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Witchcraft, Witchdoctors and Empire: The Proscription and Prosecution of African Spiritual Practices in British Atlantic Colonies, 1760-1960s

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WITCHCRAFT, WITCHDOCTORS, AND EMPIRE: THE PROSCRIPTION AND
PROSECUTION OF AFRICAN SPIRITUAL PRACTICES IN BRITISH ATLANTIC
COLONIES, 1760-1960s

By

Danielle N. Boaz

A DISSERTATION

Submitted to the Faculty
of the University of Miami
in partial fulfillment of the requirements for
the degree of Doctor of Philosophy

Coral Gables, Florida

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and Prosecution of African Spiritual Practices
in British Atlantic Colonies, 1760-1960s.

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Starting in the mid-eighteenth century in the Caribbean and the mid-nineteenth century in Africa, the British passed laws which criminalized certain African spiritual and medico-religious rituals in their colonies. In the Caribbean colonies, these practices were proscribed as “obeah” and in the African colonies they were banned as “pretended witchcraft.” Although obeah and witchcraft statutes shared many similar characteristics, the purpose and enforcement of these provisions varied greatly. In the Caribbean, obeah laws evolved over time to address shifting colonial complaints about African spiritual practices. In Britain’s African colonies, witchcraft laws were primarily designed to address one concern —indigenous methods of accusing and punishing suspected witches. Based on my comparative examination of the proscription and prosecution of obeah and witchcraft, I argue that British colonial laws and policies prohibiting African spiritual practices were region-specific and that there was never a coherent policy throughout the British Empire regarding the suppression of the “pretended” practice of witchcraft or other supernatural rituals. In this dissertation, I examine how the colonial response to African medico-religious practices differed on each side of the Atlantic and explore the reasons for these disparate policies.

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Introduction: Spiritual Practices and Colonial Law in the Caribbean and Africa

On both sides of the Atlantic, in the Caribbean and in Africa, the British attempted to control the practice of religion, spirituality, and medicine by African people and their descendants, through laws and prosecutions of certain rituals. In the Caribbean colonies, these practices were proscribed as “obeah” and in the African colonies they were banned as “pretended witchcraft.” In this dissertation, I conduct the first comparative study of the prohibition and prosecution of African spiritual practices in the Caribbean and Africa. I examine obeah laws passed throughout the entire British Caribbean and witchcraft laws passed throughout most of British Africa¹ as well as prosecutions for violations of obeah laws in Jamaica and witchcraft statutes in South Africa. My examination begins in 1760, when the first anti-obeah legislation was passed in the Caribbean, and extends through the 1960s, when most colonies and dominions in the Caribbean and Africa achieved full independence from Britain.

In this comparative study, I explore how British colonial policies in the Atlantic world, specifically those regarding African spiritual practices, converged and diverged at various historical junctures. Through the examination of statutes and judicial decisions related to obeah and witchcraft, my dissertation engages a number of critical questions such as: To what extent did the British experience with African medico-religious rituals in the Caribbean inform their later decisions to proscribe similar practices in their African colonies? Was there a chronological evolution to British colonial laws against “witchcraft” throughout their empire? Did officials establish a clear boundary between

¹ Witchcraft laws do not appear to have been passed in three British colonies in Africa- the Sudan, Egypt and Somaliland (Somalia).

“witchcraft” and “religion” in the colonies and if so, did indigenous African beliefs ever fall under the definition of “religion” across the British Empire?

This examination of colonial policies regarding African spiritual practices in Britain’s Atlantic Empire contributes to broader scholarship on the development of British colonial law, much of which has recently analyzed imperial efforts to establish global or uniform policies based upon British standards of justice. For example, in their introduction to *The Grand Experiment: Law and Legal Culture in British Settler Societies*, Hamar Foster, Benjamin Berger, and A.R. Buck argue that there was an “aspiration to homogeneity” in the British rule of law and a “relatively uniform sense of the kinds of institutions of law and governance that ought to order in these colonies.”² However, these scholars also contend that efforts to achieve uniformity were impeded by “legal translation,” or the “local circumstances” in each colony that led to departures from legal norms.³

Bonny Ibhawoh engages similar questions about the consistency of British rule of law in *Imperial Justice: Africans in Empire's Court*, which examines the decisions of two supranational courts in British Africa, the West and East African Courts of Appeal, as well as those of the Judicial Committee of the Privy Council, the highest Court of Appeal in the British Empire.⁴ Ibhawoh explores how “colonial and imperial courts grappled with the tension between the aspiration toward imperial legal universalism” while simultaneously trying to “construct colonial difference” between themselves (Europeans)

² Hamar Foster, Benjamin Berger, and A.R. Buck, eds. *The Grand Experiment: Law and Legal Culture in British Settler Societies* (Vancouver: UBC Press, 2008), 7.

³ *Ibid.*, 9.

⁴ Bonny Ibhawoh, *Imperial Justice: Africans in Empire's Court* (Oxford, UK: Oxford University Press, 2013).

and their colonial subjects.⁵ He concludes that in British Africa, “the ultimate goal was always to create some legal and judicial standards across the Empire,” and these were “(as far as was practicable) the same standards of law and justice as prevailed in England.”⁶

If Ibhawoh’s argument is applied to British policies regarding African spiritual practices, it is consistent with long-standing scholarly contentions that the proscription of certain rituals, such as trial by ordeal or witchcraft accusations, were a natural outgrowth of British domestic beliefs and laws related to witchcraft. For instance, in 2009, Simon Mesaki argued that “[t]he British anti-witchcraft strategy in the colonies reflected its own legal history towards the problem.”⁷ He described Britain’s Witchcraft Act of 1735, noting that the drafters of this statute referred to witchcraft beliefs and practices as “pretended.”⁸ Mesaki asserted “[t]hus when colonial legislators were called upon to deal with the problem of witchcraft in Africa, the official view was the skeptical English one based on the 1735 law.”⁹ Similarly, Johannes Harnischfeger argues that “European conquerors were not prepared to tolerate what they regarded as ‘barbarous’ punishment, especially torture and mutilation, but also the punishing of witches. Their own witch-hunts almost 200 years back appeared as an incomprehensible aberration of justice, which was not to be repeated by a modern administration.”¹⁰

⁵ Ibid, 6-7.

⁶ Ibid., 16- 17.

⁷ Simeon Mesaki, “Witchcraft and the Law in Tanzania,” *International Journal of Sociology and Anthropology* 1, no. 8 (2009):133.

⁸ Ibid.

⁹ Ibid.

¹⁰ Johannes Harnischfeger, “Witchcraft and the State in South Africa,” *Anthropos* 95 (2000): 100.

Recently, scholars have similarly begun to situate colonial laws against African diaspora spiritual rituals within the context of Europe's own beliefs and policies related to supernatural practices. In particular, with regard to the British Caribbean, Diana Paton argues that mid-nineteenth century obeah laws in the Caribbean were closely connected to events in Britain itself, including the decriminalization of witchcraft and the prosecution of people as charlatans if they claimed to have supernatural powers.¹¹ Paton contends the beliefs and laws in the metropole about witchcraft and other supernatural powers greatly influenced perceptions of and responses to obeah in the Caribbean.¹² She describes the similarities between obeah laws passed in the Caribbean, and Britain's own domestic laws such as the Witchcraft Act of 1735 and the Vagrancy Act of 1824. Paton also explores how distinct beliefs about witchcraft in Britain and France in the eighteenth century shaped disparate policies in British and French Caribbean colonies about African spiritual practices.¹³

However, although it is possible to describe many similarities between British domestic laws regarding witchcraft or vagrancy, and obeah legislation in the Caribbean or witchcraft laws in Africa, when one scrutinizes these laws more carefully or compares colonial policies to one another, this uniformity begins to unravel. Based on my research, I argue that even though the British appear to have attempted to develop homogeneous laws and policies within their Caribbean Empire and within their African Empire, these were only standardized inside each region or hemisphere, not throughout their colonial

¹¹ Diana Paton, "Obeah Acts. Diana Paton, "Obeah Acts: Producing and Policing the Boundaries of Religion in the Caribbean," *Small Axe* 28 (2009): 1-18.

¹² Ibid.

¹³ Diana Paton, "Witchcraft, Poison, Law and Atlantic Slavery," *The William and Mary Quarterly* 69, no. 2 (2012): 239.

possessions. Furthermore, I contend that while the British sought to impose certain metropolitan standards of justice and morality in their Caribbean and Africa colonies, the vastly different determinations of what aspects of English statutes and ethics would be enforced on each side of the Atlantic further undermines the supposed universality of British rule of law.

If one analyzes the development of colonial policies regarding obeah and witchcraft, the inconsistencies and disparities are clear. As I will discuss in greater detail in Chapter One, the earliest legislation prohibiting obeah in the Caribbean shared very few statutory similarities with contemporary English laws regarding witchcraft.¹⁴ However, in the mid to late nineteenth century, obeah laws in the British Caribbean were revised and most of these modified statutes were modeled on England's vagrancy legislation.¹⁵ Nevertheless, the enforcement of these laws varied greatly in England and

¹⁴ While eighteenth century legislators in England and Jamaica both asserted that people were frequently "deluded" by individuals who claim to have supernatural powers, the practices proscribed in the statutes in these countries were very different. For example, Britain's Witchcraft Act of 1735 criminalized "pretending to exercise or use any kind of witchcraft, sorcery, enchantment [sic], or conjuration," while Jamaica's Obeah Act of 1760 proscribed "pretending to have communication with the Devil and other evil spirits, whereby the weak and superstitious are deluded into a belief of their having full power to exempt them, whilst under their protection, from any evils that might otherwise happen" and possessing certain implements that colonial authorities believed were used in African spiritual rituals. Jamaica's law is narrower than England's law; as I will discuss further in Chapter 2, this statute was passed primarily to prohibit the use of obeah to protect insurgents in slave rebellions. England, "The Witchcraft Act of 1735," in *Statutes of Practical Utility Passed from 1902 to 1907*, ed. J.M. Lely and W.H. Aggs (London: Sweet and Maxwell, 1908), 15:549. Jamaica, "Act 24 of 1760," in *Acts of Assembly Passed in the Island of Jamaica; From the Year 1681 to the Year 1769* (Saint Jago de la Vega, Jamaica: Lowry and Sherlock, 1791), 2:52.

¹⁵ For example, in 1856, Jamaica's revised obeah statute contained sections that were nearly identical to portions of Britain's Vagrancy Act of 1824. The latter prohibited "pretending or professing to tell fortunes, or using any subtle craft, means or device, by palmistry or otherwise, to deceive or impose on any of his majesty's subjects"; the former proscribed "being dealers in obeah or myalism, or pretending, or professing to tell fortunes, or using, or pretending to use any subtle, craft, or device by palmistry, or any such like superstitious means, to deceive or impose on any of her majesty's subjects." "An Act for the Punishment of idle and disorderly Persons, and Rogues and Vagabonds in England," 5 Geo. 4, (1824). "An Act for the More Effectual Punishment of Persons Convicted of Dealing in and Practising Obeah and Myalism of 1856" in *The Laws of Jamaica, Passed in the Nineteenth Year of the Reign of Queen Victoria* (Kingston, Jamaica: S.M. Samuels, 1856), 512.

its Caribbean colonies despite the analogous statutory language.¹⁶ Similarly, the earliest laws prohibiting the “pretended” practice of witchcraft in Britain’s African colonies shared hardly any provisions with England’s witchcraft or vagrancy legislation.¹⁷ Those few clauses in African witchcraft statutes that resembled English vagrancy or witchcraft laws were interpreted very differently by metropolitan courts than those in Britain’s African colonies.¹⁸ Therefore, this dissertation explores the tensions between efforts of colonial officials to pass laws in the Caribbean and Africa that were consistent with British domestic policies regarding supernatural acts and the “local circumstances” on different sides of the Atlantic that influenced colonial authorities to pass laws proscribing African spiritual practices.

In addition to contributing to the wider scholarly literature exploring the “universalism” of British imperial laws and policies, this study also adds to an often overlooked subject within the study of African religions. While scholars have examined African spiritual practices during colonial rule, most of these studies investigate whether European presence and policies changed religious beliefs and rituals. In particular, researchers have interrogated whether colonial governments inadvertently intensified witchcraft accusations and encouraged the formation of anti-witchcraft societies and

¹⁶ See Chapter Five.

¹⁷ None of the provisions in witchcraft legislation in colonial South Africa appear to have been modeled on British witchcraft or vagrancy laws until 1904, when North-West Rhodesia and the Transvaal passed legislation that included a clause copied from England’s Witchcraft Act of 1735. This section prohibited an individual from “pretending” to “exercise or use any kind of supernatural power witchcraft sorcery enchantment or conjuration or undertakes to tell fortunes 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.” Zambia, “Proclamation No. 12 of 1904,” in *North-Western Rhodesia. Orders in Council, High Commissioner’s Proclamations and Notices, and Administrator’s Notices. From October, 1889, to December 31st, 1904* (Bulawayo, Zimbabwe: Argus Printing and Publishing Co., Ltd., 1905), 126. South Africa, The Transvaal, “Witchcraft Ordinance No. 26, 1904,” in *The Laws and Regulations, Etc., Etc., Specifically Relating to the Native Population of the Transvaal* (Pretoria: Government Printing and Stationary Office, 1907), 151.

¹⁸ See Chapter Five.

prophetic movements by prohibiting traditional methods of finding and punishing witches as well as causing economic and social turmoil which many people attributed to the prevalence of witchcraft.¹⁹ Although scholars have explored the impact of colonial suppression on African spiritual practices, few have conducted comprehensive studies of the proscription and prosecution of these rituals. Several researchers have undertaken cursory examinations of the statutes; however, hardly any have referred to judicial decisions interpreting these laws.²⁰ In the last few years, a couple of important works have focused in greater detail on analyzing of witchcraft ordinances and prosecutions in

¹⁹ The most common subjects of these works are the *Atinga*, a witch-finding movement in the 1940s and 1950s that spread across Dahomey and the Gold Coast, and the *Mucapi* movement that originated in Malawi in 1930 and later expanded into Tanganyika, Northern and Southern Rhodesia, and other regions. See Andrew Apter, "Atinga Revisited: Yoruba Witchcraft and the Cocoa Economy, 1950-1951," in *Modernity and Its Malcontents: Ritual and Power in Post-Colonial Africa*, ed. Jean Comaroff and John L. Comaroff (Chicago: University of Chicago Press, 1993), 111-128; Natasha Gray, "Independent Spirits: The Politics of Policing Anti-Witchcraft Movements in Colonial Ghana, 1908-1927," *Journal of Religion in Africa*, 35 (2005): 139-158; T. C. McCaskie, "Anti-Witchcraft Cults in Asante: An Essay in the Social History of an African People" *History in Africa*, 8 (1981): 125-154.

However, more recently, scholars have begun to focus on the significance of witchcraft-related rhetoric in anti-colonial organizations in South Africa. Of particular note, Sean Redding discusses the interconnectedness of revolts against the British colonial regime and discourse about witchcraft in the late-nineteenth century to the mid-twentieth century, describing how insurgents used protective rituals in their rebellions and how they construed the taxes and other laws imposed by the colonial government as a form of witchcraft. Sean Redding, *Sorcery and Sovereignty: Taxation, Power and Rebellion in South Africa, 1880-1963* (Athens: Ohio University Press, 2006).

In these studies, researchers generally concentrate on the social and political context in which witchcraft laws were enacted and the innovative responses of African peoples, who often crafted new methods of detecting and eliminating "witches" to circumvent colonial policies proscribing traditional rituals. Scholars have also examined the origins of anti-witchcraft movements, questioning to what degree they were forged by changes under colonial rule, such as the banning of trial by ordeal and witchcraft accusations, and detailing their development as an alternate source of power to European authority. John Parker, "Witchcraft, Anti-Witchcraft and Trans-Regional Ritual Innovation in Early Colonial Ghana: Sakrabundi and Aberewa, 1889-1910," *The Journal of African History* 45, no. 3 (2004): 393-420; Karen Fields, *Revival and Rebellion in Colonial Central Africa* (Princeton, N.J.: Princeton University Press, 1985) 79- 90.

²⁰ For example, in Mesaki's study of witchcraft policy in Tanzania, he analyzes the legislative history of witchcraft statutes but does not reference prosecutions for violations of these laws. Mesaki, *Witchcraft and law in Tanzania*, 132-138.

This trend began with scholars who wrote short comparative examinations of witchcraft legislation in Africa in the early to mid twentieth century but did not discuss judicial decisions regarding these witchcraft statutes. See J. Orde Browne, "Witchcraft and British Colonial Law," *Journal of the International African Institute* 8, no. 4 (1935): 481-487; C. Clifton Roberts, "Witchcraft and Colonial Legislation," *Africa: Journal of International African Institute* 8, no. 4, (1935): 488-494.

Africa.²¹ Yet, these projects center on the specific context in which these laws were passed and enforced in each colony and are less concerned with broader colonial policies related to spiritual practices in Africa.

Similarly, in the Caribbean numerous studies have examined how Africans used spiritual practices to organize and empower themselves in anti-slavery and anti-colonial uprisings.²² In spite of this, until recently, few explored the prohibition of these practices. In the last ten years, scholars have increasingly examined the proscription of obeah in the British Caribbean; however, these studies emphasize the statutes and tend not to address

²¹ Timothy Edward Lane's 1999 Ph.D. dissertation on witchcraft in the Northern Province of South Africa discusses laws and court cases in this region. Lane's project was shaped by the substantial vigilante violence against suspected witches that had recently occurred in the Northern Province, prompting the establishment of the Commission of Inquiry into Witchcraft Violence and Ritual Murders in the Northern Province of South Africa in 1995. His research focuses primarily on the prosecution of ritual specialists who identified witches, and emphasizes cases where the colonial government convicted individuals who accused others of practicing witchcraft to demonstrate how these policies led Africans to believe that the South African authorities protected witches. Timothy Edward Lane, "'Pernicious Practice': Witchcraft Eradication and History in Northern Province, South Africa, c. 1880-1930." (PhD diss., Stanford University, 1999).

Natasha Gray's 2000 Ph.D. dissertation on witchcraft and colonial law in Ghana, examined ninety-two cases of witchcraft in the Akyem Abuakwa region between 1913 and 1938. However, since witchcraft remained within the purview of native tribunals in Ghana, these were actual cases of witchcraft according to the local, indigenous understandings of the concept rather than prosecutions by the colonial government. Therefore, Gray uses her analysis of these court cases to further explore beliefs and practices related to witchcraft in the Gold Coast. Natasha Gray, "The Legal History of Witchcraft in Colonial Ghana: Akyem Abuakwa, 1913-1943." (PhD diss., Columbia University, 2000). Gray explores similar subjects in several articles she has published since the completion of her dissertation. For example see Natasha Gray, "Witches, Oracles, and Colonial Law: Evolving Anti-Witchcraft Practices in Ghana, 1927-1932," *The International Journal of African Historical Studies* 34, no. 2 (2001): 339-363.

Similarly, Katherine Luongo's book about witchcraft in colonial Kenya, published in 2005, examined the laws passed by the British colonial government and discussed several court cases for violations of these laws, including one infamous case from the 1930s involving seventy defendants, sixty of whom were sentenced to death by the Supreme Court of Kenya. Katherine Luongo, *Witchcraft and Colonial Rule in Kenya, 1900-1955* (New York: Cambridge University Press, 2011).

²² For example see Brian Moore and Michele Johnson, *Neither Led Nor Driven: Contesting British Imperialism in Jamaica, 1865-1920* (Kingston, Jamaica: University of West Indies Press, 2004), 14-50; Avi Chomsky, "Afro-Jamaican Traditions and Labor Organizing on United Fruit Company Plantations in Costa Rica, 1910," *Journal of Social History* 28, (1995): 837-55; Monica Schuler, "Myalism and the African Religious Tradition in Jamaica," in *Africa and the Caribbean: The Legacies of a Link*, ed. Margaret Crahan and Franklin Knight (Baltimore: Johns Hopkins University Press, 1980), 65-79.

the prosecutions for violations of these laws, which provide valuable insight about the interpretation and effects of these prohibitions.²³

Therefore, throughout this dissertation, I explore not only the statutes prohibiting obeah and witchcraft but also the judicial interpretation of these laws, primarily in Jamaica and South Africa. I focus the study in this way because the first obeah and witchcraft laws were passed, respectively, in these colonies, and these statutes served as the model for similar legislation in other British colonies in the Caribbean and Africa. Furthermore, since the earliest laws against obeah and witchcraft were passed in these colonies, there is the greatest chronological overlap between them, which allows for the most fruitful comparisons of contemporaneous proscriptions of African spiritual practices on different sides of the Atlantic. Jamaica and South Africa are also important because they each had very high prosecution rates for violations of obeah and witchcraft laws, most likely due to the large size of each colony and the early passage of these laws. Prosecutions of obeah in Jamaica probably exceeded two thousand from the passage of the first law against obeah in 1760 to independence from Britain in 1962. Prosecutions of

²³ For instance, in 2012, Jerome Handler and Kenneth Bilby published a book on the criminalization of obeah in the Caribbean. Although they conduct an in-depth analysis of obeah legislation, they do not discuss any prosecutions for violations of these laws. Jerome S. Handler and Kenneth M. Bilby, *Enacting Power: The Criminalization of Obeah in the Anglophone Caribbean, 1760-2011* (Kingston, Jamaica: University of West Indies Press, 2012).

Bonny Ibhawoh also noted this trend to emphasize statutes and policy but ignore court decisions in explorations of colonial legal history. He asserted that “[s]everal studies have explored the legal and policy frameworks, within which colonial difference was constructed and maintained. Few, however, extend the discussion to the construction and contestation of colonial difference within imperial judicial spaces.” Ibhawoh, *Imperial Justice*, 9.

This is not to suggest that no scholars have incorporated judicial records into their studies of obeah. Diana Paton has used case reports from a Jamaican newspaper, the *Gleaner*, to analyze how arrests were made in obeah prosecutions. Diana Paton, “The Trials of Inspector Thomas: Policing and Ethnography in Jamaica,” in *Obeah and Other Powers: The Politics of Caribbean Religion and Healing*, ed. Diana Paton and Maarit Forde (Durham, N.C.: Duke University Press, 2012), 182-190. Deryck Murray also conducted an in-depth examination of the prosecution of a man named Andrew Marble for practicing obeah in 1824. Deryck Murray, “Three Worships, an Old Warlock and Many Lawless Forces: The Court Trial of an African Doctor who Practised ‘Obeah to Cure’, in Early Nineteenth Century Jamaica,” *Journal of Southern African Studies* 33, no. 4 (2007): 811-828. However, detailed analyses of obeah trials remain relatively rare.

violations of witchcraft ordinances in South Africa also reached well into the thousands. In a mere twenty year period from 1887 to 1907, arrests for infringements of the witchcraft ordinance exceeded two thousand two hundred cases in the Cape Colony alone. Further, unlike many other regions which have recently modified or repealed their obeah and witchcraft legislation, both Jamaica and South Africa have maintained the same legislation from the late nineteenth century and the mid twentieth century, respectively, to the present with only minor revisions. Thus, these colonies have both the longest and, arguably, the most active periods of witchcraft and obeah trials in British Africa or the British Caribbean.

To study these statutes and prosecutions, I have examined a variety of materials from British colonies in the Caribbean and Africa. I have documented forty-six obeah laws from eighteen different colonies, including more than a dozen revisions in Jamaica and multiple changes in other Caribbean regions such as Barbados, St. Vincent and British Guiana. I have compiled witchcraft laws from eighteen different regions or colonies in British Africa, including four separate laws from Transkei, the Transvaal, Natal and the Cape of Good Hope before these were consolidated into a single law for the Union of South Africa. I have examined twenty-five witchcraft laws in total, including two or three revisions in several regions such as Nigeria and Northern Rhodesia (Zambia). These laws were published in legislative volumes from each colony, and I have reviewed them in collections housed at the University of Miami Law Library, the Ohio State University Law Library, and the National Library of the United Kingdom.

I have also examined over one thousand five hundred court cases for violations of obeah and witchcraft laws. I have collected cases regarding Jamaican obeah from

Supreme Court, Slave Court, and Parish Court records held at the Jamaican National Archives in Spanish Town, and published reports of cases from the longstanding Jamaican newspaper, *The Gleaner*. I have compiled cases regarding witchcraft from law reports in the University of Miami Law Library and the Ohio State University Law Library, which hold cases from local and appellate divisions of the Supreme Court of South Africa from 1877 to present. There were hundreds of volumes, with separate reports from each region of the colony including Natal, Orange Free State, the Cape Provincial Division, the Eastern District Local Division, Witwatersrand, Griqualand West Local Division, and the Transvaal. After 1910, all of these were combined into a single law reporter, and four volumes were published each year to contain all the appellate cases from the Union of South Africa, which by this time had shifted from a colony to a dominion of Britain. I also obtained statistics about obeah prosecutions from police department records and statistical registers from the University of the West Indies Library in Jamaica, and about witchcraft prosecutions from statistical registers at the United Kingdom National Archives. Additionally, my research has relied extensively on colonial office records and dominions office records, which I examined at the Center for Research Libraries and the National Archives of the United Kingdom. These records contained reports of court cases from colonial officials to metropolitan officials. They also included discussions of laws and policies in South Africa and Jamaica related to witchcraft and obeah.

Books as well as journal and newspaper articles written by travelers, missionaries, residents, and colonial officials were also very valuable. These individuals expressed opinions and related stories that, when read in conjunction with laws and court cases,

provide broader picture of colonial complaints about obeah and witchcraft practices. In British Africa, missionaries wrote some of the earliest accounts of witchcraft beliefs and practices. They were often among the strongest proponents of anti-witchcraft legislation, to protect their converts from being accused of witchcraft or subject to trials by ordeal. Travelers described what they witnessed when visiting friends, family, and associates in the Caribbean and Africa. The people they visited often expressed concern about witchcraft and obeah, and sensational stories about these practices were frequently featured in travelogues. Residents, especially plantation owners in the British Caribbean, wrote to complain about obeah and witchcraft activities that they wished to see eliminated from the colony.

I have organized my analysis of these statutes, court cases and other primary sources into five chapters, the first of which provides a broad overview of the laws prohibiting spiritual practices in the British Atlantic Empire. Each subsequent chapter investigates one element of the proscription and prosecution of obeah and witchcraft in Jamaica and South Africa in an attempt to better understand what aspects of medico-religious practices colonial officials believed violated laws against obeah and witchcraft at given historical moments. The manuscript is organized chronologically; it begins with the first colonial prohibitions of obeah in 1760 and ends with the last major revisions to obeah and witchcraft statutes in the late nineteenth century and the twentieth century.

In Chapter Two, I examine the primary justifications for the earliest laws against obeah in the eighteenth and early nineteenth century Caribbean, which was the sacred oaths that were allegedly administered by obeah practitioners prior to most slave rebellions in the British Caribbean in the eighteenth century. Denying the brutality of

slavery, colonial authorities attributed the cause of insurrections to African rituals, which supposedly coerced rebels into participating. Although similar sacred oaths were documented in many parts of Africa, British authorities did not prohibit them until the mid-twentieth century after nationalist movements, particularly the Mau Mau rebellion in Kenya in the 1950s, increasingly threatened the stability of the colonial regimes. At this time, colonial rhetoric about sacred oaths frequently began to resemble earlier descriptions of them in the Caribbean; they were characterized as coercive practices that spurred rebellions, and were proscribed as a form of “seditious activity.”

Chapter Three discusses the initial prohibitions of the “pretended” practice of witchcraft and witchcraft accusations in South Africa, from treaties with local chiefs in the 1830s to the passage of witchcraft legislation in the 1870s and 1880s. Although the British asserted that these laws were necessary to prevent Africans from torturing and murdering “innocent people” who were accused of witchcraft, legislators in England and Jamaica did not enact similar laws to suppress analogous instances of violence against those who were suspected of the malicious manipulation of supernatural powers that occurred in these places in the nineteenth century. Therefore, this chapter explores the motivation for these colonial measures to restrict spiritual practices and witchcraft accusations in South Africa, which seems to have primarily been to prevent chiefs and “witchdoctors” from organizing anti-colonial activities.

Chapter Four chronologically overlaps with Chapters Two and Three; it addresses the colonial concerns that were expressed shortly after the passage of the first proscriptions related to obeah and witchcraft. In this Chapter, I explore legislation against the administration of poisons, the most notorious element of alleged obeah practices in

the British Caribbean. Prohibition of the administration of poisons was a common feature of eighteenth and early nineteenth century obeah laws in the British Caribbean.

Witchcraft laws in British Africa did not expressly proscribe the use of poisons; instead they prohibited the “pretended” practice of witchcraft with the intention of harming any person, property or animal. Chapter Four investigates the similarities between these components of obeah and witchcraft laws, but emphasizes that while most laws in the British Caribbean removed language about poisons and using obeah to cause illness by the end of the nineteenth century, provisions about using pretended witchcraft to injure remained an important feature of South African laws throughout the twentieth century.

Chapter Five investigates statutory revisions and judicial decisions regarding obeah and witchcraft primarily in the twentieth century. In this chapter, I discuss the great spectrum of obeah and witchcraft prosecutions that were unrelated to a person’s physical well-being. In British Caribbean and African colonies, “obeah” practitioners and “witchdoctors performed rituals to assist people in matters of luck, love, wealth, and labor. Prosecutions of such practices constituted a large portion of obeah cases, particularly in the twentieth century. Colonial officials in the Caribbean claimed that such rituals were acts of vagrancy or fraud and they classified the people who performed them as charlatans. They asserted that obeah practitioners could make vast fortunes by duping others. However, ironically, obeah practitioners were often elderly and infirm people who may have had difficulty obtaining other forms of employment.

In South Africa, the practice of “pretended” witchcraft was proscribed as a violation of witchcraft laws in the Transvaal, but it was prohibited as a type of theft by false pretenses in the other parts of South Africa and in most other British colonies in

Africa. Although colonial legislators in Africa used the same language prohibiting the “pretended” use of supernatural powers as Caribbean obeah and vagrancy laws, through the classification of the purported use of witchcraft as a type of fraud, it became an offense against an individual instead of a crime against society. To violate these laws, an individual had to intend to defraud someone and actually dupe the client. Appellate courts in South Africa (and other British colonies in Africa) constantly debated whether individuals engaged in fortunetelling, medico-religious healing and similar practices were charlatans. They recognized that Africans typically believed in their ability to perform such rituals and therefore courts were much more hesitant to uphold convictions for these charges. This was a sharp contrast to the Caribbean, where obeah practitioners were always characterized as charlatans.

Despite the progressive movement of these chapters from the eighteenth century to the twentieth century, this study focuses considerably on the nineteenth century. By concentrating on the century when the British slowly developed their proscription of witchcraft in Africa and made substantial revisions to their obeah legislation in the Caribbean, the distinctions between British colonial policies regarding African spiritual practices on each side of the Atlantic become clearer. Although colonial legislators, magistrates, and judges frequently communicated with the Colonial Office about the proscription and prosecution of obeah and witchcraft during this period, metropolitan authorities did not impose the same legal standards in the Caribbean and Africa. Even when statutory provisions in Jamaica and South Africa resembled one another, courts in these colonies often interpreted the laws very differently. Therefore, this dissertation

provides an important contrast to recent studies that have shown that the British often attempted to impose uniform standards of justice in their Empire.

Chapter 1: Obeah and Witchcraft Laws in the British Atlantic Empire

A study of the proscription and prosecution of African medico-religious rituals in the British Atlantic world must begin with a comparison of obeah laws in the Caribbean and witchcraft statutes in Africa because it is critical to analyze the framework of colonial prohibitions of these practices before investigating the enforcement of these statutes or policies. Based on my examination of more than seventy statutes, I argue that colonial legislation proscribing obeah and witchcraft was extremely similar in many ways and, in fact, these statutes often used identical terminology in certain sections, merely substituting the word “obeah” for phrases such as “pretended knowledge of witchcraft.” The close resemblance between these laws is particularly striking when juxtaposed against the vast distinctions between the interpretation and enforcement of prohibitions of African spiritual practices in Jamaica and South Africa.

Most of the similarities between laws related to witchcraft, obeah, or the purported exercise of supernatural powers in the British Empire can be connected to legislation related to witchcraft within Britain itself, so a brief introduction to the evolution of these statutes is necessary. For most of the period from 1562 until 1735, England criminalized the use of “conjunction,” “enchantment,” “witchcraft,” or “sorcery.” Under the 1562 statute passed during the reign of Queen Elizabeth, the practice of witchcraft was a first degree felony punishable by death if used to kill someone and a second degree felony punishable by a year’s imprisonment for the first offense and death for the second if used to maim a person or damage property.²⁴ The practice of witchcraft was a third degree felony, punishable by a year’s imprisonment for

²⁴ England, “Act Against Conjurations, Enchantments and Witchcrafts of 1563,” *The Statutes of the Realm*, 5 Eliz. 1, c. 16.

the first offense and life imprisonment for the second, if used to find hidden treasure or lost or stolen goods, or to “provoke unlawful love.”²⁵ After Elizabeth’s death, her successor, James I, implemented a new, slightly more severe statute in 1604 which maintained distinctions between certain types of witchcraft, however, even for the lesser categories of witchcraft such as “procuring unlawful love,” an individual could be sentenced to death for committing a second offence. The severity of the punishment in this 1604 legislation may have been based on the laws of James’s native Scotland, where a 1563 statute broadly prohibited an individual from using witchcraft, sorcery and necromancy under penalty of death.²⁶

Britain’s Witchcraft Act of 1735 repealed the laws of both England and Scotland, and specified that no person could be prosecuted for “witchcraft, sorcery, enchantment [sic], or conjuration,” or any similar offence after June 24th of that year.²⁷ Instead, legislators made it a crime to “pretend to exercise or use witchcraft, sorcery, enchantment [sic], or conjuration, or undertake to tell fortunes, or pretend from his or her skill or knowledge in any occult science or crafty science to discover where or in what manner any goods or chattels, supposed to have been stolen or lost, may be found.”²⁸ Any person convicted of contravening this law could be sentenced to imprisonment for a period of up to one year. The drafters of this statute asserted it was enacted because “ignorant persons are frequently deluded and defrauded” by “pretences to such arts or powers.”²⁹

²⁵ Ibid.

²⁶ Julian Goodare, “The Scottish Witchcraft Act,” *Church History* 74, no. 1 (2005): 39.

²⁷ England, “The Witchcraft Act of 1735,” 549.

²⁸ Ibid., 549-550.

²⁹ Ibid.

Additionally, since at least the late sixteenth century, England's vagrancy laws criminalized fortunetelling, palmistry, and similar spiritual practices.³⁰ British legislators revised vagrancy statutes numerous times since the sixteenth century, and passed the most recent Vagrancy Act in 1824.³¹ This statute prohibited, in part, "pretending or professing to tell Fortunes, or using any subtle Craft, means, or Device, by Palmistry or otherwise, to deceive and impose on any of His Majesty's Subjects."³² Individuals convicted of violating this law could be imprisoned at hard labor for up to three months and any implement or "instrument" that he or she used to commit the crime could be confiscated.³³

The Witchcraft Act of 1735 and the section of the Vagrancy Act of 1824 dealing with fortunetelling and palmistry remained in effect until 1951, when they were repealed and replaced by the Fraudulent Mediums Act. This law prohibited any person from acting "as a spiritualist medium" or claiming "to exercise any powers of telepathy, clairvoyance or similar powers," with the intention of deceiving someone.³⁴ However, unlike previous laws, the Fraudulent Mediums Act stipulated that it was not violated unless the accused person received a reward for his or her services as a medium or clairvoyant. The maximum penalty for violations of this law was a term of imprisonment for up to two years and a fine.

³⁰ England, "An Act for Punishment of Rogues, Vagabonds, and Sturdy Beggars," in *Certain Statutes Especially Selected, And Comanded By His Majestie* (London: Robert Barker & John Bill, 1630), 45.

³¹ England, "An Act for the Punishment of idle and disorderly Persons, and Rogues and Vagabonds," 5 Geo. 4, (1824).

³² Ibid.

³³ Ibid.

³⁴ England, "Fraudulent Mediums Act," 14 & 15 Geo. 6, (1951).

The extent to which colonial authorities used England's Witchcraft Act of 1735 and Vagrancy Act of 1824 to draft and interpret obeah and witchcraft legislation in the Caribbean and Africa changed over time and varied from colony to colony, particularly on different sides of the Atlantic. There were more than seventy laws (including revised and consolidated legislation) relating to witchcraft and/or obeah promulgated throughout the British colonies in the Caribbean and Africa between 1760 and 1960 affecting thirty-six different regions and few laws were completely identical to one another.³⁵ The first statute making reference to obeah was passed in Jamaica in 1760. This law underwent multiple revisions, more than a dozen between the passage of the first Act in 1760 and the passage of the 1898 Obeah Act, which is the version that is still in force in Jamaica today.³⁶ By 1905, every British colony in the Caribbean had legislation prohibiting the practice of obeah, including Jamaica, Barbados, St. Vincent, Trinidad and Tobago, Antigua and Barbuda, the Bahamas, Dominica, St. Lucia, British Guiana, the Virgin Islands, Anguilla, and Montserrat.

Most obeah laws were revised at least two or three times between the eighteenth century and the early twentieth century. In the majority of British Caribbean colonies, the first obeah legislation was passed between 1760 and 1810. Nearly all of these initial laws focused on prohibiting ritual practices that threatened the stability of plantation slavery, including the administration of sacred oaths and the distribution of protective charms,

³⁵ This number takes into account the fact that some colonies were more divided in early colonial history. For instance, the region known today as South Africa was once composed of many smaller parts like the Transvaal, Natal and the Cape of Good Hope and, except for the Orange Free State, these regions each had their own witchcraft legislation until 1957, when a consolidated Witchcraft Act was passed for all of South Africa.

³⁶ Even this 1898 Act underwent minor changes in the 20th century. However, the year 1898 was when the last substantial revision of the law took place.

both of which were purportedly used in insurrections.³⁷ Early obeah laws also prohibited the use of poisons and charms to attempt to injure someone because obeah practitioners reportedly caused rampant sickness and death among the enslaved population by poisoning people or making others believe that they had been poisoned.³⁸

Although legislators in the Caribbean used a few similar phrases about how “weak,” “superstitious,” or “ignorant” people had been “deluded” or “defrauded” by individuals who claimed to have supernatural power, most of these early laws were very different from legislation regarding “supernatural powers” or “witchcraft” in England.³⁹ Nearly all obeah legislation from the eighteenth century and early nineteenth century emphasized rebellions, poisons, and charms,⁴⁰ while the Witchcraft Act of 1735 focused on fortunetelling, conjuration and discovering lost or stolen goods. Furthermore, most early obeah laws punished violators with transportation or death,⁴¹ whereas such severe penalties had been removed from witchcraft laws in England with the passage of the 1735 legislation.

However, it is important to note that obeah legislation in the Caribbean varied substantially from colony to colony. A few of these laws prohibited rebellion and/or poisons but included language that was very close to England’s Witchcraft Act of 1735. For instance, Saint Vincent’s obeah laws of 1803 specifically proscribed using purported supernatural powers “for the discovery of any hidden matter or thing, or recovery of any

³⁷ See Chapter 2.

³⁸ See Chapter 4.

³⁹ For example, in Jamaica’s obeah statute passed in 1760, legislators asserted that “the weak and superstitious are deluded into a belief of their [obeah practitioners] having full power to exempt them, whilst under their protection, from any evils that might otherwise happen.” Jamaica, “Act 24 of 1760,” 52.

⁴⁰ See Chapter 2.

⁴¹ For example, see Jamaica, “Act 24 of 1760,” 52-53; Barbados, “An Act for the Punishment of such Slaves as shall be found practicing Obeah of 1806,” 4 Nov. 1806, PRO, CO 31/47.

stolen or lost goods.”⁴² St. Vincent’s laws continued to mention the discovery of lost or stolen items in all its other statutes proscribing vagrancy and the practice of “occult sciences” in the late nineteenth and early twentieth century.⁴³ Obeah laws passed in the early twentieth century in the Bahamas and Guyana, as well as Trinidad and Tobago also expressly prohibited a person from using “obeah or any occult means” to “pretend to discover any lost or stolen goods.”⁴⁴ It is an intriguing and not easily answered question why some Caribbean colonies replicated this section of the Witchcraft Act of 1735 and others did not. These inconsistencies persisted throughout the evolution of obeah legislation and were repeated when witchcraft laws were passed on the other side of the Atlantic.

Starting in the mid-nineteenth century, statutes prohibiting the practice of obeah began to more closely resemble British laws. Between 1833 and 1840, legislators in virtually every colony in the British Caribbean passed vagrancy laws with a section that was nearly identical to Britain’s own provisions of the Vagrancy Act of 1824 dealing with fortunetelling and palmistry, except they added prohibitions on the practice of obeah.⁴⁵ The promulgation of these vagrancy laws, which prohibited “idleness,”

⁴² St. Vincent, “An Act to oblige Proprietors and Possessors of Slaves in their own Right, or Rights of others, Managers and Conductors of Estates, to give in Returns of Runaways, and punishing Obeah Men of 1803” in House of Commons, “Colonial Laws Respecting Slaves,” *Miscellaneous Papers*, 5 April 1816. vol. 19, p.171-173.

⁴³ For example, see St. Vincent, “An Act with respect to the practice of unlawful pretenses to skill in palmistry cards and occult sciences” in *Laws of St. Vincent* (London: Waterlow and Sons Limited, 1884), 2:72-73.

⁴⁴ “Chapter 60 of the Bahamas Penal Code,” in *The Statute Law of the Bahama Islands 1799-1929*, ed. Hon. Harcourt Gladstone Malcolm (London: Waterlow & Sons Limited, London, 1929), 1:707. British Guiana, “Summary Convictions (Offences) Ordinance of 1918,” in *The Laws of British Guiana*, ed. V. St. Clair Mackenzie (London: Waterlow and Sons Limited, 1923), 2:497. Trinidad and Tobago, “An Ordinance for rendering certain offences punishable on Summary Conviction of 1902,” in *Laws of Trinidad and Tobago* (Port-of-Spain, Trinidad: Government Printing Office, 1902), 1:123, 130-131.

⁴⁵ House of Commons, “Sixth Report from the Select Committee on Sugar and Coffee Planting,” *Reports from Committees: Sugar and Coffee Planting*, 3 April 1848. vol. 13, par. 2, app. 135- 169.

“wandering,” begging, gambling, prostitution and peddling, were likely passed in response to emancipation in 1834 to regulate the labor and mobility of the formerly enslaved.

Shortly thereafter, Jamaican legislators revised obeah laws using almost the same language as the vagrancy laws in England, Jamaica, and other parts of the Caribbean, stating “it is expedient to increase the punishment of persons convicted of being dealers in obeah or myalism, or pretending, or professing to tell fortunes, or using, or pretending to use any subtle craft, or device by palmistry, or any such like superstitious means, to deceive or impose on any of her majesty’s subjects by means thereof.”⁴⁶ From this time period through the present day, obeah legislation began to closely resemble vagrancy laws, so much so that Jamaican magistrates frequently complained that there was no logical reason that one individual was charged with vagrancy, for which the highest penalty was two months imprisonment, or obeah, for which the most severe punishment was twelve months imprisonment and whipping.⁴⁷

Jamaican legislators also made another significant mid-nineteenth century revision to obeah laws; they proscribed practicing “myalism,” a term used to refer to a medico-religious healing movement that gained popularity in the 1840s.⁴⁸ Colonial officials were concerned about myalism primarily because as practitioners traveled throughout the island digging up obeah charms and performing rituals to cleanse people of illness and misfortune, their activities attracted a great deal of attention, disrupting

⁴⁶ Jamaica, “An Act for the More Effectual Punishment of Persons Convicted of Dealing in and Practising Obeah and Myalism of 1856,” 512.

⁴⁷ For example see “Obeah Appeal Succeeds in the Full Court,” *The Daily Gleaner* (Kingston: Jamaica), May 11, 1934, pg 8.

⁴⁸ Jamaica, “An Act for the More Effectual Punishment of Persons Convicted of Dealing in and Practising Obeah and Myalism of 1856,” 512-513.

labor on the plantations.⁴⁹ Although the prohibition of myalism was unique to Jamaica, many individuals performing types of healing akin to those of so-called myalists were prosecuted for violating obeah laws throughout the Caribbean, particularly in the period immediately preceding and following emancipation in nineteenth century.⁵⁰ These changes to Jamaican obeah laws seem to represent a shift in the colonial definition of obeah which was very closely linked to the abolition of slavery. As Chapters 2, 4 and 5 will discuss in greater detail, narratives about the use of obeah to incite rebellions or to poison people diminished in the last years before emancipation and officials began to shift their concerns to other Afro-Caribbean spiritual practices that they believed threatened the stability of colonial control over the newly freed labor force.

Jamaica was not the only Caribbean colony to change its obeah legislation after emancipation. Many British colonies began to amend their laws, reducing or removing clauses about using obeah to affect a person's health, and instead describing obeah as a type of vagrancy or fraud, and prohibiting the "pretended" practice of obeah "for gain."⁵¹ Although Jamaica made these changes in the mid-nineteenth century, shortly after the passage of new vagrancy laws about fortunetelling and palmistry in Britain and its Caribbean colonies, the majority of obeah laws were modified between 1898 and 1910. These changes were the last major revisions to obeah statutes; many of these laws remain in effect in the Caribbean unchanged since the turn of the twentieth century.

