fundamental structures and limits of the world and forms the basic ways in which cultures and individuals imagine the causes, nature, and meaning of things.

An age-long, virtually imperceptible situation in The Gambia has been the existence of a rivalry for supremacy among religious adherents. This is reflected in the enduring discord among advocates of Christianity, Islam, African Traditional Religion, and Witchcraft, assuming that the latter is so recognised. Mungo Park, a famous Scottish explorer who allegedly discovered River Niger during his missions of 1795 and 1805, which he commenced from The Gambia into West Africa, alluded to the animosity between the Nazarenes (Christians) and the Bushreens (Muslims) in his account (Park, 1858, p. 152).

The proclivity of witchcraft in the African church indicates that something is grievously wide of the mark within the religion. It is for this reason that any allegation of the practise among its followers is weighty, irrespective of its foundation (Magoola, 2013, p. 11). This does not only contravene Christianity's tenets; it also stands against its doctrine and standards of living. The Church, which customarily paints African Traditional Religion (ATR) and witchcraft with the same brush, often addresses accusations with alacrity. This it does, as a duty, to call the culprits to order and to discipline its disciples who are not in compliance with its doctrines (p.101). However, African converts to imported religions, such as Christianity and Islam, are confronted with the herculean dilemma of imbibing doctrines and creeds that contradict their indigenous customs and traditions. Some climes associate with witchcraft, such as the wearing of amulets, constitutes African customs and traditions. ATR, in conjunction with African native customs and traditions, are tightly convoluted and excruciatingly difficult to disentangle in some cases. The situation becomes more complicated if witchcraft is treated as a religion. Consequently, Africans with ATR backgrounds, or who exhibit tendencies that gravitates towards witchcraft, experience unease upon conversion to foreign faiths, as the distinction between their customs and traditions and traditional religion is often indistinct. These practices have been immutable for generations; hence, they have become not just customary but traditional.

Some accusations are well grounded, while others are unsubstantiated. Regardless of whether these are based on circumstantial, spiritually misunderstood, or illusory evidence,

some corroborated irrebuttable cases. Some are heavier than others. Some species encompass a broader spectrum than others (Magoola, 2013, p. 102). Whatever shade of evidence might be advanced, there are irrefutable indications that witchcraft practitioners, who are undisputably those with pre-conversion imbibed African customary practices, have inadvertently infiltrated and indeed permeated churches. When pressed for evidence, the parishioners stated that, beyond the use of talisman, some are sometimes sighted in secluded parts of their offices and sometimes concealed underground within church precincts. Church ministers pay nocturnal visits to witchdoctor's shrines. Some secure the services of intermediaries to protect their identities (p. 102). A handful of pastors threatened their perceived enemies with reprisal. Some scholars believe to have presented heathen sacrifices (p. 103) and allied activities. If this is established among the clergy, then one wonders how it is with their flocks. Some are believed to patronise witchcraft to enhance their chances of progress in the Christian ministry. Such a syncretic rapport is ironical because the teachings and doctrines of witchcraft and African Traditional Religion are a mortal threat to the Church; tantamount to Christianity doubling up with witchcraft in Africa.

The belief that somebody might offer contaminated gifts with witchcraft substances often prompts parents to caution children against accepting gifts from strangers, particularly from elderly people. The sick are kept away from home because witches often strike at short ranges but cannot attack those far from home. Witches are believed to foment calamities on both individuals and the community at large (Danfulani, 2007, pp. 147-151). With so much under the control of evil powers, many constantly suspect that someone is out to harm them. The impact of personal experiences vis-à-vis attacks has become a reality for many. Mystical power is known or experienced by many who were raised in traditional setups where they have witnessed numinous phenomena (Bernard and Dickson 2014, p. 9). Many believe in the reality of evil forces having witnessed their devastating impacts on their communities. They are accustomed to horror tales that effectively communicate the idea that witchcraft is real to the extent that even Christian leaders fear that they refuse to discuss the topic in public lest they attract attacks.

A disturbing aspect of witchcraft is that most accusation target relatives, workmates, classmates, and acquaintances (Bauer, 2017, p. 6). This also tallies with the theory of limited good (scarcity), in which some traditional societies believe that there is a dearth of opportunities in circulation, a situation that makes wealth finite. When an individual possesses more than others who have less, feelings of envy and the belief in scarce opportunities can lead to witchcraft accusations, resulting in significant damage to both the Church and society as a whole (Foster, 1965). Sceptical Westerners doubt the prevalence of witchcraft because of their secularity and enlightenment philosophy (Bauer, 2017, p. 7). Most pioneer Christian missionaries to Africa entertained such views, believing that as Africans imbibe Christianity, the fear of occult powers would disappear.

Belief in witchcraft provides a psychological explanation for ill luck; hence, indolent people and those failing to shoulder responsibility for their actions/inactions attribute failures

to witchcraft, resulting in a mystical manipulation of the mind. It is probable that if a sick man is informed that a witch is following him, he will believe that his death is as certain as the sun will rise (Bauer, 2012, pp. 72-73). This impact somehow explains why some sicknesses and ailments defy medical science diagnoses and why people who are believed to have been bewitched are rendered hopeless. “The desire . . . to live and the prospects of prosperity are shattered beyond restoration” (Manala, 2004, p. 1500).