⁴⁹ Monica Schuler, "Myalism and the African Religious Tradition in Jamaica" in *Africa and the Caribbean: The Legacies of a Link*, eds. Margaret Crahan and Franklin Knight (Baltimore, M.D.: Johns Hopkins University Press, 1980), 74.

⁵⁰ Petition of Pierre, a free black man to Major General Sir Lionel Smith, 30 January 1834, CO 101/78, United Kingdom National Archives, Kew, England.

⁵¹ For example see British Guiana, "Summary Convictions (Offences) Ordinance of 1918," 497; Trinidad and Tobago, "An Ordinance for rendering certain offences punishable on Summary Conviction of 1902," 130.

British proscription of witchcraft-related practices in Africa began with treaties between the British and Xhosa chiefs in South Africa in the 1830s stating that any Xhosa people who converted to Christianity were not subject to traditional methods of witchcraft accusations and trials.⁵² Then, when the British passed penal codes in Southern Africa starting in the 1870s and 1880s, these laws included prohibitions against “pretending” to use witchcraft to try to injure a person or property,⁵³ being a diviner or “lightning doctor,”⁵⁴ or naming someone as a witch or wizard.⁵⁵ Nearly every British colony in Africa had statutes against “pretended” witchcraft and witchcraft accusations by the end of the 1920s or had provisions of their penal code that prohibited “pretending” to use supernatural powers. This included the Gambia, Nigeria, Nyasaland (Malawi), Northern Rhodesia (Zambia), Southern Rhodesia (Zimbabwe), Uganda, Sierra Leone, Tanganyika (Tanzania), Kenya, and the islands of Mauritius and the Seychelles. Most of the first witchcraft laws in these colonies were passed between 1890 and 1920, during approximately the same period that obeah ordinances were undergoing their final revisions.

The majority of witchcraft laws were designed primarily to suppress witchcraft accusations and trial by ordeal. The reasons for the promulgation of these laws were complex and are explored in greater detail in Chapter 3, but they were closely connected to colonial assertions that peoples throughout the continent of Africa lived in constant

⁵² Jacob Dirk Barry and others, *Report and Proceedings with Appendices of the Government Commission on Native Laws and Customs* (Cape Town: W.A. Richards and Sons, 1883), 3.

⁵³ *Ibid.*, xxiii.

⁵⁴ South Africa, Natal, “Code of Natal Native Law, No. 19 of 1891” in *Natal Ordinances, Laws, and Proclamations of 1890-1895* (Natal: William Watson, 1895), 35.

⁵⁵ South Africa, Cape of Good Hope, “Chapter 11 of the Native Territories’ Penal Code of 1886,” in *Statutes of the Cape of Good Hope, 1652-1905*, ed. E. M. Jackson (Cape Town: Cape Town Limited, 1906), 2:2388.

fear of witchcraft and violently attacked individuals they suspected of being witches. Although most provisions in witchcraft laws addressed witchcraft accusations and/or trial by ordeal, there were two other types of clauses that often go unmentioned in scholarly discussions of the passage of these laws. First, starting in 1904, many witchcraft laws attempted to incorporate some of the ideas and clauses from Britain's Witchcraft Act of 1735 and Vagrancy Act of 1824. Like the Witchcraft Act of 1735 and obeah laws in the southernmost parts of the Caribbean, in 1904 the Transvaal and North-Western Rhodesia passed statutes that prohibited a person from using the "pretended" practice of "witchcraft," "conjuraton," or other supernatural or "unnatural" means to find anything that had been lost or stolen.⁵⁶ The laws of the Transvaal and North-Western Rhodesia also generally proscribed the "pretended" practice of "witchcraft" for payment, reward or "for gain," language which seems to have first been used in obeah legislation in Trinidad in 1868 and was very common in obeah laws by the turn of the twentieth century.⁵⁷

Furthermore, like the majority of pre-emancipation obeah laws, most of the witchcraft legislation in British Africa contained provisions prohibiting the use of "pretended witchcraft" to cause injury.⁵⁸ Although such clauses were included in the first witchcraft laws in British Africa, they became a more central feature by the 1920s and 1930s, when colonial officials realized that provisions regarding the use of "pretended witchcraft" for reward or "gain" were not very effective in African colonies and they

⁵⁶ South Africa, The Transvaal, "Witchcraft Ordinance No. 26, 1904," 151; Zambia, "Proclamation No. 12 of 1904," 125-127.

⁵⁷ It is not clear where this language prohibiting the practice of witchcraft or obeah for reward or "gain" originated. It does not appear in the Witchcraft Act of 1735 nor in English vagrancy laws. It is possible that colonial legislators in Africa copied these provisions from Caribbean obeah laws; however, I have found no direct evidence to support this argument.

⁵⁸ See Chapter 4.

revised the statutes to emphasize or increase penalties regarding the “pretended” exercise of supernatural powers to cause injury.⁵⁹

Unlike obeah laws, which shifted substantially over the course of two or three identifiable periods, with marked differences between laws preceding and after emancipation, the removal of provisions about witchcraft for gain and the increasing focus on injury were the only widespread chronological shifts in witchcraft legislation from the passage of the first laws in the 1870s to the most recent revisions in the mid-twentieth century. Interestingly, these changes in witchcraft laws occurred in reverse order from those in obeah laws, which first emphasized the use or “pretended” use of supernatural powers to cause injury or death in the eighteenth and early nineteenth century and then later starting in the mid-nineteenth century focused on vagrancy and the practice of obeah “for gain.”

Despite many similarities between obeah and witchcraft statutes (albeit in some cases in different chronological periods), the colonial perceptions of the targets of these laws, the so-called “obeah practitioner” and “witchdoctor,” were markedly different. In the Caribbean, nearly every spiritual belief of the black population was described as obeah and every non-western ritual practitioner was depicted as an “obeah man” or “obeah woman.” Even unorthodox Christian healers and spirit mediums were prosecuted as “obeah practitioners.” While the word “obeah” itself is arguably of West African origin, the colonial interpretation of this word morphed through each period of Caribbean colonization to meet the needs of the colonial government at that time.

⁵⁹ See Chapter 4.

Although the primary colonial concerns about African spiritual practices in the Caribbean changed drastically from the eighteenth to the twentieth century, the legal definition of obeah was very broad and individuals were often arrested for performing rituals that appeared unrelated to the chief complaints of colonial authorities of the time. For instance, in 1891, several decades after the last known “obeah” oath had been used in a slave rebellion, a man was prosecuted for practicing obeah when he administered a ritual oath to another man by swearing on a bible that they would keep their discussion of an intended murder a secret.⁶⁰ Similarly, more than ten years before the myalism movement of 1840-1841 which would make medico-religious practitioners the focus of obeah prosecutions, an enslaved man named Polydore was prosecuted for violating obeah laws for performing the same type of healing rituals that were commonly performed by myalists.⁶¹ In fact, colonial interpretations of “obeah” in the Caribbean were so broad and so inclusive that after Indian indentured laborers arrived in the Caribbean in the mid-nineteenth century, Indians who performed fortunetelling, palmistry and other non-Christian rituals were also prosecuted as “obeah” practitioners.

While British colonial authorities used a single term, “obeah,” to describe and proscribe virtually every spiritual and medico-religious practice that they wished to prohibit in the Caribbean, colonial interpretations of witchcraft laws in Southern Africa divided ritual practitioners into two different categories: the “pretended” witchcraft practitioner and the “witchdoctor.”⁶² The figures who colonial officials referred to as “witchdoctors” were essentially diviners and healers. Colonial authorities called them

⁶⁰ “Obeah in St. Elizabeth,” *The Gleaner*, Sept. 11, 1891, pg 2.

⁶¹ *The King v. Polydore*, 28 July 1831, C.O. 137/209, United Kingdom National Archives, Kew, England.

⁶² See Chapter 3 for a detailed discussion of the prohibition of spiritual practices performed by “witchdoctors” and Chapter 4 for an analysis of the proscription of the “pretended” practice of witchcraft.

“witchdoctors” because in many societies in Africa a common part of healing a person was diagnosing the cause of his or her illness, usually through some form of divination. Although “witchdoctors” could indicate a variety of reasons for sickness, from natural causes to an angry ancestor to witchcraft, colonial authorities asserted that these diviners claimed that witchcraft was the cause of every illness. After a diviner ascertained that witchcraft was the cause of a person’s illness, the diviner would also usually name the specific person who had practiced witchcraft against her/his client. According to colonial authorities, this accused witch was typically tortured and killed, and then all of his or her property was confiscated by the chief and the patient, who paid the “witchdoctor” a substantial fee for his services. As I will discuss in greater detail in Chapter 3, this colonial construction of the “witchdoctor” was a distortion of indigenous practices which became more prevalent in colonial discourse at the toward the end of the nineteenth century when colonists began to view diviners and spiritual practitioners as alternative sources of authority who could undermine or oppose colonial rule.

Witchcraft laws in colonial South Africa were primarily designed to end this process of witchcraft accusation.⁶³ To achieve this, the central components of most witchcraft legislation in southern Africa prohibited consulting a “witchdoctor” and accusing someone of witchcraft, and included increased penalties if the individual making the witchcraft accusation was a professional “witchdoctor” or “witch-finder.”⁶⁴ However, as mentioned above, witchcraft laws did not just proscribe witchcraft accusations and witch-finding rituals; they also outlawed the “pretended” practice of

⁶³ See Chapter 3.

⁶⁴ For example, see South Africa, the Transvaal, “Witchcraft Ordinance No. 26, 1904,” 151; Swaziland, “Witchcraft Act of 1904,” in *The Laws of Swaziland*, ed. A.C. Thompson (Cape Province, South Africa: Cape Times Limited, 1959), 1:697.

witchcraft with the intent to cause injury or disease to any person or property. These provisions were crafted to place some of the responsibility for the prevalence of witchcraft accusations on the actions of individuals who intentionally attempted to harm someone through the practice of sorcery.⁶⁵ Thus while nearly every aspect of witchcraft laws was aimed at eliminating witchcraft accusations, the legislators recognized two types of offenders, the “witchdoctor” and those who “pretended” to practice witchcraft.

By creating these two different categories of witchcraft law violations, colonial officials also recognized two classes of ritual practitioners — those who “pretended” to practice witchcraft to cause sickness or misfortune, and those who “pretended” to practice witchcraft for healing, divination and other purposes (the so-called “witchdoctor”). In the British Caribbean, there was no distinction between “pretended witch” and “witchdoctor,” every person who performed medico-religious or spiritual rituals could be classified as an “obeah” practitioner. Consequently, even though statutory definitions of witchcraft and obeah were very similar and Caribbean laws even frequently used the word “witchcraft” to describe obeah, British colonial interpretations of these words were not the same. As I will discuss in Chapter 5, in the Caribbean, “pretending” to practice obeah included rituals to cause injury and illness, healing rituals, and rituals to improve luck, love and fortune. In British Africa, “pretending” to practice witchcraft was predominantly (though not exclusively) defined as rituals to cause injury and illness. Separate provisions addressed so-called “witchdoctors,” who were primarily prosecuted for accusing others of practicing witchcraft.

⁶⁵ See Chapter 4.

These distinct colonial interpretations of obeah and witchcraft appear to have been derived from four important differences between Caribbean and African colonies. First, since the earliest obeah laws were passed during slavery in the Caribbean, obeah laws were designed to protect the institution of slavery and the plantation economy.⁶⁶ In the late eighteenth century and early nineteenth century, colonial officials believed that obeah practitioners both led and empowered slave rebellions. As I will discuss in Chapter 2, colonial authorities asserted that obeah practitioners administered sacred oaths to insurgents and thereby forced them to engage in acts of rebellion that they may not have otherwise undertaken. Caribbean officials did not want to admit that the oppressive institution of slavery itself was the reason that enslaved persons rose against the plantation owners. Although so-called “witchdoctors” in British Africa also administered oaths, provided soldiers with talismans, and otherwise encouraged warfare against the British, when these struggles occurred in the early colonial period, colonial authorities did not need to justify them by explaining that “superstition” had forced Africans into battle. The causes of these wars were well-recognized such as disputes over territory and power.

The other early motivation for the passage of obeah laws was also connected to slavery. Although colonial officials in both Africa and the Caribbean asserted that Africans attributed every illness to witchcraft or obeah and that people died because they believed themselves to be bewitched, in the Caribbean, the people who were suffering from these “imagined illnesses” were enslaved individuals who had a monetary value to

⁶⁶ See Chapter 2.

their owners.⁶⁷ Therefore, plantation owners had a direct interest in ending all medico-religious practices that were believed to cause sickness and death, even if Europeans did not recognize the efficacy of such rituals. In Africa, on the other hand, by the time the first witchcraft laws were passed, slavery had been abolished throughout the British Empire. As long as colonial officials were not faced with a shortage of laborers to work in the mines, on the railroads, or in other forms of service to white residents, officials were not as concerned with deaths purportedly caused because individuals believed themselves to have been cursed or bewitched.⁶⁸

Finally, the other fundamental difference between British Africa and the British Caribbean that influenced the development of obeah and witchcraft laws was that in the Caribbean all inhabitants were subject to British laws and influences, which Europeans believed should have a “civilizing” effect on the black population. When legislators remodeled obeah laws to address vagrancy and “gain” in the mid-nineteenth century, colonial officials in the Caribbean assumed that “superstitions” still permeated the black population, but believed that obeah practitioners were the primary reason for the continued prevalence of these beliefs.⁶⁹ Conversely, in British Africa, there were fewer European settlers and they rarely integrated with the African population. Although South Africa had a more substantial white population, from the beginning of European colonization of this region most officials attempted to segregate the white and black residents. Even before the official implementation of apartheid in the mid-twentieth century, the indigenous population was usually pushed onto reserves and other than those

⁶⁷ See Chapter 4.

⁶⁸ See Chapter 4.

⁶⁹ See Chapter 5.

laborers who were necessary to serve the needs of the British and Afrikaner populations, the residence of blacks in European areas of South Africa was often restricted. Likely due to their indirect interactions with the African populations, colonial officials did not expect their presence and influence to rapidly eradicate indigenous spiritual beliefs.⁷⁰ Colonial authorities asserted that, except in the case of “witchdoctors” making witchcraft accusations, most medico-religious practitioners believed in their own professed abilities. They argued that these beliefs would be eradicated over time through education and increased contact with Europeans, but did not convey the same urgent need to suppress them that colonial officials in the Caribbean expressed. Where the rituals that so-called “witchdoctors” performed did not involve accusing someone of practicing witchcraft, judges were uncertain that they violated witchcraft laws.⁷¹

Through this overview of legislation against vagrancy, obeah, witchcraft, and witchcraft accusations in the British Atlantic Empire, we begin to see that the relationship between English domestic policies regarding supernatural practices and those in its Caribbean and African colonies was complex. Colonial legislators incorporated some sections of England’s Witchcraft Act of 1735 and Vagrancy Act of 1824 into Caribbean obeah laws and African witchcraft statutes. However, lawmakers also crafted new provisions to address specific spiritual practices that concerned authorities in the colonies. The following chapters will continue to compare the prohibition of spiritual practices in Africa and the Caribbean, exploring how and why these distinct provisions were passed in the colonies and comparing how similar clauses were interpreted in Jamaica and South Africa.

⁷⁰ See Chapter 5.

⁷¹ See Chapter 5.

Chapter 2: Sacred Oaths and Other Rituals of Rebellion

On both sides of the Atlantic, Africans and people of African descent utilized spiritual practices to create bonds of solidarity and provide spiritual protection for those who fought in revolts or wars. In the Caribbean, when legislators passed the first prohibitions against obeah in Jamaica in 1760, they did so, in part, to proscribe these pre-war rituals which were purported used in a major slave rebellion that year.⁷² Specifically, they forbade priests and other ritual specialists from administering sacred oaths and distributing protective charms to participants in slave uprisings.⁷³

Similar practices were documented throughout West Africa; in fact, colonial authorities argued (and many scholars agree) that sacred oaths in the Caribbean were derived from rites in the Gold Coast (modern day Ghana). Although oaths and other pre-war rituals were documented in nearly every British colony in South, East and West Africa, these practices were not proscribed for most of the colonial period and witchcraft laws in these regions did not reference concerns about the centrality of spiritual practices in inciting uprisings.

British attitude toward sacred oaths in Africa changed in the mid-twentieth century, however, particularly after the Mau Mau rebels in Kenya reportedly administered them to participants in their large-scale uprising against the British colonial government. Although the laws against sacred oaths in the Caribbean and Africa were initially enacted almost two hundred years apart, they were promulgated for very similar reasons. British colonial officials asserted that sacred oaths (and individuals who administered them) coerced people into participating in rebellions against slavery in the

⁷² See *infra* pages 39-42.

⁷³ Jamaica, "Act 24 of 1760," 52-55.

Caribbean and the colonial government in Africa. They argued that the insurgents were driven by their “superstitious” fear of “obeah practitioners” and “witchdoctors” because they wanted to avoid acknowledging that enslaved persons and colonial subjects were actually protesting the abuses that they had suffered during slavery and under British rule.

However, despite the similar colonial rhetoric in Africa and the Caribbean about how rebels were supposedly coerced and deluded into participating in uprisings by sacred oaths, the laws prohibiting these rituals were markedly different. In the pre-emancipation Caribbean, sacred oaths and other rituals used in warfare were characterized as forms of obeah and were prosecuted using laws that proscribed the “pretended” use of supernatural powers. In the late-colonial period in Africa, legislators proscribed sacred oaths as a type of “seditious activity,” rather than as a violation of laws related to the “pretended” practice of witchcraft or the use of supernatural rituals. In this chapter, I explore the development of legislation related to sacred oaths and other rituals used in rebellions, and compare the proscriptions of these practices on each side of the Atlantic.

Oaths in the British Caribbean

Scholars have argued that sacred oaths were used in several different contexts by Africans enslaved in British colonies in the Americas from the early eighteenth century to the mid-nineteenth century. These oaths were reportedly employed as a part of preparations for insurrections as early as the beginning of the eighteenth century. However, for the first fifty years of their documented use in the Americas, British colonial authorities rarely remarked on their significance or described them in any great detail. Until 1760, it appears that British colonists were not particularly concerned about

African spiritual practices and, in certain circumstances, actually participated in some forms of sacred oaths. The colonial view of oaths and other sacred rituals, which were glossed as “obeah,” changed when a major slave rebellion erupted in Jamaica in 1760; after this insurrection British authorities began to blame obeah practitioners for inciting uprisings against the plantation owners and the colonial regime.

Two of the earliest recorded sacred oaths in the Western Hemisphere occurred in North America. By 1709, Anglican missionaries working in South Carolina required enslaved converts to take oaths before God and the Church congregation, promising to renounce the practice of polygamy, and swearing that their conversion to Christianity was based on genuine religious fervor.⁷⁴ This latter oath was due to concerns that enslaved persons would use conversion as a social and political tool to ameliorate the conditions of their enslavement or perhaps even claim that they should be emancipated. Sylvia Frey and Betty Wood argue that requiring enslaved converts to take these oaths “was an indication, perhaps, that the missionary appreciated, and sought to exploit, the significance attached to sacred oaths by the African-born people who comprised the majority of his black parishioners.”⁷⁵

In addition to accounts of missionaries administering oaths to their African converts, scholars have also argued that enslaved persons employed a sacred oath as a preparatory ritual for a rebellion that took place in New York in the early eighteenth century. These rebels gathered in January of 1712, and allegedly swore an oath by drinking one another’s blood, the content of which scholars have not specified, as they

⁷⁴ Sylvia Frey and Betty Wood, *Come Shouting to Zion: African American Protestantism in the American South and the British Caribbean to 1830* (Chapel Hill: University of North Carolina, 1998), 65-66.

⁷⁵ *Ibid.*, 65.

organized a rebellion that took place three months later.⁷⁶ On April 7, 1712, the insurgents armed themselves and set fire to a building, killing some of the whites who arrived to put out the fire. In the midst of the commotion, they tried to escape to the north but the New York militia captured twenty-seven fugitives and executed twenty-one of them.⁷⁷

After the beginning of the eighteenth century, the vast majority of sacred oaths reportedly occurred in the Caribbean. The earliest of these solidified treaties between the British and formerly enslaved persons known as maroons, who had managed through uprisings and running away to escape the bonds of slavery and form separate communities in the Caribbean. In Jamaica, there were two main groups of maroons, the Windward and the Leeward, both formed by enslaved persons who fled their estates in the mid to late seventeenth century after the British seized control of Jamaica from the Spanish in 1655. Over time, these societies grew and gained control over more lands; they also raided British plantations for supplies. Conflict over land, enslaved runaways, and resources led to the First Maroon Wars, which were fought intermittently from the British takeover of Jamaica until 1739, with the most active English efforts to dismantle the maroon groups occurring in the 1730s. The British signed treaties with both maroon societies in 1738 and 1739; in exchange for peace, they allocated certain crown lands to each group of maroons who, in turn, promised to return runaway slaves to the plantations

⁷⁶ Edgar J. McManus, *Black Bondage in the North* (New York: Syracuse University Press, 1973), 127-128.

⁷⁷ Another scholar has argued that enslaved participants in an interracial conspiracy that took place in New York in 1741 swore “war oaths ‘by thunder and lightning’” and used a ritual specialist to prepare poisons for them to take in case they failed. Leslie Harris, *In the Shadow of Slavery: African Americans in New York City, 1626-1863* (Chicago : University of Chicago Press, 2003), 45. Similarly, Walter Rucker asserts that the oath sworn in this 1741 rebellion was similar to Akan rituals performed in other regions of the Americas, and that it involved drinking a “punch” made mostly of rum, and swearing to burn the city and kill all who resided there. Walter C. Rucker, *The River Flows On: Black Resistance, Culture, and Identity Formation in Early America* (Baton Rouge: Louisiana State University Press, 2006), 83-84.

and fight alongside the British against future rebellions. According to Leeward Maroon oral tradition, to seal their treaty with the British, representatives from both sides cut themselves, collected their blood in a calabash (gourd), mixed it with rum and drank it.⁷⁸

Beginning around this same time period, at least three slave rebellions occurred in the British Caribbean that allegedly commenced with religious oaths involving blood, dirt, and liquor. Based on the records that historians have examined to date, one of the earliest instances of such oath-taking was in Antigua in 1736.⁷⁹ Supposed conspirators testified that the enslaved insurgents planned a rebellion to begin on October 11th, the night that a ball was scheduled to take place to celebrate the anniversary of the coronation of Britain's King George II.⁸⁰ However, the ball was postponed until the end of the month and the plot was uncovered before the insurrection actually began.⁸¹ According to the testimony of tortured conspirators and participants who betrayed their fellow rebels, the insurgents had taken several oaths in preparation for the revolt.⁸² They promised to be faithful to one another, to stand by each other, to kill all whites, and to suffer death rather than reveal the plans they had discussed. They sealed these oaths by drinking a mixture composed of rum (or some other kind of liquor), grave dirt and, sometimes, chicken's

⁷⁸ Kenneth Bilby, "Swearing by the Past, Swearing to the Future: Sacred Oaths, Alliances, and Treaties among the Guianese and Jamaican Maroons," *Ethnohistory* 44, no. 4 (1997): 659; Richard Hart, *Slaves Who Abolished Slavery: Slaves in Rebellion* (Kingston, Jamaica: University of West Indies Press, 2002), 104.

⁷⁹ Actually, one of the earliest such oaths may have preceded an insurrection in Barbados in 1675. Kwasi Konadu is one of the few historians to indicate that a "sacred oath" was allegedly sworn before this rebellion. However, Konadu does not describe the alleged oath, so it is not clear that it falls into the category of sacred oaths discussed in this section. Kwasi Konadu, *The Akan Diaspora in the Americas* (New York: Oxford University Press, 2010), 131.

⁸⁰ Michael Craton, *Testing the Chains: Resistance to Slavery in the British West Indies* (Ithaca, New York: Cornell University Press, 1982), 121.

⁸¹ Mindie Lazarus-Black, *Legitimate Acts and Illegal Encounters: Law and Society in Antigua and Barbuda* (Washington D.C.: Smithsonian Institution Press, 1994), 42.

⁸² Craton, *Testing the Chains*, 121.

blood.⁸³ Similar oath-taking was described in St. Croix in 1759, as a part of another slave insurrection. When captured, participants in this rebellion reported that two members of their group had cut their fingers, and they mixed their blood with water and grave dirt. The participants drank the mixture, swearing not to reveal the planned rebellion.⁸⁴

Only one year later, in 1760, the most famous sacred oath in the history of the British Caribbean reportedly occurred in Jamaica. This oath was also sealed by imbibing a mixture of blood, rum and grave dirt, and was administered by obeah practitioners to participants in what became known as Tacky's rebellion, named for the leader of the insurgents. Colonial accounts also state that these obeah practitioners provided charms or rubbed a powder over the rebels' bodies to protect them from bullets.⁸⁵ The obeah practitioners, captured shortly after the start of the insurrection, were described as "chief in counseling and instigating the credulous herd" by Edward Long, a British colonial administrator, plantation owner, and author of a detailed three volume economic and social history of Jamaica, published in the 1770s.⁸⁶

It seems likely that Tacky's rebellion was particularly threatening, and thus sparked numerous discussions about the causes of the insurrection, because of its scale. The revolt began in April of 1760, and was not fully suppressed until over a year later in

⁸³ Craton, *Testing the Chains*, 122; *A Genuine Narrative of the Intended Conspiracy of the Negroes at Antigua* (1737; repr., New York: Arno Press, 1972), 12. Some accounts indicate that there were variations to the oath. Sometimes the person taking the oath placed his hand on a live chicken; on other occasions the individual making the oath chewed a malageta pepper. Whether these discrepancies arose from distinct methods of oath-taking on different occasions it was administered or just different reports from the alleged conspirators is unclear.

⁸⁴ Rucker, *The River Flows On*, 44.

⁸⁵ *Ibid.*, 45. Vincent Brown, *The Reaper's Garden: Death and Power in the World of Atlantic Slavery* (Cambridge, M.A.: Harvard University Press, 2008), 149. Craton, *Testing the Chains*, 131. William Burdett, *Life and Exploits of Mansong, commonly called Three-fingered Jack, The Terror of Jamaica in the years of 1780 & 1781: with a Particular Account of the Obi* (Somerset Town, Jamaica: A. Neil, 1800), 28-29.

⁸⁶ Edward Long, *The History of Jamaica* (London, T. Lowndes, 1774), 451.

October of 1761.⁸⁷ Historians have estimated that more than one thousand people may have been involved and by the end of the rebellion an estimated sixty whites died and hundreds of rebels were killed in battle, had committed suicide, or were executed.⁸⁸

Historian Vincent Brown has argued that before Tacky's rebellion references to African rituals illustrated that colonial officials felt that such practices were "a generally harmless and bizarre feature of slave life."⁸⁹ This argument seems well-founded because before Tacky's rebellion, Anglican missionaries in North America reportedly employed knowledge of these practices in requiring that enslaved persons swear oaths before conversion and British soldiers in the Caribbean participated in sacred oaths to solidify peace between themselves and the maroons. However, for over one hundred years after Tacky's rebellion, British travelers and residents in the Caribbean (particularly the planter class) claimed that this uprising changed colonial views of obeah practices and demonstrated the dangers of African ritual practices in inciting slave rebellions. They argued that obeah practitioners were charlatans who duped or coerced enslaved persons into participating in insurrections. For instance, in 1800, William Burdett wrote of the rebellion in his book entitled *Life and Exploits of Mansong, commonly called Three-fingered Jack, The Terror of Jamaica in the years of 1780 & 1781*. Burdett described it as "a very formidable insurrection," which "broke out in the parish of St. Mary, and spread through almost every other district in the island."⁹⁰ He stated that the "chief instigator" of the rebellion was a man from the Gold Coast who "had administered the fetish, or solemn

⁸⁷ Ibid., 129, 137-138.

⁸⁸ Ibid., 127, 138. Konadu, *The Akan Diaspora*, 155. Vincent Brown, "Spiritual Terror and Sacred Authority in Jamaican Slave Society," *Slavery and Abolition* 24, no.1 (2003): 37.

⁸⁹ Brown, "Spiritual Terror and Sacred Authority," 35.

⁹⁰ Burdett, *Life and Exploits of Mansong*, 23-24.

oath, to the conspirators, and furnished them with a magical preparation, which was to render them invulnerable.”⁹¹ Burdett argued that this rebellion “first opened the eyes of the public to the very dangerous tendency of the Obeah practices, and gave birth to the law which was then enacted for their suppression and punishment.”⁹² Similarly, in 1816, *The Colonial Journal*, published in London, stated that “The superstition of Obi was never gravely remarked upon in the British West Indies till the year 1760, when, after an insurrection in Jamaica, of the Coromantyn or Gold Coast Negroes, it was found that it had been made an instrument for promoting that disturbance.”⁹³ Like Burdett, the author of the article in the *Colonial Journal* remarked that the “chief instigator” of the insurrection was “an old Coromantyn Negro,” referring to Africans from the Gold Coast, and that this man had administered an oath to the insurgents and given them a “magical preparation” to make them invulnerable.⁹⁴ The author commented that because of this revolt, a law was enacted to suppress the practice of obeah.⁹⁵ Furthermore, in 1835, Richard Madden discussed the 1760 revolt, stating that many Africans had been “driven into rebellion by the terror of an obeah bag.”⁹⁶

That the earliest legislation against obeah in the British Caribbean was designed to address many elements of the perceived connection between obeah and slave insurrections is evidenced by the long title of the Act, which stated that it was meant to prohibit irregular slave assembly, possession of arms and ammunition, and travelling

⁹¹ Ibid.

⁹² Ibid.

⁹³ *The Colonial Journal, July to December, 1816*. vol. II (London: G. Davidson, 1816) 20.

⁹⁴ Ibid.

⁹⁵ Ibid.

⁹⁶ Richard Madden. *Twelvemonth's Residence in the West Indies during the Transition from Slavery to Apprenticeship*, vol. 2 (Philadelphia: Carey, Lead and Blanchard, 1835), 74.

from place to place without “tickets,” as well as the practice of obeah.⁹⁷ The language of the preamble to the obeah section of this Act provides further insight into the legislature’s intent. It stated that obeah men and women had “influence over the minds of their fellow slaves” because the enslaved population believed that obeah practitioners had “strange preternatural faculties.”⁹⁸ The drafters of this Act further declared that due to the influence of obeah practitioners “many and Great Dangers have arisen destructive of the Peace and Welfare of this Island.”⁹⁹ The law also indicated that it was necessary to prohibit obeah because through “communications with the Devil and other evil spirits” obeah practitioners convinced people that they could protect them from any misfortune that they might otherwise face.¹⁰⁰ The Act proscribed, among other things, the possession of grave dirt, rum, and blood, the three items that were believed to have been used in the oaths administered in the aforementioned rebellions. Although in the 1760 Act these items were simply listed among other materials thought to be used by obeah practitioners, in 1809 the law was amended to prohibit specifically the administration of unlawful oaths using blood, rum, grave dirt or other ingredients. The performance of such an oath was punishable with death or transportation (banishment) from the island.¹⁰¹

By the early nineteenth century, most regions of the British Caribbean had laws against obeah and the majority of these laws expressly stated that obeah was associated with rebellions. For instance, the preamble of Dominica’s 1788 law pertaining to obeah

⁹⁷ Jamaica, “Act 24 of 1760,” 52.

⁹⁸ Ibid.

⁹⁹ Ibid.

¹⁰⁰ Ibid., 55.

¹⁰¹ Jamaica, “An Act for the protection, subsisting, clothing, and for the better order, regulation, and government of Slaves; and for other purposes of 1809,” in House of Commons, *Miscellaneous Papers*. Feb. 1, 1816- July 2, 1816. vol. 19, p. 125.

stated that “it frequently happens that slaves assumed the art of witchcraft, or are what is commonly called obeah or doctor men, and under the pretence of a gift of supernatural powers do influence the minds of weak and credulous slaves, and frequently stimulate them to acts of mutiny or rebellion against their masters, renters, managers, and overseers...”¹⁰² Barbados’ 1806 Act mirrored the language of Jamaica’s 1760 Act, noting in the preamble that obeah practitioners had “deluded” others into believing they had the power to protect them from evil.¹⁰³ At this time, the body of the Act did not actually prohibit the use of obeah to provide talismans or other forms of protection.¹⁰⁴ Instead, the law focused on the use of obeah to cause the death of other enslaved persons. However, after a major rebellion in 1816, Barbados’ new Obeah Act made it unlawful for any person to “pretend any magical and supernatural charm or power, in order to promote the purposes of insurrection or rebellion of the Slaves within this island.”¹⁰⁵ It was common for pre-emancipation obeah laws to refer to the ability of obeah practitioners to “delude” and “influence” others, and to “stimulate” and “promote” rebellions, implying that otherwise such rebellions might not take place.¹⁰⁶

The first major planned insurrection in Jamaica in the nineteenth century used methods and ritual ingredients similar to those employed in earlier oaths, and colonial authorities also emphasized the supposed centrality of obeah in this uprising, as they had

¹⁰² Dominica, “An Act for the Encouragement, Protection, and better Government of Slaves of 1788,” in *Copies of Several Acts for the Regulation of Slaves, Passed in the West India Islands* (n.p., 1789), 24.

¹⁰³ Barbados, “An Act for the Punishment of such Slaves as shall be found practicing Obeah of 1806,” 4 Nov. 1806, PRO, CO 31/47.

¹⁰⁴ Ibid.

¹⁰⁵ Barbados, “An Act for the Better Prevention of the Practice of Obeah of 1818” in *State Papers, Session: 21 November 1826- 2 July 1827* (London: H.G. Clarke, 1827), 25:269.

¹⁰⁶ Dominica, “An Act for the Encouragement, Protection, and better Government of Slaves of 1788,” 24; Barbados, “An Act for the Better Prevention of the Practice of Obeah of 1818,” 269.

with every prior revolt since Tacky's rebellion. In 1824, a man referred to as "Obeah Jack" led an attempted insurrection that was thwarted by government authorities.¹⁰⁷ In a highly publicized trial, Jack and his co-conspirators were charged with various crimes, including rebellion, conspiracy, and imagining the death of white people. Jack was also charged with practicing obeah, possessing instruments of obeah, pretending to have supernatural powers, and administering unlawful oaths.¹⁰⁸ According to a witness, Jean Baptiste Corberand, who testified that he was present during the oath, Jack claimed that he was from the Gold Coast and that he was knowledgeable about various kinds of plants.¹⁰⁹ Corberand described a preliminary meeting, where the rebels planned to come together again to make the "Great Swear." At this preparatory meeting, Jack killed a fowl, boiled it in water without salt, and then rubbed the participants' faces with the water in which the fowl was boiled.¹¹⁰ Jack claimed that this would prevent white people from "seeing" them, presumably meaning that this ritual would protect the insurgents from detection as they made their plans.¹¹¹

Two days before Christmas in 1824, according to Corberand, over one hundred people met at the house of James Thompson.¹¹² While gathered there, Jack made a mixture of rum, gun powder, human blood (taken by making an incision on the arm of a rebel named Henry Oliver) and possibly also some dirt that a white man had stepped

¹⁰⁷ "Trial of Obeah Jack and Prince," *The Courier* (London), June 7, 1824.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

¹¹¹ Ibid.

¹¹² In his confession, Jack reported that it was fifty, not one hundred people that gathered. Ibid.

on.¹¹³ Everyone present received a small cup of this mixture to drink, with the sole exception of Jack, who did not partake because he was the one preparing it. Henry Oliver gave a cup to each person, struck the ground and asked them, one by one, if they would stand together in battle. They each replied “yes.”¹¹⁴ Jack told them that this oath bound them to secrecy and claimed that if anyone broke that confidentiality, the effects of the oath would kill that person in three days.¹¹⁵ Later, Jack took a wild sage bush and rubbed the faces of the participants with it.¹¹⁶ He told them that this bush would make them strong, and that in his country if a person used this bush, he could catch a bullet in his hand.¹¹⁷ Corberand described Jack as an integral part of the insurrection, noting that Jack was present at every meeting of the insurgents. He also claimed that Jack had a coffin, about one foot in length, which Jack planned to bury in the road on the day of the rebellion. Jack stated that the coffin contained white men’s hair and if white people passed the coffin, they would break their necks.¹¹⁸ Jack was put on trial and sentenced to death for his part in the rebellion and his “obeah” practices.¹¹⁹

¹¹³ Corberand’s own testimony only includes that mixture of rum, blood and gundpowder, used as “a solemn oath to be faithful to each other.” “Examination of J.B. Corberand,” in *Hamel, the Obeah Man*, ed. Candace Ward and Tim Watson (Toronto, Canada: Broadview Editions, 2010), 469. Another informer named Mack confirmed this oath mixture, but stated that it may have included either powder or grave dirt. Hart, *Slaves Who Abolished Slavery*, 236. This last ingredient was, according to Jack’s confession, provided by Corberand himself. “Trial of Obeah Jack and Prince,” *The Courier* (London), June 7, 1824.

¹¹⁴ “Trial of the Conspirators at Buff Bay,” *The Courier* (London), March 15, 1824.

¹¹⁵ “Trial of Obeah Jack and Prince,” *The Courier* (London), June 7, 1824.

¹¹⁶ Ibid. See also “Confession of Jack,” in *Hamel, the Obeah Man*, ed. Candace Ward and Tim Watson (Toronto, Canada: Broadview Editions, 2010), 471.

¹¹⁷ “Trial of Obeah Jack and Prince,” *The Courier* (London), June 7, 1824; Hart, *Slaves Who Abolished Slavery*, 234-235.

¹¹⁸ “Trial of Obeah Jack and Prince,” *The Courier* (London), June 7, 1824.

¹¹⁹ “Execution and Trial of Rebel Negroes,” *The Courier* (London), April 24, 1824; See also Ward and Watson, *Hamel the Obeah Man*, 460.

This case demonstrates that, at least according to colonial records, sacred oaths and ritual protections continued to be prevalent in slave rebellions in the British Caribbean at least until the mid-1820s. The details described at trial, particularly the use of blood and rum to seal the oath as well as the vows of fidelity and secrecy, are remarkably consistent with earlier descriptions of the planned rebellions in Antigua and St. Croix, Tacky's insurrection, and oaths between the British and the Jamaican maroon societies. Furthermore, the use of herbal protections to guard against bullets is substantially similar to rituals performed by the obeah practitioner in Tacky's rebellion.

The colonial response to the use of sacred oaths and other pre-war rituals in Obeah Jack's planned uprising is also consistent with their perception of the role of obeah in earlier revolts. Recall that colonial descriptions of the obeah practitioner in Tacky's rebellion referred to him as the "chief instigator," and Caribbean laws asserted that obeah practitioners had "deluded" others into participating in revolts. Similarly, after the planned insurrection of 1824, although all participants were charged with taking part in the rebellion, only Jack was accused of practicing obeah. The fact that the oath-takers were not prosecuted for practicing obeah indicates that authorities felt that Jack, as the administrator of the oath, was solely responsible for it. Thus, instead of viewing him as the facilitator of a pre-war ritual that all participants had agreed to take part in, colonial authorities indicted Jack as a leader of the rebellion and regarded him as the reason that the sacred oath, and probably the planning of the rebellion, took place.

Oaths continued to feature in every major Jamaican rebellion until at least the end of the nineteenth century, but beginning in the 1830s, colonial authorities ceased to emphasize their importance in motivating insurgents. In part, this may have been because

colonial authorities began to view oath-taking as less coercive and “superstitious,” since they increasingly incorporated elements of Christianity in the mid-to-late nineteenth century. However, it is much more likely that as Christian converts, particularly Native Baptists, played a progressively more central role in Jamaican uprisings, colonial authorities temporarily shifted their focus to them instead of obeah practitioners as the supposed agitators in these rebellions.¹²⁰ Furthermore, since government officials often avoided acknowledging the horrible conditions endured by enslaved persons by blaming discontent and insurrections on ritual practitioners and “superstitions,” the decreasing emphasis on obeah in the 1830s was closely connected to emancipation in 1834. This diminished concern about obeah generally and oaths specifically is evidenced by the fact that colonial officials no longer mentioned either in their correspondence about uprisings, even though scholars have documented the administration of oaths in preparation for these revolts. Furthermore, mid-nineteenth century revisions to obeah laws eliminated specific references to oaths and oath-taking materials, and reduced penalties for its practice.

Although oath-taking at the outset of Obeah Jack’s 1824 rebellion had followed the eighteenth century pattern, which was reportedly African, specifically drawing on Akan rites, the oaths administered in preparation for what proved to be the last major rebellion before the end of slavery began to incorporate elements of Christianity. This reflects the growing importance of missionary activities in the British Caribbean, which were sparse before the late eighteenth century. One of the earliest missionaries to arrive in Jamaica was George Liele, a formerly enslaved man from Virginia who formed the

¹²⁰ See *infra* pages 48-55.

first Baptist Church in Kingston, Jamaica in the 1780s.¹²¹ Liele's followers were primarily enslaved and free people of color with a few poor whites. Orthodox Baptist missionaries arrived in Jamaica in 1814, and by the time they did, Liele's congregation had divided into several independent sects, one of which was led by a man named George Lewis and became known as the Native Baptists. Liele and other more orthodox Baptists criticized the Native Baptists and referred to their beliefs and practices as "absurd," "superstitious," and "Christianized obeahs."¹²²

In addition to the Baptists, Methodist missionaries commenced a concerted effort to convert Africans in Jamaica around the turn of the nineteenth century. Both groups repeatedly faced impediments by the Jamaican legislature who passed laws specifically prohibiting "preaching of ill-disposed, illiterate, or ignorant enthusiasts" in 1802 (primarily to suppress the colored and black preachers), and generally banning preaching to slaves in 1807.¹²³ A central component of the official concern about these missionaries was that people of color were serving as leaders of the congregations and converts displayed an unacceptable degree of familiarity and equality between individuals of different races. Missionaries also incurred the wrath of plantation owners by stating that enslaved persons should observe Sunday as the Sabbath and not work.¹²⁴ Pressures from Britain forced the Jamaican legislature to allow missionaries to preach to slaves in 1816 but they continued to be wary of black preachers, and in the slave codes of 1823 and 1826 prohibited "ignorant, superstitious, or designing slaves" from giving sermons.¹²⁵

¹²¹ Frey and Wood, *Come Shouting to Zion*, 131.

¹²² *Ibid.*, 131-132.

¹²³ *Ibid.*, 136-137.

¹²⁴ *Ibid.*, 137-138.

¹²⁵ *Ibid.*, 139.

Although black preachers were common in both Methodist and Native Baptist ministries, the latter would become the central figures in uprisings from the 1830s to at least the 1860s. During the Christmas holiday in Jamaica in 1831, enslaved persons joined in a revolt organized by a man named Sam Sharpe, who was a preacher and leader in the Native Baptist Church.¹²⁶ In preparation for this rebellion, participants took several oaths, sworn by kissing a bible, not to work after Christmas until they achieved their freedom, and not to reveal the plans of the revolt.¹²⁷ The participants also swore that they would not speak against their brothers and sisters, and if they did so, they asked that they might burn in hell.¹²⁸

Colonial authorities did not stress the importance of sacred oaths in inciting the rebels in the 1831 uprising. This may have been because the leaders were Christian converts and the participants performed their sacred oath by swearing on a bible and purportedly threatened oath-breakers with an eternity in hell instead of claiming that they would suffer from the effects of a “curse.” It would have been difficult for colonial authorities to argue about the intimidating nature of these sacred rituals once Afro-Jamaicans began to use similar forms of oaths to what Europeans would administer in official proceedings. Since colonial officials would not have characterized their own beliefs as fraudulent, superstitious, or coercive, they focused not on the oath or religion itself but rather argued that Native Baptists misinterpreted or distorted Christian teachings and practices.

¹²⁶ Gad Heuman, “Slave Rebellion,” in *The Routledge History of Slavery*, ed. Gad Heuman and Trevor Graeme Burnard (New York: Routledge, 2011), 230.

¹²⁷ Ibid; Dianne Stewart, *Three Eyes for the Journey: African Dimensions of the Jamaican Religious Experience* (New York: Oxford University Press, 2005), 103; Hart, *Slaves Who Abolished Slavery*, 254.

¹²⁸ Stewart, *Three Eyes for the Journey*, 103.

Another reason that sacred oaths may not have been emphasized in the Sam Sharpe rebellion is that before this uprising the British attributed the cause of rebellions not just to a particular ritual practice but also to the supposedly coercive influence of a particular group of Africans- those from the Gold Coast. From Tacky's rebellion in 1760 to Obeah Jack's revolt in 1824, colonial officials emphasized that people from the Gold Coast administered sacred oaths and performed other rituals to protect insurgents. This allowed the British to argue that Africans from that region compelled others to participate in rebellions and that their influence, not the oppressive conditions of slavery, was the reason for insurrections. However, the leadership of the Native Baptists united enslaved people from many different ethnic backgrounds and therefore made it more difficult for the British to blame a particular group (and the "superstitious" rituals they performed) when the rebellions became increasingly widespread. Furthermore, the organizers of the Sam Sharpe rebellion were not only Christian but also Jamaican-born and this prevented plantation owners and colonial officials from attributing rebellions to African practices.

Although the changing manner in which sacred oaths were performed may have decreased colonial officials' concerns about them, the abolition of slavery also undoubtedly played an important role in shifting views of obeah and oaths. The rebellion of 1831 placed immense pressure on the British government to pass emancipation legislation, in part because of outrage among abolitionists and, eventually, the wider British public about the Jamaican colonists' cruel reaction to the rebellion. This short uprising was fueled by rumors that the British had abolished slavery but Jamaican plantation owners refused to comply. It lasted only ten days but spread quickly throughout the island and thousands of enslaved persons participated. Colonial authorities

swiftly and brutally suppressed the rebellion, which the organizers had intended to be a non-violent protest, and convicted then executed hundreds of participants.

Although the insurgents were not immediately successful in securing their freedom, the Sam Sharpe rebellion awakened fears that enslaved persons in Jamaica might overthrow their masters and the colonial authorities, and expel them from the island as blacks had done in Saint-Domingue in 1804. The British began to recognize that they could, as Eric Williams has described, institute emancipation “from above,” or face the inevitability that enslaved persons would achieve emancipation “from below.”¹²⁹ Furthermore, the violence with which the colonists responded to the insurgents, such as brief and inadequate trials and swift public executions, fueled abolitionist sentiments in England. Laws were soon passed to ameliorate the condition of enslaved persons in the British Empire, and emancipation was declared in 1834. Abolition of slavery was followed by a period of “apprenticeship” in which newly freed persons were forced to remain in the employ of their former masters in exchange for shelter, food, and medical care, but their work week was limited to forty and a half hours and they received a wage for any labor beyond that amount.¹³⁰ Only four years later, on August 1, 1838, Britain abolished apprenticeship (and transitioned to full emancipation), largely because plantation owners continued to abuse the formerly enslaved under this system.¹³¹ Since the 1831 insurrection was so closely followed by steps toward emancipation, colonial authorities had little incentive to attempt to explain this revolt the way that they had

¹²⁹ Eric Williams, *Capitalism and Slavery* (1944; repr., Chapel Hill: University of North Carolina Press, 1994), 208.

¹³⁰ O. Nigel Bolland, *The Politics of Labour in the British Caribbean: The Social Origins of Authoritarianism and Democracy in the Labour Movement* (Kingston: Ian Randle Publishers, 2001), 30.

¹³¹ Thomas Holt, *The Problem of Freedom: Race, Labor and Politics in Jamaica and Britain, 1832-1938* (Baltimore: Johns Hopkins University Press, 1992), 105.

before, by blaming obeah practitioners for manipulating insurgents with the administration of sacred oaths and suggesting that without African ritual practices such uprisings would not have occurred.

After the 1830s, and likely partially in response to the role of Native Baptists in the Sam Sharpe rebellion, policing of “obeah” practices among newly freed populations increasingly involved prosecutions of individuals who performed rituals that had Christian elements. In particular, so-called myalists became a focus of colonial authorities starting in the mid-nineteenth century. The first widespread application of the term “myalism,” referred to a procession that lasted for nearly a year from 1841 to 1842 and extended its influence over more than twenty plantations in the St. James region of the island.¹³² Myalists, who believed that widespread disease, famine and other hardships in Afro-Jamaican communities were caused by the prevalence of obeah or witchcraft, performed rituals to cleanse lands and people of these negative forces.¹³³ Monica Schuler, one of the foremost researchers on the myalism movement in Jamaica, argues that they were closely linked to Native Baptists, however notes that the former’s “notion of sin as sorcery, an offense not against God but against society, made it far more this-world oriented than the Baptist faith.”¹³⁴

As myalism gained numerous followers in the mid-nineteenth century, colonial authorities and orthodox missionaries increasingly discussed the movement as a distorted, Africanized form of Christian beliefs and practices that had to be suppressed. For instance, two missionaries from the United Brethren wrote in November of 1842 about

¹³² Schuler, “Myalism and the African Religious Tradition in Jamaica,” 71.

¹³³ Ibid.

¹³⁴ Ibid., 69.

their concerns regarding Myalism. Jacob Zorn stated “Witness the awful and blasphemous proceedings of the ‘Myal-men’ in St. James’s, and their frantic and obscene practices; and yet, because these proceedings are under the guise of religious inspiration, and accompanied by songs, in which the names of Christ, and the Holy Spirit,” even “intelligent blacks” will not fully condemn it.¹³⁵ Similarly, J.H. Buchner argued that myalism had been “revived in this and neighboring parishes, upon a large scale, intermixed with the grossest blasphemy. The belief of these people is, that they are called upon to cleanse the world from wickedness, to point out who is wicked or not, and to break the charms of Obea-ism.”¹³⁶ In 1863, another writer referred to Myalism as “a Baptist corruption of Christianity.”¹³⁷ He described how Myalists moved through the countryside and “declared that they were sent by God to purge and purify the world.”¹³⁸ These men and women proclaimed that certain estates were contaminated by the devil and by obeah, and they sometimes stormed into house and tried to dig up the evil that they believed had been placed there.¹³⁹

The first major uprising in Jamaica after emancipation, the Morant Bay rebellion in 1865, further solidified the dangers of Afro-Christian practices in the minds of colonial authorities. This uprising was fueled by decades of unrest stemming from disease, famine, problems with the justice system, denials of political rights, high taxation and unemployment in the mid-nineteenth century. The secretary of the Baptist Missionary

¹³⁵ Jacob Zorn, “Jamaica,” in *Periodical Accounts relating to the Missions of the Church of the United Brethren established among the Heathen*. vol. 16 (London: M’Dowall, 1841) 305.

¹³⁶ *Ibid*, 307.

¹³⁷ James Hedderwick, ed., *Hedderwick’s Miscellany of Instructive and Entertaining Literature*. vol. 2 (London: Miscellany Offices, 1863), 38.

¹³⁸ *Ibid*.

¹³⁹ *Ibid*.

Society, Edward Bean Underhill, wrote to Jamaican Governor Edward Eyre to express these grievances and request an examination of post-emancipation legislation in Jamaica.¹⁴⁰ Eyre copied this letter and sent it to other missionaries and colonial officials, soliciting their opinion about Underhill's allegations. When Baptist missionaries responded by sending him a report that confirmed Underhill's claims, Eyre wrote his own assessment of Jamaica asserting that the problems experienced by peasants stemmed from their own idleness, disorganization, and gambling. Native Baptists and other groups began to organize public meetings to discuss the grievances expressed in the Underhill letter and Eyre's response to them.¹⁴¹

This political movement grew into a full-blown uprising in October of 1865 after police tried to serve an arrest warrant on Native Baptist preacher Paul Bogle and several others for allegedly participating in a conflict that occurred a few days earlier when police attempted to arrest a black spectator who had interrupted local court proceedings.¹⁴² When the officers arrived, Bogle refused to comply with the warrant and hundreds of armed men overpowered and detained the police.¹⁴³ Bogle subsequently wrote a petition to Governor Eyre, explaining why he felt the actions of the police were unjust and he was compelled to resist arrest. The next day, when a band of protesters marched into Morant Bay, they were confronted by a volunteer militia and the situation turned violent. Supposedly fearing that the conflict would spread and cause an overthrow of the colonial government, Governor Edward Eyre sent troops who brutally suppressed

¹⁴⁰ Mimi Sheller, *Democracy After Slavery: Black Publics and Peasant Radicalism in Haiti and Jamaica* (Gainesville: University Press of Florida, 2000), 188-189.

¹⁴¹ *Ibid.*, 189-195.

¹⁴² Holt, *The Problem of Freedom*, 295-296.

¹⁴³ *Ibid.*, 296.

the rebellion, executing over four hundred people.¹⁴⁴ Eyre's swift and harsh response to the uprising would ultimately lead to the British Colonial Office deciding to dismiss him from his position and implement a policy of direct colonial rule in Jamaica.¹⁴⁵

As in the 1831 insurrection, historians have noted that the participants in the Morant Bay rebellion took a sacred oath by swearing on a bible.¹⁴⁶ The contents of that oath are unknown, as it was taken in secret and those who refused to swear it were prohibited from attending meetings about the rebellion. However, it was later reported that participants promised to take back lands they felt had been wrongfully seized from them and to kill the whites they encountered. According to the testimony of at least one man, after the oath was administered, the oath-takers were given a glass of rum and gunpowder to drink.¹⁴⁷ Once again, although scholars have documented the use of sacred oaths, colonial authorities did not emphasize them or generally comment on the centrality of "obeah" rituals as a cause of the rebellion. Instead, they focused on the Native Baptists as the principal instigators and the supposed unwillingness of blacks to work enough to earn the wages necessary to support themselves as the underlying cause. This lack of emphasis on sacred oaths in the Sam Sharpe and Morant Bay rebellions demonstrates that in the years immediately prior to emancipation and after the abolition of slavery, colonial

¹⁴⁴ Ibid., 302.

¹⁴⁵ Ibid., 302-303.

¹⁴⁶ Mary Turner, *From Chattel Slaves to Wage Slaves: The Dynamics of Labor Bargaining in the Americas* (Indiana University Press, 1995), 272. William Francis Finlason, *The History of the Jamaica Case: Being an Account, Founded Upon Official Documents, of the Rebellion of the Negroes in Jamaica* (London: Chapman & Hall, Piccadilly, 1869), 68.

¹⁴⁷ Finlason, *The History of the Jamaica Case*, 130. Gad Heuman, *The Killing Time: The Morant Bay Rebellion in Jamaica* (Knoxville: The University of Tennessee Press, 1994), 5-6. Reports of this oath came from police officers who were taken hostage by the rebels while they were attempting to serve an arrest warrant on Paul Bogle. The officers witnessed the insurgents taking the oath but said that they did not understand what was said because Bogle spoke to them in another language. One of the officers also reported that the rebels made him take an oath of loyalty to the rebellion wherein he had to kiss a bible and swear that he would "cleave from the whites and cleave to the blacks."

authorities no longer argued that African “superstitions” were the driving force in Jamaican uprisings.

In addition to the absence of colonial documentation blaming revolts on obeah practitioners starting in the 1830s, there also appears to have been a direct correlation between emancipation and the substantial changes to obeah laws implemented around this period. Legislators began with the complete revision of Jamaican obeah legislation in 1856 which eliminated specific references to administering unlawful oaths using human blood, grave dirt and rum.¹⁴⁸ Furthermore, obeah legislation passed in the mid-nineteenth century and later no longer included lengthy preambles emphasizing the use of obeah to promote rebellion nor referred to obeah as a “dangerous” and “destructive” force. Instead, these laws only included general references to the use of obeah to “deceive or impose” on any individual.¹⁴⁹ Legislators also dramatically reduced penalties for the practice of obeah. Whereas before emancipation violations of obeah laws could be punished with transportation from the island for life or execution, in 1856 this was lessened to a maximum of three months imprisonment and seventy-eight lashes.¹⁵⁰ Penalties for violations of obeah laws fluctuated throughout the late nineteenth century but never exceeded a few months’ imprisonment and corporal punishment. The most recent obeah

¹⁴⁸ Jamaica, “An Act for the More Effectual Punishment of Persons Convicted of Dealing in and Practising Obeah and Myalism of 1856,” 512-513.

¹⁴⁹ Ibid., 512; British Guiana, “Ordinance 1 of 1855,” in *The Magisterial Law of British Guiana*, ed. Alfred John Pound (London: Hadden & Co., 1877), 476.

¹⁵⁰ However, this was still a very severe penalty, especially when compared with England’s own Witchcraft Act of 1735 and Vagrancy Act of 1824, neither of which prescribed corporal punishment for individuals who “pretended” to have supernatural powers.

law, passed in 1898, increased the potential prison term to twelve months, but reduced the number of lashes to eighteen.¹⁵¹

The mid-nineteenth century changes to obeah statutes and the declining colonial references to sacred oaths represent a sharp contrast to eighteenth and early nineteenth century legislation, which declared that obeah practitioners “deluded” others into participating in slave uprisings. This marked shift in the last few years before emancipation suggests that Jamaican authorities no longer needed these rituals to explain rebellions once they admitted the inevitable end of the institution of slavery. Furthermore, after sacred oaths began to incorporate more Christian elements and Native Baptists began to play a greater role in mid-nineteenth century uprisings, these upheavals could not be blamed on the coercive influence of African “superstitions” from the Gold Coast. However, as concerns about the use of obeah in rebellions declined, the prohibition and prosecution of other aspects of Afro-Jamaican ritual practices emerged. Beginning in the mid-to-late nineteenth century, Caribbean officials would evolve their interpretation of what actions violated obeah legislation and craft revised laws to target unorthodox “myalist” healing, fortunetelling, as well as rituals related to wealth and employment.

Sacred Oaths and Colonial Law in British Africa

As early as the eighteenth century and well into the twentieth century, British officials, residents and travelers repeatedly documented the use of sacred oaths in West and East Africa, as well as other forms of ritual preparation and protection for warfare in Southern Africa. In fact, in the eighteenth and early nineteenth centuries, colonial

¹⁵¹ Jamaica, “The Obeah Law of 1898,” in *The Laws of Jamaica: Passed in a Session Which Began on the 15th Day of March, and Adjourned Sine Die on the 29th Day of August* (Kingston: Government Printing Office, 1898), 2.

authorities in the British Caribbean asserted that obeah practices there were derived from West African rituals, particularly those in the Gold Coast. However, while pre-emancipation obeah laws in the Caribbean emphasized the centrality of African rituals in inciting uprisings and banned practices that authorities believed had been used in slave rebellions, British authorities in Africa responded differently to the administration of sacred oaths or other pre-war rituals. For most of the period of British colonial rule in Africa, they did not prohibit the administration of sacred oaths. Even after “unlawful oaths” were proscribed in the mid-twentieth century, they were not prohibited as a form of “pretended witchcraft,” but rather were proscribed in laws related to “seditious activities.”

There were a variety of factors that may have led to these distinctions in colonial laws related to sacred oaths and other rituals used in preparation for war; however, three stand out among them. First, colonial officials might have changed their views over time about the dangers of African ritual practices. Second, policies of indirect rule in Africa may have made it difficult to ban oaths without undermining indigenous political processes. Finally, early warfare in resistance to colonization in Africa might not have been viewed in the same way as insurrections against the established colonial authorities in the Caribbean.

Scholars have argued that sacred oaths in the Caribbean were based on West African ritual practices for several different reasons.¹⁵² One piece of evidence that supports this argument is that many Caribbean officials and plantation owners asserted

¹⁵² Frederick Smith, “Alcohol, Slavery, and African Cultural Continuity in the British Caribbean,” in *Drinking: Anthropological Approaches*, ed. Igor de Garine and Valerie de Garine (New York & Oxford: Berghahn Books, 2001), 213-217; David Gaspar, *Bondsmen and Rebels: A Study of Master-Slave Relations in Antigua* (Durham, N.C.: Duke University Press, 1985), 245; Rucker, *The River Flows On*, 46; Konadu, *The Akan Diaspora in the Americas*, 135-136.

that leaders of the rebellions were “Coromantyn,” or that they originated from the Gold Coast.¹⁵³ Presumably, if the leaders of the insurrections were from this region, they would have relied on ritual processes from there as well. Although colonial assessments of African ethnic origins were often flawed for many reasons, historians have recently made similar claims about the Gold Coast origins of rebel leaders in the British Caribbean, noting that the principal organizers appear to have been Akan.¹⁵⁴

Other scholars such as Frederick Smith, Walter Rucker, and David Gaspar have attempted to understand the origins and the ritual significance of Caribbean oaths by comparing them to known religious practices performed in various African societies. Some have asserted that the materials used in the oaths— blood, rum and grave dirt— were important in rituals performed in West Africa.¹⁵⁵ Others have looked at the ritual

¹⁵³ For example see Burdett, *Life and Exploits of Mansong*, 23-24; Richard Madden. *Twelvemonth's Residence*, 74.

¹⁵⁴ Konadu, *The Akan Diaspora in the Americas*, 122-155.

¹⁵⁵ Frederick Smith argues that in West Africa alcohol was associated with the spirit world and was utilized in religious rituals. Specifically, among the Akan, alcohol was used in birth ceremonies, because the child was thought to have just arrived from the spirit world, marriage ceremonies which required approval of the spirits, and funeral ceremonies during which the deceased would be returned to the spirit world. He argues that alcohol was also employed among the Igbo as a connection to the spirit world, and is thus a component of oath drinks that Igbo warriors imbibed to signify allegiance to one another before going into battle. Frederick Smith, “Alcohol, Slavery, and African Cultural Continuity in the British Caribbean,” 213-217. Historians Walter Rucker and David Gaspar have both explained that the use of grave dirt in oaths was a method of invoking the ancestors and making a pact with them. Gaspar, *Bondsmen and Rebels*, 245; Rucker, *The River Flows On*, 46. However I have never seen any accounts of oaths in Africa that claim that grave dirt was used in this way. In at least two societies, the Kingdom of Benin in West Africa in the eighteenth century and Gusii community in south-western Kenya in the twentieth century, grave dirt was consumed in a ritual oath but it was not an oath of fidelity or an oath preceding warfare. In these regions, an individual accused of murdering someone, usually with the use of witchcraft or poisons, could be forced to undergo a type of ordeal where he or she drinks a mixture of water and dirt from the victim's grave and then swears his or her innocence. Richard Price, *Alabi's World* (Baltimore: The Johns Hopkins University Press, 1990), 374; Robert A. LeVine, “Witchcraft and Sorcery in A Gusii Community,” in *Witchcraft and Sorcery in East Africa*, ed. John Middleton and E.H. Winter (London: Routledge & Kegan Paul Ltd., 1963), 231. Rucker argues that the use of blood demonstrated the connection between the participants, in a kind of brotherhood. Rucker, *The River Flows On*, 46. Percy Talbot has offered the same interpretation of the *mbiam* oath among the Ibibio in Southern Nigeria, which was administered by drinking blood drawn from each person taking the oath. Talbot explains that this oath creates the strongest bond known among the Ibibio because “once a drop of the blood of another man has been imbibed, it is thought that the drinker's own death would follow any attempt to harm him from whose veins the blood was drawn.” Percy Amaury

function of oaths in West African societies. These scholars have generally argued that the oaths used in slave rebellions resembled those employed in ordination ceremonies for Akan chiefs, in particular a form known as *ntam*.¹⁵⁶ *Ntam* were not only used in coronation ceremonies, but were also spoken oaths in which an individual mentioned a significant tragedy from the past with the idea that if the person to whom the oath or swear was directed did not keep his or her promise that same form of misfortune would fall upon him or her.¹⁵⁷

A few scholars, such as David Gaspar and Kenneth Bilby, have argued that obeah oaths were based on a different form of Akan oath-taking known as *nsedie*.¹⁵⁸ These oaths are “a religious oath, invocative in the sense that the speaker calls down the wrath of a supernatural being to punish the speaker himself or herself if what is asserted is perjury.”¹⁵⁹ Presumably, this is what a clerk for the Gold Coast government meant when

Talbot, *Life in Southern Nigeria: The Magic, Beliefs, and Customs of the Ibibio Tribe* (London: Frank Cass & Co., 1967), 46.

¹⁵⁶ Rucker, *The River Flows On*, 45-46; Konadu, *The Akan Diaspora in the Americas*, 135-136- specifically arguing that the rituals preceding the St. Croix revolt of 1759 strongly resembled enstoolment ceremonies of the Akan, including the *ntam* oath.

¹⁵⁷ Based on scholarly descriptions, it seems unlikely that *ntam* oaths were the precursors to obeah oaths. Scholars who write about *ntam* oaths in West Africa have argued that it is misleading to even categorize *ntam* as oaths; it would be more appropriate to refer to them as a “conditional curse” or “mentioning a taboo.” Unlike supposed obeah oaths, the *ntam* oaths were not religious oaths; they did not call upon the wrath of a deity if the oath was broken and were not required to be administered by a religious official. Although *ntam* oaths were used as oaths of allegiance or oaths to prepare for war, the difference between the rituals in administering these oaths is quite substantial. For more information about *ntam* oath see N. Matson, “The Supreme Court and the Customary Judicial Process in the Gold Coast,” *The International and Comparative Law Quarterly* 2, no. 1 (1953): 50; A. Quamie-Kyiamah, “The Customary Oath in the Gold Coast,” *African Affairs* 50, no. 199 (1951): 139; R.S. Rattray, *Religion and Art in Ashanti* (1927; repr. Oxford: Clarendon Press, 1969), 205; Kofi Agyekum, “Ntam 'Reminiscential Oath' Taboo in Akan,” *Language in Society* 33, no. 3 (2004): 321; Pashington Obeng, “Re-Membering Through Oath: Installation of African Kings and Queens,” *Journal of Black Studies*, 28, no. 3 (1998): 345.

¹⁵⁸ David Gaspar, *Bondsmen and Rebels*, 322 n35; Kenneth Bilby, “Swearing by the Past, Swearing to the Future,” 249-250.

¹⁵⁹ Agyekum, “Ntam 'Reminiscential Oath' Taboo in Akan,” 318. In 1824, Joseph Dubuis described such an oath in his book *Journal of a Residence in Ashantee*. He said that an oath-draught composed of “consecrated water impregnated with sacred vegetable infusions,” was administered to both his linguists

he said in 1951 that there was a customary oath known as the “fetish oath for expurgation that was taken by ‘drinking a fetish’ in front of witnesses to exonerate the swearer from an accusation.”¹⁶⁰ These were likely referred to as “fetish oaths” by colonial authorities because they were reportedly administered by anti-witchcraft societies to accused criminals and witches, and these organizations were referred to as “jujus” and “fetishes” in British colonial laws.¹⁶¹

Indeed, sacred oaths were described in numerous European accounts of societies throughout West Africa from the early eighteenth century to the twentieth century. In particular, oaths affirmed by imbibing or ingesting mixtures have been reported in several regions that were colonized by Britain including Sierra Leone, the Gold Coast (Ghana), and Nigeria.¹⁶² These oaths and other religious rituals were also recorded as preparations for warfare and rebellions in the nineteenth century in Britain’s West African colonies. For example, an 1829 issue of *Blackwood’s Edinburgh Magazine* published an account of recent battles between the British and the Asante near the Cape Coast Castle in the Gold Coast. The author of this account noted that the Asante had attacked the Cape Coast Castle in 1824 and then retreated because their forces were decimated by smallpox. Then, in December of 1825 the Asante sent threats that they were going to attack again. The

and the king’s linguists to require them to truthfully interpret what was said between the parties. Joseph Dubuis, *Journal of a Residence in Ashantee* (London: Henry Colburn, 1824), 211.

¹⁶⁰ Quamie-Kyamah, “The Customary Oath in the Gold Coast,” 141.

¹⁶¹ For example, see Ghana, “Chapter 77: Native Customs,” in *The Laws of the Gold Coast*, ed. Leslie Ernest Vivian M’Carthy (Accra, Ghana: The Government Printer, 1937), 3:366-369, outlawing several “customs” and “fetishes.”

¹⁶² For example, in Sierra Leone, the Mendi people placed a red pepper or a kola nut on a sacred stone known as *kaikumba*, and then swore an oath while addressing the sacred stone, and ingested the pepper or kola nut. The Mendi believed that this oath would cause their stomach to swell and burst if they broke their oath. H. Osman Newland, *Sierra Leone; its people, products, and secret societies* (1916; repr. New York: Negro Universities Press, 1969), 173; Similarly, the *mbiam* oath among the *Ibibio* peoples of Southern Nigeria was sworn by consuming a mixture palm wine and the blood of each of the oath-takers. Talbot, *Life in Southern Nigeria*, 46.

people who were living near the Castle had allied themselves with the British, who provided them with weapons and ammunition. The author complained that these allies, whom he described as “tribes of barbarians,” organized their forces, practiced fighting skirmishes, performed “war dances,” and made a “sacred oath and sacrifice,” but ultimately refused to fight.¹⁶³ The author made no attempt to explain the nature of this “sacred oath,” except to refer to it as a “solemn fetichshe.”¹⁶⁴ Furthermore, in his study of the beliefs and customs of the Ibibio of Southern Nigeria, Percy Talbot asserted that a sacred oath known as *mbiam* was “often administered to a band of warriors before setting forth for battle in order to guard against treason in their ranks.”¹⁶⁵ Talbot also cited an instance where the *mbiam* was used in the late nineteenth century to solidify a peace agreement between the District Commission of Eket (in Southern Nigeria) and some of the principal chiefs of the region.¹⁶⁶ Other sources document that a “blood oath” was administered among a group of enslaved persons who engaged in an uprising in the Calabar region of Southern Nigeria in the mid-nineteenth century. This group rebelled against the rulers of the Ekpe society and successfully lobbied for an end to the human sacrifices that were typically performed upon the death of a community leader.¹⁶⁷

Despite the apparent West African roots of obeah oaths and extensive British documentation of the importance of ritual specialists in preparations for battle in many African societies, sacred oaths and other rituals used in warfare and rebellion were not

¹⁶³ M. “The British Settlements in Western Africa,” *Blackwood’s Edinburgh Magazine* 26 (1829): 341.

¹⁶⁴ Ibid.

¹⁶⁵ Talbot, *Life in Southern Nigeria*, 244.

¹⁶⁶ Ibid., 261.

¹⁶⁷ E.J Alagoa, “The Niger Delta and the Cameroon Region,” in *Africa in the Nineteenth Century Until the 1880s*, ed. J.F. Ade Ajayi (Paris: United Nations Educational, Scientific, and Cultural Organization, 1989), 740. This may have also been an *mbiam* oath but the oath itself was not described, so it is difficult to determine what type of oath was used.

proscribed in the witchcraft laws in British Africa. When the British established a colony in the Gold Coast in the late nineteenth and early twentieth century, the area that they had so frequently associated with the much-feared sacred oaths in the pre-emancipation Caribbean, the only provisions that prohibited any purported practice of supernatural power was a law that banned making “fetishes” or “fetish charms” to protect criminals.¹⁶⁸ In fact, none of the witchcraft statutes in British Africa, which were first passed in the late nineteenth century, included any language about the use of oaths or charms in acts of rebellion. Natal’s 1891 Ordinance regarding witchcraft made it a general offense to use spells or charms, and a specific offense to advise someone how to bewitch or injure a person or property.¹⁶⁹ Similar to Natal’s statute, Kenya’s 1925 Witchcraft Ordinance stated that a person “who pretends to exercise any kind of supernatural power, witchcraft, sorcery or enchantment calculated to cause such fear, annoyance or injury” violated this law.¹⁷⁰ The Ordinance likewise prohibited the possession of charms designed to cause fear, annoyance or injury.¹⁷¹ Unlike their eighteenth and early nineteenth century Caribbean counterparts, these laws contained no provisions regarding the use of charms for protection, or the use of oaths or supernatural powers for supporting or inciting insurrections.

Part of the reason that the British did not proscribe sacred oaths in Africa before the mid-twentieth century was, as the previous accounts indicate, there was a

¹⁶⁸ Ghana, “Ordinance 12 of 1892,” in *Ordinances of the Settlements on the Gold Coast and of the Gold Coast Colony in force on April 7, 1887*, ed. W. Brandford Griffith (London: Waterlow & Sons Limited, 1887), 1:722-723.

¹⁶⁹ South Africa, Natal, “Code of Natal Native Law, No. 19 of 1891,” 35.

¹⁷⁰ Kenya, “The Witchcraft Ordinance of 1925,” in *The Laws of Kenya in force on the 21st Day of September, 1948*, ed. Donald Kingdon (Nairobi, Kenya: Government Printer), 1:287.

¹⁷¹ Ibid.

fundamental distinction between the colonial description of how sacred oaths were allegedly used in the Caribbean and Africa in the eighteenth and nineteenth century. In the Caribbean, sacred oaths were employed in insurrections against slavery and an already established colonial regime. As I discussed in the first section of this chapter, colonial officials in the Caribbean blamed oaths for inciting insurrections in order to avoid acknowledging that the brutality of slavery had motivated these uprisings. In Africa, on the other hand, sacred oaths and other pre-war rituals were not often documented in warfare against the British. Instead, they were observed among British allies, in rebellions against African slave owners, or in ceremonies to solidify peace. Even if oaths were recorded among groups fighting against the British, these societies were typically living in regions beyond the borders of the colony and thus were outside the reaches of colonial legislation.

Laws in Britain's Gold Coast colony provide further insight into one reason that the British might have decided not to proscribe sacred oaths in the earliest decades of their colonization of Africa. The Gold Coast was the first region of British Africa to mention oaths in their legislation, and these laws allowed chiefs to administer oaths, so long as the penalty for violating them was only a moderate fine. The use of *ntam* oaths, which scholars such as Walter Rucker and Kwasi Konadu have argued were the basis for sacred oaths in the Caribbean, was expressly allowed by the Native Courts Procedure Rules in the Gold Coast.¹⁷² Recall that the *ntam* was a sort of curse or swear, whereby one person mentioned a past calamity, asking that a similar misfortune befall another person if they did not follow the instructions of the swearer. The Native Courts Procedure

¹⁷² Matson, "The Supreme Court and the Customary Judicial Process in the Gold Coast," 51.

Rules established a process for issuing and responding to these oaths. For instance, one section stated that an individual who had a *ntam* sworn against her or him could respond by swearing a similar oath. If two individuals exchanged oaths, they were required to report it to the Native Court, which would have jurisdiction over their dispute.¹⁷³

According to Robert Sutherland Rattray, an anthropologist employed by the colonial government in the Gold Coast in the 1920s, the British regulated *ntam* to eliminate traditional methods of punishing people involved in these oaths, which could be a heavy fine or even execution.¹⁷⁴

It seems likely that part of the reason that colonial law allowed for the continued administration of *ntam* oaths is that they were used in indigenous legal proceedings, and the British did not wish to completely destabilize African political structures. Britain's colonization of Africa was fundamentally different from that of the Caribbean because indigenous rulers were incorporated into the colonial regime, tasked with using their authority to keep order and carry out colonial objectives. This system, which scholars refer to as "indirect rule," often included maintaining a large portion of existing legal and political structures. Thus, one could argue that where the administration of sacred oaths was a central component of the indigenous political rituals, such as the installation of a new chief, these were not prohibited because to do so would undermine the African rulers and therefore prevent them from effectively supporting the colonial regime. However, the Native Courts Procedure Rules placed limitations on the use of the *ntam* which would ensure that the chiefs' performance of these rituals did not allow them to garner too much authority or control so that they would not pose a threat to the colonial authorities.

¹⁷³ Ibid.

¹⁷⁴ Rattray, *Religion and Art in Ashanti*, 208-210.

Although colonial law in the Gold Coast permitted the administration of *ntam* oaths, which were an important component of indigenous political systems, it placed limitations on the use of other oaths. For instance, by end of the nineteenth century, statutes in the Gold Coast forbade using oaths to force someone to do something unlawful and made anyone who administered such an oath to engage in illicit activity complicit with the crimes of the oath-taker.¹⁷⁵ Although one might assume that these provisions were designed to suppress the use of oaths in uprisings, there is no evidence to support this argument.

More significantly, by the mid-twentieth century, Gold Coast law prohibited the administration of so-called “fetish oaths,” presumably the *nsedie* discussed earlier and similar oaths.¹⁷⁶ Although “fetish oaths” resembled Caribbean oaths as they also involved ingesting a mixture, evidence suggests that these were banned because they were used by anti-witchcraft societies, not because of colonial concerns that they might be employed in rebellions. From at least the late nineteenth century to the mid-twentieth century, numerous anti-witchcraft movements became popular in the Gold Coast such as the Sakrabundi, the Aberewa, and the Atinga. Many of these societies administered an oath-draught to their members at the time of their initiation, which the leaders claimed would cleanse an individual of past crimes and automatically cause sickness if the initiate violated the rules of the community but did not confess his or her crimes and obtain the appropriate counter-medicine.¹⁷⁷ Many of these anti-witchcraft societies, often referred to

¹⁷⁵ Ghana, “Native Jurisdiction Ordinance of 1883,” in *Ordinances of the Settlements on the Gold Coast and of the Gold Coast Colony in force on April 7, 1887*, ed. W. Brandford Griffith (London: Waterlow & Sons Limited, 1887), 562-563.

¹⁷⁶ A. Quamie-Kyiamah, “The Customary Oath in the Gold Coast,” 146.

¹⁷⁷ Natasha Gray, “The Legal History of Witchcraft in Colonial Ghana: Akyem Abuakwa, 1913-1943 (Ph.D. diss., Columbia University, 2000), 9, 59; Gray, “Independent Spirits: The Politics of Policing Anti-

by British authorities as “jujus,” were prohibited in British Africa because they were viewed by colonial authorities as coercive organizations that preyed on superstitious people. British officials also opposed them because they purportedly gained large followings and made substantial profit by testing suspected witches and charging fees for cleansing people of witchcraft.¹⁷⁸ This is likely the reason that in 1951, A. Quamie-Kyamah, a clerk from the Gold Coast administration explained in an article describing customary oaths in the colony that fetish oaths “have been declared unlawful in the interests of the community; because fetish agents have been known to defraud other people by falsely pretending that they are capable of invoking their fetishes to do good or evil: they frequently cajole heavy sums from many ignorant people.”¹⁷⁹

Other than the laws regarding *ntam* and “fetish oaths” in the Gold Coast, it appears that none of Britain’s other colonies in Africa implemented any legislation pertaining to oaths until the mid-twentieth century except to indicate the procedure for oaths of office for government officials. Furthermore, unlike obeah statutes in the Caribbean, witchcraft laws in British Africa did not describe how people had been “deluded” into participating in wars against the British or include specific prohibitions of rituals used in warfare (such as protective amulets). Many witchcraft statutes did not even include general prohibitions of the “pretended” practice of witchcraft; rather, they specifically prohibited rituals intended to cause injury or those undertaken for reward or

Witchcraft Movements in Colonial Ghana, 1908-1927,” 141-144; William C. Olsen, “‘Children for Death’: Money, Wealth, and Witchcraft Suspicion in Colonial Asante,” *Cahiers d’Études Africaines* 42 (2002), 532; In Kenya, certain types of oaths were believed to be able to harm not only the oath-taker but also that person’s family members. Luongo, *Witchcraft and Colonial Rule in Kenya*, 68.¹⁷⁸ T. C. McCaskie, “Anti-Witchcraft Cults in Asante: An Essay in the Social History of an African People,” *History in Africa*, 8 (1981):142, 144.

¹⁷⁸ T. C. McCaskie, “Anti-Witchcraft Cults in Asante: An Essay in the Social History of an African People,” *History in Africa*, 8 (1981):142, 144.

¹⁷⁹ A. Quamie-Kyamah, “The Customary Oath in the Gold Coast,” 146.

“gain.” Since sacred oaths and rituals of warfare were reported throughout most British colonies in Africa, but were typically neither expressly permitted nor prohibited by colonial law, there were clearly other reasons why these practices were viewed differently there than in the Caribbean.

An examination of accounts of the relationship between chiefs, “witchdoctors,” and rebellions in South Africa provides further insight into the complex nature of colonial policies about pre-war ritual practices in British Africa. Colonial laws in South Africa never prohibited or even mentioned the use of so-called “pretended witchcraft” in uprisings and warfare. However, several rebellions against British colonization were reportedly fueled by the influence of prophets or priests who prepared warriors for battle by performing rituals to protect them from injury and making sacrifices to ancestors or deities to ensure their success. One of the most significant of these wars took place from 1850-1853, when the British engaged in a lengthy and violent battle against the Xhosa, whose lands and cattle Europeans usurped as they began to colonize the region in the late seventeenth century. In part, this war was sparked by British attempts to arrest a Xhosa prophet named Mlanjeni and as the rebellion began, Mlanjeni reportedly performed rituals to prepare the Xhosa for battle with the British forces.¹⁸⁰

Part of the reason that the British did not prohibit pre-war rituals in South Africa may have been because they believed that once the chiefs were subdued, “witchdoctors” like Mlanjeni would no longer pose a threat to the colonial regime. Unlike the British Caribbean, where obeah practitioners were usually described as central figures in slave rebellions, colonial officials did not initially regard the “witchdoctor” as an independent

¹⁸⁰ Robert Ross, *A Concise History of South Africa* (Cambridge: Cambridge University Press, 2008), 54.

source of power and authority who would instigate an uprising without the order of the chiefs. This is demonstrated by correspondence between colonial officials at the time the 1850-1853 rebellion occurred, which described Mlanjeni as a mere tool of the Xhosa chiefs.¹⁸¹

However, since colonial authorities in South Africa initially blamed the chiefs for inciting uprisings, it is surprising that they did not enact legislation prohibiting the African rulers from hiring “witchdoctors” to perform these pre-war rituals. This is particularly striking in the late nineteenth century, when British officials consistently remarked about the centrality of so-called “witchdoctors” in preparations for uprisings and war. For example, in 1881, William Rafferty Donald Fynn, a magistrate, clerk and interpreter in South Africa, reported to the Native Law and Customs Commission that a “witchdoctor” was hired by one of the Xhosa chiefs prior to the last war, “to strengthen his army before it started.”¹⁸² After his uncle and son died in battle, the chief sent for the “witchdoctor” again and executed him because he “attributed their bad luck to the doctor’s medicine not being strong enough.”¹⁸³ Around that same time period, Henry F. Norbury, a fleet-surgeon in the naval brigade in South Africa, described extensive rituals among the Zulu to prepare for war. He said that before battle all soldiers were “doctored,” they were fed pieces of the heart of a bullock, “sprinkled with medicine” to give them courage.¹⁸⁴ Then, according to Norbury, a “witchdoctor” provided each soldier with a charm to tie around his neck, designed to “give them great courage, to render them

¹⁸¹ See Chapter 3.

¹⁸² Jacob Dirk Barry et al., *Report and Proceedings with Appendices of the Government Commission on Native Laws and Customs* (Cape Town: C. Struik Ltd. 1883), 284.

¹⁸³ Ibid.

¹⁸⁴ Henry F. Norbury, *The Naval Brigade in South Africa During the Years 1877-78-79* (London: Spamson Low, Marston, Searle, & Rivington, 1880), 25.

invulnerable, and even to divert the course of a bullet.”¹⁸⁵ Like Fynn, Norbury also reported that if the warriors were unsuccessful in battle, they blamed the “witchdoctor,” who often fled the region to avoid being beaten.¹⁸⁶ Since these comments about the significance of “witchdoctors” providing pre-war rituals occurred during the same period that the first witchcraft statutes were passed in South Africa, the late 1870s and 1880s, it is perplexing that colonial legislators did not proscribe the “pretended” use of witchcraft to protect soldiers. It is also striking that, in the Caribbean, sacred oaths were described as coercive practices that forced credulous people to participate in uprisings; however, in South Africa, colonists did not assert that “witchdoctors” had duped or forced insurgents to rebel.

One might argue that there was an apparent chronological evolution to colonial concerns about purported supernatural powers that may have affected how officials described pre-war spiritual practices and determined what rituals were proscribed in early witchcraft legislation. By the late nineteenth century and early twentieth century, when the British had established colonies in Africa and were passing their first penal codes in these regions, the prohibition of sacred oaths had been removed from obeah statutes and the emphasis of those laws had shifted to prosecuting fortunetellers/diviners and individuals who performed rituals to help people find employment, luck and love. In the late nineteenth century and early twentieth century, witchcraft statutes and other laws prohibiting the purported use of supernatural powers in British African colonies were very similar to obeah laws passed during the same period. If one merely examines these statutes, they suggest that there may have been a common trans-Atlantic policy about

¹⁸⁵ Ibid.

¹⁸⁶ Ibid., 26.

supernatural rituals at this time in the British Caribbean and British Africa. Therefore, one would assume that sacred oaths may not have been proscribed in witchcraft statutes because colonial officials throughout the British Empire had shifted their focus away from the use of religious practices in rebellions and warfare. However, even at this point when certain statutory language about witchcraft, obeah and vagrancy in England, the Caribbean and Africa was nearly identical, implementation and enforcement of these provisions varied greatly.¹⁸⁷ It seems unlikely that colonial authorities in Britain's Atlantic Empire intended to create a uniform policy about the proscription of sacred oaths when their interpretation and enforcement of nearly indistinguishable laws was so distinct.

Although British authorities did not initially proscribe sacred oaths in African colonies, this changed in the mid-twentieth century. By 1930, Nyasaland (Malawi) implemented a law that prohibited administering or taking "unlawful oaths" to bind someone to commit a crime, engage in "seditious enterprise," disturb public peace, or obey the orders of any body of men that was not lawfully constituted.¹⁸⁸ If an individual participated in such an oath, he or she could avoid conviction by reporting the oath to the authorities within fourteen days. These provisions about unlawful oaths were situated in the segment of the penal code dealing with sedition and mutiny; this section also prohibited seditious publications and performing military drills without consent of the government, among other things.¹⁸⁹

¹⁸⁷ See Chapter 5.

¹⁸⁸ Malawi, "The Penal Code of 1930," *The Laws of Nyasaland, in force on 31st December, 1946*, ed. Charles Mathew (London: C.F. Roworth, 1947), 2:959-960.

¹⁸⁹ *Ibid.*

The law against unlawful oaths in Nyasaland was nearly identical to statutes implemented in England in 1797 as well as those passed in several British Caribbean colonies in the nineteenth and twentieth centuries.¹⁹⁰ Although the provisions prohibiting “unlawful oaths” were included in British law and those of several other colonies, sedition laws were not uniform in the British Empire and some statutes did not include these proscriptions on administering and taking oaths.¹⁹¹ Therefore, passage of sedition legislation that included prohibitions of “unlawful oaths” may indicate that British authorities had noted a connection between sacred oaths and rebellious activities in that colony.

In at least one of Britain’s African colonies, it is clear that the enactment such laws were in direct response to the administration of sacred oaths in anti-colonial activities. A rebel group known as the Mau Mau waged a large-scale rebellion against the colonial government of Kenya, which reached its height from 1952 to 1959. This guerilla insurgency posed a serious threat to colonial authorities, forcing them to declare a state of emergency in Kenya that lasted most of the 1950s.¹⁹² The Mau Mau were known to have administered oaths to their followers; however, archival evidence does not include documentation about their method of doing so or even what exactly oath-takers

¹⁹⁰ England, Unlawful Oaths Act of 1797, 37 Geo. 3 c. 123. In fact, similar laws were passed in several Caribbean colonies. For instance, Jamaica’s Seditious Meetings Law of 1836 proscribed administering or taking unlawful oaths. Barbados’s Penal Code of 1927 prohibited the same and defined an unlawful oath as a pact to “commit or abet a crime” or conceal the existence of a treasonable or seditious association. Jamaica, “The Seditious Meetings Law of 1836,” in *The Laws of Jamaica*, ed. Henry Isaac Close Brown (Kingston, Jamaica: The Government Printer, 1938), 5:4632; Bahamas, “Penal Code of 1927,” in *The Statute Law of the Bahama Islands*, ed. Harcourt Gladstone Malcolm (London: Waterlow & Sons Limited, 1929), 1:765. However, I have found no evidence that such laws were used to prosecute “obeah” oaths.

¹⁹¹ For example, a law against sedition was passed in Bechuanaland in 1938. It did not prohibit “unlawful oaths. Botswana, “Sedition Proclamation of 1938,” in *The Laws of the Bechuanaland Protectorate*, ed. H.C. Juta (London: C.F. Roworth, 1949), 1:235-236.

¹⁹² Luongo, *Witchcraft and Colonial Rule in Kenya*, 159.

promised.¹⁹³ Nevertheless, the Mau Mau rebels were described using language that is very reminiscent of descriptions of obeah and obeah practitioners in the eighteenth and early nineteenth century Caribbean. Colonial officials referred to the Mau Mau movement as an “infection” and a British “ethnopsychiatrist” argued that the Mau Mau used their oaths as a way to manipulate people into participating in the rebellion by playing off their “superstitious dread” that breaking a sacred oath would have dire consequences.¹⁹⁴ In fact, the colonial government was so disturbed by these oaths, in particular the idea that unwilling participants were coerced to join the rebellion when they were forced to take an oath, that they hired “witchdoctors” to perform a counter-oath that would ritually cleanse the oath-taker and thus relieve the oath-taker of his or her responsibility to the rebellion.¹⁹⁵

British colonial authorities viewed the Mau Mau movement as a “disease” or “contamination” and this counter-oath campaign was part of a larger strategy of containment that involved “interning black Kenyans in labor camps and removing them to ‘safe’ villages established by the state” to prevent the spread of their influence.¹⁹⁶ There are interesting parallels between these characterizations of the Mau Mau as an infectious disease and those of obeah practitioners in the pre-emancipation Caribbean who, as Chapter 4 will discuss in greater detail, were often accused of administering poisons and “pretending” to use supernatural powers to cause illness primarily among

¹⁹³ Katherine Luongo reports that she also was unable to convince any of the Mau Mau rebellion participants whom she interviewed to divulge information about the oath because they were sworn to secrecy. *Ibid.*, 167-168.

¹⁹⁴ *Ibid.*, 161, 169-171.

¹⁹⁵ Katherine Luongo, “Polling places and ‘slow punctured provocation’: occult-driven cases in postcolonial Kenya’s High Courts,” *Journal of Eastern African Studies* 4, no.3 (2010), 580.