These psychological feelings underpinning witchcraft result in victims concealing information on the defensive measures they have adopted to protect themselves from exposure. Discussions about it are rare due to the fear that such conversations could reinvigorate the potency of occult power. Hence, silence is considered to be the best therapy (Bauer, 2017, p. 8). However, to tone down the impact of witchcraft, some adherents develop syncretistic lifestyles. They became churchgoers on weekends but reverted to fetish priests and diviners for protection during weekdays. In addition to several traditional problems that church members grapple with that contradict their faith, witchcraft appears to be the most death-defying nut to crack. Reasons advanced for the failure of Christian evangelists to address traditional beliefs are somewhat linked to the fear of reprisals.

An issue for intellectual nourishment is that witchcraft accusations are infrequent in Islamic societies, notwithstanding a Quranic injunction that urges Muslims to seek refuge … from the evil of those who practise witchcraft when they blow on knots (Quran 113:4). Islamic communities were not identified among those who stood up against witchcraft during the European Inquisitions. Therefore, the Gambian President would have anticipated that he would remain silent on matters concerning witchcraft-related mystical practices. The issue of the craft is not publicly discussed due to the syncretic religious practices for which Gambian society is reputed; spiced with at least some doses of practices that some believe to be witchcraft related. The president’s knowledge of the cause of his aunt’s death, which was ascribed to supernatural means, can be perceived to be related to witchcraft (Ononhga, 2017, p. 50). This made the president’s directive mesmerising for ordering an Inquisition when his belief system was not in his favour.

The Gambia is approximately 96.4% Muslim (U. S. Department of State, 2023). This differed from what it was at the beginning of the 19th century. In 1800, the majority of the people were traditional worshippers. Islam was introduced in the fourteenth century, and in the early 1800s, a small number of Muslim communities were present. By the mid-nineteenth century, the Mandinka ethnic group had mostly consisted of both the Soninkes and the Marabouts. The former were either animists or nominal Muslims. They were rulers and aristocrats, while the latter, who were of puritan Islamic confraternity, were mainly traders and clerics. However, the latter suffered discrimination from the majority animist population, being prohibited from owning land and holding administrative positions. This development led to the *Sonike-Marabout* war of 1850-1856 which the latter ultimately won. Most Mandinka were adherents of the ATR until the 1860s, but virtually all were converted to Islam between 1890 and the 1920s (Hughes and Perfect, 2006, p. 15).

Some Fulas, the second largest ethnic group, were Islamised between the 1860s and well into the twentieth century. A concerted effort in the 1830s to convert them to Christianity failed. The third largest ethnic group, the Jolas, slowly embraced Islam, with many remaining animists until the 1960s. They are now a combination of Muslims and Christians. The outcome of the 1850-1856 war galvanised the mass conversion of the animists to Islam. The conversion spree after the war did not wipe out ATR practices which had been inseparable from the customs and traditions of the new converts. Instead, a syncretic brand of Islam mixing ATR practices with their new faith, evolved (p. 17). The habit has remained immutable until this day. The Gambian president subscribes to this brand of Islam and is hence reputed to be devoted to mystical activities.

Flaws in Witchcraft Litigation

Although the Gambian state is governed by law and not by individual proclivities, the Gambian President's inclination towards traditions and customs, despite his official adherence to Islam, somehow undermined his faith in the legal system. Moreover, legal complexities often obstruct the course of justice in cases involving witchcraft in the former African colonies.

In *Abedinego Kapeshi and Another v The People SCZ Selected Judgement No. 35 of 2017*, two discontented convicts of a Zambia high court, Abedinego Kapeshi and Best Kanyakula, appealed their sentences, contending, *inter alia*, that the trial court erred in its judgement in handing down excessive sentences of life imprisonment (Sangende, p. 2020). The convicts were indicted on a two-count charge of collaboration with unknown persons, and the murder of two persons in separate but correlated incidents on suspicion that the two bewitched Kabinga (deceased). The second appellant prepared some charms in which the relations of the deceased smeared on the coffin in which the remains of the dead. They thereafter struck the coffin carried by grievers and instructed the spirit of the dead to identify the murderers. The coffin eventually hit Munanga's house, where an angry mob set him alight. The troupe later went to Masonde's house where he was murdered. The Judge held that the facts were based on a belief in witchcraft. However, the apex court had expounded in previous judgments that belief in witchery could be considered a mitigating circumstance. Hence, the accused were guilty of murder and were consequently sentenced to life imprisonment with extenuating circumstances.

However, the Supreme Court overturned the decision and imposed capital punishment as a mitigating circumstance, which endangers the essence of extenuation. In particular, if it does not meet the threshold essential for it to qualify as an extenuating reason in capital offences.

Antedating the judgement, an appellate court judgement held that a belief in witchcraft could be an extenuating factor in murder cases. Preceding the apex court judgement, the law provided that it shall consider the standard of behaviour of an ordinary person to which the convict belongs (Sangende, 2020).

In *Chishimba v The People (1999),* the deceased, who was suspected of being a wizard, died of assault. The Supreme Court imposed a sentence of 10 years imprisonment. Similarly, in *Nelson Bwalya v The People (2010)*, the appellant slayed the deceased by trusting him to have murdered his wife. The court has passed a lesser sentence. On appeal, the Supreme Court ruled otherwise. The reasoning bolstering the Court's ruling was that there was ample evidence that the appellant believed that the deceased killed his wife through witchcraft, and it was immaterial whether the accused was silent in his defence.

Hundreds of people have been extrajudicially murdered after being accused of witches and wizards in South Africa. In Limpopo Province alone, more than 600 people were killed between 1996 and 2001 for the same reason (Bauer, 2017, p. 1). This is not just a South African affair, as throughout sub-Saharan Africa (see Akrong, 2007; Bongmba 2007; Okon, 2012), lynchings, exile, and ostracism are typical responses aimed at those accused of witchcraft. Such violent responses indicate the fear that witchcraft imposes on many populations (Bauer, 2017, p. 1). A core worldview assumption among most Africans is the belief that "everything is caused by some other person directly or through mystical forces" (Bernard and Dickson, 2014, p.11). Nothing happens without a cause, and the cause is stereotypically witchcraft (Manala, 2004, p. 1498). The mentality attributes misfortune, barrenness, accidents, snakebites, brake failures, sickness, untimely deaths, and almost every perceivable problem to witchcraft (Akrong, 2007, p. 59). The court judgments seem contradictory because there are no empirical means with which to verify a witchcraft claim. Proof, which is beyond all reasonable doubt, should be provided to secure a conviction, especially in capital offences.

In *Athuman v. Republic*, the appellant was charged and convicted of obtaining money by pretending to be a witchdoctor with the power to cast out devils from a Kenyan housewife. In its verdict, the court questioned the particulars of the charge because the judge could not decide on the reality of witchcraft. Such uncertainties led the court to issue contradictory judgments (Mutungi, 1971, pp. 524-525). In this case, the issue was whether to concede that witches exist or not, which would lead to the discharge as a charge of "obtaining money by falsely pretending that one is a witchdoctor" connote the existence of a genuine witchdoctor.[30]

Comparable incongruities exist in most African Witchcraft Acts by repudiating the existence of witchcraft but concurrently recognise its potency. The witchcraft acts of Malawi,[31]

30 *Athuman v Republic* [1967], 1 EA 401 (HCK).
31 https://malawilii.org/akn/mw/act/1911/4/eng@2014-12-3

Kenya,[32] Uganda,[33] Botswana,[34] Namibia,[35] South Africa,[36] Zambia,[37] Lesotho,[38] Swaziland,[39] and The Gambia[40] which bears striking similarities in addressing the problem, are of this stamp of colonialism. These are similar to the Scottish Witchcraft Act of 1563, enacted by James I, who had neither a clearcut description of a witch nor a proposal with which they would be tried (Shearer, 2016, p. 29).

This absurdity made the issue of witchcraft one of the complications that African legal luminaries are grappling with; and it will continue to confront judges and defence lawyers handling witchcraft cases (Mutungi, 1971, p.524). Fundamentally, the problem concerns the efficacy of European laws in addressing witchcraft cases. If one is feigning to be a witchdoctor, it presupposes that genuine witchdoctors exist, and in the absence of which it is virtually impossible to comprehend the basis for the offence which an appellant allegedly infracted (p. 525).

Another legal conundrum is that as with witchcraft and religion, there is no across-the-board definition of witchdoctors. A witchdoctor in one ethnic group could be something else in another. Besides, the variety of witchdoctors is a function of the reality of witchcraft; therefore, if the latter does not exist in the eyes of the law, then African Witchcraft Acts should be *tullius effects* in its attempt to checkmate witchdoctors. Apparently, the Acts were enacted to deny the existence of a crime they aim to proscribe (p. 528). While the positive contributions of witchdoctors are revered in places like Sierra Leone, they are also abhorred in other communities. If the diverse species of witchcraft, witchdoctors, etc. are taken cognisance of in every single trial, independent of each other, it will unquestionably result in a miscarriage of justice due to their infinite peculiarities. *The rule of prima facie decision* ensures that courts keep precedence in reaching decisions. According to Mutungi (p. 524), a law that fails to consider the community's social values it aims to regulate is destined to be disregarded, resulting in a reduced impact.

Allowing one who is convinced, no matter the degree of certainty, that he is under a witchcraft attack to be both the witness, the judge, and the executor of the trial is indisputably ridiculous, *nemo judex in causa sub*. Prejudice and animosity cannot be ruled out in such a system (p. 551). Hence, customarily, before the advent of colonialism, the whole community normally reached a consensus to authorise the discipline of witchcraft practitioners. This