¹⁹⁶ Luongo, *Witchcraft and Colonial Rule in Kenya*, 160-161.

enslaved persons. Furthermore, the internment of black Kenyans to isolate them from the Mau Mau influence seems reminiscent of Caribbean obeah cases, where convicted practitioners were frequently banished from the island, presumably in part to distance them from individuals who believed in the efficacy of their practices. In both regions, colonial officials seemed to view the spiritual beliefs of African populations as a disease, and to believe that “superstition” was a contagious form of madness that drove Africans to rebel against colonial authorities. It was an illness that they thought they could “cure” by proscribing ritual practices, administering counter-oaths and/or banishing practitioners. This language about infection and inoculation allowed colonial authorities to depict themselves as the protectors of African peoples, as those who rescued them from their “superstitions.” In this way, as they struggled to suppress priests and other practitioners who performed rituals to protect insurgents who fought for freedom from slavery or colonial rule, the British essentially avoided discussing the oppressive conditions that led enslaved persons and colonial subjects to revolt by asserting that the real problem in their colonies was superstition from which British authorities would liberate Africans.

In addition to administering counter-oaths and setting up labor camps to contain the Mau Mau influence, the British also enacted new legislation in Kenya in 1950 and 1955 related to unlawful oaths.¹⁹⁷ These laws were nearly identical to those in England, Nyasaland, Jamaica and the Bahamas; they prohibited the administration of oaths to bind a person to commit a felony, to engage in seditious activity, to disturb the public peace,

¹⁹⁷ Luongo, *Witchcraft and Colonial Rule in Kenya*, 181.

or to obey orders of groups of people that were not “lawfully constituted.”¹⁹⁸ By 1960, nearly identical laws were passed in Nigeria, Northern Rhodesia (Zambia) and the Gambia.¹⁹⁹ Some of these laws may have been the result of general concerns that oaths might be used in other anti-colonial activities. In Rhodesia, an ordinance was passed against “unlawful oaths” in 1959 due to concerns that the Mau Mau rebellion might have spread its influence to Rhodesia and cause an uprising there.²⁰⁰

One might question why, when British colonial officials decided to ban sacred or “unlawful” oaths in the mid-twentieth century, they passed laws against seditious activities instead of amending witchcraft laws to add the prohibition of using “pretended witchcraft” to promote rebellion. Even though colonial characterizations of these oaths were very similar in the eighteenth and early nineteenth century Caribbean and mid-twentieth century Africa, British officials would not have considered sacred oaths to be the type of “pretended supernatural power” that witchcraft laws were designed to proscribe. While obeah laws went through several periods of major revisions between the mid-eighteenth century and the later nineteenth century and colonial authorities changed their interpretation of what violated laws over time, witchcraft laws in British African colonies always had a singular purpose— to suppress indigenous methods of accusing people of practicing witchcraft. Since the prohibition of sacred oaths did not further this purpose, colonial officials did not proscribe them as a violation of witchcraft ordinances.

¹⁹⁸ Kenya, “Penal Code of 1930,” in *The Laws of Kenya in force on the 21st Day of September, 1948*, ed. Donald Kingdon (Nairobi, Kenya: The Government Printer, 1948), 1: 200-201, 210.

¹⁹⁹ Gambia, “Criminal Code of 1934,” in *The Laws of The Gambia in force on the 1st Day of January, 1955*, ed. Donald Kingdon (London: Waterlow & Sons Limited, 1955) 1:181- 182; Nigeria, “Chapter 42 of the Criminal Code of Nigeria,” in *The Laws of the Federation of Nigeria and Lagos in force on the 1st day of June, 1958*, ed. Donald Kingdon (London: Eyre and Spottiswoode, 1959), 2:625-626.

²⁰⁰ Terence Ranger, “The Reception of the Mau Mau in Southern Rhodesia, 1952-1961,” in *Trajectoires de libération en Afrique contemporaine*, ed. Piet Konings, Wim van Binsbergen and Gerti Hesselning (Paris: Karthala, 2000), 66.

From this transatlantic examination of oaths in the British Empire, we begin to see that while there were many similarities between colonial proscriptions of African ritual practices in the Caribbean and Africa, there were also often inconsistencies in the classification of certain ritual practices as unlawful forms of obeah or witchcraft on each side of the Atlantic and in different chronological periods. Sacred oaths and other rituals were reportedly used in warfare and insurrections on both sides of the Atlantic, however while sacred oaths were the basis for the enactment of obeah laws throughout the British Caribbean from the middle of the eighteenth century to the early nineteenth century, they were not a concern of officials in most colonies in British Africa until the mid-twentieth century as African independence movements increasingly protested against colonial rule. When sacred oaths were eventually proscribed in many British African colonies in the 1930s, 1940s, and 1950s, they were not a feature of witchcraft legislation; they were proscribed in laws against seditious activities which were modeled on Britain's own legislation. The inverse was also frequently true; Europeans frequently proscribed rituals related to witchcraft beliefs in Africa that were not a feature of obeah legislation in the British Caribbean. Even when obeah and witchcraft laws contained very similar provisions, judges in obeah and witchcraft cases in the British Caribbean and British Africa often had conflicting interpretations of what rituals violated these laws.

Chapter 3: Witchcraft Accusations

For many years, scholars have interpreted Britain's proscription of witchcraft accusations in its Africa colonies in the nineteenth and twentieth centuries as a product of Britain's own decriminalization of witchcraft in the eighteenth century.²⁰¹ They have argued that by the nineteenth century, when Britain's colonization of Africa began, the British viewed witchcraft as an imaginary crime and regarded the torture of accused witches as an injustice against innocent people.²⁰² To reach this conclusion, scholars may have relied on the words of British colonists, who often described alleged violent attacks against witches in Southern Africa in the nineteenth century and then stated that "two hundred years ago" the English had engaged in similar practices.²⁰³ However, Britain's history of violence against suspected witches had not ended two hundred years

²⁰¹ For example see Wolfgang Behringer, *Witches and Witch-Hunts: A Global History* (Cambridge, Polity Press, 2004), 198; Sean Redding, *Sorcery and Sovereignty: Taxation, Power and Rebellion in South Africa, 1880-1963* (Athens, OH: Ohio University Press, 2006), 17.

²⁰² For example, Katherine Flint argues that while European settlers believed that African medicines could heal the "corporal body," they "winced at the activities of such practitioners when they claimed to be able to heal the body politic, particularly through their "sniffing out" of witches. Perhaps witchcraft represented for Europeans vestiges of their own superstitious past, but it was something that distinguished them from their African counterparts in a European age of science and reason." Flint, *Healing Traditions*, 98-99. Similarly, Stephen Ellis contends that in the nineteenth and twentieth centuries, European explorers and ethnographers viewed African religious ideas and practices, including those about witchcraft, as "evidence of archaic forms of belief and rituals that had been abandoned in Europe but still existed elsewhere." He also claims that colonial interpretations of African beliefs about witchcraft were subsumed into "the evil character inherent in the idea of witchcraft emanating from Europe's own history." Stephen Ellis, "Witching-Times: A Theme in the Histories of Africa and Europe," in *Imagining Evil: Witchcraft Beliefs and Accusations in Contemporary Africa*, ed. Gerrie Ter Haar (Trenton, NJ: Africa World Press, 2007), 34-35.

²⁰³ For example, one author asserted that "[t]heir belief in the existence of malevolent beings, and of the communication of their sorcerers with them, occasions effects similar to what the belief of witchcraft among our own forefathers occasioned scarcely two centuries ago." *History of the Civilization and Christianization of South Africa* (Edinburgh: Waugh and Innes, 1832), 153. Additionally, in a report to the *Commission Appointed to Inquire into the Past and Present State of the Kafir*, Theophilus Shepstone, who would later become Secretary of Native Affairs in Natal, described differences between English witchcraft beliefs "two hundred years ago" and those of the Amazulu. *Proceedings of the Commission Appointed to Inquire into the Past and Present State of the Kafir in the District of Natal* (Pietermaritzburg, J. Archbell and Son, 1852), 65. Some modern scholars use this same language. For example, Johannes Harnischfeger argues that Europeans would not permit the torture of witches in colonial Africa because their own witch-hunts "200 years back" were a miscarriage of justice not to be repeated. Harnischfeger, "Witchcraft and the State in South Africa," 100.

prior to their colonization of South Africa; it had not even ceased in the mid-nineteenth century, when colonial authorities were arguing that their subjugation of Africans was necessary to stop the torture of witches.

Although British authorities in colonial Africa claimed they passed witchcraft laws to protect “innocent” people from being tortured and killed for allegedly using supernatural powers, the inconsistencies between witchcraft policies in England and those in its South African colonies contradict this supposedly “humanitarian” intervention into African ritual practices. Recent studies have suggested that popular belief in the existence of supernatural powers, and violence against suspected witches and sorcerers continued in England until the late nineteenth century.²⁰⁴ Despite frequent and well publicized attacks on suspected witches or sorcerers in England after the decriminalization of witchcraft, the government never enacted laws against witchcraft accusations.

The same was also true of Britain’s colonies in the Caribbean. Colonial records indicate that Africans in the Caribbean accused one another of practicing “obeah” or “witchcraft,” and these allegations sometimes resulted in violence against the accused individual.²⁰⁵ However, as in England, colonial officials in the Caribbean did not prohibit accusing someone of being an obeah practitioner or a sorcerer. Even in Jamaica, where colonial authorities asserted that members of the “myalism” movement committed widespread violence against suspected obeah practitioners in the 1840s and 1850s, these

²⁰⁴ Owen Davies, *Witchcraft, Magic and Culture, 1736-1951* (Manchester, England: Manchester University Press, 1999), 1-119.

²⁰⁵ George Blyth, “Myalism of Jamaica,” *The Penny Satyrst* (London), January 7, 1843; Zorn, “Jamaica,” 303.

individuals were merely arrested on charges of assault.²⁰⁶ Jamaican legislators prohibited the practice of “myalism” in the 1850s but the police enforced these statutes against individuals who used medico-religious practices to heal people who had allegedly been infected with obeah.²⁰⁷ Colonial laws prohibiting myalism were never utilized to arrest individuals for violence against obeah practitioners and no other Jamaican law ever expressly prohibited anyone from accusing another person of practicing obeah. The absence of colonial concerns about violence against obeah practitioners is particularly striking in the mid-nineteenth century because this was precisely the period when British colonists in South Africa were crafting their first proscriptions of “pretended witchcraft” and witchcraft accusations.

When one examines laws related to witchcraft in England and obeah in the British Caribbean in the eighteenth and nineteenth centuries, there is some consistency between the two regions because legislators criminalized “pretending” to use supernatural powers but did not prohibit accusing others of practicing witchcraft.²⁰⁸ Since violence against suspected witches and obeah practitioners continued into the nineteenth century in both England and the Caribbean, it seems unlikely that the British enacted witchcraft laws in Africa to protect people accused of practicing witchcraft. Instead, justifying the expansion of British territories in South Africa and ensuring the security of colonial rule appear to have been the underlying motives for the passage of witchcraft statutes.

²⁰⁶ Blyth, “Myalism of Jamaica,” 1.

²⁰⁷ For example see R. v. George Hamilton, May 14, 1855, Jamaica Archives, 1A/5/1(21); R. v. William Robertson, January 22, 1857; Jamaica Archives, 1A/5/1 (21).

²⁰⁸ For example see the following laws, which criminalized the “pretended” practice of witchcraft, sorcery, and/or obeah, but did not mention witchcraft accusations. England, “The Witchcraft Act of 1735,” 549 and Jamaica “The Obeah Law of 1898,” 1-3.

Widespread concern about witchcraft practices among South African peoples first emerged during border wars between the colonists and indigenous populations in the mid-nineteenth century.²⁰⁹ The colonists claimed that “barbaric” practices were prevalent in South Africa, including the torture and murder of suspected witches, to justify their subjugation of African peoples under colonial rule.²¹⁰ They also specifically designed their early witchcraft laws to undermine the authority of their main political rivals—the chiefs.²¹¹ Colonial officials in South Africa doggedly argued that attacks on suspected witches would not occur without the knowledge and permission of the chiefs, and claimed that the chiefs encouraged diviners to charge wealthy individuals with practicing witchcraft so the chiefs could confiscate the accused’s property as a penalty.²¹² Although these diviners, who British authorities referred to as “witchdoctors,” would later be vilified throughout much of the colonial period as the instigators of witchcraft accusations, in the mid-nineteenth century, colonists usually described them as mere tools of the supposedly despotic chiefs.²¹³ Later, after colonial authorities had prohibited the chiefs from hearing witchcraft cases, officials increasingly started to blame “witchdoctors” for attacks on suspected witches.²¹⁴ Therefore, laws against witchcraft accusations helped the colonists to undermine the power and authority of chiefs and

²⁰⁹ See infra pages 96-100.

²¹⁰ For example see “Untitled,” *Graham’s Town Journal*, February 13, 1835.

²¹¹ See infra pages 99-102.

²¹² For example see A. A. O’Riely, “Affairs of the Frontier,” *Graham’s Town Journal*, March 24, 1836; John Wedderburn Dunbar Moodie, *Ten Years in South Africa* (London: Richard Bentley, 1834), 330.

²¹³ See infra pages 104-110.

²¹⁴ For example see Francis Fleming, *Kaffraria, and Its Inhabitants* (London: Simpkin, Marshall, and Co., 1854), 115.

diviners, and humanitarian intervention on behalf of the “victims” of witchcraft accusations became a justification for expanding Britain’s first real colony in Africa.

After the decriminalization of witchcraft in England in 1736, many people continued to believe that witches and sorcerers existed and were capable of causing sickness, death and property damage through the use of supernatural powers. Until at least the 1870s, some people in England remained unaware that the practice of witchcraft was no longer a crime and they lodged complaints with the authorities, hoping to open an investigation against someone they believed had bewitched them.²¹⁵ Others knew the ramifications of the new Witchcraft Act and resorted to unofficial methods of handling suspected witches since the government would not prosecute them. The practice of the “water ordeal” or “witch-swimming,”²¹⁶ continued to be used as a test to determine whether someone was a witch until at least the mid-nineteenth century and, as late as 1863, an accused witch was forcibly submerged under water by his supposed victim as punishment for refusing to remove the spell he had placed on her.²¹⁷ Instances of mob violence against suspected witches also persisted well into the nineteenth century; records show that they were stripped naked, severely beaten and stabbed at least until the late 1850s.²¹⁸

Despite the persistence of ordeals and violence against suspected witches, British legislators did not enact special provisions to suppress anti-witchcraft activities. The only statutes in England related to witchcraft were vagrancy laws and the Witchcraft Act of

²¹⁵ Davies, *Witchcraft, Magic and Culture*, 80.

²¹⁶ The water ordeal or “swimming” was a test based on the idea that all witches floated. A suspected witch would be thrown into the water to test his/her guilt or innocence.

²¹⁷ Davies, *Witchcraft, Magic and Culture*, 97-99.

²¹⁸ *Ibid.*, 106-119.

1735, both of which criminalized “pretending” to use supernatural powers but did not proscribe witchcraft accusations.²¹⁹ Although individuals who subjected an accused witch to an ordeal or engaged in mob violence could be charged with assault, the authorities took little action to prevent these incidents from occurring. On the contrary, some parish constables witnessed these attacks but refused to report the guilty parties to the magistrates and, on occasion, actually policed “witch-swimming” and other tests supposedly to prevent them from getting out of hand.²²⁰ Furthermore, the few individuals who were charged with assault for attacking a suspected witch appear to have often received extremely minimal sentences, such as one or two months’ imprisonment.²²¹

The English public was aware of the continuation of witchcraft beliefs and assaults against witches, as the press reported the “superstition” and “credulity” that supposedly permeated the poor and rural populations.²²² Occasionally, such reports even found their way into the colonial presses of South Africa. For example, in 1847, the *Grahams Town Journal* published an article entitled “Superstition,” describing the trial of a fisherman named William Grant for assault against his wife.²²³ Grant, who had recently experienced troubles with his fishing business, believed that his wife had placed a curse on him. He cut her across the forehead with his knife, allegedly in an attempt to drive the devil out of her and keep her from harming him. A jury found Grant guilty of

²¹⁹ England, “The Witchcraft Act of 1735,” 549; England, “The Vagrancy Act of 1824.”

²²⁰ Davies, *Witchcraft, Magic and Culture*, 109-119.

²²¹ *Ibid.*, 111-112.

²²² Owen Davies, “Newspapers and the Popular Belief in Witchcraft and Magic in the Modern Period,” *The Journal of British Studies* 37, no. 2 (1998), 149.

²²³ “Jury Court, Tain. Superstition,” *Graham’s Town Journal*, January 10, 1846.

assault and sentenced him to three months' imprisonment. The author of this story said that he/she hoped that "the punishment of Grant will have a salutary effect on the fisherman and villagers, of whom, it is said, a great proportion entertain the same superstitious belief in witchcraft."²²⁴ Clearly, ordeals and violence against witches persisted in England well into the nineteenth century, and even though British colonists asserted that such practices had died out hundreds of years ago, they were certainly aware that this was not the case. Therefore, laws and policies related to witchcraft in British colonies must be compared and contrasted with the somewhat tolerant official attitude in England about the persistence of witchcraft beliefs and accusations well into the nineteenth century.

In the Caribbean, colonial records indicate that obeah practitioners were frequently accused of using supernatural powers to cause sickness and death in their communities.²²⁵ Despite numerous allegations of obeah practitioners ritually attacking others, prior to the nineteenth century, colonial authorities did not often describe retributive violence against obeah practitioners. This would explain why eighteenth century obeah laws did not prohibit accusing others of practicing witchcraft, sorcery, or obeah. Instead, as they had in England, legislators in the Caribbean generally prohibited any person from claiming to have supernatural powers. In the nineteenth century, however, several violent attacks against obeah practitioners should have provoked discussion among colonial authorities about the criminalization of obeah or witchcraft accusations, but they apparently did not. Nineteenth century obeah laws were enforced against individuals who used their purported powers to identify an individual who had

²²⁴ Ibid.

²²⁵ For a detailed discussion, see Chapter 4.

practiced obeah to cause another person's illness; however, these laws were not designed to prevent violent accusations. Colonial authorities rarely expressed any sympathy for individuals accused of practicing obeah; instead, they claimed that obeah laws were necessary to suppress any purported use of supernatural powers, whether to heal or induce illness.

One of the earliest accounts of a violent attack on a suspected witch or obeah practitioner in the British Caribbean occurred in August of 1821 in a region of British Guiana that was then referred to as the colony of Berbice. An enslaved woman named Madalon disappeared from the Op Hoop van Beter plantation, and a man named Willem and several other people were tried for Madalon's murder.²²⁶ The authorities interviewed dozens of witnesses, but an enslaved man named Frederic provided the most complete account of the events in question. He reported that he had seen several people flogging Madalon in front of the slave driver's cabin, while others rubbed pepper into her private parts.²²⁷ Later, Frederick saw Madalon tied to a tree by her wrists, so he released her and carried her back to his house. The next day after work, Frederic saw Madalon again tied to a tree while the accused individuals flogged her. Frederic testified that Willem was directing the others, who beat her until she screamed that she was dying. Then they moved her to a sand-koker tree, where she was hanged until she died. The group buried Madalon, and Willem administered a drink to everyone involved, claiming that if they told anyone what had happened the concoction would kill them.²²⁸

²²⁶ "Trial of a Slave in Berbice, for the Crime of Obeah and Murder," *British Parliamentary Papers: Papers on the Slave Trade*, 14 May 1823, vol. 18.

²²⁷ *Ibid.*, 15.

²²⁸ *Ibid.*

The trial records do not explicitly state what the motive might have been for these individuals to beat Madalon to death. However, the testimony of some of the people involved in the incident suggests that they believed that Madalon had used supernatural powers to cause several people on the Op Hoop van Beter plantation to become ill. One man, named Isaac, reported that when Madalon screamed that they were killing her, Willem told her that they were not harming her, but rather they were removing the “bad story” from her head.²²⁹ Similarly another man named Kees said that Willem had ordered him to flog Madelon because she was a “bad woman who caused so many strong healthy people on the estate to become sick.”²³⁰ Another person involved, Baron, claimed that Madelon had confessed to causing the death of several people.²³¹

That the defendants thought Madalon was a “witch” or obeah practitioner is further supported by references to “obeah” and the “minje mama” or “water mama” dance in these proceedings. Authorities in Berbice sent the records of the prosecution of Willem and the others for Madalon’s death to the Colonial Office in a document entitled “Trial of a Slave in Berbice for the Crime of Obeah and Murder.”²³² However, instead of indicating that William was charged with practicing obeah, as the title of the proceedings suggest, the transcripts show that he was convicted of murder and “of treasonable practices, by deluding the minds of the negroes belonging to the plantation Op Hoop van Beter” by dancing the “Minje or Water Mama dance.”²³³ Similarly, the other defendants were not charged with practicing obeah; they were convicted of aiding

²²⁹ Ibid., 25.

²³⁰ Ibid., 29.

²³¹ Ibid., 20.

²³² Ibid., 1.

²³³ Ibid., 8-9.

and abetting Willem and participating in the “Water Mama” dance.²³⁴ Other than the title, there is no further mention within the proceedings of the practice of obeah, except that a police lieutenant testified that when he interviewed two of the enslaved persons allegedly involved in Madalon’s murder, they confessed that they had also been previously flogged on Willem’s orders. One man, David, stated that he was beaten because another enslaved person accused him of being an “Obii” person, and he was flogged to get “the Obeah work out of his head.”²³⁵ David’s testimony about the attack on him to get the “obeah” out of his head seems analogous to the defendants’ arguments that they beat Maladon to get the “bad story” out of her head.

There is also little explanation in this case of what the “minje or water mama dance” meant. The appendix of the trial documents includes a summary of the testimony of a man named Vigilant who said that he was present on one occasion when the “Minje Mama” dance was performed at the Op Hoop van Beter plantation. He testified that he “saw a negro, whose name he does not know, denounced as a confoe man, and severely beat.”²³⁶ He also heard of another occasion when a “Congo woman” was severely beaten at one of these dances.²³⁷ Additionally, during Willem’s interrogation, the authorities informed him that he was charged with having “instituted or caused the Minje Mama dance to be danced; that on that occasion [he] caused the negress Madalon to be

²³⁴ Ibid., 10-11.

²³⁵ Ibid., 22. There is also a note in the transcription of Isaac’s testimony that he described Willem as “a real Obiah man,” and the authorities placed “Coufou man” in parenthesis behind this description. Ibid. 25

²³⁶ Ibid., 14.

²³⁷ Ibid.

denounced as the bad person, or the one to whom was to be attributed the cause of the deaths of negroes on the plantation Op Hoop van Beter.”²³⁸

Other than this trial, I have found no significant descriptions of the “minje or water mama dance” in Berbice or anywhere else in the Caribbean. However, it seems clear from the fact that colonial authorities described these proceedings as a trial for obeah and murder that they glossed the “water mama dance” as obeah and believed that the attack on Madelon included some kind of spiritual or ritual element. Furthermore, although the trial proceedings do not provide much background information about the meaning of the “minje mama” dance, one scholar, Randy Browne, has argued that it was derived from West Africa where a spirit called Mami Wata has been worshipped for many years.²³⁹ Browne claims that the primary purpose of this ritual dance was the “identification of the person responsible for harming others through the use of spiritual powers.”²⁴⁰ Similar ritual practices were documented in neighboring Surinam and, in the late eighteenth century when Berbice and Surinam were both under Dutch control, legislators banned the practice of the Mami Wata dance.²⁴¹ Based on references to the prohibition of the “minje mama” dance in these 1821 trial proceedings, it appears that the British maintained these laws after they acquired the colony in the early nineteenth century. However, other than this case, British colonists in Guiana appear to have made few complaints about these practices. Furthermore, although authorities glossed the mami wata as “obeah” in these proceedings, when legislators in British Guiana passed a new

²³⁸ Ibid., 14.

²³⁹ Randy Browne, “The “Bad Business” of Obeah: Power, Authority, and the Politics of Slave Culture in the British Caribbean,” *The William and Mary Quarterly* 68, no. 3 (2011), 463.

²⁴⁰ Ibid., 464.

²⁴¹ Ibid., 464-465.

obeah law in the mid-nineteenth century, it did not mention this dance or any other ritual to uncover or torture “witches” or obeah practitioners.²⁴²

Although it is curious that British officials did not express concern about violent assaults against “obeah” practitioners that had apparently been practiced in Guiana since the 1770s, the lack of documentation of these practices could be interpreted in many ways. It is possible that the attack on Madalon was an isolated incident and the British did not experience any further difficulties with this practice after they acquired the colony. However, one cannot explain the colonial policies in Jamaica so easily, as residents and officials described widespread attacks against obeah practitioners in the mid-nineteenth century yet no discussions about proscribing obeah accusations occurred.

In the 1840s, missionaries, residents and colonial authorities in Jamaica began to express concern about the increasing popularity of myalism, which may have somewhat resembled the Minje Mama in Guiana. Similar to the Minje Mama or Mami Wata, colonists described myalism as a community dance performed with the purpose of discovering practitioners of obeah.²⁴³ Members of the myalism movement were accused of using “unusual violence” to force a confession out of suspected obeah practitioners.²⁴⁴ Reverend George Blyth reported “if the accused parties deny any knowledge of such [obeah] practices, they are beaten, trampled upon, and have water thrown upon them to make them confess.”²⁴⁵ Mr. Zorn, a missionary working for the United Brethren in Jamaica in 1841, stated that myalists and their “deluded followers” roam the lands

²⁴² Guyana, “Obeah: Ord. 1 of 1855,” in *The Magisterial Law of British Guiana*, ed. Alfred John Pound (London: Haddon & Co, 1877), 476.

²⁴³ George Blyth, “Myalism of Jamaica,” *The Penny Satyrst* (London), January 7, 1843; Zorn, “Jamaica,” 303.

²⁴⁴ Blyth, “Myalism of Jamaica,” 1.

²⁴⁵ *Ibid.*

“singling out certain obnoxious individuals as Obeah-men, or ‘wicked,’ assaulting them, beating them, and committing other acts of violence and fanaticism.”²⁴⁶ He claimed that fifty such cases had been tried as incidents of assault in St. James Parish.²⁴⁷ A few years later, Blyth asserted that more than one hundred myalists had been arrested in St. James.²⁴⁸ Into the 1850s, colonists continued to report that myalists met in large groups to find buried “enchancements,” and “on such occasions innocent persons are frequently accused and maltreated by the infuriated mob.”²⁴⁹

Despite public awareness that suspected obeah practitioners were attacked by myalists in the 1840s and 1850s, colonial authorities did not express sympathy for these individuals as they did in Africa. When British colonists argued that myalism should be suppressed in Jamaica, they did so because they believed that myalists were charlatans who prevented the spread of Christianity and western medicine by promoting “superstitious” beliefs about the prevalence of witchcraft or obeah as the cause of disease.²⁵⁰ They also expressed concern that the myalists’ anti-obeah processions disrupted plantation labor when they distracted workers with their rituals to cleanse the

²⁴⁶ Zorn, “Jamaica,” 303.

²⁴⁷ *Ibid.* Thomas Holt has confirmed that in St. James Parish more than sixty people were arrested for “myalism,” as well as assault for beating accused obeah practitioners and criminal trespass for going onto private property to dig up obeah charms. Thomas Holt, *The Problem of Freedom: Race, Labor and Politics in Jamaica and Britain, 1832-1938* (Baltimore: Johns Hopkins University Press, 1992), 189.

²⁴⁸ Blyth, “Myalism of Jamaica,” 1.

²⁴⁹ George Blyth, *Reminiscences of Missionary Life with Suggestions to Churches and Missionaries* (Edinburgh: William Oliphant & Sons, 1851), 175.

²⁵⁰ D. Katters, W.G. Lewis, and C.H. Spurgeon, eds., *The Baptist Magazine for 1861*, vol. 53 (London: Pewtress & Co., 1861), 179-180; *The Medical Times and Gazette: A Journal of Medical Science, Literature, Criticism, and News*, vol. 17 (London: John Churchill, 1858), 527; Jacob Zorn, “Fairfield,” in *Periodical Accounts relating to the Missions of the Church of the United Brethren established among the Heathen* (London: W. M’Dowall, 1841), 16:305-306; J.H. Buchner, “Dear Brother, Irwin-Hill, Nov. 1st, 1842” in *Periodical Accounts relating to the Missions of the Church of the United Brethren established among the Heathen* (London: W. M’Dowall, 1841), 16:307-308.

estates and remove obeah charms.²⁵¹ Furthermore, when Jamaican legislators proscribed myalism in the mid-nineteenth century, they did not reference accusations of obeah or violence against obeah practitioners. On the contrary, the first mention of myalism in any Jamaican statute was in the Vagrancy Act of 1839 when, alongside obeah practitioners and fortunetellers, myalists were categorized as rogues and vagabonds.²⁵² By 1856, Jamaican legislators proscribed the practice of “myalism” but never defined the term.²⁵³ Instead, colonial laws stated that “‘obeah’ and ‘myalism’ shall be understood to be of one and the same meaning and the like offence.”²⁵⁴ This is in direct contrast to the interpretation of contemporary scholars, who argue that myalists were members of a religious movement who viewed sorcery or obeah as the cause of misfortune and disease, and performed rituals to protect and cleanse the community.²⁵⁵

Individuals prosecuted for practicing myalism in the mid-nineteenth century were often charged for performing rituals to counteract supposedly obeah-induced illnesses; however, their conviction did not hinge on whether they accused a specific individual of practicing obeah. They were arrested even if they only made a general assertion that the client had been infected with obeah.²⁵⁶ None of the surviving court records suggest that any defendant in a myalism case was prosecuted because her/his actions led to an attack

²⁵¹ Schuler, “Myalism and the African Religious Tradition in Jamaica.” 73.

²⁵² Jamaica, “An Act for the Punishment of Idle and Disorderly Persons, Rogues and Vagabonds, and Incurable Rogues,” 3 Vict. c. 18, 1839.

²⁵³ Jamaica, “An Act for the More Effectual Punishment of Persons Convicted of Dealing in and Practising Obeah and Myalism of 1856,” 512.

²⁵⁴ Jamaica, “An Act to Explain the Fourth Victoria, chapter forty-two, and the Nineteenth Victoria, chapter thirty, and for the more effectual punishment of Obeah and Myalism,” in *The Statutes and Laws of the Island of Jamaica*, ed. C. Ribton Curran (Kingston: Government Printing Establishment, 1890) 4:45.

²⁵⁵ Schuler, “Myalism and the African Religious Tradition,” 69.

²⁵⁶ For example see R. v. George Hamilton, May 14, 1855, Jamaica Archives, 1A/5/1(21); R. v. William Robertson, January 22, 1857; Jamaica Archives, 1A/5/1 (21).

on an obeah practitioner. Instead, newspaper and journal articles from the mid-nineteenth century suggest that colonial authorities suppressed the practice of myalism, in part, because the unorthodox healing rituals of practitioners were viewed as a form of fraud. Amidst outbreaks of cholera and other diseases, black Jamaicans increasingly sought treatment from myalist healers because western medical care was wholly inadequate to serve the population of Jamaica, with a mere fifty physicians in the entire colony in 1860, a decline from around two hundred on the eve of emancipation in 1833.²⁵⁷ Colonial officials and missionaries frequently argued that unless the number western medical practitioners increased, Jamaicans would continue to seek treatment from “charlatans” for their ailments. For instance, in 1840, Joseph John Gurney who travelled to the Caribbean as a missionary, observed that myalism prevailed in some parts of Jamaica stating that “deprived as the negroes now are of regular medical attendance, some of them have recourse to these medical quack doctors, to the great danger of their lives.”²⁵⁸ Similarly, in 1843, James Phillippo, a Baptist Missionary, claimed that myalists were often employed by hospitals on the estates before abolition. After emancipation, they set out on their own as medical practitioners and became very successful because obtaining “proper medical advice” was difficult and expensive.²⁵⁹ Thus, these forms of “abominable superstition” were on the increase and myalists were able to “delude” the majority of the

²⁵⁷ Juanita de Barros, “Dispensers, Obeah and Quackery: Medical Rivalries in Post-Emancipation British Guiana,” *Social History of Medicine* 20, no. 2 (2007): 244.

²⁵⁸ Joseph John Gurney, *A Familiar Letters to Henry Clay of Kentucky Describing A Winter in the West Indies* (New York: Press of Mahlon Day & Co., 1840), 77. David Trotman has argued similar conditions increased the popularity of African medico-religious practices in Trinidad. He noted that in the late nineteenth century there were no Western doctors within miles of many rural areas of the island, so the population had to use obeah practitioners to treat their medical problems. David Vincent Trotman, *Crime in Trinidad: Conflict and Control in a Plantation Society 1838-1900*. (Knoxville: University of Tennessee Press, 1986), 227

²⁵⁹ Phillippo, *Jamaica: Its Past and Present State*, 263.

black population of whom Phillippo states “better things had been expected.”²⁶⁰ Fifteen years later, the *Medical Times and Gazette* published an article expressing similar concerns. They complained that four or five more physicians had recently died and had not been replaced because it was impossible to convince doctors to come to Jamaica. Thus, these recent deaths compounded what they described as an already desperate need for doctors on the island. The author(s) of the article claimed that the lack of medical professionals had caused an increase in “quackery and imposture” amongst the black population. Particularly, belief in the ability of myal practitioners to cure illnesses through counteracting obeah was on the rise. The author(s) begged the legislature to take swift action to attract qualified doctors so that medical science could suppress black “superstitions.”²⁶¹

That the criminalization of myalism in Jamaica was unrelated to the suppression of their alleged attacks against obeah practitioners is also supported by the prosecution of other medico-religious practitioners in the British Caribbean who were not connected to the myalism movement. Individuals were arrested for violating obeah laws when they performed healing rituals comparable to those categorized as myalism before this movement came to the attention of the Jamaican authorities in the 1840s, as well as in other British colonies in the Caribbean where anti-witchcraft/anti-obeah groups never arose.²⁶² This suggests that the proscription of myalism had nothing to do with any type of humanitarian intervention to prevent assaults against people accused of practicing obeah. Instead, in Jamaica, as in England, legislators targeted only individuals who

²⁶⁰ Ibid.

²⁶¹ *The Medical Times and Gazette*, 527.

²⁶² Case of Pierre, a Free Black Man, Grenada, March 1834, PRO, CO 101/78; The King against Polydore, Jamaica, 28 July 1831, PRO, CO 137/209.

claimed to possess supernatural powers not those who accused others of practicing obeah or witchcraft. In both of these countries, violence against spiritual practitioners was typically charged as an ordinary case of assault or murder. If a spiritual practice accompanied the attack, the defendant could, as in the case of Willem in Berbice, be charged with both “pretending” to practice obeah/witchcraft/myalism and assault or murder, but these were separate offenses and conviction on one charge did not depend on the other.

Based on these precedents in England and the Caribbean, one would expect that the purported torture and execution of suspected witches in South Africa would be met with the same somewhat laissez-faire attitude and that individuals involved in these attacks would be charged with assault or murder. Instead, British colonists claimed to have an overwhelming humanitarian concern about individuals who were reportedly tortured and killed as suspected witches in Africa and they described the prohibition of witchcraft accusations as the foundation for legislation banning African spiritual practices. These laws, which scholars have previously interpreted as a natural extension of British beliefs about witchcraft in the nineteenth century, were actually an aberration from previous policies and statutes in England and the Caribbean.

South Africa, which in the nineteenth century was composed of four different colonies— the Cape of Good Hope, Natal, the Transvaal, and the Orange Free State, was the first place in Africa where the British enacted laws related to witchcraft. These ordinances prohibited, among other things, accusing others of practicing witchcraft and

performing “witchfinding” rituals.²⁶³ Memoirs of European residents and visitors, newspaper articles, colonial records, statutes, court cases, and other sources provide insight into why colonial authorities took such a special interest in witchcraft accusations in South Africa. The earliest widespread complaints about violent attacks on witches in South Africa coincided with Britain’s first experiment with subjugating Africans under colonial rule.²⁶⁴ Colonists focused on the alleged role of the chiefs in the accusation process to support the removal of these “barbaric” rulers and to justify the expansion of British territory.²⁶⁵ Colonial authorities began forcing chiefs to sign treaties agreeing to suppress witchcraft practices in their territories; later, they prohibited chiefs from hearing cases where one of their subjects accused another of witchcraft.²⁶⁶ As the colonial empire expanded in South Africa, whenever witchcraft accusations were reported in areas that the British thought they had subdued, colonial authorities questioned the chiefs extensively and sometimes stripped them of their property and rule if it appeared that the chief allowed a suspected witch to be tortured or killed.²⁶⁷

Once the chiefs had been undermined and could no longer organize large-scale uprisings against the British, colonial authorities turned their attention to prosecuting so-called “witchdoctors.”²⁶⁸ These ritual specialists were individuals who, in addition to providing a variety of spiritual services, were hired by people who believed themselves to

²⁶³ The first witchcraft law was passed in the Eastern Cape Colony in 1879. South Africa, Cape of Good Hope, “Regulations for the Government of the Transkei of 1879,” in *Proclamations of Laws for Native Territories Annexed to the Colony of the Cape of Good Hope* (Cape Town: Saul Solomon & Co., 1880), 6.

²⁶⁴ See *infra* pages 96-100.

²⁶⁵ For example see “Untitled,” *Graham’s Town Journal*, February 13, 1835.

²⁶⁶ See *infra* pages 100-106, 111.

²⁶⁷ For example see A. A. O’Riely, “Affairs of the Frontier,” *Graham’s Town Journal*, March 24, 1836—discussing a dispute between Cape Colony Governor Colonel Smith and a Xhosa chief who had seized cattle from his subject as a fine for practicing witchcraft.

²⁶⁸ See *infra* pages 110-115.

be victims of witchcraft to perform divination and other practices to identify the “witch” who had harmed them. Although colonists initially primarily described “witchdoctors” as tools of the chiefs, they increasingly targeted these individuals in the late nineteenth century because they held positions of power and respect in their communities.

Therefore, when witchcraft laws were first enacted in Southern Africa from the 1870s to the 1900s, they included an aggravated penalty if the individual making a witchcraft accusation was a professional “witchdoctor” or “witchfinder.”²⁶⁹

The colonization of South Africa began in 1652 when, under the leadership of Jan Van Riebeeck, the Dutch established a permanent settlement at the Cape.²⁷⁰ They founded this colony on the southern tip of the continent of Africa to act as a port station to supply ships with food and other goods as they sailed from Europe around Africa to reach India.²⁷¹ In 1795, the British first arrived at the Cape to prevent French revolutionaries, who had invaded the Netherlands, from gaining control of this important stopover point on the trade route to India. They briefly returned the Cape to the Dutch in 1803 but permanently annexed the colony a mere three years later in 1806.²⁷²

In the first few decades after the British arrived in South Africa, few colonists complained about witchcraft accusations among any of the peoples they encountered. Travelers and missionaries sporadically mentioned witchcraft trials in their letters and memoirs in the 1820s; in particular, they noted that if a chief or another important person

²⁶⁹ The first penal code containing aggravated penalties for witchdoctors was passed in Transkei in 1886. South Africa, Transkei, “Chapter 11 of the Native Territories’ Penal Code of 1886,” 2388.

²⁷⁰ Berger, *South Africa in World History*, 22.

²⁷¹ Ibid., 24. Robert Ross, *A Concise History of South Africa* (Cambridge: Cambridge University Press, 2008), 22.

²⁷² Ibid., 37.

became ill, this sickness would be attributed to witchcraft.²⁷³ While the authors sometimes indicated that a person accused of witchcraft might be tortured and executed, they usually described this as a rare occurrence and noted alternative punishments that could be imposed. For instance, in 1832, an anonymous author compiled a history of South Africa from the Dutch settlement to the contemporary period. In his description of the “Caffres,” a derogatory phrase used to refer to blacks in South Africa, he said that historically if a wealthy person was accused of witchcraft, she/he would pay a fine of cattle in lieu of execution.²⁷⁴ However, the author cited one particular instance where a chief became ill and killed five of his subjects on charges of witchcraft in an attempt to improve his own health. Rather than expressing horror at the brutality of the chief’s actions, the author stated that the chief had chosen to save his own life at the expense of his subjects “with a degree of magnanimity that would have done honour to any monarch.”²⁷⁵

Sometimes a missionary or traveler would discuss witchcraft beliefs but would not mention violence against suspected witches at all. For example, on May 2, 1833, Reverend John Phillip, superintendant of the Missions of the London Society, wrote a letter to the Society of Inquiry on Missions describing his voyage from Cape Town to the mission stations in the “interior” of Africa in 1832. He generalized his comments to apply to all the “natives” living outside the Cape Colony. He argued that they “can scarcely be said to have any religion among them,” although they “have sorcerers, and rain-makers,

²⁷³ *History of the Civilization and Christianization of South Africa*, 156

²⁷⁴ *Ibid.*, 153.

²⁷⁵ *Ibid.*, 153-154.

and they are believers in witchcraft.”²⁷⁶ He argued that their “ignorance” and “superstitions” made it difficult for the missionaries to “bring them over to the truth of the Bible” but mentioned nothing about witchcraft accusations.²⁷⁷

A drastic shift in British accounts of witchcraft in South Africa commenced in 1834 and 1835; beginning in this period, colonial writers in South Africa started to emphasize the violence against suspected witches more frequently. In 1834, Lieutenant John Moodie wrote an account of his ten years living in South Africa wherein he claimed that whenever a chief became sick, an “obnoxious individual possessed of a large quantity of cattle” was accused of practicing witchcraft.²⁷⁸ According to Moodie, this person would then be tied to the ground and burned with heated stones before venomous ants were poured into his/her wounds.²⁷⁹ Similarly, in 1835, Andrew Steedman included the letters and journals from his friend Reverend Bryce in the appendix of his book called *Wanderings and Adventures in the Interior of Southern Africa*.²⁸⁰ Bryce emphasized the brutality of witchcraft accusations when he described an alleged incident when the sister-in-law of a chief had died and four suspected witches were tortured and beaten to death with sticks.²⁸¹ Numerous literary magazines and other journals published reviews of

²⁷⁶ John Philip, “Extracts from a Letter of the Rev. Dr. Philip, of the London Missionary Society,” in *The Missionary Herald, containing the Proceedings at large of the American Board of Commissioners for Foreign Missions*, vol. 29 (Boston: Crocker and Brewster, 1833), 415.

²⁷⁷ Ibid.

²⁷⁸ John Wedderburn Dunbar Moodie, *Ten Years in South Africa* (London: Richard Bentley, 1834), 330.

²⁷⁹ Ibid.

²⁸⁰ Andrew Steedman, *Wanderings and Adventures in the Interior of Southern Africa*, vol. 2 (London: Longman & Co., 1835).

²⁸¹ Ibid., 271.

Moodie's and Steedman's books, and highlighted these passages about witchcraft, even though such accounts only comprised a few pages of each work.²⁸²

In addition to the surge in circulation of these graphic descriptions of witchcraft accusations in 1834 and 1835, Moodie's account also demonstrates another change in British portrayals of South African anti-witchcraft practices that occurred during this period. Whereas previous accounts of the torture of suspected witches had generally condemned the "barbarous" beliefs and customs of South African peoples, in the mid-1830s and later, missionaries, travelers, and colonists began to lay blame for these practices at the feet of the chiefs, who they argued played a central role in the accusation process. For instance, in 1834, Moodie argued that the chiefs "artfully encouraged" their people to believe in the "horrible superstition" of witchcraft because when an individual was convicted of witchcraft, his/her cattle was divided equally between the supposed victim of the accused and the chief.²⁸³

Newspaper accounts seem to have followed a similar pattern as that of journals, travelogues and books. A search of *Readex's* database of African newspapers for terms such as "witch," "witch doctor," and "witchcraft" produced only one result prior to 1835, even though the database includes holdings for the *Cape Town Observer and African Gazette*, which published over 1550 issues from 1800 to 1829 and the *Graham's Town Gazette*, which began publication in 1831. Perhaps the editors of the *Cape Town Observer* merely did not report on African cultural practices; however, the *Graham's*

²⁸² For example see *The London and Paris Observer; Or Weekly Chronicle of Literature, Science and the Fine Arts*, vol. 11 (Paris: A. and W. Galignani, 1835), 517-519; *The Literary Gazette and Journal of Belle's Lettres, Fine Arts, Sciences & c. for the year 1835* (London: James Moyes, 1835), 617-618; *The Spectators: A Weekly Journal of News, Politics, Literature and Science*, vol. 8 (London: Joseph Clayton, 1835), 732.

²⁸³ Moodie, *Ten Years in South Africa*, 244.

Town Gazette published hundreds of stories about African witchcraft beginning in 1835. Therefore, the sudden surge in articles about witchcraft in 1835 suggests that something in this historical moment brought witchcraft to the attention of the colonists.

Arguably the most significant event in South Africa in 1835 was the conclusion of a frontier war between the British and the Xhosa, which had started in 1834. Although this was just one of a series of wars between the colonists and the Xhosa, it was particularly noteworthy because as a result of their military successes, the British were able to annex lands east of the Cape Province between the Keiskamma and Great Kei rivers.²⁸⁴ Most of this newly acquired territory was distributed to the colonists; however, a portion of it was set aside for the resettlement of the Xhosa.²⁸⁵ The Governor of the Cape Colony, Benjamin D'Urban, declared that the lands reserved for the Xhosa would be known as the Queen Adelaide Province and that the people living in these lands were British subjects.²⁸⁶ Although the British had had centuries of experience with Africans enslaved in North America, the Caribbean and South Africa, and African indentured servants in many regions as well, this was Britain's first experience attempting to subjugate Africans under colonial rule on the Continent.²⁸⁷ As Richard Price points out, "[t]he eastern Cape was the place where the foundations of Britain's modern African empire were laid."²⁸⁸

In early 1835, in the middle of the frontier war and leading up with the creation of Queen Adelaide Province, the *Graham's Town Journal* began to publish regularly

²⁸⁴ Ross, *A Concise History of South Africa*, 42.