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32 https://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/WitchcraftActCap67.pdf
33 https://policehumanrightsresources.org/content/uploads/2016/07/The-Witchcraft-Act.pdf?x54919
34 https://botswanalaws.com/Bechuanaland/Subsidiary/1927/PROCLAMATION,%20NO.%2017%20OF%201927.pdf
35 https://www.lac.org.na/laws/annoSTAT/Witchcraft%20Suppression%20Proclamation%2027%20of%201933.pdf
36 https://www.justice.gov.za/legislation/acts/1957-003.pdf
37 https://www.justice.gov.za/salrc/dpapers/dp158-p135-Revised-Review-WitchcraftSuppressionAct.pdf
38 https://www.warnathgroup.com/wp-content/uploads/2015/03/Lesotho-TIP-Law-2011.pdf
39 https://www.osall.org.za/docs/2011/03/Swaziland-Crimes-Act-61-of-1889.pdf
40 https://www.policinglaw.info/assets/downloads/Gambian_Criminal_Code.pdf

will ensure fair play. However, the colonial authorities outright condemned such societal initiatives, although they were orchestrated to preserve tranquillity. The colonialists thought that the traditional justice system should not be viewed with indifference due to what they considered its barbarity.

The manner in which witchcraft cases were treated in colonial Africa casts a shadow over the aptness of the criminal justice system. In The Gambia, "Daniel Sanyang, an ex-headman of Farintumbung, was fined ten pounds in 1903 for inflicting punishment on an alleged witchcraft practitioner." The same colonial administrators imprisoned Cherno Abdulai Jallow for three months in 1925 for practising witchcraft… a practise that was repudiated in England way back 1717 (The Gambia National Archive file 2/1046, n. d; Omasanjuwa, 2024, p. 286).

In most witchcraft-related murder cases, the assumption of a rational person often features. This is a legal notion used in applying the law in an unswerving way. A reasonable person is an imaginary person who exercises reasonable judgement and skill. In applying this concept, "the African social tenet and traditional customs, which differs from which English Common Law recognised are fundamentally at variance." The European reasonable man's standard should not be a parameter for evaluating African actions. Above and beyond, in Africa, the behaviour of a reasonable rural dweller certainly contrasts with that of his urban counterpart (Mutungi 1971, p. 535).

In common law, murder can be justified on the grounds of self-defence and could be an extenuating factor. In a Witchcraft trial, self-defence is no grounds because a weapon used in a situation of self-defence must be physical. "In self-defence cases, any force or means are proper so long as they are proportionate to the force and means used by the assailant (p.353). However, there is no law mechanism for establishing if the means deployed in defending oneself against witchcraft attack are proportionate (p. 538).

Another absurdity is that self-defence normally precede an attack, not contrary. Someone defending themselves against a witchcraft attack cannot do so in advance, making the issue of self-defence meaningless in witchcraft-related cases. Accusing a witchcraft attacker before he strikes constitute an offence under the Witchcraft Act, as it is illegal to impute an accusation of witchcraft against anyone (p. 538).

Empiricism, which underpins the law of evidence in common law jurisdictions, makes it incongruous to prosecute witchcraft cases; hence, this additionally criminalises the imputation of witchcraft against anyone. A defence tactic in a criminal trial is an alibi, an incontrovertible proof of one's absence from a crime scene when an offence is committed. It implies "that at the time of commission of a crime charged in indictment, the defendant was at a different location…under such circumstances that he could not have committed the offence. It is a physical state of affairs and derives its force as a defence from the fact that it involves the physical impossibility of guilt of the accused person" (Black, 1968, p. 95). The type of evidence that reinforces an alibi is empirical in virtually all cases; these

consist of documentation, photographs, eyewitnesses, time-stamped video footage, phone records, etc. With these proofs, a defendant is relieved of the problem of proof if he/she can establish (1) that he/she was absent from the scene of the crime, (2) that he/she had no realistic chance to commit the crime; and (3) that he/she had no other means to have committed the crime.[41] It is practically impossible for a witchcraft trial to satisfy these requirements should there be a dispute regarding, for example, what happened among witches/wizards in a coven. Unscientific circumstances and experiences cannot be investigated using scientific methods; hence, spectral evidence is inadmissible in law. This situation predisposed Gambian leaders to adopt the rule of man in place of the existing law.

English law cannot be Africanised should it go against the grain of the repugnancy test. Hence, English laws remain English even when enforced in an African setting. That is the essence of the test. The application of European laws to practical day-to-day issues in Africa, even when needs exist for different approaches or amendments, has, in some cases, been problematic. The situation has been festering because the operators of the modern African judicial system are sucked into a Eurocentric mindset by their legal training. Among the fundamental grounds for the ostensibly conflicting judicial interpretation of witchcraft cases is the imposition of European thought patterns on former African colonial dependencies.

Aspects of the English legal system that are inharmonious with African cultural milieu include aspects of witchcraft litigation. This leads to the epistemological theories of empiricism and rationalism. Africa was outside the sphere of the intellectual, philosophical, and cultural campaigns that transformed Europe into an Age of Reason, an Age in which thinkers elevated reason over myths and legends. The foundation of the existing English law of evidence is an unswerving consequence of the dawn of the Age when empirical verification of facts and assertions gained precedence over rational assessments of claims.

Age of Reason

An integral aspect of epistemology is the protracted debate between rationalism and empiricism. The terms denote the philosophical methods that shaped the European knowledge status after the Middle Ages. Both approaches focus on defining the certainty, soundness, and openness of claims to facts. Generally, both schools of thought pertain to the degree to which one should depend on either experience or pure rational reasoning in comprehending the universe. The history of rationalism is traceable to the classical Greek era of Plato and was refined by later thinkers like Rene Descartes, Baruch Spinoza, Søren Kierkegaard, Leibniz, Christian Wolff, and, to some extent, Immanuel Kant (mainland Europeans). Empiricism ascribes experience as the foundation of knowledge. Its exponents include Aristotle of the classical Greek era, Francis Bacon, David Hume, Thomas Hobbes, John Locke, George Berkeley, and Willian of Ockham (mainly British Philosophers). Rationalists postulate that

41 Alibi as a Defence in Criminal Cases: file:///C:/Users/XXX/Desktop/Jainaba%20Sawaneh%20Drammeh/Alibi%20as%20a%20Defense%20in%20Criminal%20Cases%20_%20Eisner%20Gorin%20LLP.html

knowledge is derived from reason and logic; and both unveil the universe; hence, reality can be comprehended unswervingly through the mind. The empiricists postulated that experimentation and sensory experience are reliable sources of knowledge. Instead of ideas, empiricists hold that pieces of evidence (experiments) explain the universe.

Empiricism facilitates the appreciation of external objects, whereas rationalism allows the acquisition of knowledge through the awareness of the mind. In the deliberation between the two sources of knowledge, rationalist assessments of empiricism usually contend that the latter claims that all ideas originate from sense experience. Rationalists believe that reason is primarily true and cannot be denied because it is independent of sensory experience and is related to mental processes and principles. The theory of empiricism can be likened to a blank slate (*tabula rasa*) that is occupied with experience in the course of time. The mind is blank at birth and is later colonised by experience, learning, and experimentation. Knowledge is based on acquired experience, the potential and prospects of actions, misrepresentations, and trial procedures. A person's ethics are developed through experience. They also hold that evidence, any proof discovered through experimentation, can reveal the world's reality, in contrast to deductive reasoning (Friends of the ESP Society, 2021).

Notwithstanding the tricky dichotomy, fundamentally virtually, all philosophers do not neatly fit any of the camps. Descartes, for example, a prime protagonist of rationalism (in his metaphysics), gravitated towards empiricism (Clarke, 1982). On the other hand, John Locke, a prototypical empiricist, argued that reason is on equal footing with experience when it comes to the knowledge of certain things, most famously moral truths.

Law of Evidence

The framework of the modem law of evidence in common law jurisdictions is traceable to the sixteenth and seventeenth centuries, during which the aforementioned British empiricists flourished. An age that was a prelude to the development of the modern English Law of Evidence. The gulf demarcating the modem continental European legal systems and the Anglo-American procedures (which is based on the Law of Evidence) gyrates around fact-finding procedures (Langbein, 1969, p.1169). The Mediaeval arrangement of self-informing juries hardly had any place for a law of evidence (Pollock and Maitland, 1898, p.660). This was an age of small interdependent agricultural societies where jurors were appointed from the localities of the disputed proceedings. The essence enabled the jurors to examine facts independently without the advantage of receiving a briefing to reach a verdict. They obtain further evidence, if necessary by contacting well-versed persons outside the court (Langbein, 1969, p. 1170). The Mediaeval jury was in court to hear the verdict, not to listen to evidence but to hand it down. The court accepts the decision without having to investigate the logical procedures of which the verdict was the outcome (Langbein, 1996, pp. 660-661). However, the trial jury underwent a historic transformation as the Middle Ages drew to a close from active locality investigators to passive triers (Langbein, 1996), thereby bearing some resemblance

to the modern practice. The jury was no longer constituted for their knowledge of the events but rather chosen in the expectation that they would be ignorant of the events (Langbein, 1996, p. 1171). The new development entailed a courtroom instructional proceeding. The occasion arose for judges to regulate witness testimony, an improvement that proved to be a turning point in the law of evidence. The rough draft of the modem law of evidence took shape in the years 1500-1700, although not until the years 1790-1830 could the document take shape as the law of evidence was no older than the late eighteenth or early nineteenth century (Langbein, 1996, p. 1171).

There is a distinction between written and unwritten evidence; hence, all rules of evidence are under a single principle: the best evidence rule (Imwinkelried, 1992, p.1074), a concept that is oriented to documentary authenticity.

This age was during which British philosophers prioritised reason over superstition and science over faith. The foundation of the English law of evidence was laid just before the dawn of the Age when empirical verification of facts and assertions gained precedence over rational assessments of assertions. British empiricists were philosophers who prioritised knowledge acquired through experience. They incorporated the philosophy underpinning the evolution of the English law of evidence. As empiricism goes *pari-passu* with documentation and pragmatic verifications of assertions, the chasm separating the continental European legal system from the Anglo-American legal procedures is focused on fact-finding procedures. Hence, the procedural differences between continental European courtroom practice, and the Anglo-phone system rest squarely on evidence. European colonial adventures into Africa could not transform the cultural setting from that laid on superstition to that based on empirical verification of facts and assertions. This explains the incongruent court judgements delivered by lower and appellate courts in cases of witchcraft in Africa. African judges, all trained in European mindsets, address superstitious beliefs with a legal system grounded in empiricism.