²⁸⁵ Ibid.

²⁸⁶ Price, *Making Empire*, 3.

²⁸⁷ Ibid.

²⁸⁸ Ibid.

accounts of witchcraft among the Xhosa. These articles were mostly editorials by British residents of the Cape Colony who had started to argue that it was necessary that the British intervene in the governance of the Xhosa. For example, on February 13, 1835, an anonymous author wrote a lengthy explication of the “duties” of the British government with regard to the Xhosa to prevent further unrest on the frontier and to promote “civilization.”²⁸⁹ The author argued:

the arbitrary power of the Chiefs must be destroyed, British Rule and British Customs must supersede the horrors of imputed witchcraft, the cruelties of paganism, and the despotic feudal sway of rival interests. The Kafirs have now forfeited all claim to be recognised as an independent people, and if ever this frontier be reoccupied, the Kafir country must be held by the British Government as a Conquered Province.²⁹⁰

Similarly, a few months later, after the creation of Queen Adelaide Province, another individual wrote an editorial responding to what he described as “mischievous clamour” about Governor D’Urban’s expansion of the Cape Colony.²⁹¹ The author argued that the creation of this province was necessary to secure the eastern border of the Cape but also stated that as a “philanthropist,” he felt that it was very important to bring “civilization” to the Xhosa, who he referred to as “dark and degraded barbarians.”²⁹² Witchcraft, he claimed, was one of the “grand hindrances to the march of improvement” for the Xhosa.²⁹³

Governor D’Urban apparently agreed with the authors of these editorials because according to the terms of the treaties he signed with the Xhosa who were resettled the

²⁸⁹ “Untitled,” *Graham’s Town Journal*, February 13, 1835.

²⁹⁰ Ibid.

²⁹¹ “Untitled,” *Graham’s Town Journal*, August 13, 1835.

²⁹² Ibid.

²⁹³ Ibid.

eastern province after the end of the frontier war, the practice of “pretended witchcraft” was prohibited “under penalty of severe punishment.”²⁹⁴ In 1836, the colonial authorities in the Cape Colony also made treaties with several Xhosa chiefs who did not fight against them in the recent frontier war. The agreements acknowledged the independence of these groups and gave them the right to administer their own laws with the caveat that British subjects or missionaries in their territories were not subject to Xhosa laws and would not have to answer to accusations of witchcraft.²⁹⁵ These treaties in the mid-1830s appear to have been the first legal prohibitions related to witchcraft in South Africa. As the Xhosa people were Britain’s first colonial subjects in Africa, these laws and agreements were most likely their earliest prohibitions of witchcraft anywhere in the continent.

In 1835, Colonel Harry Smith was appointed governor of the Queen Adelaide Province. South African newspapers followed his progress in attempting to establish a colonial government and several articles discussed the supposedly persistent problem of witchcraft accusations in the province. For instance, in March of 1836, the *Graham’s Town Journal* published an article about a dispute between one of the Xhosa chiefs residing in Queen Adelaide Province and Colonel Smith. The author, A.A. O’Riely, stated that the chief had confiscated the cattle of one of his people “upon some alleged offence” and that individual complained to Colonel Smith who ordered the chief to return the cattle.²⁹⁶ However, O’Riely claimed, instead of returning the cattle, the chief “trumped up a story of witchcraft against the man, and which so far succeeded as to cause

²⁹⁴ *Report and Proceedings of the Government Commission on Native Laws and Customs*, 15.

²⁹⁵ *Ibid.*

²⁹⁶ A. A. O’Riely, “Affairs of the Frontier,” *Graham’s Town Journal*, March 24, 1836.

him to abscond from that part of the country.”²⁹⁷ Upon hearing this, Colonel Smith demanded that the chief surrender all cattle he had confiscated from his subject. When the chief refused, Colonel Smith convened a council to hear the matter, and they fined the chief fifty head of cattle (more than double the amount he had seized from his subject). O’Riely claimed that “the sentence generally was highly applauded” and that the chief kissed Colonel Smith’s hand, and thanked him for his leniency.²⁹⁸

Later that year, the *Graham’s Town Journal* also published a transcript of a speech that Colonel Smith made to the Xhosa on September 13, 1836, wherein he issued a series of orders to the chiefs as a new Lieutenant-Governor took office.²⁹⁹ Smith lectured them to “spurn the idolary [sic] of witchcraft, the folly, cruelty, and oppression of which I have so often explained to you; it is, I again tell you, a hellish instrument, by which the strong oppress the weak, by an old wretch pretending to possess a supernatural power, which no mortal is endowed with.”³⁰⁰ The newspaper article also included a transcription of parts of the new Lieutenant-Governor’s speech, and a description of a question and answer session that followed. Reportedly, one of the Xhosa chiefs, Macomo, asked the new Lieutenant-Governor if he could punish witchcraft as he had formerly done (presumably meaning before the creation of the Queen Adelaide Province). Colonel Smith answered in the Lieutenant-Governor’s stead and informed Macomo that although he (Macomo) might want this, his people did not. When the Xhosa heard this, according to whoever supplied the newspaper with the account of these

²⁹⁷ Ibid.

²⁹⁸ Ibid.

²⁹⁹ “Meeting of His Honour and the Kafir Chiefs at King William’s Town,” *Graham’s Town Journal*, September 15, 1836.

³⁰⁰ Ibid.

events, “an approving smile was perceptible on the countenances of many of the crowd around.”³⁰¹

Despite the advances that Smith and others claimed they made with “civilizing” the peoples of the eastern province, the Colonial Office broke up Queen Adelaide Province and dissolved the treaties that Governor D’Urban had made with the Xhosa in December of 1836.³⁰² After this, the brief media attention that had been given to the “problem” of witchcraft among the Xhosa disappeared. In contrast to the numerous articles about witchcraft leading up to the creation of the Queen Adelaide Province in 1835 and during its brief existence until 1836, I did not find any newspaper accounts in South Africa over the next five years, from 1837 to 1841, that discussed witchcraft in any detail.³⁰³

Media references to “witchcraft” resumed in 1842 but remained sporadic until 1846, when the addition of new territory to British South Africa increased the coverage of witchcraft. Starting in the middle of the 1830s, the Boers (the descendants of the primarily Dutch European immigrants who had arrived in the Cape prior to British colonization) began what became known as the “Great Trek,” migrating into other areas to the east and north of the Cape Colony to create new settlements outside British

³⁰¹ Ibid.

³⁰² Ross, *A Concise History of South Africa*, 53.

³⁰³ I found two articles that mentioned witchcraft policies during this period. The first was a transcript of a treaty signed between the Lieutenant-Governor of the Eastern Division of the Cape and the Gaika people, wherein the latter agreed that they would promote Christianity in their territories and would not permit any of their subjects to be prosecuted for witchcraft. “Treaty,” *Graham’s Town Journal*, June 29, 1837. The second mention of witchcraft was a transcript of Governor D’Urban’s final remarks as he was replaced by a new Lieutenant-Governor of the Cape. D’Urban urged his successors to abolish “all proceedings under the pretence of witchcraft.” “Untitled,” *Graham’s Town Journal*, Nov. 29, 1838. However, neither of these transcripts was accompanied by any commentary about witchcraft.

control.³⁰⁴ One of the areas they relocated was the southeastern region of South Africa, which would become known as Natal, where some of the Zulu people lived. The British were troubled by the conflicts over land that arose between the Zulu and the Boers in Natal, which began to resemble the border wars between the Cape Colony and the Xhosa.³⁰⁵ The British were also concerned that another European power might colonize this region and gain control over the significant port that existed there, therefore, in 1843, they annexed Natal into the Cape Colony.³⁰⁶

In 1846, a South African newspaper, the *Natal Witness*, was founded in the new colony in the city of Pietermaritzburg. Similar to the *Graham's Town Journal*, it frequently featured articles about witchcraft, describing practices and events within Natal and in the neighboring Cape Colony. The first story about witchcraft in the *Natal Witness* was published on January 1, 1847, in response to the alleged murder of Umkomanzi, an accused witch. Purportedly in reaction to this murder, the Lieutenant-Governor of Natal, Martin West, issued a proclamation stating that anyone who killed an accused witch could be sentenced to death, imprisoned with hard labor, or any other penalty the Queen of England would allow him to impose.³⁰⁷ West declared that this recent murder had demonstrated to him the prevalence of local beliefs that a person can injure another “by means of witchcraft” and that “certain pretenders” called “witch doctors” could discover the accused witch.³⁰⁸ He emphasized that it was not only the individual who actually

³⁰⁴ Ross, *A Concise History of South Africa*, 42; Roger Beck, *The History of South Africa* (Santa Barbara, California: ABC:CLIO, 2014), 74-75.

³⁰⁵ Beck, *The History of South Africa*, 78.

³⁰⁶ Ibid.

³⁰⁷ “Proclamation,” *Natal Witness*, January 1, 1847.

³⁰⁸ Ibid.

killed the suspected witch who would be penalized, but also any person “whether Chiefs, ‘Witch Doctors,’ or others” who were accessories or incited the crime would be charged.³⁰⁹ Later, in the 1850s, the Secretary for Native Affairs in Natal, Theophilus Shepstone, issued similar circulars stating that killing anyone for the suspected practice of witchcraft was against the law.³¹⁰

Lieutenant-Governor West’s Proclamation and Shepstone’s circulars demonstrate subtle but significant differences in policies about witchcraft in Natal and the Cape Colony in the mid-nineteenth century. West underscored that any individual involved in an attack on a suspected witch committed a crime under colonial law. In his explanation of this policy, he highlighted the alleged significance of the “witchdoctor” in the accusation process. In contrast, British restrictions on witchcraft-related practices in the Cape Colony were not enacted as widespread proclamations applying to all persons living within colonial jurisdiction; they were treaties with the chiefs that required them to suppress witchcraft accusations within their communities. When violence against a suspected witch was reported in the Cape, colonists asserted that the chief was responsible because he desired the accused person’s property. They rarely mentioned the role of the “witchdoctor,” except as a tool that the chief employed to ensure an accusation against the individual with the most cattle.

New regulations of witchcraft among the Xhosa in the mid 1840s and 1850s suggest that the differences between the Cape Colony and Natal were the result of regional policy distinctions, not the chronological evolution of colonial views of witchcraft. After another frontier war between the colonists and the Xhosa from 1846 to

³⁰⁹ Ibid.

³¹⁰ Flint, *Healing Traditions*, 104.

1847, the lands in the eastern province were again annexed to the Cape Colony. This time, the territory was renamed British Kaffraria.³¹¹ Former Governor of the Queen Adelaide Province, Colonel Harry Smith, returned to South Africa at the end of 1847 as the Governor of the entire Cape Colony.³¹² Shortly after his arrival, Smith resumed his previous tactics of regulating witchcraft in the eastern province through the Xhosa chiefs.

On January 7, 1848, Governor Smith called a meeting with the Xhosa chiefs and invited missionaries and some European residents and officials from the Cape Colony to attend. Smith made the chiefs swear an oath to him as the “Great Chief” of the Xhosa (a title he bestowed upon himself) that they would obey his laws and the laws of England.³¹³ Among other commands, he ordered the Xhosa chiefs to “disbelieve in and cease to tolerate the practice of witchcraft in any shape,” and to make their people listen to the missionaries.³¹⁴ Smith told the Xhosa that he would assist them in making “rapid strides toward civilization” and that the people of England would help him to provide for them so that they would no longer be “naked and wicked barbarians.”³¹⁵ Once again, Smith issued these orders through the chiefs, with the intention of making them liable for any accusations that happened in their communities and therefore providing a basis for stripping them of their authority if they did not suppress witchcraft trials.

In addition to these treaties with the chiefs, colonial authorities’ commentary during the outbreak of another frontier war with the Xhosa in the 1850s also reveals how

³¹¹ Price, *Making Empire*, 210-211.

³¹² *Ibid.*, 211.

³¹³ Alfred Tokollo Moleah, *South Africa: Colonialism, Apartheid and African Dispossession* (Wilmington, Delaware: Disa Press, 1993) 166.

³¹⁴ Edgar H. Brookes, *The History of Native Policy in South Africa from 1830 to the Present Day* (Pretoria: J.L. Van Schaik, Ltd., 1927), 33.

³¹⁵ Moleah, *South Africa*, 166; quoting Sir Harry Smith’s speech to the Xhosa.

the residents and officials in the Cape Colony viewed the relationship between chiefs and witchcraft. In 1850, a man named Mlanjeni began travelling throughout Xhosa communities claiming to be a prophet. He preached that the Xhosa could eliminate witchcraft in their communities by cleansing suspected witches, rather than executing them.³¹⁶ Scholars have argued that colonial authorities in the Cape became concerned about Mlanjeni's activities and, fearing that he was gathering followers to organize a revolt, tried to arrest him. However, Mlanjeni retreated into Xhosa territory and colonial authorities were unable to apprehend him. Researchers have claimed that this, in part, awakened fears among the colonists about the organizing powers of so-called "witchdoctors."³¹⁷ Yet, the correspondence that Cape officials sent to the Colonial Office suggests that they did not see Mlanjeni himself as the primary threat to the security of the colony. Rather, they believed that the Xhosa chiefs had employed Mlanjeni to use his skills as a "witchdoctor" to rally the people for war against the Cape Colony.

On September 25, 1850, W.M.D. Fynn wrote to the Chief Commissioner in British Kaffraria, Colonel George Mackinnon, stating that in his opinion, based on twenty years living among the Xhosa, Mlanjeni had been sent by the chiefs living on the frontier to organize the people with his anti-witchcraft activities.³¹⁸ He believed that once Mlanjeni had gained the confidence of the people, he would then issue a proclamation that the people should place their "implicit faith" in the chiefs. Fynn argued that the chiefs had become restless when they lost "their former unbounded power in eating up, torturing and killing their people [referring to the British interference with their authority

³¹⁶ Flint, *Healing Traditions*, 106.

³¹⁷ Ibid., 106-107.

³¹⁸ *Correspondence with the Governor of the Cape of Good Hope Relative to the State of the Kafir Tribes and the Recent Outbreak on the Eastern Frontier of the Colony* (London: W. Clowes and Sons, 1851). 19

over witchcraft accusations]” so the chiefs had used Mlanjeni to “recover the power of exercising their diabolical practices.”³¹⁹ Less than one month later, John Maclean, Commissioner to the T’Slambie people, sent a similar message to Colonel Mackinnon.³²⁰ He stated that “the chiefs generally availed themselves of Umlanjeni’s prophecies to stir up disaffection, and to regain the influence which they have lost.”³²¹ Shortly thereafter, Mackinnon himself declared that he did not believe there was “anything mischievous or warlike in the prophecies” of Mlanjeni and he did not “intend to molest him.”³²² Mackinnon agreed with the other officials who had written to him that Mlanjeni’s prophecies were not “the true cause of excitement” among the Xhosa, but rather the chiefs had “availed themselves of the appearance of this prophet to spread warlike rumours at a distance.”³²³

South African colonists’ arguments that Mlanjeni was not the “true cause” of this Xhosa rebellion is striking when compared to British interpretations of the role of spiritual practices in Caribbean uprisings. From the mid-eighteenth century until the 1830s, colonial officials in the Caribbean emphasized the centrality of ritual practitioners in “coercing” and “deluding” people into participating in rebellions.³²⁴ In South Africa, on the other hand, the British believed that the primary authority, even over supernatural practices, lay with the chiefs. As the power of the chiefs was slowly dismantled, however, narratives about witchcraft in South Africa began to focus more on the spiritual

³¹⁹ Ibid.

³²⁰ Ibid., 30.

³²¹ Ibid.

³²² Ibid. 32.

³²³ Ibid.

³²⁴ See Chapter 2.

practitioner, the so-called “witchdoctor.” At first, colonists simply began to reference the role of the “witchdoctor” in the accusation process but still described her/him as a tool of the chief. Increasingly throughout the late nineteenth century, residents and officials in South Africa described the “witchdoctor” as an instigator of the accusations and claimed that he/she performed witchfinding services solely to collect a substantial fee or a portion of the fine. By the time the first witchcraft statutes were passed in South Africa in the late 1870s, “witchdoctors” had begun to be viewed as central to the accusation process and their divination activities were specifically prohibited in most of these early laws.

In the early 1850s, British authorities in South Africa appear to have remained uncertain about the role of the “witchdoctor” in Xhosa society. Although colonial officials in Natal had issued more general prohibitions against the practice of witchcraft than those in the Eastern Cape, in 1852, they expressed similar views about the centrality of chiefs in the accusation process and downplayed the role of the “witchdoctor.” That year, the *Commission to Inquire into the Past and Present State of the Kafir in the District of Natal* asked colonial officials and residents their opinions about the fairness of indigenous legal proceedings, the meaning of the term “witchcraft” among the peoples of South Africa, and the procedure of witchcraft accusations.³²⁵ Reverend William Jefferd Davis, a Wesleyan missionary who had resided in South Africa since 1832, responded that “laws which apply to the crime of witchcraft, which are cruel and murderous in their consequences, and, place in the hands of their chiefs, a power which, when Kafirs are in their independent state, is often made use of for the vilest and most tyrannical

³²⁵ *Proceedings of the Commission Appointed to Inquire into the Past and Present State of the Kafir in the District of Natal* (Natal: J. Archbell and Son, 1853), 88-89.

purposes.”³²⁶ Davis’s description of the role of the “witchdoctor” on the other hand, had a much more neutral tone. He said that when a person became ill or died under suspicious circumstances, Africans would consult a “witchdoctor” who “by his incantations,” “may discover the individual guilty of the crime of causing the evil.”³²⁷ Although Davis claimed that the word of the “witchdoctor” was typically sufficient to determine guilt without any additional proof, he made no judgments about the diviner’s complicity in the process. Also in 1852, a resident magistrate, Johan Herman Marinus Struben, suggested the colonial authorities should not completely abolish the crime of witchcraft because he believed that African communities interpreted the concept to include cases of poisoning.³²⁸ He argued that the “witchdoctor” should continue to be employed to discover the “wizard” but he/she “should be made to prove [the wizard’s] guilt, beyond his [the witchdoctor’s] mere assertion of it, before the Resident Magistrate, and not before the chief.”³²⁹ In instances where the “witchdoctor” accused someone of practicing witchcraft without objective proof, Struben believed the “doctor” should be fined.³³⁰

Any uncertainty that the colonists expressed about the role of the “witchdoctor” began to slowly wane beginning in 1854, when Governor Grey made Xhosa chiefs subordinate to European magistrates and took away their judicial authority to hear certain cases, including those pertaining to witchcraft accusations.³³¹ Two different colonial

³²⁶ Ibid., 65.

³²⁷ Ibid., 65.

³²⁸ Ibid., 11.

³²⁹ Ibid.

³³⁰ Ibid.

³³¹ The colonial government took similar measures when they incorporated the Tembu people into the Cape Colony in 1875. They agreed to allow the chiefs to hear certain cases but gave European magistrates that

sources, both published in the 1890s, argued that Grey removed the jurisdiction of the chiefs because he claimed that witchcraft accusations were primarily about the pecuniary interests of the chiefs.³³² Therefore, Grey allegedly made an estimate of how much money the chiefs earned for the fines paid and the property confiscated in the cases they heard.³³³ Based on this estimate, Grey gave the chiefs a monthly stipend but took away their authority to hear the witchcraft cases. With the removal of this authority, the British Crown received all of the fines for offenses against the public, which included witchcraft accusations. Despite late-nineteenth century arguments that Grey made these changes to prevent the chiefs from abusing their power, his actions took political, social, and financial control away from the Xhosa chiefs, with whom the Cape Colony had been fighting frontier wars on-and-off for decades.

During the period that Sir George Grey stripped the Xhosa chiefs of their authority to hear cases of witchcraft, more colonists began to argue that the “witchdoctors” were complicit in the torture and murder of suspected witches. In 1854, the same year as Grey’s proclamation, Reverend Francis Fleming described the “witchdoctors” as partners with the chiefs in the accusation process.³³⁴ Fleming asserted that when a member of the community had “amassed a sufficient number of cattle to excite the greedy avarice of the Chief,” then the latter claimed to be sick and called upon

right to hear appeals of these cases. Tembu chiefs were forbidden from hearing cases of murder, witchcraft, serious assault, and theft from other “tribes” or the colonial government. *Ibid.*, 24.

³³² John Noble, ed., *Illustrated Official Handbook of The Cape and South Africa* (Cape Town: J.C. Juta & Co., 1893) 185; William Lee Rees, *The Life and Times of Sir George Grey, K.C.B.*, vol.1 (London: Hutchinson & Co., 1891), 228-229.

³³³ Noble, *Illustrated Official Handbook of The Cape and South Africa*, 185.

³³⁴ Francis Fleming, *Kaffraria, and Its Inhabitants* (London: Simpkin, Marshall, and Co., 1854), 115.

the “witchdoctor.”³³⁵ The chief would meet with the “witchdoctor” in private, Fleming said, and promise to pay him a reward if he singled out a particular individual as the cause of the chief’s feigned illness.

The author of an article published in the *Natal Witness* in 1858 also questioned the complicity of the “witchdoctor” in the torture and murder of suspected witches.³³⁶ Based on information provided by someone who was merely referred to as “a reliable source,” the anonymous author described an alleged case of witchcraft that occurred in the Klip River district of Natal among Chief Machini’s people. After two “witchdoctors” indicated the same individual as the guilty party, the chief approved the confinement of the accused and ordered his banishment from the community. The individuals who seized the suspected witch, however, executed him instead. Colonial authorities ordered Chief Machini to go before the resident magistrate, where Machini professed that the execution had taken place without his knowledge. The author of the article said that he presumed the individuals who had killed the suspected witch would be dealt with harshly but added “[p]erhaps it is worth while [sic] to consider the expediency of implicating the native doctors in all such cases, and bringing them in as aiders and abettors of murderers.”³³⁷

After decades of issuing injunctions against the purported practice of witchcraft and witchcraft accusations to specific chiefs and their peoples through treaties, circulars, and oaths, the first actual witchcraft legislation in South Africa was passed in 1879 in

³³⁵ Ibid.

³³⁶ “Untitled,” *Natal Witness*, January 22, 1858

³³⁷ Ibid.

Transkei, the eastern part of the Cape Province.³³⁸ This law prohibited “practising or pretending to practice witchcraft, or other acts commonly regarded as such,” and “falsely accusing another of practising witchcraft.”³³⁹ The penalty for both of these offenses was the same, a fine, up to thirty-six lashes from a whip, imprisonment with the possibility of solitary confinement or a “spare diet,” or any combination of these. There does not appear to have been any limitation on the length of time that an individual could be imprisoned or the amount of the fine that could be charged, but if a resident magistrate in Transkei sentenced any person to more than one month imprisonment or more than a five-pound fine, the Chief Magistrate had to review his decision and could affirm or alter it.³⁴⁰

Although this initial law merely prohibited any person from accusing another of practicing witchcraft, when the *Commission on Native Laws and Customs* interviewed colonial magistrates in the early 1880s to construct a draft penal code for “native territories,” it was clear that they were enforcing these laws against “witchdoctors.” The magistrates reported that whenever they were confronted with cases of witchcraft accusations, they fined the “witchdoctor” performing the rituals or confiscated the “witchdoctor’s” personal property.³⁴¹ The amount of property taken from the “witchdoctor” could range from a few heads of cattle to everything that he or she owned. They also punished the “witchdoctors” with whipping and terms of imprisonment at hard labor, particularly if someone was harmed or killed as a result of being named as a

³³⁸ South Africa, Cape of Good Hope, “Regulations for the Government of the Transkei of 1879,” in *Proclamations of Laws for Native Territories Annexed to the Colony of the Cape of Good Hope* (Cape Town: Saul Solomon & Co., 1880), 6.

³³⁹ Ibid.

³⁴⁰ Ibid., 8.

³⁴¹ *Commission on Native Laws and Customs Report*, app. D.

witch.³⁴² Some courts continued to add fines to sentences of imprisonment for “witchdoctors” convicted in Southern Africa as late as the 1940s.³⁴³ These fines seem to have been an effort both to combat the ability of “witchdoctors” to grow wealthy from their trade, and to compensate the “victims” of the “witchdoctor”— meaning the people that they accused of practicing witchcraft.

In 1886, another statute was passed in Transkei which elaborated on the previous law including placing limits on terms of imprisonment.³⁴⁴ This statute prohibited a person from using a professed knowledge of witchcraft or charms to injure a person or property, or advising someone how to do the same. These offenses were punishable by up to twelve months imprisonment or a fine. It also prohibited a person from accusing someone of being a witch or wizard or of causing disease by using “non-natural means.”³⁴⁵ Most significantly, however, this 1886 witchcraft law contained new provisions relating to “witchdoctors.” It proscribed employing a “witchdoctor” to identify a person as a witch or wizard. An individual who hired a “witchdoctor” could be fined up to five pounds or imprisoned for up to two months if he or she failed to pay the fine. The penalty for accusing someone of being witch or practicing witchcraft was a fine of up to forty shillings or imprisonment for up to fourteen days if the convicted person failed to pay the fine. However, the offense of accusing someone of being a witch or wizard carried an enhanced penalty, two years imprisonment and/or flogging, if the person making the accusation was a “witchdoctor” or “witchfinder.”

³⁴² Ibid., 416, 417 and app. D, pgs 291, 301

³⁴³ R. v. Balenje (1945), 4 N.R.L.R. 1-3.

³⁴⁴ South Africa, Transkei, “Chapter 11 of the Native Territories’ Penal Code of 1886,” 2388

³⁴⁵ Ibid.

In 1895, a nearly identical law was extended to the rest of the Cape Colony.³⁴⁶ Additionally, in 1904, a witchcraft ordinance was passed in the Transvaal (in the north-eastern region of South Africa) which included all the elements of the statute in the Cape Colony but substantially increased the penalties for each crime.³⁴⁷ It allowed up to one year imprisonment for employing a witchdoctor, five years imprisonment for indicating someone as a witch or claiming that a person had caused disease using non-natural means, ten years for using pretended knowledge of witchcraft to injure a person or property (or advising someone how to use witchcraft in this manner), and up to life imprisonment if a “witchdoctor” or “witchfinder” accused a person of being a witch or wizard. The Transvaal’s Witchcraft Ordinance also added another provision, prescribing a punishment of imprisonment for up to one year if a person pretended to use witchcraft, sorcery, conjuration, or any kind of supernatural power for gain. The first consolidated witchcraft law in the Union of South Africa, the Witchcraft Suppression Act of 1957, was modeled on the 1904 Witchcraft Ordinance from the Transvaal.³⁴⁸ It included all the same provisions and added no further clauses; legislators merely made some slight changes to the wording of the statute. The similarities between the earliest laws against witchcraft and the last South African statute on this subject, the Witchcraft Suppression Act of 1957, demonstrate the influence that nineteenth century concerns about witchcraft had on later policies.

³⁴⁶ South Africa, Cape of Good Hope, “The Witchcraft Suppression Act of 1895,” *Journal of the Society of Comparative Legislation*, 1 (1897): 90.

³⁴⁷ South Africa, the Transvaal, “Witchcraft Ordinance No. 26, 1904,” in *The Laws and Regulations, Etc., Etc., Specifically Relating to the Native Population of the Transvaal* (Pretoria: Government Printing and Stationary Office, 1907), 151.

³⁴⁸ South Africa, “Witchcraft Suppression Act of 1957,” in *Statutes of the Union of South Africa* (Cape Town: Cape Town Ltd., 1957), 6-10.

The Transvaal and Transkei ordinances in South Africa also had a substantial influence on laws promulgated in Britain's other African colonies. Witchcraft laws throughout British colonies in southern Africa were nearly identical to these South African laws; witchcraft ordinances in British colonies in eastern Africa were structured and worded differently but included most of the same provisions as the South African laws. For example, the 1904 witchcraft law passed in the British Protectorate of North-Western Rhodesia (part of modern-day Zambia) included all the provisions of the Transkei and the Transvaal ordinances but also contained a few additional clauses.³⁴⁹ First, it specified that witchcraft included the use of charms, the practice of sorcery, and the "throwing of bones," which was a method of divination used in that region. Colonial legislators also added a clause that prohibited trial by ordeal; they specifically proscribed trying to determine whether a person had committed a crime by administering an emetic or purgative to another person or dipping his or her limbs in boiling water. A witchcraft law was also passed in Swaziland in 1904 which incorporated all of the Transvaal provisions and added a few other clauses.³⁵⁰

In 1927, a witchcraft suppression ordinance was passed in Bechuanaland (modern-day Botswana) which was identical to the 1904 Transvaal ordinance except that violations were punishable by shorter terms of imprisonment.³⁵¹ Furthermore, by the 1920s, British colonial authorities in East Africa including Nyasaland (modern-day Malawi), Tanganyika (modern-day Tanzania), Uganda, and Kenya had all passed laws containing similar provisions as the early witchcraft laws of South Africa. These included

³⁴⁹ North-Western Rhodesia, "Proclamation No. 12 of 1904," 125-127.

³⁵⁰ Swaziland, "Witchcraft Act of 1904," 697.

³⁵¹ Botswana, "The Witchcraft Proclamation of 1927," in *The Laws of the Bechuanaland Protectorate*, ed. A.C. Thompson (Cape Province, South Africa: Cape Times Limited, 1959), 1:489-490.

proscriptions on claiming to have “the power of witchcraft” (usually specifically prohibiting the “pretended” practice of witchcraft with the intent to cause fear or injury), accusing another person of practicing witchcraft, and employing someone to find a witch or wizard. Since the proscription of witchcraft in most British colonies, particularly those in southern and eastern regions of Africa, so closely resembled laws in South Africa, the history of colonial policies about witchcraft in South Africa is the foundation for understanding British statutes regulating medico-religious practices throughout the continent.

Additionally, although some scholars have tried to connect the suppression of witchcraft accusations in colonial Africa to the decriminalization of and declining belief in witchcraft in England, a closer examination of witchcraft-related laws and policies in Britain and its Caribbean colonies appear to refute this argument. Not only did many people in Britain continue to believe in the existence of witches in the nineteenth century, they also subjected suspected witches to ordeals and violent attacks. However, legislators in England never enacted laws against witchcraft accusations; they only criminalized the “pretended” practice of witchcraft or sorcery. The British adopted similar policies regarding the practice of obeah in the Caribbean. Although purported obeah practitioners were assaulted in the nineteenth century, particularly during the myalism movement in Jamaica in the 1840s and 1850s, colonial legislators never prohibited accusing others of practicing obeah.

Therefore, when one discusses the proscription of witchcraft accusations in Africa, colonial authorities’ supposed “humanitarian” intervention to protect individuals who were allegedly tortured and killed for practicing witchcraft must be questioned.

Since the British did not feel the same need to protect the “victims” of witchcraft accusations in England or the Caribbean, it is unlikely that this was the driving force behind colonial laws regarding witchcraft in Africa. Instead, prohibitions of witchcraft provided British authorities with both a means and a reason to undermine the authority of South African chiefs. After the chiefs had been subdued, they turned to eliminating another powerful figure in South African communities—the “witchdoctor.” The proscription of witchcraft in South Africa was intricately connected to the expansion of colonial territory and the subjugation of Africans under British rule.

Chapter 4: Poisons and Charms

In many parts of the Caribbean and Africa, colonial authorities claimed that spiritual practitioners attempted to use poisons, charms and supernatural rituals to cause illness, misfortune and property damage. Therefore, in British colonies on both sides of the Atlantic, legislators passed laws prohibiting the practice of obeah or witchcraft to intimidate or cause injury. Although these laws shared many textual similarities, they were enacted for substantially different reasons.

From the eighteenth century through the mid-nineteenth century, obeah practitioners in the British Caribbean were frequently accused of causing sickness and death in their communities. Colonial officials asserted that they produced illnesses in two ways; they allegedly used plant and animal-based poisons that were ingested through water or food, and they also purportedly used charms, which were designed to cause illness when the intended victim passed over where the charm was buried, when a thief or trespasser crossed a property line where a protective talisman was hung, or when a person committed some transgression against the individual who made or commissioned the charm.

Colonial authorities and plantation owners feared obeah poisons in the British Caribbean in the eighteenth and early nineteenth centuries and, to a certain degree, believed that obeah practitioners had sufficient knowledge of plants and animals to create effective poisons. On the other hand, colonists asserted that they did not recognize the efficacy of charms; instead they suggested that any individual who became ill after encountering such a talisman, who were mostly enslaved persons or free people of color, were suffering from “imagined illnesses.” However, both poisons and charms were

proscribed by obeah laws in the British Caribbean. The purpose of these laws was to limit the power that obeah practitioners wielded, especially among enslaved populations where belief in the obeah practitioners' ability to cause sickness and misfortune using both herbal concoctions and charms was supposedly widespread. Moreover, plantation owners wanted to reduce the number of enslaved persons who were reportedly killed by obeah practitioners, either through actual poisons or "imagined illnesses." Similarly to the proscription of sacred oaths, concerns about obeah practitioners purportedly attempting to cause sickness and death diminished post-emancipation, at least in part because plantation owners had a vested interest in the health of enslaved persons who they viewed as their property but did not have a similar stake in the wellbeing of free laborers.

While colonial officials frequently complained about how pervasive obeah-related illnesses and deaths were in the British Caribbean, the same was not true of narratives about so-called witchcraft practices in British colonies in Africa. British residents and travelers in South Africa rarely asserted that African "witchdoctors" or "medicine men" used their knowledge of local plants and animals to poison members of their communities or colonial officials. Legislators did not mention the use of poisons by "witches" or "witchdoctors" as one of the reasons that they proscribed the practice of "pretended witchcraft." Poisons were featured in about half of the witchcraft statutes in British Africa; however, they were prohibited from being used in trials by ordeal, not in the "pretended" use of supernatural powers.

Although colonial officials did not frequently report that ritual specialists used poisons to cause illness or death, they did allege that some Africans attempted to use the practice of "pretended witchcraft" to cause injury or sickness, or to destroy property.

Africans purportedly employed a variety of rituals to attempt to harm others; however, colonial authorities in Africa only prosecuted overt acts that could be documented through eye-witness testimony or physical evidence. Therefore, whereas many Africans believed that sickness or misfortune could be caused through a metaphysical or spiritual attack such as stealing or “eating” a person’s soul, colonial authorities did not take legal action in such cases. Instead, as in the pre-emancipation Caribbean, legislators focused on the proscription of ritual objects and the use of those articles in rituals intended to cause injury.

Despite the apparent similarities in the use of charms and comparable statutes prohibiting them, the reasons for their proscription in the Caribbean and Africa were very different. In Jamaica, the use of charms was outlawed to prevent obeah practitioners from causing “imagined illnesses” and terror in the black population. In South Africa, prohibitions of charms were designed to reduce witchcraft accusations by proscribing acts that South African peoples might interpret as witchcraft or sorcery. Furthermore, while legislators had removed most provisions specifically referencing the “pretended” use of supernatural powers to cause injury from Caribbean obeah laws by the end of the nineteenth century, colonial authorities in Africa emphasized these clauses in the early to mid-twentieth century by increasing the penalties for the practice of “pretended witchcraft” if the accused intended to cause sickness or destruction of property.

Poisons and Charms in Jamaica

Although the first obeah legislation in Jamaica was purportedly passed because colonial officials were concerned that obeah practitioners used oaths to bind insurgents to

participate in rebellions and charms to protect them from detection or attack by colonial forces, these were not the only practices prohibited in eighteenth century obeah laws. By 1787, Jamaican legislators added provisions to the 1760 obeah statute that prohibited “any negro or other slave” from giving poisons to any other person, and mixing or preparing poisons with the intent to give it to another person. The penalty for violating this section was execution or imprisonment at hard labor for life.³⁵² Similar language was used in other obeah statutes throughout the Caribbean in the late eighteenth and early nineteenth centuries.³⁵³ By the early nineteenth century, many obeah laws also included prohibitions of the mixture or administration of “noxious drugs, pounded glass or other deleterious matter” within these sections on poisons.³⁵⁴

Although these statutes prohibited the preparation or administration of poisons, drugs or other matter “in the practice of obeah,” they do not explain what would distinguish this form of poisoning from any other. Diana Paton argues, in her article comparing laws related to poisons and “witchcraft” in French and British colonies in the Caribbean, that historically Europeans believed there was a very intricate relationship between witchcraft and poisoning, specifically noting that the breath of witches was thought to be toxic and that witches were often accused of poisoning and believed to have obtained poisons from the devil himself.³⁵⁵ In the late seventeenth and early eighteenth century, France and England passed laws asserting that witchcraft did not exist and

³⁵² Jamaica, *The act of Assembly for the Island of Jamaica, to repeal several acts and clauses of acts respecting slaves*. London. [1788]. *The Making of the Modern World*. Web. 15 Oct. 2013.

³⁵³ Barbados, “An Act for the Punishment of Such Slaves as Shall be Found Practicing Obeah,” Nov. 4, 1806, The National Archives, United Kingdom, C.O. 31/47; Dominica, “An Act for the Encouragement, Protection, and better Government of Slaves of 1789,” 24.

³⁵⁴ Barbados, “An Act for the Better Prevention of the Practice of Obeah of 1818,” 269.

³⁵⁵ Paton, “Witchcraft, Poison, Law and Atlantic Slavery,” 239-241.

criminalized the “pretended” practice of witchcraft as a form of charlatanism. France, however, continued to proscribe the administration of poisons, through natural or magical means. Paton argues that Britain, which did not legally recognize the efficacy of supernatural forms of poisoning after the Witchcraft Act of 1735, used the term obeah in its Caribbean colonies to proscribe any form poisoning, supernatural or otherwise, without technically acknowledging the existence of “witchcraft.”³⁵⁶ Therefore, it appears that all instances of poisoning by Africans or people of African descent were glossed as the practice of obeah and any person who colonial officials believed had substantial herbal knowledge was referred to as an obeah practitioner.

Since obeah rituals were purportedly used in insurrections, one might assume that the primary aim of these provisions regarding poisons was to prevent obeah from being employed against slave owners and other Europeans. There is some evidence of that concern expressed in the journals and other accounts of European residents of the British Caribbean in the eighteenth and early nineteenth century. For example, at the end of the eighteenth century, Thomas Atwood, chief judge of the island of Dominica, wrote that obeah men had knowledge of numerous poisonous plants in the Caribbean and that they had killed many white people with poisons they had constructed from these herbs.³⁵⁷ Similarly, in his book describing five year’s residence in the British Caribbean, Charles William Day recounted his lunch conversation with an individual who was both an estate attorney and a magistrate. This man, Mr. Lipscombe, told Day that he was “in constant dread of poison from obeah, and scarcely dares to drink a glass of water” because he

³⁵⁶ Ibid., 242-243.

³⁵⁷ Thomas Atwood, *The History of the Island of Dominica* (London: J. Johnson, 1791), 271-272.

feared his black workers might have put an obeah poison in it.³⁵⁸ Even as late as 1898, Henry Kirke narrated a story about a mulatto woman who had inadvertently caused the death of her master³⁵⁹ (who Kirke claimed was also her lover), because she placed a love philter she had bought from an obeah practitioner in his coffee every day and this potion caused him to become ill and slowly die.³⁶⁰

Although such concerns were occasionally expressed in the late eighteenth and nineteenth centuries, the language used in early to mid nineteenth century obeah statutes suggests that legislators were primarily concerned with obeah practitioners using poisons against enslaved persons, not plantation owners and overseers. In the early nineteenth century, Jamaican laws were altered to prohibit the use of obeah to influence the health or life of any other *slave*, rather than any other person.³⁶¹ Similarly, the preamble of Barbados's 1806 legislation prohibiting the practice of obeah, stated that obeah was proscribed because "...many valuable slaves have lost their lives, or have otherwise been materially injured in their health, by the wicked arts of certain negro [sic] and other slaves going under the appellation of Obeah men and women, pretending to have communication with the devil and other evil spirits..."³⁶² This Act prohibited the preparation and mixing of poisons "in the practice of obeah or otherwise."³⁶³ Likewise,

³⁵⁸ Charles William Day, *Five Years' Residence in the West Indies*, vol. 2 (London: Colburn and Co., Publishers, 1852), 308-309.

³⁵⁹ Presumably he meant employer, as slavery was abolished more than 50 years prior to the publication of Kirke's book.

³⁶⁰ Henry Kirke, *Twenty-Five Years in British Guiana* (London: Sampson Low, Marston & Company, 1898), 282.

³⁶¹ Jamaica, "An Act for the protection, subsisting, clothing, and for the better order, regulation, and government of Slaves; and for other purposes of 1809," in House of Commons, *Miscellaneous Papers*. Session Feb. 1, 1816- July 2, 1816. Vol. XIX, 125 (emphasis added).

³⁶² Barbados, "An Act for the Punishment of such Slaves as shall be found practicing Obeah," 36-37.

³⁶³ *Ibid.*

the preamble of Dominica's 1789 obeah law stated that it was passed because "it frequently happens that Slaves assume the Art of Witchcraft, or are what is commonly called Obeah or Doctor Men... administer certain Drugs or Potions of a secret and generally of a poisonous Nature, as well to Slaves as to Free People of every Description."³⁶⁴

Furthermore, the most common complaint that plantation owners made about obeah practitioners from the eighteenth century until the middle of the nineteenth century was that they poisoned slaves and servants, causing death and disruption on plantations. For instance, in 1795 in Jamaica, a slave named Harry was granted his freedom and awarded five pounds a year for the rest of his life for his assistance in uncovering an attempt to prepare and administer poisons "in the dangerous and diabolical practice of obeah," in a plot which would have endangered the lives of many people.³⁶⁵ Similarly, in *Journal of Residence Among the Negroes in the West Indies*, published in 1861, a plantation owner and novelist named Matthew Gregory Lewis described an alleged obeah practitioner as the "terror" of his whole estate. Lewis stated that this obeah practitioner, Adam, was suspected of having poisoned twelve black people and was caught trying to poison a water jar by one of the "house-servants."³⁶⁶

Colonial narratives often emphasized that obeah practitioners had special knowledge of plants and animals that allowed them to be adept at poisoning. In his 1800 book *Medical Tracts*, Benjamin Moseley stated that obeah practitioners knew how to

³⁶⁴ Dominica, "An Act for the Encouragement, Protection, and better Government of Slaves of 1789."

³⁶⁵ *The Laws of Jamaica, Passed in the Thirty-Fifth Year of the Reign of King George the Third* (St. Jago de la Vega, Jamaica: Alexander Aikman, 1795), 271-272.

³⁶⁶ Matthew Gregory Lewis, *Journal of Residence Among the Negroes in the West Indies* (London: John Murray, 1861), 156.

administer poisons that would cause pigs and poultry to go blind and cattle to become lame.³⁶⁷ Moseley said that obeah practitioners were also capable of administering poisonous herbs and could calculate their effects to kill in an hour, a day, a week, a month or even a year. He asserted that the victims of obeah poisonings were more numerous than typically assumed and that obeah poisons caused a disease that was unknown to medicine.³⁶⁸ Similarly, an unknown author published a mid- nineteenth century description of the colony of Antigua arguing that in the earlier part of the century poisoning was very common “among these followers of Obeah.”³⁶⁹ The author said that the older obeah practitioners were knowledgeable about the wild indigenous plants in Antigua and they were familiar with both their healing and poisoning abilities. They used this knowledge when they were paid a small fee by clients who were “irritated with denials of what they wished for, or suffering from jealousy, or any other strong, passion.”³⁷⁰ The author said that their “deadly draughts” were capable of producing immediate death but it was more common for them to administer a poison that caused a lingering demise.³⁷¹

Until the turn of the twentieth century, residents of the British Caribbean continued to remark how problematic incidents of obeah poisoning were before emancipation in 1834. For instance, in his 1893 book *Obeah: Witchcraft in the West Indies*, Hesketh Bell noted that during slavery strict laws with heavy penalties were

³⁶⁷ Benjamin Moseley, *Medical Tracts*, 2nd ed. (London: Red Lion Passage, 1800), 193.

³⁶⁸ *Ibid.*, 193-194.

³⁶⁹ *Antigua and the Antiguans: A Full Account of the Colony and its Inhabitants from the Time of the Caribs to the Present Day*, vol. 2 (London: Saunders and Otley, 1844), 51.

³⁷⁰ *Ibid.*

³⁷¹ *Ibid.*

enacted against the practice of obeah because it was “the cause of so much loss of slave property by poisoning...”³⁷² He asserted that some of the older black people possessed knowledge of many poisonous plants that were found in all tropical areas but were “unknown to medicine” and that “it is to be feared that numerous deaths might still be traced to the agency of these obeahmen.”³⁷³ Similarly, in his 1903 book *Stark’s History and Guide to Barbados and the Caribbee Islands*, James Stark wrote that during slavery, the practice of obeah was “rampant” in the Caribbean and that most estates had at least one obeah practitioner among their slaves.³⁷⁴ Stark asserted that these obeah practitioners had “some skill in plants of the medicinal and poisonous species, and in the superstitious rites, which they brought with them from Guinea and the Congo...” and that “great loss of slave property was caused by their poisonings through their use of poisonous roots, and plants unknown to science, found in every tropical wood.”³⁷⁵

In addition to colonial accounts of obeah poisonings and obeah legislation prohibiting the use of poisons, Jamaican slave court records include cases in which an obeah practitioner allegedly poisoned someone. For instance, in 1822, an enslaved man named Robert was arrested in Saint George for “practicing obeah” on Thomas Wildman.³⁷⁶ The court records state that he caused “great damage and material injury” to Wildman’s owner by giving Wildman a “bottle containing some poisonous or deleterious

³⁷² Hesketh Bell, *Obeah; Witchcraft in the West Indies* (1893; repr. Westport: Negro Universities Press, 1970), 12.

³⁷³ Ibid.

³⁷⁴ James Stark, *Stark’s History and Guide to Barbados and the Caribbee Islands* (Boston: James H. Stark, 1903).

³⁷⁵ Ibid., 165-166

³⁷⁶ *The King v. Bob aka Robert*, 5 Apr. 1827, Jamaica Archives, St. George Slave Court Records, 2/18/6.

matter used in the practice of obeah or witchcraft.”³⁷⁷ He was convicted of violating the obeah law and sentenced to six months imprisonment and thirty-nine lashes at the end of his prison term.

In addition to a few cases that specify that obeah practitioners were charged with poisoning others, there are numerous slave court records that merely allege that the accused individual “pretended to have supernatural powers so as to affect the lives of other slaves,”³⁷⁸ or that an individual practiced obeah on a certain plantation to the detriment of the owner of the slaves of that plantation.³⁷⁹ Other records state that an accused person gave a poisonous or deleterious substance to another person but do not indicate what it was, the context in which the substance was given, or specify what happened to the person to whom the substance was given.³⁸⁰ Although these records are vague, they suggest that prosecutions for obeah-related poisoning regularly occurred.

Beginning in the mid to late nineteenth century, it became more common for travelers and European-descended residents of the British Caribbean to question the ability of obeah practitioners to concoct unique poisons that were unknown to western science. They asserted that while obeah practitioners may have once had knowledge of plants and animals that could cause sickness or death, they no longer had these skills and had resorted to the use of known poisons, like arsenic and pounded glass, to bring about the desired effects if a client asked them to hurt or kill someone. For example, writing in 1873, Reverend William James Gardner, a minister who arrived in Jamaica in the mid-

³⁷⁷ Ibid.

³⁷⁸ The King v. Isaac Lowe, 1822, Jamaica Archives, Hanover Slave Court Records, 1A/2/1(1).

³⁷⁹ The King v. Will aka John Dixon, 6 July 1825, Jamaica Archives, St. George Slave Court Records, 2/18/6.

³⁸⁰ The King v. Joseph aka Billy Jack, 2 Oct. 1822, Jamaica Archives, St. George Slave Court Records, 2/18/6.

nineteenth century, argued that while obeah practitioners had been reputed to be skilled with poisons, “their ability in this respect had been greatly exaggerated.”³⁸¹ Gardner acknowledged that many stories about obeah practitioners asserted that they were capable of creating poisons so strong that the tiniest drop would cause insanity or a slow, lingering death. However, Gardner doubted their exceptional skill. He said that “in nearly every case of known poisoning in Jamaica, the crime has been committed in the most clumsy manner; arsenic, rat poisons, or some other well-known compounds being employed. A very common method of revenge had been to put powdered glass in the food offered, but the effect of this is of course only mechanical.”³⁸² That same year, Charles Rampini also argued in *Letters from Jamaica: The Land of Streams and Woods* that obeah practitioners were often found with ground glass, arsenic and “other poison.”³⁸³ Rampini said “it is not difficult to conjecture for what purposes these are employed.”³⁸⁴ He claimed that slave court records in Portland, Jamaica from 1805-1816 contained numerous cases of obeah, including one where a woman tried to poison her master with arsenic and another where a person tried to poison his or her master with ground glass in his coffee.³⁸⁵

As colonial officials and plantation owners increasingly believed that obeah practitioners were not using specialized herbal knowledge to poison, it became rarer for prosecutions of obeah to include cases in which an individual was accused of poisoning

³⁸¹ W.J. Gardner, *A history of Jamaica from its Discovery by Christopher Columbus to the Present Time* (London: Elliot Stock, 1873), 190.

³⁸² Ibid.

³⁸³ Charles Rampini, *Letters from Jamaica “The Land of Streams and Woods”* (Edinburgh: Edmonston and Douglas, 1873), 132.

³⁸⁴ Ibid.

³⁸⁵ Ibid. 135.

someone. This may have been an indication that colonial authorities thought that what separated obeah from other forms of poisoning was that it involved special knowledge of plant and animal by-products. When obeah practitioners allegedly no longer used these items, they could be prosecuted for violating laws prohibiting the administration of poisons, ground glass, and other “deleterious substances” that were in effect in Jamaica by the late nineteenth century (and perhaps much earlier).³⁸⁶ However, when one considers Diana Paton’s argument that colonial officials proscribed obeah in part to prohibit supernatural poisoning without outlawing “witchcraft,” colonial narratives expressing their authors’ increasing disbelief that obeah practitioners had particular herbal knowledge may perhaps also be read as indicating a growing doubt as to the existence of witchcraft.

This seems consistent with other contemporary sources which suggested that perhaps poisoning was never so common nor something in which obeah practitioners actually specialized. For instance, in 1835, Richard Madden, a stipendary magistrate from England appointed to serve in Jamaica, wrote a narrative about the year that he lived in the British Caribbean. In this book, he said that he was inclined to believe that obeah poisoning was never practiced to the extent that many people had asserted. He believed that some instances of poisoning had occurred against “obnoxious overseers and other white persons” but pointed out that “[t]he times were barbarous, and the negroes were not the only people whose savagery conformed to them.”³⁸⁷ Madden described a case from 1834 where a man was accused of practicing obeah, specifically of harming a child by

³⁸⁶ Jamaica, “Acts Causing or Tending to Cause Danger to Life, or Bodily Harm,” 27 Vict. c. 32, 1864, in *The Statutes and Laws of the Island of Jamaica: Revised Edition*. ed. C. Ribton Curran (Kingston, Jamaica: Government Printing Establishment, 1889), 4:197.

³⁸⁷ Madden, *Twelvemonth’s Residence*, 62.

smoking a poisonous substance around the child. By the man's own confession, he had collected a plant from the mountains and smoked it in a pipe. He claimed that the smoke could not harm him but could harm any others who inhaled it. He turned over some of the dried leaves to the attorney general. The man claimed that he had no issue with the mother or father, but he asserted that the devil made him harm the child. Madden felt that the case was ridiculous and was convinced that the plant was innocuous because he did not believe that it was possible to smoke a plant that did not cause harm to the smoker but was fatal to others who inhaled it. In reference to the man's confession, Madden noted that many witches in England and Scotland had also, at one time, been hanged based upon their own confessions.³⁸⁸

By the end of the nineteenth century, obeah practitioners in Jamaica were no longer prosecuted for poisoning people with their special herbal concoctions and alleged poisoning committed by an African-descended person was not automatically categorized legally as obeah.³⁸⁹ It seems likely that this was because colonial officials no longer believed that they possessed a particular knowledge of plant and animal by-products, and perhaps because colonial officials increasingly viewed poisons as something separate and distinct from the (pretended) practice of witchcraft. If alleged obeah practitioners administered commonly known poisons, like arsenic, they could be prosecuted for violations of other Jamaican laws prohibiting the administration of dangerous and noxious substances.

³⁸⁸ Madden, *Twelvemonth's Residence*, 65-67.

³⁸⁹ Based on the writings of residents, travelers and officials in the British Caribbean at this time, it seems likely that this trend was widespread throughout the Caribbean, not just in Jamaica. However, I do not have enough data on court cases from other colonies, such as Barbados and Trinidad, to state with certainty that obeah practitioners were not prosecuted for poisoning in these regions after 1900.

In addition to specific prohibitions on the use of poisons, obeah laws also generally banned practitioners from using their knowledge (or “pretended knowledge”) to cause injury or sickness to others. While these provisions were partially designed to address concerns that obeah practitioners had extensive herbal knowledge and used that knowledge to actually poison people, colonial officials in the British Caribbean more often claimed that bundles of items that obeah practitioners buried underground or hung in trees caused the death of numerous enslaved persons through what plantation owners and colonial officials deemed “imagined illnesses.” Thus, early obeah laws prohibited the possession of items that were used to “delude and impose on the minds of others,”³⁹⁰ and sometimes included lists of items that colonial officials believed were frequently used in obeah rituals. For example, Jamaica’s 1760 Obeah Act prohibited any enslaved or free black person from possessing “blood, feathers, parrots beaks, dogs teeth, alligators teeth, broken bottles, grave dirt, rum, egg shells or other materials relative to the practice of obeah or witchcraft.”³⁹¹ Any person violating this provision could be sentenced to transportation (banishment) or death.

St. Vincent’s 1803 Obeah Act also listed items that were believed to be used in obeah, but these materials were very different from those mentioned in Jamaica and they included very commonplace possessions such as a bible or a key.³⁹² Other obeah laws were not so detailed; they broadly proscribed possessing charms or any other thing that obeah practitioners claimed had supernatural power. Some laws allowed a Justice of the

³⁹⁰ This language is from the first obeah act in Jamaica. Jamaica, “Act 24 of 1760,” 52-55.

³⁹¹ Ibid.

³⁹² St. Vincent, “An Act to oblige Proprietors and Possessors of Slaves in their own Right, or Rights of others, Managers and Conductors of Estates, to give in Returns of Runaways, and punishing Obeah Men of 1803,” 171-173.

Peace or other officials to search any home in the day or night if there was reasonable cause to suspect that phials, images, articles or other items used in the practice of obeah were in someone's possession.³⁹³ If such ritual objects, known as "instruments of obeah," were discovered, then the person possessing the object had the burden to prove that it were not used in the practice of obeah.³⁹⁴

There are many ways in which colonial proscription of the use of charms and other ritual objects could be interpreted and understood. First and foremost, it is essential to acknowledge that colonial records document many ways in which charms were used by so-called obeah practitioners; these descriptions changed over time and as they did, narratives about the threat that charms posed to society also changed. Before emancipation in 1834, by far the most common colonial description of obeah charms was that they served as a protection against thieves. For example, in 1753, R. Poole described two such instances in his book *The Beneficent Bee: or Traveller's Companion*.³⁹⁵ In the first, a man who stepped in a puddle near an obeah practitioner's provision grounds was struck by a "sudden disorder." In the second instance, a valued slave began to grow thin and when questioned about it, he admitted to his master that he had stolen something from an obeah practitioner's provision ground and that he believed that he would die. The master left the obeah practitioner (who was also his slave) alone with his valued servant, after telling the obeah practitioner that if the man did not become well, the obeah practitioner would be hanged. After this, the sick man recovered. Similarly, at the end of the eighteenth century, Thomas Atwood wrote of the island of Dominica, stating "They

³⁹³ Guyana, "An Ordinance to Repress the Commission of Obeah Practices, Ord. 1 of 1855," in *The Laws of British Guiana* (Demerara: L. McDermott, 1873), 2:371.

³⁹⁴ Ibid.

³⁹⁵ R. Poole, *The Beneficent Bee: or Traveller's Companion* (London: E. Duncumb, 1753), 300-301.

have their necromancers and conjurers of both sexes, whom they called ‘Obeah men and women,’ to whom they apply for spells and charms against sickness, to prevent their being robbed, or to find out the thief, and to punish those who do them any injury.”³⁹⁶

These descriptions indicate that the protection against thieves took a variety of forms. Sometimes the charms consisted of a glass bottle filled with a dark-colored liquid and nails or a gourd containing different colored pieces of cloth, eggshells, and animal matter such as cats’ teeth, lizards’ tails and fish bones.³⁹⁷ Other accounts indicated that these charms were usually composed of nails, glass, stones and rags tied together in a bundle and placed in the provision patch.³⁹⁸ Charms were placed on a property boundary, especially at a gate or threshold, where the thief would pass near the object.³⁹⁹ Colonial records asserted that for these charms to work, a thief had to be informed that the property was protected by obeah, and then he or she would begin to feel pain and would often eventually die.⁴⁰⁰

Before the abolition of slavery, plantation owners were concerned about these charms for the same reasons that they proscribed the use of poisons. Enslaved persons, who were described as those who most frequently suffered from “imagined illnesses,” were viewed as property and whether they were suffering from a “real” or “imagined” malady, their illness or death translated to an economic loss to the plantation owner. Furthermore, just as the proscription of sacred oaths allowed colonial officials to

³⁹⁶ Atwood, *The History of the Island of Dominica*, 269.

³⁹⁷ *Antigua and the Antiguans*, 54; James Phillippo, *Jamaica: Its Past and Present State* (London: John Snow, 1843), 247; Gardner, *A history of Jamaica*, 185-186.

³⁹⁸ Poole, *The Beneficent Bee*, 300-301.

³⁹⁹ Gardner, *A history of Jamaica*, 188-189.

⁴⁰⁰ *Ibid.*; Phillippo, *Jamaica: Its Past and Present State*, 247.

minimize the role that harsh conditions of slavery played in insurrections, the attribution of widespread disease and death in slave communities to obeah poisons or African “superstitions” allowed plantation owners to downplay the impact of malnutrition, overwork, and corporal punishment on the health of enslaved persons. Additionally, although the laws of England said that witchcraft did not exist, some colonists continued to think that ritual processes could be used to cause sickness, misfortune and death and thus they supported the proscription of obeah talismans because they believed in their efficacy.

Plantation owners and colonial officials were also concerned about both obeah poisons and charms because they felt that even the “pretended” use of supernatural powers to cause injury and misfortune allowed obeah practitioners to gain power and respect in enslaved communities based on fear and intimidation of those individuals who believed in the potency of their ritual practices. In fact, many accounts from the eighteenth century until the mid-nineteenth century suggest that obeah practitioners were arrested and deported merely on the basis of possession of so-called “instruments of obeah,” indicating that colonists cared more about belief in obeah practitioners’ power than in evidence that a particular individual actually attempted to use poisons or charms to cause mental or physical harm. For example, William Burdett recounted a story described to him by a plantation owner who had a female obeah practitioner living on his property.⁴⁰¹ Burdett said that this unnamed plantation owner visited his estate in 1775 and found that two or three of his slaves were dying each day and even more were ill. After this had continued for more than a year, the plantation owner sent some white servants to force open the obeah woman’s cabin. There, they found a variety of bones,

⁴⁰¹ Burdett, *Life and Exploits of Mansong*, 25-28.

feathers, eggshells filled with an unknown gummy substance, teeth from humans, dogs and cats, and multi-colored glass beads. The plantation owner destroyed her hut and deported the obeah woman to Cuba. After she was gone, he claimed the illnesses on his plantation ceased. Similarly, in his journal published in 1861, Matthew Lewis described his discovery of “a negro of very suspicious manners” living on his land.⁴⁰² He sent some of his employees to locate this man and they found him carrying a bag containing “a great variety of strange materials of incantations; such as thunder-stones, cat’s ears, the feet of various animals, human hair, fish bones, the teeth of alligators, & c.”⁴⁰³ The man was sent to a prison in Montego Bay, and after he left numerous people came forward to claim that they had seen him “exercise his magical arts,” and that he had sold medicines and charms to various people to protect them from their enemies. The man was convicted of practicing obeah and was transported from the island, according to Lewis, “to the great satisfaction of persons of all colours—white black, and yellow.”⁴⁰⁴

Most surviving slave court records lack sufficient detail about evidence used in prosecution to determine how frequently a case was founded solely on discovery of “instruments of obeah.” Furthermore, it would be difficult to ascertain how many plantation owners, like the one in Burdett’s account, simply sold or deported an enslaved person who they suspected was practicing obeah without an official trial. However, colonial narratives do indicate that prosecutions for possession of ritual items were important in the suppression of obeah in the eighteenth century and early nineteenth century because fear of practitioners prevented many people from testifying against them.

⁴⁰² Lewis, *Journal of Residence Among the Negroes in the West Indies*, 48-49.

⁴⁰³ Ibid.

⁴⁰⁴ Ibid.

In later periods, particularly in the years leading up to emancipation and the first few decades following it, colonial accounts of “instruments of obeah,” focused less on the description of certain items and more on their use in inter-personal disputes. Furthermore, whereas before emancipation obeah charms had often been described as a protective guard against trespassers and thieves, after the abolition of slavery obeah practitioners were more frequently charged with creating charms for a retributive rather than protective purpose. Sometimes obeah practitioners were said to place charms in the homes of people who angered or annoyed them.⁴⁰⁵ Other works described the use of obeah charms in romantic quarrels. For example, in 1828, a book entitled *Marly; or the Life of a Planter in Jamaica* included a story about a slave driver named Hampden who used obeah to cause sickness in a man named Sammy and his wife Thisby.⁴⁰⁶ Hampden desired Thisby and after she rebuked his affections, Hampden performed obeah rites using a chicken’s foot, a chicken’s head and a clay statute with some pins in it. The two became ill, although the author asserted that the rituals had effect only because the victims were informed of them. Hampden’s master gave him thirty-nine lashes and stripped him of his position as driver in lieu of putting him on trial.⁴⁰⁷ Similarly, in 1851, Richard Bentley described a complicated story in which two men were in competition over the same woman and also engaged in a property dispute, leading the rivals to consult obeah practitioners to create a series of charms and countercharms. Finally one man hired

⁴⁰⁵ *Antigua and the Antiguans*, 53-54.

⁴⁰⁶ *Marly; or the Life of a Planter in Jamaica: Comprehending Characteristic Sketches of the Present State of Society and Manners in the British West Indies and an Impartial Review of the Leading Questions Relative to Colonial Policy*, 2nd ed. (Glasgow: Richard Griffin & Co., 1828), 128.

⁴⁰⁷ *Ibid.*

an obeah practitioner to poison another, with part of the cassava plant. The obeah practitioner was arrested and hanged.⁴⁰⁸

Court records also demonstrate that by around the mid-nineteenth century, after emancipation, obeah practitioners were more frequently charged with actively trying to use charms to cause sickness or death rather than merely arrested for possessing “instruments of obeah.” For example, in 1866, Henry Fray was found guilty of practicing obeah and sentenced to twelve months imprisonment at hard labor.⁴⁰⁹ Fray said he could kill Samuel Morris using supernatural means and in exchange, he demanded money from William Barnett, who wanted Morris dead. Fray said he could kill Morris by cutting the comb of a cock, catching the blood in a phial, and putting the comb of the cock together with the skin off the sole of Barnett's foot, hair off his forehead and parings of his fingernails, and burying these things in a phial in the ground.

Similarly, in 1857, William Downer was accused of practicing obeah when he allegedly told Richard Crawford that he could kill Robert Milne, with whom Crawford was angry, through the use of supernatural powers.⁴¹⁰ In exchange for the murder of Milne, Crawford agreed to give Downer a pig. The court's limited description of the ritual Downer performed states that he stretched out a piece of cloth supporting a basin containing an egg and the head of a fowl, and danced and sang. The prosecution also generally alleged that Downer used spells, charms and incantations. For reasons that are unclear from the surviving records, Downer was found not guilty of practicing obeah.

⁴⁰⁸ Richard Bentley, *Bentley's Miscellany*, vol. 30 (London: Richard Bentley, 1851), 195-203.

⁴⁰⁹ Rex v. Henry Fray, 29 Oct. 1866, Jamaica Archives, Westmoreland Circuit Court Records, 1A/5/1 (15).

⁴¹⁰ The Queen v. William Downer, 7 June 1857, Jamaica Archives, Westmoreland Circuit Court Records, 1A/5/1 (15).

The subtle shift in colonial narratives about charms before and after emancipation most likely indicates evolving European concerns about the alleged “pretended” use of supernatural power to cause illness or death rather than changing ritual practices. Assuming that colonial authorities were properly interpreting the use of charms in the protection of property, there is no apparent logical basis for Africans and people of African descent to have ceased these rituals immediately upon abolition of slavery. In fact, one could reason that once enslaved persons were free and some were able to become landowners, the use of these charms to protect their property would increase rather than decline. Furthermore, at least one scholar has documented the use of similar charms in the Bahamas as recently as the late twentieth century.⁴¹¹

Although it is difficult to know whether the use of obeah charms to deter trespassers and thieves actually declined after the abolition of slavery, it is easier to determine why colonial authorities would not have been very concerned about these practices. Before emancipation, plantation owners would have been troubled by any ritual practice that they believed threatened the health and life of an enslaved person, who they viewed as their chattel. It would not have mattered if a charm was placed for purposes of protection, so long as the result was the loss of their “property.” However, plantation owners would not have had the same incentive to record or prohibit the use of charms to protect against trespassers and thieves after emancipation severed their financial interest in the health of their workers.

The use of charms in interpersonal disputes, however, would have remained a concern of Caribbean officials because belief in the obeah practitioners’ capacity to

⁴¹¹ Jerome Wendell Lurry-Wright, *Custom and Conflict on a Bahamian Out-Island* (New York: University Press of America, 1987), 39.

mediate conflict continued to be an alternate source of power that undermined colonial law and authority. Nineteenth century changes to obeah legislation support the idea that colonial authorities became less concerned with the supposed loss of life from poisons or “imagined illnesses” and more preoccupied with preventing obeah practitioners from “pretending” to use their supernatural powers to resolve interpersonal disputes.

Provisions prohibiting a person from using poisons or noxious drugs and references to specific “instruments of obeah” were removed from obeah statutes by the middle of the nineteenth century. They were often replaced by a clause which made it a crime to consult an obeah practitioner with the intention of causing injury to a person, damaging property, or committing a felony.⁴¹² The most recent major revisions to Jamaica’s obeah laws were made in 1898, and in this version of the statute, consulting an obeah practitioner continued to be proscribed but the penalties changed. If the person consulted the obeah practitioner for fraudulent or unlawful purposes, he or she could be sentenced to up to six months imprisonment.⁴¹³ The penalty increased to up to twelve months’ imprisonment if the individual paid the obeah practitioner for the consultation.⁴¹⁴

Unlike vague Jamaican laws in the late nineteenth century which prohibited the use of obeah for “unlawful purposes,” a few other obeah statutes continued to specifically ban obeah practitioners from attempting to cause sickness and death. However, the penalties for violating these laws were reduced after emancipation. For example, the preamble of St. Vincent’s 1880 Act relating to palmistry and “occult sciences” noted that it had become common for people to “pretend” or profess to use knowledge of

⁴¹² Jamaica, “An Act to Explain the Fourth Victoria, chapter forty-two, and the Nineteenth Victoria, chapter thirty, and for the more effectual punishment of Obeah and Myalism,” 45-46.

⁴¹³ Jamaica, “The Obeah Law of 1898,” 2.

⁴¹⁴ Ibid.

supernatural powers to, among other things, “affect with disease.”⁴¹⁵ This Act made it a petty misdemeanor to use a professed or “pretended” knowledge of “occult science” to harm someone, or afflict them with a disease, sickness, pain or infirmity.⁴¹⁶ Whereas the earlier statutes penalized “pretending” to use obeah or supernatural powers to cause illness or death with banishment from the island or execution, the penalty in the 1880 law was twelve months imprisonment with or without hard labor and/or a fine of up to fifty pounds. Later, in 1912, the St. Vincent law no longer mentioned pretending or professing to cause illnesses; instead, it merely prohibited practicing obeah or “pretending” supernatural powers to intimidate someone.⁴¹⁷ Trinidad and Tobago’s 1902 provisions regarding obeah mirrored this language about using supernatural powers to intimidate but also included language similar to St. Vincent’s earlier 1880 Act. Legislators prohibited using supernatural power to “inflict any disease, loss, damage, or personal injury to or upon any other person...”⁴¹⁸ Violations of these provisions could result in up to six months imprisonment.

In the mid to late nineteenth century, colonial officials rarely asserted that obeah practitioners had particular knowledge of poisons and plantation owners no longer had a

⁴¹⁵ St. Vincent, “An Act with respect to the practice of unlawful pretenses to skill in palmistry cards and occult sciences,” 72-73.

⁴¹⁶ Ibid.

⁴¹⁷ Interestingly, this law uses the language “assuming” to practice obeah, instead of “pretending” to practice obeah. St. Vincent, “Summary Jurisdiction Offences Law of 1912,” in *The Laws of St. Vincent*, ed. Keith Hennessey Conrad Alleyne (London: Sweet and Maxwell Limited, 1970), 1:747-748; Antigua and Barbuda had similar provisions in their Obeah Act, passed initially in 1904 and revised several times, most recently in 1992. Any person who used supernatural practices to intimidate anyone could be sentenced to up to six months imprisonment. As early as 1855, British Guiana’s obeah laws also contained provisions against intimidating or extorting others through threat of recourse to obeah. Violators of this provision could be imprisoned for up to twelve months on the first offense. British Guiana, “An Ordinance to Repress the Commission of Obeah Practices, Ord. 1 of 1855,” 370-371.

⁴¹⁸ Trinidad and Tobago, “An Ordinance for rendering certain offences punishable on Summary Conviction of 1902,” 130-131.

direct economic interest in the health of their workers. However, legislators in the Caribbean continued to prohibit the possession of charms and other ritual objects and the “pretended” use of supernatural powers to cause disease or injury. The persistent proscription of these items and rituals demonstrates the breadth of the legal definition of “obeah,” which, by the mid-nineteenth century prohibited virtually every form of “pretending” to have supernatural powers. Colonial officials arrested people for a variety of acts, such as palm-reading, and rituals to improve luck or secure employment. The placement of obeah charms, which was intended to make a person fear for his or her life, would have been perceived as a very dangerous form of “pretense” capable of causing disruption and subversion of colonial control.

However, the role of “instruments of obeah” in prosecutions drastically changed. By the late nineteenth century, they were rarely the sole evidence in obeah cases, and individuals charged with violating obeah laws were typically accused of using sacred objects in a particular ritual rather than merely possessing them. While it is unclear whether part of the change in obeah prosecutions may have reflected a shift in ritual practices, such as a decline in the use of poisons and protective charms, it is apparent that the community response to obeah practitioners changed. By the mid-nineteenth century, likely in part due to increasing conversion of Africans and people of African descent to Christianity, more and more people were willing to testify against obeah practitioners. By the twentieth century most evidence in obeah cases was provided by witnesses, typically individuals to whom the obeah practitioner offered his or her services, or dissatisfied clients.

In summary, it seems likely that a variety of factors, including shifting colonial interests in the post-emancipation period and changing beliefs and rituals among the Afro-Jamaican population, contributed to the mid-to-late nineteenth century revisions to obeah laws and prosecutions. By the early twentieth century, few obeah laws specifically referenced attempts to use “pretended” supernatural powers to cause disease. Also by this time, the use of poisons was no longer prosecuted in connection with obeah; the administration of poisons was a separate offense and colonial officials were no longer concerned that obeah practitioners had special knowledge of poisonous plants and animals. The use of charms continued to be prosecuted in Jamaica, but in the vast majority of these cases, the accused obeah practitioner was performing a ritual to bring someone luck or to help them secure employment and win legal cases, not to cause injury, disease, or death. In part, charms were less important as evidence in obeah cases because as fear of practitioners declined, more cases were initiated by disgruntled clients.

Poisons and Charms in British Africa

In recent years, scholars have argued that colonial authorities in Africa prosecuted “witchdoctors” for trying to find and punish suspected witches, and protected individuals who were accused of witchcraft. For instance, in her introduction to the edited volume *Imagining Evil: Witchcraft Beliefs and Accusations in Contemporary Africa*, Gerrie Ter Haar argues that “colonial magistrates often ended up condemning the accusers rather than the perceived manipulators of evil, or ‘witches,’ in any specific incident. As a result, African communities felt abandoned to the capricious powers of witches, against whom

they had no legal defense.”⁴¹⁹ She claims that an individual who believed that she or he had been victimized by witchcraft could not gain assistance from colonial courts. Similarly, Katherine Fidler asserts that in the twentieth century the Pondo people of South Africa felt that witches and sorcerers conducted their ritual practices with impunity because “magistrates and judges prohibited accusations of witchcraft in civil and criminal courts...”⁴²⁰

With reference to British colonies in southern and eastern Africa, however, such assertions are not entirely accurate. Although exponentially greater numbers of diviners and healers were prosecuted for violating witchcraft laws than individuals who practiced “pretended witchcraft,” most of the witchcraft legislation in British African colonies had clauses that prohibited a person from claiming to possess supernatural powers to threaten or intimidate someone, or using “pretended” knowledge of witchcraft to attempt to cause illnesses or property damage. The prescribed punishment for violation of these provisions was often comparable to the penalty for professional “witchdoctors” who accused someone of being a witch.

However, in contrast to their Caribbean counterparts, colonial legislators in Africa did not proscribe the practice of “pretended witchcraft” to prevent so-called “witchdoctors” or “medicine men” from using their herbal knowledge to poison others or to reduce deaths from “imagined illnesses.” The prohibition of using witchcraft to cause injury or illness in British African colonies was another way to diminish witchcraft accusations. Colonial officials reasoned that while chiefs and “witchdoctors” were the

⁴¹⁹ Gerrie ter Haar, ed. *Imagining Evil: Witchcraft Beliefs and Accusations in Contemporary Africa* (Trenton, N.J: Africa World Press, Inc., 2007), 17.

⁴²⁰ Katherine Fidler, “Chiefs into Witches: Cosmopolitan Discourses of the Nation, Treason, and Sorcery; the Pondoland Revolt, South Africa,” in *Sorcery in the Black Atlantic* ed. Luis Nicolau Pares and Roger Sansi (Chicago: University of Chicago Press, 2011), 80.

primary instigators of witchcraft accusations, individuals who attempted to use charms or rituals to cause harm to other people or their property were also complicit. British colonial authorities also viewed “witchdoctors” as a competing source of authority who could organize resistance against the colonial government, so they sought to usurp some of the “witchdoctors” power. They attempted to do this by preventing “witchdoctors” from presiding over indigenous methods of protecting their communities from suspected witches, while creating mechanisms for people who believed themselves to have been bewitched to seek relief through colonial courts by criminalizing the practice of “pretended witchcraft” to threaten or intimidate others.

Most of the earliest witchcraft laws in Southern Africa prohibited the “pretended” use of supernatural powers to attempt to cause physical harm to another person. For example, the witchcraft legislation enacted in Transkei in 1886 contained a section entitled “persons using witch medicine with intent to injure,” which prohibited a person from using any “means or processes” intended to injure any person “on the advice of a witch-doctor, or of his pretended knowledge of so-called witchcraft.”⁴²¹ This law also prohibited “witchdoctors” from giving advice on how to injure people, cattle, or property.⁴²² Witchcraft legislation in Natal, passed in 1891, closely resembled this law. It prohibited a person from advising “any person applying to him to bewitch or injure persons or property.”⁴²³ The Transvaal’s Witchcraft Ordinance from 1904 used identical

⁴²¹ South Africa, Cape of Good Hope, “Chapter 11 of the Native Territories’ Penal Code of 1886,” 2388.

⁴²² Ibid.

⁴²³ South Africa, Natal, “Code of Natal Native Law, No. 19 of 1891,” 35.

language to the Transkei ordinance⁴²⁴ and comparable laws were passed in Northwestern Rhodesia in 1904 and Basutoland in 1927.⁴²⁵

Witchcraft ordinances in East Africa also incorporated similar provisions about the use of “pretended witchcraft” to cause injury. For instance, pursuant to Tanganyika’s Witchcraft Act of 1928, any person who “represent[ed] himself to have the power of witchcraft” could be sentenced to up to one year imprisonment or a fine not exceeding one thousand shillings.⁴²⁶ However, if an individual claimed to possess supernatural powers with “intent to cause death, disease, injury, or misfortune to any community, class of persons, person, or animal or to cause injury to any property,” the potential penalty increased to a fine not exceeding four thousand shillings or up to seven years imprisonment.⁴²⁷

Legislators apparently took these offenses very seriously; they often prescribed lengthy terms of imprisonment of five to ten years for violations of these sections. For example, Northwestern Rhodesia’s witchcraft law of 1904 penalized violators with a fine not exceeding two hundred and fifty pounds sterling, a term of imprisonment of up to seven years, corporal punishment of no greater than twenty-four lashes, or a combination of any two of these.⁴²⁸ Similarly, Swaziland’s penal code prescribed a penalty of up to

⁴²⁴ South Africa, the Transvaal, “Witchcraft Ordinance No. 26, 1904,” 151.

⁴²⁵ North-Western Rhodesia, “Proclamation No. 12 of 1904,” 125-127; Lesotho, “The Native Medicine Men and Herbalists Proclamation of 1948,” in *Revised Edition of the Laws of Basutoland in Force on the 1st Day of January, 1949*, ed. J.G. Kneen and H.C. Juta (London: Waterlow & Sons Limited, 1950), 1:611-613.

⁴²⁶ Tanganyika, “The Witchcraft Ordinance of 1928,” 232.

⁴²⁷ *Ibid.*

⁴²⁸ North-Western Rhodesia, “Proclamation No. 12 of 1904,” 125-127.

ten years imprisonment for using knowledge of “pretended witchcraft” with intent to injure or advising someone how to bewitch or injure a person, animal or property.⁴²⁹

The prescribed penalties for individuals who used “pretended witchcraft” to cause injury, illness or property damage were often comparable to those established for professional “witchdoctors” who accused someone of practicing witchcraft. For instance, in Bechuanaland, the punishment for “professing a knowledge of so-called witchcraft” with the intent to cause illness, injury, or misfortune was identical to the punishment for a professional “witchdoctor” or “witchfinder” who accused someone of being a wizard or witch, up to five years imprisonment or a fine not exceeding one hundred pounds.⁴³⁰ Similarly, in Kenya’s Witchcraft Ordinance of 1925, someone who “holds himself out as a witch-doctor able to cause fear, annoyance, or injury to another in mind, person, or property,” could be penalized with up to five years imprisonment, the same term prescribed for an individual who accused someone of practicing witchcraft.⁴³¹ However, the most severe penalty in the Kenyan statute, up to ten years imprisonment, applied to individuals who went beyond merely claiming to have supernatural powers and actually attempted to use their “pretended knowledge of so-called witchcraft” with the intent to cause injury, fear, or annoyance, or advised others how to bewitch or injure someone.⁴³²

These sections of witchcraft statutes were very similar to certain provisions in early obeah laws. Recall that many of the first obeah laws contained provisions prohibiting the use of obeah to affect the life or health of others, and in the mid-

⁴²⁹ Swaziland, “Witchcraft Act of 1904,” 697.

⁴³⁰ Bechuanaland, “The Witchcraft Proclamation of 1927,” 489-490.

⁴³¹ Kenya, “Penal Code of 1930,” 287-289.

⁴³² Ibid.

nineteenth century and later, obeah statutes prohibited people from using obeah to intimidate others, to cause disease, to inflict injury or for any unlawful purpose. However, although obeah and witchcraft laws both prohibited the “pretended” use of supernatural powers to attempt to cause injury, sickness and destruction to property, these laws differed in their specific language about the use of poisons.

From the eighteenth century to the mid-nineteenth century, most obeah laws proscribed the administration of poisons in addition to prohibiting the practice of obeah to cause illness or misfortune. On the other hand, it was uncommon for colonial officials or British residents in African colonies to refer to incidents where “medicine men” or “witchdoctors” used poisons composed of plant or animal byproducts. Poisons were mentioned in witchcraft statutes but these provisions prohibited trial by ordeal, a method used primarily in West, Central and East Africa to determine a person’s guilt or innocence of a crime. Ordeals took many forms; sometimes an accused was instructed to dip their hand in boiling water or place a hot knife on their tongue. If he or she was not burned, it was dispositive proof of innocence. Another common method of conducting an ordeal consisted of the accused individual ingesting a known toxin. If the accused survived, he or she was considered innocent. If the accused died, the ordeal served as both proof of guilt and punishment for the crime.

These ordeals were frequently used in cases of suspected witchcraft and therefore most colonial laws against ordeals were combined with anti-witchcraft legislation. Colonial officials prohibited specific poisons and mixtures that were typically used (or believed to have been used) in trials by ordeal. For instance, Nigeria’s Ordeal, Witchcraft and Juju Ordinance prohibited the use of sasswood, esere-bean, or any other poisons in

the administration of ordeals.⁴³³ Any individual who was found with such a poison for sale or use could be punished with a fine of fifty shillings or up to six months imprisonment.⁴³⁴ The laws of Sierra Leone also prohibited administering sasswood to anyone and forbid an individual from taking sasswood poison himself as well.⁴³⁵ Similarly, Nyasaland's (modern-day Malawi) Witchcraft Ordinance banned the use of *muabvi*, or any other poison, in the performance of trial by ordeal.⁴³⁶ In addition to proscribing the use of such poisons, the Nyasaland law also prohibited making, collecting, selling or possessing them, if they were intended to be used in a trial by ordeal.⁴³⁷ It further made it an offense punishable by life imprisonment to be a professional maker or mixer of poisons.⁴³⁸

Although obeah and witchcraft laws differed in their restrictions of the use of poisons, they were similar in their proscription of charms and other ritual objects. Provisions against the use of so-called "witchcraft medicine" or "instruments of witchcraft," were included in the first witchcraft statutes in South Africa and in many other witchcraft laws throughout British colonies in Africa. However, witchcraft laws did not describe or list the charms as some early obeah statutes did; instead, they typically indicated that the object would be used for some specific impermissible purpose. For instance, Kenya's Witchcraft Ordinance from 1925 prohibited the possession of a charm

⁴³³ Nigeria, "The Ordeal, Witchcraft, and Juju Ordinance of 1903," in *Laws of the Colony of Southern Nigeria*, ed. Edwin Arney Speed and James Ernest Green (London: Stevens & Sons, Ltd., 1908), 1:350.

⁴³⁴ Ibid.

⁴³⁵ Sierra Leone, "Summary Conviction Offences: Drinking Sasswood, Ord. 5 of 1948," in *The Laws of Sierra Leone*, ed. Cecil Geraint Ames (London: Waterlow & Sons Limited, 1960), 1:284.

⁴³⁶ Malawi, "The Witchcraft Ordinance of 1911," in *The Laws of Nyasaland*, ed. Donald Kingdon (London: Waterlow & Sons, Ltd., 1958), 1:1.

⁴³⁷ Ibid., 2.

⁴³⁸ Ibid., 3.

or other article that is habitually used in the practice of witchcraft, sorcery or enchantment “for the purpose of causing fear, annoyance or injury to another...”⁴³⁹ Tanganyika’s 1928 Act was very similar, defining an instrument of witchcraft as anything used, commonly used, or intended to be used in the practice of “pretended witchcraft.” It banned possession of an object that was intended to be used “to prevent or delay any person from doing any act which he may lawfully do, or to compel any person to do any act which he may lawfully refrain from doing, or to discover the person guilty of any alleged crime.”⁴⁴⁰ Tanganyika’s Witchcraft Ordinance also prohibited the possession of materials used to discover the person guilty of a crime, as well as objects used to cause fear, disease, injury, or death to a person, or damage to property.⁴⁴¹ Similarly, the Nigerian Witchcraft Ordinance of 1903 prohibited a person from making, selling or using “any juju, drug or charm” to prevent a person from doing anything he or she had a legal right to do, or compel a person to do something. It also barred a person from possessing anything that was “reputed to possess the power of causing any natural phenomenon or any disease or epidemic.”⁴⁴² Nigeria’s Criminal Code in 1927 maintained this same provision but also added a prohibition against making, selling or possessing any “fetish” or charm pretended or reputed to protect burglars, robbers, thieves, or other malefactors.⁴⁴³

⁴³⁹ Kenya, “The Witchcraft Ordinance of 1925,” 287-289.

⁴⁴⁰ Ibid.

⁴⁴¹ Ibid.

⁴⁴² Nigeria, “The Ordeal, Witchcraft, and Juju Ordinance of 1903,” 351.

⁴⁴³ Nigeria, “Criminal Code, Chapter 20: Ordeal, Witchcraft Juju and Criminal Charms,” in *The Laws of Nigeria*, ed. Nevile John Brooke (Nigeria: Government Printer, 1948), 2:99.

Prohibitions of “instruments” of obeah and witchcraft were also similar because many colonies in the Caribbean and Africa gave the police broad discretion to search for these materials.⁴⁴⁴ Starting in the mid-nineteenth century, most obeah laws and witchcraft laws allowed a magistrate to issue a warrant for a police officer to search a place any time of the day or night if there was “reasonable cause” to suspect a person possessed an instrument of obeah or witchcraft. These instruments were broadly described as anything “used or intended to be used” in the “pretended” practice of witchcraft. If a police officer found something that he or she believed to be an instrument of witchcraft or obeah, the owner of the residence where the item was found had to prove that the item served a lawful purpose. If owner of the item was unable to demonstrate that it was not an instrument of obeah or witchcraft, he or she could be punished with imprisonment and/or a fine.

Despite similarities between the prohibition of using the “pretended” practice of obeah or witchcraft to cause injury and the comparable discretion given to police officers in the Caribbean and African colonies to rely on ritual objects in making arrests, the purpose of the proscription of charms and other ritual objects was different on each side of the Atlantic. Almost all of the apprehensions that British officials expressed about witchcraft beliefs in South Africa were related to witchcraft accusations and even these

⁴⁴⁴ Tanzania, “The Witchcraft Ordinance of 1928,” 231; Sierra Leone, “The Fangay Ordinance of 1905,” in *The Laws of the Colony and Protectorate of Sierra Leone*, ed. Geoffrey Lionel Jobling (London: C. F. Roworth Ltd., 1946), 1:1110. Uganda’s Witchcraft Ordinance from 1912 contained a similar provision stating that any person found with “articles commonly used in practicing witchcraft” could be sentenced to six months imprisonment. Uganda, “The Criminal Law (Witchcraft) Ordinance of 1912,” in *Laws of the Uganda Protectorate in Force on the 30th April, 1923*, ed. Charles Griffin (Entebbe, Uganda: The Government Printer, 1924), 2:1084-1085.

laws prohibiting the use of “pretended witchcraft” to injure were connected to these concerns.

Sir George Grey, governor of the Cape Colony, expressed the need for laws abolishing the use of “pretended” supernatural powers as early as 1854. He stated that the colonial government should strip the chiefs of their power to hear witchcraft cases and should enact its own laws to punish “persons who actually can be proved to have attempted to injure others by administering poisons or using tricks or devices calculated to give them reasonable alarm.”⁴⁴⁵ Such a law, Grey asserted, would address the few instances of “real malefactors coming under the general charge of witchcraft, who are not guilty of other offences clearly cognizable by law, whilst it would prevent many inoffensive people from being made the victims to the superstition, the caprice, or the policy of their chiefs and their neighbours.”⁴⁴⁶

The *Government Commission on Native Laws and Customs* in South Africa reinforced this idea in their report published in 1883. They stated that the witchcraft section of their draft penal code, which included provisions about using “pretended knowledge of so-called witchcraft” to injure a person, animal or property, was “imported into the Code solely with the view of suppressing the native witch-doctor...”⁴⁴⁷ Since colonial authorities referred to African priests and diviners as “witchdoctors” because of their reputation for accusing people of witchcraft, this comment implies that the primary colonial complaints about the “pretended” practice of witchcraft to cause injury was related to these accusations.

⁴⁴⁵ Despatch from Lieut. Governor Pine to Sir George Grey, 5 Sept. 1854, PRO, CO 879/1.

⁴⁴⁶ Ibid.

⁴⁴⁷ Barry, et. al., *Report and Proceedings with Appendices of the Government Commission on Native Laws and Customs*, 25.

The Commission's report also contained a section entitled "Minutes of Evidence," which was a collection of memoranda in which various colonial officials provided advice and other comments about the provisions in the *Draft Penal Code*, including the ban of the practice of "pretended witchcraft" and the use of charms. In his submission, Reverend Bryce Ross argued that the government should prosecute "anybody who could be detected in an attempt to practice witchcraft, which is really injurious."⁴⁴⁸ Furthermore, in response to a circular submitted by the Commission to South African magistrates asking whether any persons who had been accused of practicing witchcraft by "witchdoctors" had ever brought their cases to colonial courts, W. G. Cumming replied that they had and stated "if it has been proved that a man has been practicing the 'black art' I punish him as severely as I can by flogging or by fining."⁴⁴⁹

British colonial officials in East Africa also frequently commented on the necessity of provisions against the practice of "pretended witchcraft" to cause injury. For example, in 1956 the colonial government in Uganda drafted a bill revising their witchcraft legislation.⁴⁵⁰ These changes were a response to a surge in vigilante violence against suspected witches in the Karamoja district in 1955. The new draft law contained four sections about the practice of "pretended witchcraft," prohibiting any person from threatening someone with disease or physical harm, holding oneself out as a witch, and hiring someone to practice witchcraft "for evil purposes." Most significantly, the revised

⁴⁴⁸ Ibid. Minutes of Evidence, 217.

⁴⁴⁹ Ibid. Appendix D, 298. It should be acknowledged that Cumming's response is somewhat ambiguous. His reference to proving the practice of the "black art" seems somewhat anachronistic given that most colonial officials would have referred to the "pretended" or "attempted" practice of witchcraft. Furthermore, he mentions that he also punishes people who hired a witchdoctor. Thus, it is possible that the "black art" that Cumming referred to meant a witchfinding ritual, but this seems to be a strange way to phrase his response to the Commission's question.