Critical Insights

Hsiao Tung Fei and Chi-I Chang (1945) asserted that certain tenacity motivate human behaviour and these drives emanate from sets of assumptions that are indecipherable to adherents. The basic premises of a particular culture are unconsciously accepted by individuals through their constant and exclusive participation in that culture. It is these assumptions—encompassing the culturally regulated purposes, motives, and principles—which regulate the behaviour of a people, underlie all the institutions of a community, and unify them (pp. 81-82).

Reactions against suspected witchcraft practitioners are characteristically vicious; consequence of societal attitudes that motivate human behaviour and these initiatives are a product of imperceptible assumptions by those who subscribe to them, in line with Hsiao Tung Fei and Chi-I Chang. Therefore, witches/wizards have been shunned and, in most cases, ostracised by their relatives and the community, euphemistically sentenced to life-threatening

attacks, assaulted, have had their reputation tarnished, torn limb from limb, and, in extreme cases, viciously murdered. It was no surprise that many Gambian villagers who deserted their abode and relocated to Senegal did so for good.

Astonishingly, notwithstanding such highhanded acts, irrespective of fundamental rights, the Zambian apex court in *Chanda and Chisanga v The People* found the belief in witchcraft as an extenuating condition in sentencing. Such a position and the actions of the Gambia President have the potential to soothe and perpetuate jungle justice. For instance, the consequences of believing in witchcraft negatively affected the enforcement of the rights of purported suspects as guaranteed under human rights laws. Article 1 of The Constitution of Zambia states: "… any customary practice that is inconsistent with its provisions is void to the extent of its inconsistency."[42] Similarly, section 4 of The Gambian Constitution states: "…any other law found to be inconsistent with any provision of this Constitution shall, to the extent of the inconsistency, be void."[43]

Notwithstanding these succinct clauses, the practice/belief in witchcraft in both jurisdictions is illegal under the constitutional provisions because its penalties violate the human rights guaranteed by both constitutions.[44] It is also noteworthy that wizardry is inconsistent with the repugnancy clauses provided for by the statutes of both jurisdictions. Section 12(1) (a) of the Zambia Local Court Acts[45] provides that a local court shall administer the African customary law applicable provided such law is not repugnant to natural justice…. Correspondingly, Article 16 of the Zambian Subordinate Court Act[46] affirms: the Subordinate Court shall not be deprived of the right to observe and to enforce the observance of, or shall not deprive any person of the benefit of, any African customary law, provided it is not being repugnant to justice. If the belief in witchcraft is constitutionally repugnant, it implies that the decision of the Zambian High Court making it an extenuating factor is unconstitutional.

Sangende (2020) explained that the Court, as also in *Abedinego Kapeshi and Another v The People*, was of the view that the framers of the Zambian Constitution were alive to the fact that strict adherence to previous judicial decisions could, in some cases, undermine justice, asphyxiate the development of jurisprudence, and encourage and perpetrate jungle justice. Therefore, the decision of the Supreme Court, to shift from the set antecedence, will deter perpetrators of violence from resorting to jungle justice by persecuting purported witches, as no one is immune to the law *(nemo est supra leges)*. The apex court also enhanced the protection of constitutional rights because witchcraft accusations based on improvable allegations invariably lead to right violations that could lead to extrajudicial punishment. The possibilities of such incidences becoming the norm have been trivialised by the judgement. For instance, it was stated in *Aaron Ngosa v The People (2018)* that since the *Abedinego*

42 https://aceproject.org/ero-en/regions/africa/ZM/Constitution%20of%20Zambia%201996.pdf/
43 http://hrlibrary.umn.edu/research/gambia-constitution.pdf
44 Part IIII of the Zambian Constitution, Article 23. Furthermore, Chapter IV section 3 of The Gambia Constitution.
45 https://www.parliament.gov.zm/sites/default/files/documents/acts/Local%20Courts%20Act.pdf
46 https://www.parliament.gov.zm/sites/default/files/documents/acts/Subordinate%20Courts%20Act.pdf

Kapeshi and Another v The People judgement, the prosecuting counsel perceived a decline in witchcraft-related murder cases.

Suffice to say, the departure from the set precedent in *Abedinego Kapeshi and Another v The People* was due to the dissipation of witchcraft accusations in Zambia due to urbanisation and the exponential increase in the number of educated Zambians. Education empowered and fortified the people with essential knowledge and skills to sieve false allegations of witchcraft from facts rather than resorting to mob justice (Sangende, 2020, p. 54). However, the role of education in enhancing awareness in The Gambia remains contentious. One would think that belief in witchcraft is rooted in a deficiency of Western-style education or an unscientific thought pattern. Western education has not provided solutions to many local beliefs associated with unlettered members of society. These include witchcraft, polygamy, clitoridectomy, child marriage, caste classification, augury, ethnic chauvinism, and religious syncretism.

"Human beings in whatever culture," Hallowell (1960) asserted, are provided with cognitive orientation in a cosmos: there are 'order' and 'reason' rather than chaos. There are basic premises and principles implied even if these do not are consciously developed and articulated by the people themselves. People are confronted with the philosophical implications of their thought and the world of being as they conceptualise it. If one pursues the problem deeply enough, one will soon come face with a relatively unexplored territory-ethno-metaphysics (p.21). Hence, it is traditionally held by some (if not most) Gambians that every misfortune is instigated by humans/malevolent spirits. In most instances, personal problems are traceable to someone. If an individual cannot fathom grounds to justify a correction from his/her ancestors, witchcraft is scapegoated. The offender is identifiable because witches and wizards do not function *incognito*. There must be a fitting nexus between the witch and the victim. Traditionally, witchcraft explains why the wicked prospers while the good languishes. Acceptance of witchcraft thus explains the inexplicable, thereby subjugating the uncontrollable (Bernard and Dickson, 2014, p. 4).

Within the cultural ethos of The Gambia, belief in witchcraft is firmly rooted, irrespective of the existing laws which neither recognise nor precisely define witchcraft as a crime, despite acknowledging its reality. Hence, in theory, witchcraft practice is unlawful. Ironically, Acts outlawing the practice are colonial, but they are retained in statute books. Paradoxically, it is criminal to impute the accusation of witchcraft against anyone. However, it is punishable to admit being a witchcraft practitioner (Diwan, 2004). The matter has been left laying fallow since the termination of colonial rule; a testimony of Africans' failure to confront the legal confusion. Just as indigenous laws were distilled through the repugnancy test[47] before becoming enforceable in the colonial dependencies, the need exists for colonial laws to be subjected to a purgation trial to establish their bearing in the African social milieu. Perrone (2008) is of the view that … a cursory look into judicial reviews by English courts leads to the deduction that

47 The repugnancy test is an evaluation process used to determine whether the abrogation or rejection of African Customary Law, deemed incompatible with colonial laws, is justified or appropriate.

it has a long history, especially when repugnancy to the fundamental principles of natural law is concerned. Hence, the Privy Council reviewed over 8500 Colonial American Acts and about 250 appeals from courts that had themselves wriggled between American colonial law and English laws. It is noteworthy that the practice of revising laws for repugnancy to common law reached the American colonies, making it a universal practice (p. 74).

Among the legacies of colonial administration is the imposition of foreign legal systems on people who are sociologically neither African nor European, a bequest that none of the ex-dependencies has shed. Hence, "customary law recognises the existence of witchcraft whereas the Witchcraft Act does not" (Mgbako and Glenn, 2011, P. 397). African legal luminaries have yet to take a definitive stand on witchcraft and related issues. They cannot determine whether or not witchcraft is real. Such uncertainty is the precursor to contradictory judgements in witchcraft cases. In the former Anglophone dependencies, the virtually identical refurbished witchcraft acts run through their judicial systems. The practice has neither been adequately defined nor modified to take the indigenous peculiarities of the African cultural milieus into account; hence, in the course of things, what appears to be contradictory court judgements determined on the whims and caprices of judges are passed.

Granting that witchcraft laws are virtually unenforceable; the practice is however a crime (Mgbako and Glenn, 2011, p. 396). Like other African states, the Gambia colonial history determines the manner in which it is enforced. Unlike the Francophone territories, where only the practice is illegal (Benin, Cameroon, Chad, Ivory Coast, Gabon, Mali, and Mauritania). The Gambia uses a modified version of the British Witchcraft Suppression Act, which outlaws both the practice and imputation against anyone. Kenya, South Africa, Uganda, Tanzania, and Zimbabwe all use mild variations of the Act, but Zimbabwe updated its version in 2006 by recognising the practice provided it does not harm others (p. 396).

Hence, in *Tabitha Chiduka v Chidano*, while interpreting the phrase "repugnant to natural justice and morality," the Zambian court held a somewhat nebulous interpretation. The Court thought that "they should only apply to customs as inherently impress us with some abhorrence or are obviously immoral in their incidence" (Sangende, 2020, p. 53). Although African customary law consists of customs and practices peculiar to Africans, the belief in witchcraft is not consistent with the explanations commonly accepted among Africans. Consequently, the clauses deem the belief illegal because it does not align with the requirements of the written law and is contrary to natural justice and moral standards.[48] Therefore, the repugnancy clauses render the belief illegal because it is incompatible with the law and objectionable to natural justice and morality. This belief is out of the context of the Witchcraft Act.[49]

48 (1992) Supreme Court of Nigeria, S.R. 55, 56. Cited in Sangende (2020).

49 The Witchcraft Act, Chapter 90, Section 3. See https://www.parliament.gov.zm/sites/default/files/documents/acts/Witchcraft%20Act.pdf

The Gambia witch-hunt exercise excavated a firmly rooted belief in witchcraft. A practice that has been transmitted through generations, fostering victimisation and discrimination. The crux of the matter has been why the erstwhile Gambian President preferred the outlawed/outmoded alternative traditional mode of justice to the existing judicial process. Preceding Mungo Park's exploration of West Africa, religious acrimony was the state of affairs (Park, 1858, p. 152). Muslims, Christians, and traditional African Religion adherents and those accused of witchcraft were at loggerheads among themselves, apparently in the exercise of supremacy. The Gambian President is a Muslim who is involved in mystical activities. Therefore, his brand of Islam is syncretic. He took to the inquisition not for religious reasons but for expediency, similar to King William of England and Queen Isabella of Spain. Inquisitions in Spain, colonial America, and England served its purpose. Hence, the former President resorted to it as an alternative to the Eurocentric judicial system.