⁴⁵⁰ Witchcraft Legislation, Uganda, August 1856, PRO, CO 822/1136.

ordinance stated that any person who threatened someone with death by supernatural means could be sentenced to imprisonment for life. The law also gave the court the power to relocate a convicted witch away from an area where he or she had an established reputation. The attorney general stated that the object of these changes was to stop witchcraft killings by increasing the penalties for threatening someone with witchcraft. These revisions demonstrate that colonial officials believed there was a direct correlation between penalizing the practice of “pretended witchcraft” and reducing attacks on suspected witches.

The colonial government’s efforts to eliminate witchcraft accusations and the “pretended” practice of witchcraft to cause injury stemmed from the desire to ensure the stability of British rule. Debates between colonial officials in Tanganyika in 1932 about how to handle a death penalty case where a person murdered a suspected witch demonstrate this correlation.⁴⁵¹ One official stated that “unless the Government takes effective steps to deal with witch doctors or those who act under the inspiration of witchcraft, the native draws a very clear inference that the power (or magic) of the Government is less effective than that of the witch doctor.”⁴⁵² The commentary on this case illustrates that British colonial officials viewed the death of suspected witches as, in part, a failure of their laws to sufficiently suppress the practice of “pretended witchcraft,” and that their concern about the violence against witches was centered on the likelihood that their colonial subjects would view the power of witches or “witchdoctors” as greater than the authority of the government.

⁴⁵¹ Infliction of Death Penalty in Murder Cases Arising from a Belief in Witchcraft, Tanganyika, Oct.-Dec. 1932, PRO, CO 691/126/10.

⁴⁵² Ibid.

Although British colonial officials repeatedly expressed their desire to suppress the practice of “pretended witchcraft” to cause illness or injury, surviving court records do not provide much evidence about these cases. This may be due to the infrequency of prosecution for violations of these provisions but it is also possible that there is an evidentiary bias against the preservation of these cases. The vast majority of existing records of witchcraft prosecutions are either from colonial correspondence about these cases or from appellate court records. Therefore, limited information about prosecutions of this kind in South Africa could indicate that magistrates did not find these cases sufficiently noteworthy to correspond with the colonial office or dominions office about them, and/or that these were not the type of cases that were frequently appealed. However, the most likely reason that there are few records of prosecutions for people using witchcraft to cause injury or death is that complainants were afraid to bring cases to the attention of colonial authorities because they feared that the defendant would practice witchcraft against them in retribution for the charge. This is illustrated by the fact that colonial authorities in Africa expressed similar difficulties obtaining evidence in cases of “pretended witchcraft” to those experienced in Jamaica in the eighteenth and nineteenth centuries. For instance, the Governor of Northern Rhodesia wrote to the Secretary of State for the Colonies in March of 1957 stating that “Africans are the most reluctant to be the first to lay a complaint of witchcraft because they fear that, if their complaint is unsuccessful, they will either be bewitched or pointed out as a witch. But once one successful complaint has been made, other complainants often come forward in large numbers.”⁴⁵³

⁴⁵³ Governor of Northern Rhodesia to Secretary of State for the Colonies, Witchcraft Trials at Mongu, 14 March 1957, PRO, CO 1015/2079.

However, court records from other British colonies in southern and eastern Africa include documentation of several prosecutions of the use of “pretended witchcraft” to cause injury or illness. Since officials in these colonies expressed similar concerns about “pretended witchcraft,” these cases provide some insight into how judges in South Africa may have construed these provisions. The courts of Southern Rhodesia provide the best evidence regarding the interpretation of witchcraft laws in South Africa because until 1931, all criminal appeals from the High Court of Southern Rhodesia were heard by the Cape Provincial Division of the Supreme Court of South Africa and after 1931 these appeals were heard by the Appellate Division of the Supreme Court of South Africa.⁴⁵⁴ Furthermore, decisions of the High Court of Southern Rhodesia were published in the South African Law Reports with those of the provincial and appellate divisions of the Supreme Court of South Africa. Therefore, rulings in Southern Rhodesia would have been highly persuasive to South African judges.

The High Court of Southern Rhodesia heard only one case regarding the use of “pretended witchcraft” to cause injury, *Rex v. Wirimayi* in 1956.⁴⁵⁵ In this case, Wirimayi was accused of placing a charm, known as a “*gona*,” in the roof of the house of Gwenzi, with the intent to injure Gwenzi. Although Wirimayi never made any verbal or physical threats to Gwenzi, other than the placement of the *gona* charm, he was found guilty and sentenced to nine months imprisonment at hard labor. One of the issues raised on appeal was what evidence was required to show that the practice of “pretended witchcraft” was intended to cause injury. The prosecution submitted proof of hostility between Wirimayi

⁴⁵⁴ Starting in 1938, criminal defendants had the right to decide to submit their appeal to the Rhodesian Court of Appeal, which in 1947 became the Rhodesia and Nyasaland Court of Appeal. However, the continued connection between Rhodesia and South Africa suggests that these two court systems had substantial influence on one another.

⁴⁵⁵ *Rex v. Wirimayi* 1955 S.R. 240-245 (Southern Rhodesia).

and Gwenzi but the court seemed to find that local beliefs about this charm were the most persuasive evidence. The court discussed the fact that the *gona* charm was renowned in the defendant's community for being a very powerful talisman, capable of causing severe sickness and injury. The alleged victim, Gwenzi, testified that he was terrified when he saw the charm because he believed that it could trigger insanity or blindness, and could cause lightning to strike a person's roof. The court deduced that the only innocent purpose Wirimayi could have had in placing the *gona* in Gwenzi's roof was a practical joke but the court felt this was unlikely because of the fear that the local people had of this charm. Furthermore, the appellate judge noted that Wirimayi did not admit to placing the object in the roof and the court believed that this supported the idea that he had used the charm to cause illness or injury. Due to the evidence concerning local beliefs about the purpose of this charm and the defendant's reluctance to admit to using it, the appellate court believed that Wirimayi had intended to place the charm to cause injury or disease to Gwenzi.

Wirimayi also appealed the case on the grounds that he believed the witchcraft statute only applied to "witchdoctors." The Court disagreed, holding that the witchcraft act was designed to suppress all acts of purported witchcraft that were likely to cause injury to a person or property, regardless of whether the person using the charm made his or her living from the practice of "pretended witchcraft." The court felt that it was clear that the legislature intended to prohibit both the making of these kinds of charms as well as the use of them. The Appellate Court affirmed Wirimayi's conviction and the sentence.

Court decisions in East Africa were more stringent in their interpretation of statutory language about use of “pretended witchcraft” to cause injury. While the High Court of Southern Rhodesia upheld Wirimayi’s conviction based on the local reputation of the charm’s usage in rituals to cause injury, the Court of Appeal for Eastern Africa typically only confirmed convictions where the defendant accompanied the practice of “pretended witchcraft” or use of the charm with verbal or physical threats. For example, in a case before the Court of Appeal for Eastern Africa, appealed from Tanzania, Machunguru Kyoga was charged with claiming to have “knowledge and power of witchcraft,” possessing implements of witchcraft, theft, and demanding property “with menaces” (threat or intimidation).⁴⁵⁶ He was sentenced to three years of imprisonment to be served concurrently on each count. The defendant, Kyoga, approached a man whose son and granddaughter had died on the same day. He told this man that another person, the second defendant in this case, had asked him (Kyoga) to put a spell on the man’s family and kill them. Kyoga demanded six head of cattle, a goat, a chicken and one hundred shillings to prepare the medicine to withdraw the spell, and the man complied out of fear. The court said that these actions not only violated the witchcraft act, because the defendant claimed to have power of witchcraft, but they also constituted theft because the threats they made caused the victim to part with his property involuntarily.⁴⁵⁷

⁴⁵⁶ Machunguru Kyoga and Another v. The United Republic (1965) E.A. 477-483 (Court of Appeal for East Africa).

⁴⁵⁷ Interestingly the Defendant was also charged with possessing implements of witchcraft because the Defendant’s house was searched and the police found hollow horns, containing various powders, a bottle with brown liquid, bundles of roots tied with animal skins, and other items. This is very similar to obeah cases where defendants were frequently charged with a specific act of obeah, and then with additional counts of violating the obeah law after their residence was searched and instruments of obeah were discovered and seized.

Similarly, another case was appealed from Tanganyika to the Court of Appeal for Eastern Africa in 1951.⁴⁵⁸ The defendant was charged with violating the witchcraft ordinance by performing an act of “pretended witchcraft” with the intent to cause death, disease, injury, or misfortune to any person. He was sentenced to three years imprisonment with hard labor. The victim/complainant in this case saw the defendant, his brother, outside his house at night, burying an object in a hole with a white stick in his hand. The defendant allegedly told the complainant, “Even if you bind me I will still bewitch you.” The Appellate Court said that the witchcraft ordinance is violated when “there is evidence from which it is safely inferred that a person using a certain instrument in a certain way does so because he believes that the effect of that usage will be to cause the death of another or disease, injury or misfortune.”⁴⁵⁹ Although the Court did not explicitly state this, it seems that convictions for this type of violation of witchcraft ordinances often hinged on whether the perceived act of witchcraft (burying or placing a suspicious object on someone’s property) was accompanied by verbal threats or some other form of coercion. The Court of Appeals for Eastern Africa typically refused to infer from traditional methods of inflicting disease or injury that a person’s actions were intended to cause injury.

An earlier case about talismans to protect property from thieves is consistent with this apparent requirement that the placement of charms be accompanied by a verbal threat before they constitute a violation of the witchcraft act. In *Rex v. Matolo*, a case heard by the East African Court of Appeals in 1916, the Court debated the meaning of the section of the witchcraft act that prohibited “using means calculated to injure with intent to

⁴⁵⁸ *Rex v. Saraigy s/o Kotutu* (1951), 18 E.A.C.A. 158-159.

⁴⁵⁹ *Ibid.*

injure.”⁴⁶⁰ The Defendant hung a calabash in his *shamba*, which contained what he and others believed was powerful medicine. He used this charm to keep people from trespassing and he told a young boy if he trespassed there he would die. The boy was later found dead and his relatives complained to a magistrate, who convicted the defendant of “pretended witchcraft” and sentenced him to three years imprisonment. The Court of Appeals overturned the conviction because they said that the Defendant did not have the intent to injure the child, the calabash was just designed to ward off thieves. By comparison, the court said that if a man let a savage dog loose in his yard and a thief climbed a wall around the property to get into the yard and the dog bit him, the owner cannot be said to have the intent to harm the thief. Since “intent to injure” is not the same as “knowing it to be likely that it would cause injury,” the Court of Appeals reversed the defendant’s conviction. This case reaffirms that in East Africa, colonial courts were not just concerned with the placement of charms; they were concerned with the theft and intimidation that some individuals tried to accomplish with the assistance of these charms as well as violence against people who claimed to have supernatural powers.

Records of prosecutions for using “pretended witchcraft” to cause injury are also sparse in the Court of Appeals for Eastern Africa; however, further insight into the colonial interpretation of the placement of charms can be gleaned from murder cases where the defendant claimed that she/he had been provoked by the victim’s witchcraft practices. These cases were consistent with prosecutions of violations of the witchcraft ordinance; the placement of charms alone was not considered sufficient provocation to mitigate the defendant’s sentence for murder. For instance, in 1949, the Court of Appeal

⁴⁶⁰ Rex v. Matolo (1916) 5 E. Afr. L.R. 134-136.

for Eastern Africa heard an appeal from the High Court of Uganda, *Rex v. Petero Wabwire s/o Malemo*. In this case, a man murdered his wife because he believed that she was practicing witchcraft with the intention of killing him and he found her with “witchcraft medicine,” referred to in this region of Uganda as *bujule* or *kumalis*. The court noted that this “medicine” was a banana fiber bundle discovered in the thatch of the hut with copper sulfate inside, a substance which is an emetic but could be poisonous if ingested in large amounts. The court observed that many people in that region of Uganda believed that the *bujule* was able to kill a person if placed in food or if placed in a position that the victim steps over it or passes near it. The court ruled that in this instance, the wife’s actions were not provocation for her murder because the threat to the husband was not immediate enough to meet the legal standard.⁴⁶¹ Unlike the High Court of Southern Rhodesia, the Court of Appeal for Eastern Africa was not willing to infer that the defendant believed that his wife posed a serious and immediate threat to him without some verbal or physical corroboration of her intended use of the charm.

Although obeah and witchcraft laws proscribed the “pretended” use of supernatural power for different reasons, in many ways, African witchcraft laws were very similar to early obeah laws in the Caribbean. In each of these regions, colonial officials asserted that it was impossible for someone to harm another person with supernatural powers, however, colonial laws still restricted the “attempted” or “pretended” use of obeah or witchcraft to cause illness or injury because the “pretended” use of supernatural powers disrupted society. In the Caribbean, legislators initially banned obeah practices in part because they believed that obeah practitioners knew how

⁴⁶¹ *Rex v. Petero Wabwire s/o Malemo* (1949), 16 E.A.C.A 131-134.

to use plant and animal by-products to create poisons; however, they also worried that obeah charms and talismans caused “wasting illnesses” because “superstitious” blacks believed in their power. In Africa, colonial legislators prohibited the practice of “pretended witchcraft” alongside their proscription of witchcraft accusations. They believed that in order to reduce witchcraft accusations, it was important to punish people who attempted to use “witchcraft” to cause injury, sickness and misfortune and to penalize people who accused others of practicing witchcraft.

The similarities between the legislation in the Caribbean and Africa regarding the use of purported supernatural powers to cause injury necessitate a deeper inquiry into the relationship between colonial law and violence against suspected witches. Although individuals accused of practicing witchcraft are and were reportedly beaten, tortured, and subjected to ordeals in many parts of Africa during both colonial and post-colonial periods, it was much rarer for British authorities in the Caribbean to document similar responses against individuals accused of practicing obeah or witchcraft. While scholars have often attributed violence against witches in Africa to colonial laws punishing witchfinders and protecting individuals accused of witchcraft, this was not entirely accurate in British colonies. Future research needs to explore the mechanisms that did exist—these laws prohibiting the practice of witchcraft with the intent to cause illness or property damage—and consider why they were not utilized by local communities. Were individuals who believed that they or their family members had been victims of witchcraft too afraid to bring a complaint against an accused witch? Were colonial methods of obtaining evidence viewed as invalid or insufficient to persons accustomed to accusing a witch through ritual processes? Did colonial laws, which only allowed for the

prosecution of individuals who committed overt actions to attempt to bewitch someone, useless in societies where belief in metaphysical witchcraft was more common? All of these things, among others, must be taken into consideration as we contemplate the effects of colonial law on African responses to the perceived prevalence of witchcraft in their communities.

Chapter 5: Fraud, Vagrancy and the “Pretended” Exercise of Supernatural Powers

With the passage of the Witchcraft Act of 1735, Britain outlawed domestic prosecutions for the actual practice of witchcraft, and instead prohibited the “pretended” use of “witchcraft, sorcery, enchantment [sic], or conjuration,” as well as fortunetelling and the employ of “occult or crafty science” to discover lost or stolen goods.⁴⁶² From the late sixteenth century to the mid twentieth century, Britain’s vagrancy laws also proscribed certain supernatural practices, such as fortunetelling, palmistry, and physiognomy.⁴⁶³ In the mid to late nineteenth century, British colonies in Africa and the Caribbean passed similar laws prohibiting the “pretended” practice of witchcraft or obeah, frequently using the exact same wording as English witchcraft or vagrancy laws. Scholars have previously noted the similarities between English witchcraft and vagrancy laws and obeah laws in the Caribbean; they have also argued that witchcraft laws in colonial Africa were based upon British views about supernatural practices in the nineteenth and twentieth centuries.⁴⁶⁴ Therefore, in this chapter, I compare the enforcement of these provisions prohibiting the “pretended” use of supernatural powers in Britain, Jamaica, and South Africa, to analyze the extent to which colonial laws against African medico-religious practices were merely an extension of Britain’s domestic policies.

Despite the relative uniformity of the language prohibiting the “pretended” use of supernatural powers in British, African, and Caribbean statutes, inconsistent

⁴⁶² England, “The Witchcraft Act of 1735,” 549

⁴⁶³ England, “An Act for Punishment of Rogues, Vagabonds, and Sturdy Beggars of 1597,” 45; “An Act for the Punishment of idle and disorderly Persons, and Rogues and Vagabonds in England,” 5 Geo. 4, 1824.

⁴⁶⁴ Paton, “Obeah Acts,” 6; Redding, *Sorcery and Sovereignty*, 17.

interpretations of what rituals contravened them resulted in distinctions in how these laws were implemented. In Britain, while prosecutions for violations of the Witchcraft Act were rare, the sections of the Vagrancy Law proscribing fortunetelling or palmistry were regularly enforced against “gypsies” and, starting in the late nineteenth century, spiritualist mediums. However, the prosecutions of the latter created a decades-long debate in English appellate courts about how and when the vagrancy law should be applied and whether the “intent to deceive” was required for an individual to violate it.

In the post-emancipation Caribbean, as in Britain, legislators implemented two overlapping sets of laws regarding the “pretended” use of supernatural powers—vagrancy and obeah statutes. By the mid-nineteenth century there was little in the text of these laws to distinguish the crime of practicing obeah from that of vagrancy, however, arresting officers favored the latter because violators could be sentenced to longer terms of imprisonment and corporal punishment. In contrast to England, judges in the Caribbean never debated whether intent to deceive was necessary to violate obeah and vagrancy laws. Instead, magistrates consistently assumed that obeah practitioners did not believe in their own purported power and, upon conviction, often lectured them about duping and defrauding the population. However, through increasingly common arrests secured with police traps and complainants who did not believe in a practitioner’s alleged supernatural power, Caribbean obeah cases centered on demonstrating that the accused aimed to receive compensation for her/his ritual practices, not that she/he intended to defraud someone.

In Africa, on the other hand, although colonial laws used similar language to British and Caribbean witchcraft, obeah, and vagrancy laws, these statutes typically

classified the “pretended” practice of witchcraft as a type of theft by false pretenses. Unlike vagrancy, obeah, and even witchcraft ordinances, theft by false pretenses was a crime against another individual and required specific proof of both the defendant’s intent to defraud and the client’s belief in the efficacy of the defendant’s ritual practices. In contrast to the Caribbean, where fraud seems to have been assumed in every case (but did not have to be specifically proven), appellate judges in Southern Africa frequently overturned lower court convictions because the evidence suggested that priests and diviners believed in the effectiveness of their rituals.

Witchcraft and Vagrancy Laws in England

Prosecutions for violations of England’s Witchcraft Act of 1735 were extremely rare from the time it went into effect in 1736 to its repeal in 1951. England’s vagrancy laws, on the other hand, were regularly enforced against fortunetellers and other practitioners of “occult sciences” for hundreds of years. The earliest provisions in English vagrancy laws related to the purported use of supernatural powers, which were passed by the late sixteenth century, were designed to suppress the fortunetelling practices of “gypsies,” who were described by authorities as charlatans and, sometimes, outright thieves. Later in the nineteenth century, the application of vagrancy laws to astrologers and spiritualists sparked intense discussions about the purpose of laws related to supernatural practices. After decades of debate, British appellate courts decided that legislators enacted witchcraft and vagrancy laws to suppress the “pretended” use of supernatural powers as threats to public morality and order. Although legislators

described occult practitioners as individuals who had the “intent to deceive,” proof of fraud was not required to secure a conviction for violations of these statutes.

Although the Witchcraft Act of 1735 categorized any professed use of supernatural powers or knowledge as “pretended,” scholars have argued that this law did not represent the end of popular belief in witchcraft in England.⁴⁶⁵ Well into the nineteenth century, many people in Britain continued to assert that they had been bewitched; however, they could no longer litigate accusations of witchcraft in English courts. Therefore, they resorted to other solutions, such as asking ministers to “cure” them of witchcraft, or committing physical violence against a suspected witch.⁴⁶⁶ It was rare for individuals to complain to the authorities that someone had violated the Witchcraft Act and the government did not actively seek to enforce the law in the first few decades after its passage. This was most likely because “the break with their witch-believing past was still too recent for many members of the elite to examine the popular belief in witchcraft with detached circumspection.”⁴⁶⁷

The enforcement of the Witchcraft Act of 1735 remained infrequent until its repeal in 1951. An article in a law journal in 1904 may provide some insight into why, at least by the turn of the twentieth century, this was the case. The author of the journal article described a case in the Marlborough Street Police Court where a group of fortunetellers were charged with obtaining money by false pretenses and violating the

⁴⁶⁵ See generally Davies, *Witchcraft, Magic and Culture*.

⁴⁶⁶ Bengt Ankarloo and Stuart Clark, *Witchcraft and Magic in Europe: The Eighteenth and Nineteenth Centuries* (Philadelphia: University of Pennsylvania Press, 1999), 146-148.

⁴⁶⁷ Davis, *Witchcraft, Magic and Culture*, 76-77.

Witchcraft Act.⁴⁶⁸ Three clients testified against the accused, claiming that the defendants had told their fortunes using palmistry, crystal gazing, and trance. With regard to the witchcraft charge, the judge said that he had some hesitation about whether a law passed so long ago should be enforced against the defendants for palmistry and crystal gazing.

The author of the article described the judge's concerns as follows:

he confessed to having some misgivings whether that Act really applied under the altered circumstances in which we now lived, especially when the serious import attached to fortune-telling in past ages was contrasted with the frivolous spirit with which it was regarded in modern times. He thought the Act aimed at persons professing witchcraft and supernatural powers, and that there was doubt whether the somewhat rubbishy predictions of the defendants really came within the dignity of supernatural predictions.⁴⁶⁹

Despite his reservations, the magistrate ruled that this was a question for the jury and allowed the case to go forward on all charges. However, his hesitation about the application of the Witchcraft Act to these defendants suggests that, at least by this time, some judges felt that the violations of this law may have required something more serious than fortunetelling and similar purported uses of supernatural powers (even though they were expressly proscribed by this law). It appears that some judges were reluctant to enforce this statute if the defendant's ritual practices were not likely to be taken seriously in the twentieth century. Therefore, as societal belief in witchcraft and sorcery declined (as it did in England over the course of the nineteenth century) and as supernatural rituals

⁴⁶⁸ "Palmistry and Witchcraft," *The Law Journal: A Weekly Publication of Notes of Cases and Legal* 39 (1904), 471-472. Possibly with the intention of explaining why these individuals were charged with fraud and witchcraft instead of the Vagrancy Act, which also expressly prohibited fortunetelling, the author noted "They were not vagrant fortunetellers- that was to say, persons that called from house to house seeking interviews to tell fortunes." Rather, these individuals had an established place of business, where clients came to have their fortunes told.

⁴⁶⁹ *Ibid.* 471.

themselves changed, police and magistrates may have had little desire to arrest and convict individuals of violating this law.

The Vagrancy Act of 1824, on the other hand, was the subject of much discussion in England's appellate courts in the nineteenth century and early twentieth century.

Vagrancy legislation has been present in England for hundreds of years. Although these statutes typically had multiple dimensions, the central purpose of vagrancy ordinances was to create an obligation to work.⁴⁷⁰ These types of compulsory labor laws that applied to free men (as opposed to just serfs) were first enacted in England, as in many parts of Europe, in the fourteenth and fifteenth centuries after the Great Plague decimated the population and created labor shortages.⁴⁷¹ However, in the sixteenth and seventeenth centuries, the purpose of labor and vagrancy laws began to change. Once the population recovered from the Great Plague, labor statutes no longer merely coerced able-bodied, unemployed individuals into working; they also began to regulate the quality of work a person provided and the type of employment that was permitted.⁴⁷² Since at least 1597, British vagrancy laws consistently prohibited a person from claiming “to have knowledge in physiognomie [sic], palmistry, or other like crafty science, or pretending that they can tell destinies, fortunes, or such other like fantastical imagination...”⁴⁷³ This component of the vagrancy laws did not change much from the late sixteenth century until 1824, when the Vagrancy Act that was reproduced in many of Britain's Caribbean colonies went into

⁴⁷⁰ A.L. Beier, “‘A New Serfdom’: Labor Laws, Vagrancy Statutes and Labor Discipline in England, 1350 to 1800,” in *Cast Out: Vagrancy and Homelessness in Global and Historical Perspective*, ed. A.L. Beier and Paul Opobock (Athens: OH, Ohio University Press, 2008), 35-36.

⁴⁷¹ *Ibid.*, 36.

⁴⁷² *Ibid.* 45-51.

⁴⁷³ England, “An Act for Punishment of Rogues, Vagabonds, and Sturdy Beggars,” in *Certain Statutes Especially Selected, And Commanded By His Majesty* (London: Robert Barker & John Bill, 1630), 45.

effect. At this time, the law continued to expressly prohibit fortunetelling, palmistry, or other “crafts” but dropped the ban on physiognomy and added a clause that proscribed the use of these practices “to deceive or impose upon his majesty’s subjects,”⁴⁷⁴ The meaning of this language about deception became a very contested issue in England from the 1870s to the 1940s.

Through at least the mid-nineteenth century, the sections of vagrancy laws prohibiting fortunetelling appear to have been primarily enforced against “gypsies,” a term which was applied to a variety of people, particularly groups of women and children who travelled throughout the countryside and did not engage in the conventional forms of employment such as agricultural or industrial labor.⁴⁷⁵ In the nineteenth century, many people described “gypsies” as beggars and frauds, and accused them of duping poor, uneducated people with their “pretended” clairvoyance.⁴⁷⁶ They were also often charged with outright theft, such as using their fortune-telling sessions as a distraction to pick-pocket their clients.⁴⁷⁷ Some anti-“gypsy” activists argued that their way of life was infectious and that, if not suppressed, they would encourage others to abandon their hard-working attitude.⁴⁷⁸

The Society for the Protection of Vice formed in 1802, in part, supposedly to safeguard the “superstitious” individuals who had been duped or robbed by “gypsies” and

⁴⁷⁴ England, “An Act for the Punishment of idle and disorderly Persons, and Rogues and Vagabonds,” 5 Geo. 4, 1824.

⁴⁷⁵ George K. Behlmer, “The Gypsy Problem in Victorian England,” *Victorian Studies* 28, no. 2 (1985): 234.

⁴⁷⁶ Charles James Ribton-Turner, *A History of Vagrants and Vagrancy, and Beggars and Begging* (London: Chapman and Hall, 1887) 247, 493.

⁴⁷⁷ Ibid.

⁴⁷⁸ Behlmer, “The Gypsy Problem in Victorian England,” 248-249.

other occult practitioners.⁴⁷⁹ The Society claimed that many clients were too scared or embarrassed to testify against fortunetellers, so the members employed undercover informants to pretend to consult them, pay them with marked coins, and report their activities to the police.⁴⁸⁰ By the 1840s and 1850s, there appears to have been a major surge in the prosecution of fortunetellers and other ritual practitioners.⁴⁸¹ English court records suggest that the arrest of “gypsies” for vagrancy was not particularly contested as few people, if any, appealed such convictions. Prosecutions of “gypsies” for fortunetelling, palmistry, and other violations of vagrancy laws continued into the twentieth century.⁴⁸²

However, British appellate courts really began to analyze the meaning and boundaries of vagrancy laws in the late nineteenth century, after the spiritualism movement, which began in the United States, became popular in Britain. One of the central practices of spiritualism was communication with the spirits of the dead and, in England, women emerged as the primary mediums of this practice.⁴⁸³ Spiritualists immediately contested the application of the vagrancy laws to their practices, asserting in an 1877 case against one of their mediums that “the Vagrant Act was intended to apply to gipsies [sic] and other wandering and homeless vagabonds,” and the activities of spiritualists did not violate this statute.⁴⁸⁴ Their pleas were mostly unsuccessful; however,

⁴⁷⁹ Davis, *Witchcraft, Magic and Culture*, 57.

⁴⁸⁰ Ibid.

⁴⁸¹ Ibid.

⁴⁸² David Mayall, *English Gypsies and State Policies* (Hatfield, UK: University of Hertfordshire Press, 1995), 56.

⁴⁸³ Alex Owen, *The Darkened Room: Women, Power and Spiritualism in Late Victorian England* (Philadelphia, University of Pennsylvania Press, 1990), 1.

⁴⁸⁴ *Monck v. Hilton* (1877), 2 Ex. D. 268.

British appellate courts began to debate the appropriate applications of this law, giving specific attention to whether it was necessary to prove “intent to deceive” in order to convict an individual of violating the Vagrancy Act of 1824.

Ten years later an individual who claimed that he could forecast a person’s future based on a date of birth contested the application of vagrancy laws to his practices, which he described as the “science” of astrology.⁴⁸⁵ Rather than arguing, as spiritualists had done, that vagrancy laws were only intended to apply to “gypsies” and similar practitioners, the accused asserted that he had not violated the Vagrancy Act because he did not have the intent to deceive his clients. At this time, the appellate court did not address the question of whether intent to deceive was required to prosecute an individual for vagrancy, but instead questioned the reasonableness of the defendant’s assertion that he believed in his own practices. They argued that “in these days of advanced knowledge” the defendant could not have believed that he could tell someone’s future by knowing when he/she was born and the position of the stars at that time. The appellate judges contended that “[n]o person who was not a lunatic could believe he possessed such power. There was, therefore, no need on the part of the prosecution to negate his belief in such power or capacity.”⁴⁸⁶

Debates about the vagrancy law resumed in the 1910s and 1920s, when the prosecution of spiritualists increased exponentially. England, like other European countries, was devastated by World War I, and bereaved individuals sought to

⁴⁸⁵ Penny v. Hanson (1887), All E.R. Rep. 412.

⁴⁸⁶ Ibid.

communicate with their deceased loved ones through mediums.⁴⁸⁷ As their popularity increased, the authorities arrested more and more spiritualist mediums, supposedly out of fear that they were exploiting the grief and credulity of others to make money. The arrest of so many spiritualists, including the leaders of regional and national organizations, prompted them to form several legal defense funds to support individuals who had been charged with violating vagrancy or witchcraft laws.⁴⁸⁸ Spiritualists also began to fight for the amendment of these statutes; however, rather than seeking the complete abolition of laws against the purported exercise of supernatural powers, they lobbied for provisions that would exclude them from prosecution while continuing to prohibit other methods of fortunetelling.⁴⁸⁹

Therefore, in the 1910s and 1920s, British appellate courts heard several appeals on the application of vagrancy laws to spiritualists. In the first, *Davis v. Curry*, decided in 1918, the court seemed to have relaxed its position from the late nineteenth century.⁴⁹⁰ It overturned the conviction of Mary Davis, a self-described “Spiritualist Medium,” and clairvoyant, holding that without proof of “intent to deceive” the vagrancy provisions relating to fortunetelling and “occult science” had not been violated. Davis testified to the court that her entire life she had been “possessed with supernormal qualities,” and claimed “by holding an article I can see the creative thought of the person to whom it belongs if they are strong enough to create a picture that registers itself in some cosmic

⁴⁸⁷ Geoffrey Nelson, *Spiritualism and Society* (New York, Schocken Books, 1969), 155.

⁴⁸⁸ *Ibid.*, 156.

⁴⁸⁹ Davies, *Witchcraft, Magic, and Culture*, 71-72.

⁴⁹⁰ *Davis v. Curry* (1918), 1 K.B. 109.

ether."⁴⁹¹ The appellate court ruled that if something is done “with an honest belief in the possession of power to do them, and with no intention of deceiving any one, then the magistrate ought to acquit.”⁴⁹²

However, a mere four years later, in *Stonehouse v. Masson*, five appellate justices unanimously reversed the opinion in *Curry*, and held that it was irrelevant whether someone convicted of vagrancy intended to deceive her/his client.⁴⁹³ Masson’s defense counsel argued, based on *Curry*, that her conviction for fortunetelling should be overturned because Masson genuinely believed that she had the gift of “second sight” and the ability to communicate with spirits. A member of the appellate court, Justice Lawrence, ruled that the vagrancy laws in England did not require the prosecution to demonstrate that the accused intentionally committed fraud. He based his opinion on the observation that from the earliest English law prohibiting fortunetelling, passed in 1597, to the last revision before the 1824 statute, there was no statutory requirement that the accused have “intent to deceive.” Justice Darling, who had been a member of the Court that decided *Curry*, was also swayed by reading earlier vagrancy laws and became convinced that the legislature viewed fortunetelling and palmistry as “mischievous nonsense,” “which in itself is done to deceive...”⁴⁹⁴ Justice Lawrence added, in spite of the defendant’s claims that she believed in her own purported abilities, “I cannot imagine

⁴⁹¹ Ibid.

⁴⁹² Ibid.

⁴⁹³ *Stonehouse v. Masson* (1921), 2 K.B. 818.

⁴⁹⁴ Ibid.

anybody holding himself out to tell fortunes for money who does not perfectly well know that he is deceiving and that he intends to deceive.”⁴⁹⁵

Approximately twenty years later, in a rare appeal of a prosecution for a violation of the Witchcraft Act of 1735, the court confirmed that this law could also be used to prosecute spiritualist mediums, whether or not they believed in the efficacy of their practices. In 1944, Victorian Helen Duncan and three other spiritualist mediums were convicted of the “pretended” practice of conjuration when they performed a séance to contact the spirits of deceased individuals.⁴⁹⁶ Duncan offered to provide an in-court demonstration of her abilities, in an effort to prove that she had not *pretended* to practice conjuration because her abilities were real. The magistrate refused to allow the demonstration, and the appellate court affirmed his decision, stating that this display may have just confused the jury. In upholding Duncan’s conviction, the court seemed to be stating that it was irrelevant whether or not the defendant believed that such conjurations were possible, as Duncan likely did since she offered to provide an in-court demonstration. The appellate judges stated that

the only matter for the jury was whether there was a pretence or not. The prosecution did not seek to prove that spirits of deceased persons could not be called forth or materialized or embodied in a particular form. Their task was much more limited and prosaic. It was to prove, if they could, that the appellants had been guilty of conspiring to pretend that they could do these things.⁴⁹⁷

One might assume that the use of the term “pretend” meant that the court believed that the defendant intended to commit fraud however as the Witchcraft Act criminalized the

⁴⁹⁵ Ibid.

⁴⁹⁶ Rex v. Duncan and Others (1944), K.B. 713.

⁴⁹⁷ Ibid.

“pretended” use of witchcraft, sorcery or conjuration, the court would have had to use this same terminology to describe the charge. Therefore, the court’s interpretation of the Witchcraft Act in this case was consistent with its analysis of the Vagrancy Act; they ruled that merely claiming to possess supernatural powers was an offense, regardless of whether or not the defendant did so with the intent to deceive someone.

To understand the late nineteenth and early twentieth century interpretations of the Witchcraft Act of 1735 and the Vagrancy Act of 1824, one must recall that vagrancy laws were about the regulation of labor, supposedly in the interest of public order and morality. The earliest compulsory labor laws were designed to ensure that there was a sufficient workforce in times of declining population; then later statutes were based on the idea that certain professions were detrimental to society. Therefore, the court’s conclusion that the intent to deceive was not required for a conviction was premised on the idea that the Vagrancy Act criminalized fortunetelling, palmistry, and other practices classified as “occult sciences,” not because a particular person might be duped but rather because these practices were, in and of themselves, believed to be harmful to society. Based on the ruling in *Rex v. Duncan*, it appears that the courts viewed the Witchcraft Act of 1735, which by this time was rarely enforced, as also prohibiting the purported use of witchcraft or sorcery as a means of supposedly protecting public order.

However, the *Duncan* case obtained widespread media attention and some people began to object that spiritualist mediums were unfairly targeted. Just one year after the *Duncan* decision, B. Abdy Collins wrote a law review article about spiritualism in England and claimed that as the result of this and another related ruling, in some places “the police regard the mere exercise of mediumship as illegal and take steps to prevent

it.”⁴⁹⁸ He argued that the *Duncan* case had “caused no little uneasiness to those who are interested in civil liberties and particularly religious freedom.”⁴⁹⁹ He noted that the vagrancy law prohibited prostitution, thievery, begging and housebreaking, and contended, “[t]o charge respectable men and women, many of whom are in effect ministers of religion under an act of this kind seems most undesirable as well as unnecessary.”⁵⁰⁰

Legislators responded to such concerns by passing the Fraudulent Mediums Act of 1951, which repealed the Witchcraft Act of 1735 and the provisions of the Vagrancy Act of 1824 dealing with purported supernatural powers. The statute states it is intended “for the punishment of persons who fraudulently purport to act as spiritualistic mediums or to exercise powers of telepathy, clairvoyance or other similar powers.”⁵⁰¹ This law is only violated if an individual has an “intent to deceive” or “uses any fraudulent device” and receives a reward for his or her services.⁵⁰² Through the passage of this law, England redesigned restrictions on fortunetelling and related practices as crimes against a specific individual that require fraudulent intent, instead of general offenses against public order and morality, regardless of intent.

⁴⁹⁸ B. Abdy Collins, “Spiritualism and the Law,” *The Modern Law Review* 8, no. 3 (1945), 161.

⁴⁹⁹ *Ibid.*, 158.

⁵⁰⁰ *Ibid.*, 162.

⁵⁰¹ Fraudulent Mediums Act, 14 & 15 Geo. 6, 1951.

⁵⁰² *Ibid.*

Vagrancy and Obeah in Jamaica

Like vagrancy laws in England, Caribbean obeah statutes developed out of the government's desire to compel the lower classes to perform certain types of labor. When one examines the statutory language of witchcraft, obeah, and vagrancy laws, those in the Caribbean appear to have evolved in a similar pattern to those in Britain in the mid-eighteenth century to the nineteenth century. Britain's Witchcraft Act of 1735 and Vagrancy Ordinance of 1824 seemed to denote legislative concerns that fortunetellers and other ritual practitioners defrauded the population and threatened public morality; starting in the 1840s and 1850s, Caribbean obeah and vagrancy statutes suggested similar apprehensions. However, when one dissects the legislation more closely and examines patterns in prosecutions, it becomes apparent that while colonial authorities in the Caribbean frequently discussed the supposed charlatanism of obeah practitioners, their primary focus remained the constraint of labor.

In contrast to England, where the emergence of new occult practices sparked lengthy debates about the intent of witchcraft and vagrancy laws, colonial authorities in the Caribbean showed little apprehension that obeah laws were too widely applied. By the mid-nineteenth century, Caribbean officials no longer described sacred oaths and the use of charms or poisons to cause illness as common features of "obeah" practices; instead, they expressed concern about medico-religious healing, fortunetelling/divination and rites to bring an individual luck and prosperity. Whereas English laws about witchcraft and vagrancy remained static for many years and judges were forced to balance the original intent of the drafters against the applicability of the statutes in the late nineteenth and twentieth century, Caribbean legislators frequently modified obeah

laws to encompass their changing concerns about African spiritual practices. Specifically, by the end of the nineteenth century legislators throughout the Caribbean removed express prohibitions on the use of obeah to “affect the life and health of others” and replaced them with more generalized prohibitions on spiritual practices to reflect the fact authorities rarely complained that purported supernatural powers were employed to cause sickness or injury at this time.

Modifications to obeah statutes and changes in prosecutions were closely related to labor problems in the Caribbean. For instance, when Jamaica legislators added prohibitions on the practice of “myalism” to the obeah statute in the 1850s, they sought to suppress the processions and rituals practices that had disrupted plantation labor in the 1840s. Furthermore, as indentured immigrants from Africa and India were brought to the Caribbean in the mid- to late nineteenth century to compete with and replace freedmen as plantation laborers, those who also (or instead) provided ritual services were sometimes prosecuted for practicing obeah. Similarly, Jamaicans who migrated abroad elsewhere in the British Caribbean in search of work and immigrants who arrived in Jamaica for the same purpose were frequently charged with violating obeah laws in the early twentieth century when, instead of engaging in what colonial authorities viewed as “legitimate” forms of labor, they performed medico-religious services for money. Additionally, from the late nineteenth century through the mid-twentieth century, individuals were rarely prosecuted for performing rituals related to the health or physical well-being of the client; typically, obeah cases at this time were brought against people who claimed to be able to assist others in finding work, improving their business, or retrieving money owed to them.

Furthermore, in contrast to the very strong connections between the regulation of labor and the suppression of obeah in the mid-nineteenth century through the twentieth century, a close examination of the text of the laws and prosecutions reveals that they were not effective methods of addressing fraud. One of the most striking changes to obeah laws was the introduction of provisions penalizing individuals who consulted obeah practitioners in the mid-nineteenth century. This contradicts purported concerns about fraud because with these statutory changes, legislators allowed for the prosecution of the very people who had supposedly been “duped” by individuals who claimed to have supernatural powers. Moreover, by the turn of the twentieth century, the vast majority of individuals charged with practicing obeah were arrested after performing rituals for police informants or decoys. Therefore, the basis of these arrests was not usually fraud, which would have required the performance of services for someone who actually believed in the practitioner’s supernatural power, but rather “gain,” which only required that the police demonstrate that defendant had been compensated for practicing obeah.

One could argue that since the passage of the first obeah legislation in 1760, these statutes were closely linked to labor concerns because they were designed to justify and protect the institution of slavery, which was not only about “property” ownership or human bondage; it was also a system of coerced labor. Therefore, obeah laws that were devised to reinforce slavery were also ensuring the uninterrupted function of the predominant form of labor in the pre-emancipation Caribbean. After the abolition of slavery, obeah laws and prosecutions evolved to reflect new colonial interests in controlling the labor of freedmen.

In the early nineteenth century, the colony's primary revenues continued to come from the production and export of sugar.⁵⁰³ However, Jamaica's economic sustainability became tenuous with the abolition of slavery in British Caribbean colonies in 1834. Former slave owners feared that labor shortages would result from emancipation.⁵⁰⁴ The system of apprenticeship that followed emancipation was designed to appease these planters. However, after the British Parliament terminated apprenticeship in 1838, plantation owners and Caribbean officials argued that it was necessary to use force to bind Africans to the plantations because blacks were idle and had a natural aversion to work.⁵⁰⁵

One of the plans that most planters supported was the importation of new laborers from Africa and India as indentured servants, to both replace the labor of free blacks and to reduce their bargaining power regarding wages, hours and work conditions.⁵⁰⁶ Indentured servants began to travel to Jamaica in 1834; by 1867, 11,391 had arrived from Africa and by 1918, 36,412 had landed from India.⁵⁰⁷ The introduction of indentured laborers into Jamaica made things more difficult for the formerly enslaved, who were

⁵⁰³ Robert Alexander, *A History of Organized Labor in the English-Speaking West Indies* (West Port, Connecticut, Praeger, 2004), 23.

⁵⁰⁴ William Green, "The West Indies and Indentured Labour Migration- The Jamaican Experience" in Kay Saunders, ed, *Indentured Labour in British Empire 1834-1920*, (London: Croom Helm, Ltd., 1984), 3

⁵⁰⁵ Paul Rich & Sydney Oliver, "Jamaica and the debate on British colonial policy in the West Indies," in *Labour in the Caribbean*, ed. Malcolm Cross and Gad Heuman (London: Macmillan Publishers, Ltd., 1988), 209-210. For instance, Anthony Trollope described how after emancipation freedmen grew tired after working until ten o'clock in the morning and quit the fields claiming that they did not need any more money. He asserted that the overseers on the plantation "remember slavery and happier days" because with post-emancipation workers, they must "threaten[] them with starvation and return to monkeydom" to get them to work. Trollope argued, however, that the black man could not be blamed when he can "live without work, and roll in the sun and suck oranges and eat breadfruit." The solution that Trollope proposed was to find a way to ensure that the black man cannot live without working. Anthony Trollope, *The West Indies and the Spanish Main* (New York: Harper and Brothers, Publishers, 1860), 66.

⁵⁰⁶ Bolland, *The Politics of Labour in the British Caribbean*, 58.

⁵⁰⁷ *Ibid.*, 59- 60.

already struggling to find work in a rapidly changing economy. Immediately after emancipation, competition from slave-labor plantations in Brazil and Cuba threatened the profitability of Jamaican sugar production.⁵⁰⁸ Additionally, in 1846, the English Parliament passed the Sugar Duties Act which terminated import tax preferences for British Caribbean colonies. By 1854, nearly half of the sugar plantations in Jamaica had gone out of business.⁵⁰⁹ In the early twentieth century, sugar exports were reduced to less than one fourth of what they had been in the years immediately before emancipation.⁵¹⁰ Historian Nigel Bolland argues that an economic depression and the decline in British Caribbean sugar industry, “increased unemployment, lowered wages and heightened suffering” in the region.⁵¹¹ In addition to labor woes, Jamaica suffered major periods of drought and famine, accompanied by outbreaks of diseases like smallpox, measles, and cholera, which killed tens of thousands of people in the 1840s and 1850s.⁵¹²

It was during this tumultuous post-emancipation period that the myalism movement emerged in Jamaica. In response to the disease, drought, famine, which myalists interpreted as “witchcraft” or “obeah,” they preached and performed public rituals, as well as organized work strikes that disrupted plantation life and resulted in confrontations between the myalists and the police, whom the plantation owners had

⁵⁰⁸ William Green, “The West Indies and Indentured Labour Migration,” introduction.

⁵⁰⁹ Ibid., 26.

⁵¹⁰ William Green, “The West Indies and Indentured Labour Migration,” 2.

⁵¹¹ O. Nigel Bolland, *On the March: Labour Rebellions in the British Caribbean, 1934-39* (Kingston: Ian Randle Publishers, 1995), 7.