The last known case of witchcraft in England was in 1717. Despite that the practice is unrecognised in English law. Cherno Abdulai was imprisoned in 1925 for 3 months in the Colonial Gambia for practising witchcraft. This casts doubt on the relevance of the English repugnancy test and the various Witchcraft Acts, coupled with other measures *in loco* to stamp out the practice. A practically non-existing existing law requires reform or purification due to its outdated nature.

Concluding Remarks

Various motives have inspired the witch hunt in different climes. In Colonial America where the practice started well after the Mediaeval Period, the intention was to cleanse society of undesirables. However, this contrasts the events in Europe where rulers instigated the hunt under the cloak of religion to protect their realm, as was the case with England and Spain. Although Europeans did not introduce the practice to The Gambia, the colonialists however abolished the indigenous equivalence. A legislation was passed recognising the practice of witchcraft implicitly but explicitly criminalising its imputation against anyone. The eradication of the practice in England, where the last trial was held in 1717, had no bearing on Africans; hence, the repugnancy test is inappropriate for addressing witchcraft-related issues in colonial and postcolonial settings. Paradoxically, Chapter 37 of The Gambia Criminal Code is conspicuously anachronistic.

"For although the act condemns the doer, the end may justify him; and when…the end is good, it will always excuse the means; since it is he who does violence with intent to injure, not he who does it with the design to secure tranquillity, who merits blame" (Machiavelli, 2012, p. 55). European monarchs persecuted witches/wizards with ulterior motives, not necessarily to allay intrinsic public fear. Witchcraft engendered victimisation in several climes has been politically flavoured and faith-based zealotry *to* shield the realm. Similarly, the erstwhile Gambia President was grappling with realities, hence he resorted to persecute suspected witches/wizards as a smokescreen to secure his regime. Compared to the reason which motivated Elizabeth I

(1533-1603) to enforce the laws enacted by Henry VIII, the fear of being consumed by the proposed Chief Wizard, coupled with the bereavement of his aunt, were other motivations that underscored The Gambian Government directive. The resultant casualties of the Inquisition were collateral damage that enhanced his expediency in the course of enabling the end justify the means. Obviously, the end was pragmatism given the syncretic brand of Islam in practice. It was indispensable as there was no means of securing ‘favourable’ court verdicts for the reason that witchcraft imputation was outside the jurisdiction of the existing legal system, besides the inadmissibility of spectral evidence in court. Hence, the rule of man (the proclivity of the president) gained precedence over the rule of law.

The efforts of postcolonial dispensations in overpowering witchcraft imputation against persons could not eradicate the practice and the concomitant violence against suspects (South Africa Law Review Commission, 2022). The law-regulating the issue is as good as non-existent. The presidential directive mirrored the intentions of King William of England and Queen Isabella of Spain. Paradoxically, besides witchcraft, indigenous practices which the judicial process could not exterminate are still surreptitiously performed even by Western educated elites; a pointer to the symbiotic syncretic practice of ATR and other imported faiths. The laws proscribing these practices are not resolutely enforced because an amount of law enforcement personnel who hold these beliefs consider them innocuous. The public officers who were hand in glove with the presidential directive perceptibly interpreted the president’s intention as that of “who does violence with a design to secure tranquillity hence, he merits no blame.” A religion that is not as profitable as an existing one attracts new converts only through the skin of the teeth (Onongha, 2017, p. 52). Witchcraft has proven to be repulsive and harmful than beneficial; hence, only the rights activist and close relatives of the inquiry victims were not in accordance with the Gambia Government order.

Akin to the Mediaeval Europe that was immersed in superstition, the lack of scientific thought patterns was a bane. The drives that propelled the reaction of most Gambians emanated from illegible assumptions buttressed by the basic premises of their belief systems, which are instinctively imbibed through their persistent and exclusive approval of the culture. This assumption regulated purposes, motives, and principles, which underlined the behaviour of the collaborators during the inquiry (Hsiao Tung Fei and Chi-I Chang, 1945). Conclusively, considering the opinion of the U.S. Justice Oliver Wendell in *New York Trust Co. v. Eisner* (1921) stated that a single page of history holds more value than a whole volume of reasoning,[50] it stands to reason that if wizardry, in whatever form, is not in consonance with a constitution, any act of parliament or court verdict that gives credence to the deed is unconstitutional. If the exercise of reviewing [colonial] laws for repugnancy to the English laws made its way to America, it authenticates its universality (Perrone, 2008, p. 74). Hence, as an alternative indigenous approach is required to revise specific narratives of African history and address the conundrum, an accurate interpretation of past events within the context

50 https://www.govinfo.gov/content/pkg/GPO-CHRG-KENNEDY/pdf/GPO-CHRG-KENNEDY-5-69-4-2.pdf

of tradition is imperative. This requires acknowledging past occurrences and understanding their consequences at the time they unfolded.

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