⁵¹² Schuler, “Myalism and the African Religious Tradition in Jamaica,” 74; O. Nigel Bolland, *The Politics of Labour in the British Caribbean*, 82.

summoned to break up their meetings.⁵¹³ As previously discussed in Chapter 3, part of the reason that myalism was suppressed was that authorities viewed practitioners as frauds who provided improper medical care; however, the prosecution of these healers was also closely connected to labor problems in Jamaica at this time. First and foremost, numerous contemporary observers described how myalists stormed onto plantations and disrupted the work with their rituals and encouraged others to abandon their labor and join the procession as they moved to other regions.⁵¹⁴ Additionally, and rather ironically, indentured laborers who were brought to the Caribbean to replace the supposedly lazy freedmen and women on plantations were blamed for the rise of the myalism movement. Missionaries, who had lobbied intensely for abolition and worked diligently to “civilize” newly freed black women and men, claimed African immigrants revived practices that had been abandoned by blacks instructed in Christianity and had been “long suppressed but never eradicated.”⁵¹⁵

In addition to blaming African indentured laborers for the myalism movement, by the end of the nineteenth century, some colonial residents also complained that the importation of Indian indentured laborers was not remedying the supposed labor shortage in the Caribbean. Indians sometimes deserted their plantations, because of poor labor

⁵¹³ Ibid., 73. Details about who was involved in the procession are unclear, and contemporary sources do not indicate whether the participants were the same continuous group or if some people joined and others left.

⁵¹⁴ See *Periodical Accounts Relating to the Missions of the Church of the United Brethren, Established Among the Heathen*, vol. 16 (London: W.M'Dowall, 1841), 302-308, 409-410- describing how myalists were disrupting life on the estates; Thomas Holt, *The Problem of Freedom*, 189- noting that myalists were charged with criminal trespass for going onto plantations to dig up obeah.

⁵¹⁵ Hope Masterton Waddell, *Twenty-Nine Years in the West Indies and Central Africa: A Review of Missionary Work and Adventure, 1829-1858* (London: T. Nelson and Sons, 1863), 188.

conditions or in order to find better work.⁵¹⁶ Many Indians in British Guiana and Trinidad were prosecuted for violating colonial laws related to desertion, vagrancy, or insufficient work.⁵¹⁷ In Jamaica, Indians reportedly sought and provided ritual services in violation of obeah and vagrancy laws. In fact, in 1890 a major Jamaican newspaper reported that Indians had not only entered the realm of practicing obeah but were the best known obeah men, although they had “certainly never heard of” it before arriving in the British Caribbean.⁵¹⁸

Newspaper accounts of obeah prosecutions as well as criminal court records confirm that Indians were regularly arrested for violating obeah laws in Jamaica. The earliest documentation I have found of Indians prosecuted for violating obeah statutes was in 1892, when the Governor of Jamaica sent a report to the Colonial Office about the obeah and myalism cases heard by Jamaican courts between 1887 and 1892.⁵¹⁹ This report contained the names of the ninety-two individuals prosecuted for practicing obeah or myalism during this five year period, and in parenthesis behind six of the names it says “coolie,” a derogatory term that British colonists used for Indians in the Caribbean. These cases continued well into the twentieth century, and the exchange of services appears to have taken many forms. Sometimes Indians consulted Afro-Jamaicans, at other times

⁵¹⁶ Walton Look Lai, “Sugar Plantations and Indentured Labor: Migrations from China and India to the British West Indies, 1838-1918,” (Ph.D. Diss. New York University, 1991), 213.

⁵¹⁷ Ibid., 240.

⁵¹⁸ “The Land We Live In,” *The Daily Gleaner*, November 15, 1980.

⁵¹⁹ Obeah and Myalism Law '92, 28 Sept. 1892, PRO, CO 137/550.

they consulted other Indians for their ritual needs; however colonial authorities prosecuted all of these individuals for violating obeah laws.⁵²⁰

The joint participation of Indians and Africans in spiritual practices in the Caribbean was not isolated to Jamaica. In his examination of orisha religion in Trinidad, James Houk observed that “both Africans and Indians have experienced a general feeling of oppression... so that Indians began to consult African spirit men, or ‘Obeahmen,’ in times of sickness or spiritual need, and Africans began to open up to Hinduism as well.”⁵²¹ Similarly, John Campbell argues that Indians introduced commercial chiromancy or palm-reading to British Guyana.⁵²² He further contends that some Hindu priests practiced obeah for Hindu and non-Hindu clients, including performing rituals to help them win court cases.⁵²³

Prosecutions for obeah practices were not only common among indentured laborers; colonial authorities also blamed other migrant laborers for engaging in ritual

⁵²⁰ For instance, in October of 1913, George Williams was arrested for providing services to an Indian family, Changer Singh and his wife. Singh paid Williams a total of ten shillings to remove ghosts from his wife, including two shillings to use his “eyesight” to determine what had to be done. Williams requested some rum, a piece of white cloth and a bowl of rice with no salt added. He then drew some figures in chalk on a piece of board. Williams told the Singhs that the ghost was under the bed and asked for the piece of cloth to tie it up. At this point, a constable came in and arrested Williams for practicing obeah. He was sentenced to twelve months imprisonment. “The Working of Obeah: George Williams Sentenced to Twelve Months Imprisonment,” *The Daily Gleaner*, October 8, 1913. In 1914, two Indians named Thomas Alien and Frederick Ramal were each sentenced to twelve months imprisonment with hard labor for performing a ritual to give an Indian woman luck and to help her get her lover out of jail. “Charge of Practicing Obeah,” *The Daily Gleaner*, July 1, 1914. Later, in 1927, an Indian man named Goopoul Marhargh was charged with practicing obeah after he struck up a conversation with a local man, Ezekiel Davis, whom he met in a shop. He offered to procure luck for Davis and stated that he could kill the people who were bringing Davis bad luck. He sent Davis to obtain the necessary ritual items, but instead, Davis reported Marhargh to the police. A constable returned with Davis and watched Marhargh perform the rest of the ritual and then arrested him. “Obeah Man Caught,” *The Daily Gleaner*, October 27, 1927.

⁵²¹ James T. Houk, *Spirits, Blood, and Drums: the Orisha Religion in Trinidad* (Philadelphia: Temple University Press, 1995), 87.

⁵²² John Campbell, *Obeah: Yes or No? A Study of Obeah and Spiritualism in Guyana* (n.p., 1976), 5

⁵²³ *Ibid.*, 14-15.

practices rather than finding “legitimate” work. In the early twentieth century, intra-Caribbean migration was very frequent and was driven by the hope of better labor conditions and wages. From the beginning of its construction in 1881 until thirty years later in 1911, about 43,000 Jamaicans emigrated to work on the Panama Canal.⁵²⁴ Similarly, between 1900 and 1913 around 20,000 Jamaican laborers traveled to Costa Rica, primarily to work on United Fruit Company plantations.⁵²⁵

Avi Chomsky has examined the importance of two obeah practitioners in organizing a strike of the Jamaican Artists and Laborers Union against United Fruit Company (UFC) in Costa Rica in 1910.⁵²⁶ The Union demanded that UFC recognize the Jamaican Emancipation Day as a holiday and in response, the Company summarily fired six hundred Jamaicans. To replace these workers, the Company sent recruiters to St. Kitts. Once those laborers arrived, however, they refused to work because they were paid substantially less than the Jamaican workers. Both groups began to strike, led by two “obeah men” named Charles Ferguson and J. Washington Sterling. Both men were prosecuted for their roles in organizing the strike, and Sterling was also arrested for practicing medicine without a license for attempting to establish a pharmacy and performing non-conventional methods of healing. Ferguson and Sterling were convicted on these charges and deported from Costa Rica.⁵²⁷

Similarly, in the early twentieth century, individuals who had recently arrived in Jamaica from Panama, Cuba and other regions, either as immigrants or migrant laborers

⁵²⁴ William Green, “The West Indies and Indentured Labour Migration,” 32.

⁵²⁵ Avi Chomsky, “Afro-Jamaican Traditions and Labor Organizing on United Fruit Company Plantations in Costa Rica, 1910,” *Journal of Social History* 28, (1995): 837-838.

⁵²⁶ *Ibid.*, 837-55.

⁵²⁷ *Ibid.*, 845.

returning from working abroad, were frequently prosecuted for practicing obeah. In fact, in 1915, there appears to have been a surge of immigrants or returnees who were engaged in practices classified as obeah. In May of that year, Elvin Spencer, who had arrived “some time ago” from Panama was convicted of practicing obeah and sentenced to twelve months imprisonment and eighteen lashes. The magistrate told Spencer that he should have remained in Panama. He also observed that obeah practitioners were no longer “the old Africans” but were instead “you fellows who come here and want money.”⁵²⁸

Less than one month later, William Fenton was arrested for practicing obeah based on the testimony of several individuals who claimed that Fenton had offered them various services to increase their luck in love and business.⁵²⁹ At trial, one of the witnesses testified that he knew nothing of Fenton’s obeah practices in Jamaica but that he knew Fenton from years that the witness had spent abroad in Panama. He claimed that Fenton practiced obeah in Panama and had been arrested several times there. Fenton confirmed that he was only in Jamaica for a short vacation and that he intended to return to Panama immediately. The magistrate told Fenton that he would have to remain in Jamaica for a while because he was sentencing him to twelve months imprisonment and eighteen lashes.

In addition to the prosecution of indentured workers, immigrants, and return migrants for practicing obeah, colonial authorities also connected obeah to labor and

⁵²⁸ “Obeah Charge: How Elvin Spencer was Trapped and Caught by the Police,” *The Daily Gleaner* May 21, 1915.

⁵²⁹ “Obeah Cases: Men who in the Police Court Pretend to Possess Occult Powers,” *The Daily Gleaner*, June 16, 1915.

employment disputes when they frequently asserted that obeah practitioners were lazy individuals who made their living by committing fraud. The clearest testament to this perception was the inclusion of the practice of obeah as a crime in Caribbean vagrancy laws in the 1840s and 1850s because these laws were designed to punish people for what authorities perceived as idleness. Moreover, legislators proscribed the practice of obeah “for gain” starting in the 1860s, which differentiated these laws from England’s 1735 witchcraft statute by emphasizing the criminalization of “pretended” supernatural practices for compensation.⁵³⁰

Furthermore, in the late nineteenth and early twentieth century, numerous Caribbean commentators described how obeah practitioners supposedly made a substantial living with their ritual practices. For instance, the author of an article published in the Jamaican newspaper *The Gleaner* in 1890 argued that “young, stalwart, athletic fellows set up as obeahmen, for no other purpose than to make money...”⁵³¹ He went on to explain why he believed obeah practitioners continued to thrive in Jamaica, asserting “There are thousands of blacks in America. Do they practice obeah? We think not; and it is because they must work there or starve.”⁵³² Magistrates also frequently emphasized the difference between “legitimate work” and obeah. For example, one judge stated that an accused was “prowling about intending to make a living off of deceiving people” but thankfully he was before the court and could be brought to justice.⁵³³

Another magistrate argued that people who pretended to have supernatural powers were

⁵³⁰ Paton, “Obeah Acts,” 6-7; England, “The Witchcraft Act of 1735,” 549.

⁵³¹ “The Land We Live In,” *The Daily Gleaner*, Nov. 15, 1890.

⁵³² Ibid.

⁵³³ “An Obeahman Convicted: A Salutary Sentence,” *The Daily Gleaner*, December 17, 1896.

preying on hard-working people. He said that he intentionally imposed harsh sentences on obeah practitioners, attempting to deter others from committing these acts.⁵³⁴

Given the characterization of obeah practitioners as charlatans engaged in illegitimate employment, it is ironic that contemporary sources such as newspaper accounts and court records suggest that obeah practitioners in Jamaica were often people who had special difficulty finding lawful employment. Many colonial descriptions of obeah practitioners indicated that they were often elderly men. For example, writing about obeah practitioners in the mid-nineteenth century, Captain Mayne Reid stated that “universally they were persons of advanced age and hideous aspect...”⁵³⁵ In 1893, a newspaper account of the trial and punishment of an obeah practitioner named Shelley questioned whether he could survive the thirty-six lashes that he had been sentenced to because of his old age.⁵³⁶ Other newspaper stories about obeah practitioners simply referred to them as “an elderly negro,”⁵³⁷ “a grey haired old man,”⁵³⁸ and “old and feeble, hardly able to keep himself together.”⁵³⁹

Obeah practitioners in Jamaica were also frequently infirm or disabled. In 1872, George Watson and Henry McLeod were found guilty of practicing obeah for performing a ritual to remove obeah from Henry Bagster, who complained that he felt something crawling around inside him. While Watson received a sentence of six months

⁵³⁴ “Obeah Cases. Men who in the Police Court Pretend to Possess Supernatural Powers. ‘Doubt of the Benefit.’” *The Daily Gleaner*, June 16, 1915.

⁵³⁵ Mayne Reid, *The Maroon* (London: Hurst and Blackett, 1862), 17.

⁵³⁶ “Current Items,” *The Daily Gleaner*, December 1, 1893.

⁵³⁷ “An Obeahman Convicted: A Salutary Sentence,” *The Daily Gleaner*, December 17, 1896.

⁵³⁸ “May Pen R.M. Court: Obeah Cases,” *The Daily Gleaner*, April 28, 1899.

⁵³⁹ “Another Case of Obeahism,” *The Daily Gleaner*, May 31, 1906.

imprisonment and twenty lashes, McLeod was sentenced to a longer term of imprisonment, twelve months, but did not receive lashes because he had a heart condition.⁵⁴⁰ However, when Walter William Christian was convicted of practicing obeah in August of 1915, he received no sympathy from the magistrate for his cork leg that had replaced a limb he lost working for the United Fruit Company in Costa Rica. Christian was sentenced to twelve months imprisonment with hard labor despite his infirmity.⁵⁴¹

A few scholars have tried to explain the age and infirmity of obeah practitioners.⁵⁴² Orlando Patterson argues that “people accused of obeah were in the great majority of cases poor, abused, uncared for, often sick with yaws, and isolated.... To the young, they represented the fear of growing old under a system which had no use for old people; to the healthy, they represented the fear of falling ill, especially with the yaws which was the most dreaded and horrible disease among the slaves...”⁵⁴³ Monica Schuler had a different opinion, arguing that younger people may have made obeah accusations against the elderly as a means of “self-promotion.”⁵⁴⁴ However, one must consider that

⁵⁴⁰ “Circuit Court,” *The Daily Gleaner*, July 11, 1872; The Queen against George Watson and Henry McLeod, 11 Apr. 1872, Jamaica Archives, St. Mary Parish Circuit Court Records, 1A/5/1(7).

⁵⁴¹ “Rural Court. Cases Dealt with at Christiana by the Resident Magistrate,” *The Daily Gleaner*, August 25, 1915.

⁵⁴² Vincent Brown argued that, at least during slavery, observations about the age and infirmity of obeah practitioners may have been incorrect. Based primarily on slave court records from 1814 to 1818, Brown demonstrates that most of the slaves prosecuted for obeah were valued at very high rates when the courts were reimbursing slave owners for their loss. Brown states that this evidence is ambiguous because there are several possible explanations- slave owners could have been trying to get the most value for their slaves, conviction rates may have given a skewed image of obeah practitioners as older practitioners might have been more difficult to convict, or obeah practitioners may not have been typically old and infirm like many people surmised. Brown, “Spiritual Terror and Sacred Authority in Jamaican Slave Society,” 40-41.

⁵⁴³ Orlando Patterson, *Sociology of Slavery: An Analysis of the Origins, Development and Structure of Negro Slave Society in Jamaica* (London: Macgibbon & Kee, Ltd., 1967), 193.

⁵⁴⁴ Schuler does not explain this concept of “self-promotion.” Presumably, she is arguing that if the elderly held a position of authority and respect in the community then young men may have accused them of practicing obeah to remove some of that power from the older generation and take leadership roles for themselves. Schuler, “Myalism and the African Religious Tradition in Jamaica,” 73.

due to their age and physical impairments, these individuals may have engaged in spiritual work because they likely would have had the most difficult time getting jobs on plantations. Consider the case of John Dailey, who was found guilty of practicing obeah in Port Antonio, Jamaica in 1915. Magistrate R.T. Orpen gave him a light sentence of five months imprisonment because Dailey was crippled and “otherwise unwell.”⁵⁴⁵ Although it is unclear whether Orpen made this direct correlation to Dailey’s infirmity, he also noted that the increase in obeah practice was most likely a response to rising unemployment, which had led people to seek money through “unfair means.”⁵⁴⁶

The type of rituals that obeah practitioners were arrested for performing in the late nineteenth century and early twentieth century further demonstrates that the criminalization of obeah was intricately intertwined with labor disputes. While judges and other officials were complaining that ritual specialists were not engaged in legitimate forms employment, obeah practitioners were often arrested in Jamaica for performing rituals to help individuals seeking to obtain a job or improve their business. For example, in 1906, Sydney Green entered a coffee shop and talked with the owner, Alfred Clarke, about how his business was going. Green told Clarke the shop was not thriving because Clarke’s own wife had set two ghosts upon him. He made an appointment with Clarke to perform the ritual to remove these ghosts. Instead, Clarke reported Green to the police and Clarke was arrested.⁵⁴⁷ Then, in 1909, William August Bruce was convicted on charges of practicing obeah when he offered to remove the duppies that he claimed

⁵⁴⁵ “Conviction on Obeah Charge: John Dailey sent to prison for 5 months with hard labor,” *The Daily Gleaner*, May 15, 1915.

⁵⁴⁶ Ibid.

⁵⁴⁷ “Convicted on Obeah Charge: How a Man Tried to Take off Ghosts,” *The Daily Gleaner*, October 26, 1906.

Brooks' competitors had set upon him to "humbug his business." He instructed Brooks to bring him several objects and told him that a chicken had to be killed and its head and blood would be buried at the entrance to the shop to keep away his enemies. Brooks paid Bruce thirty shillings and then Brooks proceeded to tell a constable, who hid outside the shop while he and Bruce completed the ritual. Bruce was arrested and sentenced to twelve months' imprisonment and one year of police supervision.⁵⁴⁸

When obeah practitioners were not offering services to help an individual find a job or increase his or her business, they were often hired to perform other forms of service related to financial stress. One such case was the prosecution of William James in 1871, who was hired by John William Kean to recover ten pounds that was owed to him. James charged Kean five shillings and prescribed a ritual involving tying a string to a nail and carrying a card without dropping it.⁵⁴⁹ Later, in 1920, Nathaniel Hall was sentenced to twelve months imprisonment and eighteen lashes for practicing obeah after Irene Williams paid him six pounds to use supernatural rituals to locate and remove a pot of money that Hall claimed was buried in her yard.⁵⁵⁰ On another occasion, Charles Nugent approached a woman named Edith Connelly, who had had about four pounds stolen from her. Nugent performed divination using a pack of cards to help Connelly recover the money.⁵⁵¹

⁵⁴⁸ "Obeah Charge: Trial of William Bruce in Kingston Yesterday," *The Daily Gleaner*, November 25, 1909.

⁵⁴⁹ *The Queen v. William James*, 10 May 1871, Jamaica Archives, St. Anne Parish Court Records, A/5/1 (6).

⁵⁵⁰ "The Police Court," *The Daily Gleaner*, May 8, 1920.

⁵⁵¹ "Convicted on Obeah Charge," *The Daily Gleaner*, October 3, 1913.

If court records and newspapers accurately reflect the rituals that obeah practitioners performed from the mid-nineteenth to the mid-twentieth century, then it appears these spiritual practices were used as a method of “self-help” among the Jamaican population. On the one hand, practitioners offered services to assist people in obtaining money, employment, luck, and business, and on the other providing spiritual services was a way for elderly and infirm Jamaicans to obtain an income. In exchange for their own financial gain, these individuals performed rituals to assist others in their business or financial disputes. This spiritual commerce was so successful that police officers relied on false complaints of employment problems (rather than physical ailments) to trap these medico-religious practitioners into professing supernatural power.⁵⁵²

However, it is also important to reflect upon what we can learn about shifting colonial perceptions of obeah through examining these prosecution trends. The attribution of myalism to African indentured laborers, and the arrest of Indians and other immigrant workers for the practice of obeah suggest that colonial authorities may have been particularly vexed by individuals who migrated to the Caribbean in search of

⁵⁵² The prosecution of Richard Alisha Aiken for practicing obeah in 1900 is an example of such a case. Aiken was approached by George Neal Fulton, who came to him and said he had lost his employment and wanted Aiken to help him get it back. Aiken lit candles, poured liquid in his hand and then rubbed Fulton's head. He told Fulton to leave and gave him a bottle, telling him to sprinkle the contents on his employer's property and then bury the bottle there. Aiken also asked Fulton to return a few days later with three yards of white calico and a fowl. Aiken said he would kill the fowl and sprinkle the blood on the calico and have Fulton bury it beside a bottle in the employer's yard. However, Aiken never had the opportunity to complete the ritual. Fulton had been solicited by the police to set up Aiken and rather than going to get the requested items, Fulton gave the preset signal, a cough, to call the constable to come in and arrest him. Aiken was found guilty and sentenced to twelve months imprisonment and eighteen lashes. “Obeahman Convicted in Kingston,” *The Daily Gleaner*, August 25, 1900. Similarly, in 1907, Francis Harmit was sentenced to twelve months imprisonment for practicing obeah after he offered to provide services to a disguised constable and a local man. The two men approached Harmit and claimed that they needed Harmit to help them obtain a job painting a house. After they paid Harmit an undisclosed sum and performed the ritual, another constable came in and arrested Harmit. “Charge of Obeah: Francis Harmit Arrested,” *The Daily Gleaner*, August 21, 1907; “The Allman Town Obeah Case,” *The Daily Gleaner*, October 24, 1907.

employment but resorted to spiritual work for a source of income. Additionally, when one juxtaposes the colonial characterization of obeah practitioners as able-bodied, young males who were too lazy to engage in gainful employment against the prosecution of numerous aged and infirm people for violating obeah laws, it seems that colonial authorities had a skewed view of ritual practitioners that focused on the importance of controlling Jamaican laborers.

Other aspects of Jamaican prosecutions of obeah from the mid-nineteenth to the mid-twentieth century also suggest that Caribbean officials were very concerned about the impact of ritual practices on employment disputes, and that they were likely more preoccupied with these labor issues than the fraud that supposedly fueled the proscription of obeah. Despite the similarities between Caribbean obeah laws and England's witchcraft and vagrancy statutes, the debates that permeated Britain's courts from the 1880s to the 1920s about fraudulent intent never really surfaced in the Caribbean. Magistrates and judges rarely, if ever, questioned whether a person charged with obeah actually believed in the efficacy of the ritual that he or she performed; instead, the courts assumed fraud without hearing any evidence on the subject. The case of *Rex v. Chambers*, decided by the Supreme Court of Jamaica in 1901, provides particular insight on this issue.⁵⁵³ In this case, two people who were employed by the police department as decoys approached the defendant and told him that they were in trouble for stealing rum from an estate and asked for his help. The defendant gave them something in a box and told them that if they blew this substance onto the estate lands while calling out the

⁵⁵³ "Rex v. Thompson," in *Supreme Court of Judicature of Jamaica: Judgments 1917-1932*, ed. Adrian John Clark (Kingston, Jamaica: Government Printing Office, 1936), 132-136.

owner's name, they would not have any further legal trouble for stealing the rum. The defendant was convicted and sentenced to three hundred and sixty four days imprisonment at hard labor and twenty-four lashes. On appeal, one of the issues that the defendant's lawyer raised was that the prosecution had not proven that the defendant had acted with fraudulent or illegal purpose. The appellate court ruled that it was irrelevant whether the defendant intended to commit fraud and it was also immaterial that clearly no one had been deceived by the defendant since his clients were police decoys. The court said that fraud was not a required element of every obeah case; a charge could be brought on the offense of pretending to use occult means for gain without demonstrating fraud.

In fact, most of the prosecutions for violations of obeah laws in Jamaica in the early to mid-twentieth century arose from situations where no one was deceived by the defendant's claims that he or she had supernatural powers. Like the case of *Rex v. Chambers*, decoys were often used to solicit reputed obeah practitioners to perform a ritual so that the police could arrest him or her. More frequently, an obeah practitioner approached someone to offer to perform some ritual and that person reported the obeah practitioner to the police and helped set a trap. The police waited until the decoy or informant paid the obeah practitioner for his or her services and then arrested that individual for using "pretended" supernatural powers "for gain."

In the early to mid-twentieth century, two appellate courts in the British Caribbean justified the use of police traps by claiming that they were protecting individuals who were actually duped by obeah practitioners. The first case was heard in British Guiana, where the obeah law was very similar to that of Jamaica; it listed several specific ways that an individual could contravene that law which included using any

“pretended” practice of obeah or other supernatural power to intimidate or influence a person, inflict disease or damage to any person, discover lost or stolen goods, or “obtain any chattel, money or valuable security from any other person.”⁵⁵⁴ In 1922, the Supreme Court of British Guiana heard the appeal of Gussain Maraj who had been charged with violating the obeah law by “obtaining the sum of five dollars from Police Constable Carroll by the practice of obeah.”⁵⁵⁵ Maraj appealed his conviction, arguing that he had not actually obtained money for the practice of obeah because the individuals who paid him were police officers who were merely setting a trap for him and therefore they knew that they would have their money returned once he was arrested. The court ruled that it was irrelevant what the “client” believed, the only pertinent mindset was that of the defendant who, evidence suggested, thought he was being paid for the practice of obeah. The justices also specifically remarked that police traps were “sometimes necessary” because the clients of obeah practitioners were “seldom likely to come forward themselves being doubtless prevented by shame or fear.”⁵⁵⁶ For these reasons, Maraj’s conviction was upheld and his appeal was dismissed.

Then, in 1924, Charles Thompson appealed his conviction for practicing obeah in Jamaica. Thompson raised some complex evidentiary concerns about the testimony of the police officers, who he claimed had acted as *agent provocateurs*, coercing him to commit an offence when he otherwise would not have done so. The court upheld his conviction, stating that Thompson was “willing to trade on the superstitions of those in distress and

⁵⁵⁴ Cited in “Cressall v. Gussain Maraj,” in *Reports of Decisions in The Supreme Court of British Guiana during the year 1922 and in The West Indian Court of Appeal*, ed. L. C. Dalton and S.J. Van Sertima (Georgetown: Demerara: “The Argosy” Company, Ltd., 1923), 90.

⁵⁵⁵ Ibid., 90.

⁵⁵⁶ Ibid., 91.

his heartlessness is only equaled by his effrontery. It is saddening to this that he can so easily find dupes, and that too from amongst a class which can ill afford to part with hard earned savings.”⁵⁵⁷ In his concurring opinion, Justice DeFreitas acknowledged that it was probably necessary to revisit the way that the police obtained evidence in obeah cases, but cited Resident Magistrate Leslie Thornton’s argument in 1904 that without police traps it would be nearly impossible to arrest an obeah practitioner because no matter how well known an obeah practitioner was, it was very difficult to find anyone to testify against him or her.⁵⁵⁸

These cases reinforce the idea that in many, perhaps all, parts of the British Caribbean, police officers and courts relied on police traps to secure convictions in obeah prosecutions. In such cases, when the supposed clients were undercover police officers or an individual who had conspired with the authorities to entrap the obeah practitioner, no fraud was actually committed (except perhaps against the so-called obeah practitioner). Furthermore, as Maraj pointed out, no one had actually paid money for supernatural practices because the purported client could expect to have his or her fee returned upon the obeah practitioner’s arrest. Despite the prevalence of narratives about how obeah practitioners must be stopped from duping people out of their money, the court’s ruling in *Maraj* did not focus on the client but rather on the obeah practitioner’s intent to receive payment for his or her services. They justified this decision with the assertion that arresting an obeah practitioner through any means possible was in the interest of the community, because the real clients would be too afraid or embarrassed to bring charges

⁵⁵⁷ Ibid., 134.

⁵⁵⁸ Ibid., 134-135.

against them. Yet the widespread participation of solicited clients in obeah prosecutions in Jamaica suggests that, at least in that colony, much of the population neither feared obeah practitioners nor were easily “duped” by them.

Furthermore, if legislators were concerned with obeah practitioners defrauding their clients and police traps were viewed as the cure to the fear and embarrassment that supposedly prevented most people from testifying against them, then the criminalization of consulting an obeah practitioner, which began in the mid-nineteenth century, was completely nonsensical. This is best exemplified by Jamaica’s 1898 Obeah Law which proscribed consulting any person practicing obeah “for any fraudulent or unlawful purpose,” and punished violators by up to six months imprisonment or whipping.⁵⁵⁹ If the person consulting the obeah practitioner agreed to compensate him or her, the potential term of imprisonment increased to up to twelve months, which was the same length of time that an individual could be sentenced for practicing obeah.⁵⁶⁰ By criminalizing consulting an obeah practitioner, legislators were penalizing individuals who they had repeatedly claimed were the victims. They also discouraged obeah cases from ever being litigated as a type of fraud because such prosecutions would require a complainant to come forward to testify that he or she had sought the services of an obeah practitioner. Since any individual making such a complaint could be arrested for consulting an obeah practitioner, police officers were forced to rely more on the “pretended” practice of obeah “for gain,” than for fraudulent purposes.

⁵⁵⁹ Jamaica, “The Obeah Law, 1898,” 2.

⁵⁶⁰ Ibid.

Therefore, while colonial authorities employed language about the “pretended” use of supernatural powers and prohibited the practice of obeah for fraudulent purposes, in many ways these references to fraud seem to have been a subterfuge to justify the proscription of rituals practices that disrupted plantation labor and provided workers with alternative forms of income. As the next section will discuss, in Africa, where laws related to ritual practices were not closely connected to labor disputes, proving fraud was more important than financial gain, and intent to deceive was typically not presumed.

“Pretended” Witchcraft and Theft by False Pretenses in Africa

Colonial laws in Africa prohibited many of the same practices as statutes in England and Jamaica, including the “pretended” practice of witchcraft, fortunetelling, and the use of purported supernatural powers to discover lost or stolen goods. However, there were also many differences in the way such practices were proscribed and how these provisions were enforced. In British African colonies, vagrancy legislation rarely banned fortunetelling, palmistry and the use of “occult science,” as it did in Britain and the Caribbean. Additionally, few witchcraft laws contained broad proscriptions of the “pretended” use of supernatural powers; rather, they only prohibited rituals intended to cause injury or property damage. Instead of proscribing fortunetelling and the “pretended” use of supernatural powers as a violation of vagrancy and witchcraft ordinances, most British colonies in Africa prohibited these practices as a type of fraud— theft by false pretenses.

By categorizing these rituals as fraud, colonial legislators placed “pretending” to possess supernatural powers in the class of crimes against a specific person, which

therefore could only be proven if the defendant did not believe in the efficacy of her/his own practices and the client was actually defrauded. This was a sharp contrast to Britain and its Caribbean colonies where obeah and vagrancy laws were crimes against public order and morality which only required proof that the ritual had been performed. Thus, whereas courts in Britain declared that fraudulent intent was irrelevant and those in Jamaica automatically assumed deceit in every case, in colonial Africa, judges were forced to analyze in every proceeding whether the accused himself/herself believed in his/her own purported powers. Frequently, appellate courts overturned convictions in these cases finding that, unless the defendant had above average education, she/he most likely believed in ritual practices such as divination, medico-religious healing, and ceremonies to increase luck and wealth.

Particularly in the case of healing rituals, in the early to mid-twentieth century appellate courts in Southern and Central Africa reversed numerous convictions for practices that closely resembled those that police and prosecutors targeted as violations of obeah laws in the Caribbean since the mid-nineteenth century. Furthermore, although the use of police traps became very common in England and the Caribbean in the twentieth century, they could only be used in limited ways in colonial Africa because fraud could not be proven if the client was an undercover officer and did not genuinely intend to pay the practitioner for his/her services. Therefore, colonial authorities in Africa had a much more difficult time prosecuting individuals for the “pretended” use of supernatural powers because, unless an individual intended to harm a person or property with his/her ritual practices, a conviction could only be secured if the defendant set out to commit fraud.

There are a variety of reasons that vagrancy legislation in Africa typically did not address fortunetelling, palmistry and the “pretended” practice of witchcraft. First and foremost, in the early to mid nineteenth century, when Britain revised its vagrancy law and colonial legislators enacted similar ordinances in the Caribbean, most of Africa had not yet been colonized. In the Cape Colony, one of the few regions of Africa over which Britain had begun to gain control by the mid-nineteenth century, colonists attempted but failed to pass vagrancy legislation in the 1830s.⁵⁶¹ Their efforts to enact a vagrancy statute in the Cape Colony was a response to both the passage of Ordinance 50 in 1828, which gave free people of color the right to own land and choose their own employer, and the abolition of slavery in the British empire in 1834.⁵⁶² If passed, the Vagrancy Law of 1834 would have allowed any official to arrest someone who appeared to have no “honest means of subsistence,” and if convicted, that individual could have been ordered to work on public roads until someone agreed to take him or her as a laborer. The Colonial Office blocked the passage of this law because it conflicted with Ordinance 50, which said that free people of color could not be arrested for vagrancy as a pretext to force them into compulsory labor.⁵⁶³

If a vagrancy law had been enacted in the Cape Colony in the 1830s, this ordinance still would have been unlikely to address fortunetelling, palmistry and the “pretended” use of supernatural powers. These early efforts to implement labor laws in

⁵⁶¹ Clifton Crais and Thomas McClendon, *The South Africa Reader: History, Culture, Politics* (Durham: Duke University Press, 2014), 71.

⁵⁶² Elizabeth Elbourne, “Freedom at Issue: Vagrancy Legislation and the Meaning of Freedom in Britain and the Cape Colony, 1799-1842,” in *Unfree Labour in the Development of the Atlantic World*, ed. Paul Lovejoy and Nicholas Rogers (Frank Cass & Co. Ltd., 1994), 129.

⁵⁶³ Crais and McClendon, *The South Africa Reader*, 81; Elbourne, “Freedom at Issue,” 128-129, 133.

the Cape Colony were primarily directed at the Khoi who, along with the San and a relatively small enslaved population, were the majority of the people of color living within the colonial borders at this time.⁵⁶⁴ Therefore, the proposed vagrancy legislation was specifically designed to dismantle traditional Khoi means of subsistence, such as digging for roots and raising cattle.⁵⁶⁵ The vagrancy ordinance would likely not have addressed the “pretended” practice of witchcraft because, although the colonists occasionally asserted that the Khoi believed in witchcraft, they did not typically associate this group with witch-finding activities and other supernatural rituals to the extent that they described these practices among other groups in Southern Africa, such as the Xhosa and the Zulu.

Later in the nineteenth century, colonial authorities successfully enacted vagrancy legislation applying to each region of South Africa including the Cape Colony, Natal, the Transvaal and the Orange Free State. These laws emphasized the more traditional aspects of vagrancy in English law, primarily prohibiting wandering or loitering on private property without the permission of the owner, possessing no fixed place of residence or having no lawful means of subsistence.⁵⁶⁶ They did not contain provisions addressing

⁵⁶⁴ The Xhosa were engaged in a frontier war with the colonists around the time of the proposed legislation, 1834-1835. Natal, the Orange Free State and the Transvaal were not colonized by Europeans until The Great Trek, when the Boer population set out in the mid-1830s and 1840s, largely in response to the passage of Ordinance 50, the abolition of slavery and the denial of vagrancy laws, to find lands beyond the British-controlled Cape Colony.

⁵⁶⁵ Elizabeth Elbourne, *Blood Ground: Colonialism, Missions, and the Contest for Christianity in the Cape Colony and Britain, 1799-1853* (Montreal, Canada: McGill-Queen’s University Press, 2002), 275.

⁵⁶⁶ South Africa, Natal, “Law for the Punishment of Idle and Disorderly Persons and Vagrants of 1869,” in *Natal Ordinances, Laws and Proclamations*, ed. Charles Fitzwilliam Cadiz and Robert Lyon (Pietermaritzburg, South Africa: Vause, Slatter & Co. Government Printers, 1879), 1:737-739. South Africa, the Transvaal, “Vagrancy Law of 1881,” in Native Affairs Department, *The Laws and Regulations Specifically Relating to the Native Population of Transvaal* (Pretoria, South Africa: Government Printing and Stationary Office, 1907), 150-151. I have been unable to locate the Cape Colony and Orange Free State legislation but these statutes and prosecutions for violations of them were described at length in a

public morality or prohibited types of employment, with the exception that Natal's Vagrant Law of 1869 which banned any person from exposing himself in a public place or behaving in a "riotous or indecent manner."⁵⁶⁷ Vagrancy laws in South Africa did not proscribe fortunetelling, palmistry or the use of "occult science."

This was also usually true of legislation passed in British colonies in other regions of Africa, even though some of these laws more closely resembled England's Vagrancy Act of 1824, classifying prostitutes, gamblers and beggars as idle persons or "vagabonds."⁵⁶⁸ I have only found two exceptions to this. First, in Basutoland, Sir H. Barkley issued a proclamation in 1879 that said that "Any one practicing or attempting to practice witchcraft, and falsely accusing another of practicing it, is called a rogue, and punishable by fine, confiscation of property, and imprisonment."⁵⁶⁹ The classification of anyone violating this law as a "rogue," suggests that Barkley may have viewed witchcraft as a type of vagrancy, since these laws also used the language about "rogues" and "vagabonds." Additionally, in 1889, the British colony of Mauritius, off the eastern coast of Africa, passed a vagrancy law that mirrored Britain's Vagrancy Act of 1824; however, legislators also prohibited fortunetelling and divination as a type of theft by false

compendium of South African laws compiled by three judges in 1957. Charles Lansdown, William Hoal and Alfred Lansdown, *South African Criminal Law and Procedure*, vol. 2 (Cape Town: Juta & Company Ltd., 1957), 1412-1423.

⁵⁶⁷ The law expressly uses the language "exposing his person," although other sections appear to apply to both males and females, and use both "him" and "her."

⁵⁶⁸ For example see Kenya, "Penal Code of 1930," in *The Laws of Kenya in force on the 21st Day of September, 1948*, ed. Donald Kingdon, (Nairobi, Kenya: The Government Printer, 1948), 1:230-231; Gambia, "Criminal Code of 1934," in *The Laws of The Gambia in force on the 1st Day of January, 1955*, ed. Donald Kingdon, (London: Waterlow & Sons Limited, 1955), 1:211-212.

⁵⁶⁹ *Report and Proceedings with Appendices of the Government Commission on Native Laws and Customs*, Appendix A, page 12

pretenses.⁵⁷⁰ The paucity of vagrancy provisions prohibiting the “pretended” use of supernatural powers differentiates colonial Africa from Britain and the Caribbean; it suggests that colonial authorities did not classify these rituals as illegitimate forms of labor or offenses against public order.

This idea is further supported by the fact that it was also rare for witchcraft laws to generally prohibit the “pretended” use of supernatural powers. Within South Africa, the only exception to this was the Transvaal’s Witchcraft Ordinance of 1904 which stated:

Any person who for purposes of gain pretends to exercise or use any kind of supernatural power witchcraft sorcery enchantment or conjuration or undertakes to tell fortunes 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 shall be liable upon conviction to imprisonment with hard labour for a period not exceeding one year.⁵⁷¹

Cases prosecuted as violations of this provision appear to have closely resembled mid-nineteenth to twentieth century obeah prosecutions in three ways. First, many of these cases seem to have been based on the evidence of undercover police officers who approached the accused pretending to be a client.⁵⁷² Furthermore, since the Transvaal statute required a person to use his or her purported supernatural powers for “gain,” prosecutions often hinged on the definition of this term. The appellate court upheld these convictions, as the Supreme Courts of British Guiana and Jamaica had also done in

⁵⁷⁰Mauritius, “An Ordinance to consolidate and amend the law relating to Vagrancy, No. 2 of 1889,” in *The Laws of Mauritius*, ed. Sir Furcy Alfred Herchenroder & Etienne Koenig (Port Louis, Mauritius: F.S. Passingham, Government Printer, 1921), 1029-1032.

⁵⁷¹ South Africa, the Transvaal, “Ordinance No. 26 of 1904,” 151.

⁵⁷² *Rex v. Karem* (1921) T.P.D. 278-281; *Rex v. Watson* (1943), T.P.D. 38-42.

1920s, in cases where the accused consulted an undercover police officer.⁵⁷³ Finally, and most significantly, the court expressly stated that the Transvaal Ordinance, “clearly renders unnecessary in a case of fortune telling, proof of fraud or intent to deceive or any dishonest pretence of supernatural power.”⁵⁷⁴ With this ruling, the court clarified that in the Transvaal, as in Britain and its Caribbean colonies, the offence was the mere performance of a ritual, no one had to intend to deceive anyone else and no one actually needed to be defrauded.

It is not clear why the Transvaal’s law so closely resembled statutes in the Caribbean nor why it included these provisions generally prohibiting the “pretended” practice of witchcraft when other South African witchcraft ordinances did not; however, the reason may have been connected to employment disputes in this region. While African labor was heavily regulated throughout South Africa by the early twentieth century, the discovery of large deposits of gold in the Transvaal in 1886 set this area apart from most of the other colonies/provinces. Gold had increased in worldwide importance in 1873 when it replaced silver as the internal monetary standard, and by 1898, the Transvaal produced one-fourth of the world’s gold.⁵⁷⁵ However, many Africans were not interested in working in the gold mines because the conditions were horrible and wages were low.⁵⁷⁶ When the mines suffered from labor shortages in the early twentieth century, colonists resorted to measures that their Caribbean counterparts had employed more than fifty years earlier — the importation of foreign laborers. More than sixty

⁵⁷³ For example see *Rex v. Karem* (1921) T.P.D. 278-281.

⁵⁷⁴ *Rex v. Watson* (1943), T.P.D. 41.

⁵⁷⁵ Moleah, *South Africa*, 283-284; Ross, *A Concise History of South Africa*, 72-73.

⁵⁷⁶ Moleah, *South Africa*, 285.

thousand indentured Chinese workers were brought to supplement African labor in the Transvaal gold mines from 1904-1907.⁵⁷⁷

When one considers that the labor shortages in the Transvaal gold mines occurred during precisely the same time period that the witchcraft ordinance was first introduced in this region, it seems likely that this law was designed to restrict the performance of spiritual practices as a type of unlawful employment. This would clearly explain why laws and prosecutions of “pretended” supernatural rituals in the Transvaal so closely resembled Caribbean obeah cases. However, it is unlikely that the explanation was so simple because the Orange Free State, the location of the Kimberley diamond mines, was the only province in South Africa where there was no witchcraft ordinance in effect until the consolidated South African Witchcraft Law entered into force in 1957. Therefore, the Transvaal’s witchcraft law remains an anomaly which may be partially but not fully explained by unique labor disputes in this region.

Despite the Transvaal’s provisions on the general use of “pretended” supernatural powers within its witchcraft laws, British authorities in most African colonies classified the practice of “pretended witchcraft,” or fortunetelling as a type of theft by false pretenses. The language used in these laws was typically nearly identical to that in Caribbean obeah statutes and British witchcraft or vagrancy ordinances; however, the categorization of “pretended witchcraft” as a form of theft by false pretenses drastically changed this offense. Unlike vagrancy and obeah, which were offenses against society, theft by false pretenses was a crime against a particular individual. While cases of vagrancy or obeah only required that the prosecution show that the defendant had used or

⁵⁷⁷ Ross, *A Concise History of South Africa*, 85.

professed to use supernatural powers, theft by false pretenses was not proven without a deeper inquiry into the beliefs of both the defendant and the client. For an individual to be guilty of theft by false pretenses, she or he had to make a “representation,” that he or she knew was false, with the intent to deprive another person of money or property.⁵⁷⁸

As three judges explained in 1957 in their synthesis of South African criminal law, when a person claims that she or he has supernatural powers or can foretell the future, “[i]n deciding whether or not the accused was aware of the falsity of the representation, the court will have reference to our present state of knowledge and enlightenment and will be guided by common sense and experience.”⁵⁷⁹ In the first half of the nineteenth century, South African appellate courts developed several factors, such as the race and education of the accused, that were considered in determining whether the defendant believed that he or she had supernatural powers. However, the courts’ decisions were inconsistent, ruling that a defendant must have known his or her representations were false in some instances but not in others.

The earliest appeal of a conviction of theft by false pretenses for “pretending” to possess supernatural powers appears to have been *Rex v. Masiminie*, decided by the Transvaal Division of the Supreme Court of South Africa in 1904.⁵⁸⁰ In this case, an African man was sentenced to four months imprisonment at hard labor because he conducted a form of divination known as “throwing bones” to determine the cause of a man’s illness. On appeal, several of the defendant’s clients testified on his behalf, stating

⁵⁷⁸ . Charles Lansdown, William Hoal and Alfred Lansdown, *South African Criminal Law and Procedure*, vol. 2 (Cape Town: Juta & Company Ltd., 1957), 1682.

⁵⁷⁹ *Ibid.*, 1686.

⁵⁸⁰ *Rex v. Masiminie* (1904), T.S. 560.

that he believed in his own powers of divination. The appellate court overturned his conviction, stating that there was no evidence of false pretenses. Among people with a “higher degree of education than” a native South African, the justices said, the idea that the cause of disease could be determined by throwing bones would be “so palpably unfounded and absurd as to lead to the conclusion that the person making it must know it untrue, and so would act fraudulently in making it...” but this cannot be assumed of “an ignorant Kafir.”⁵⁸¹

In the 1930s, appellate courts began to limit the ruling in *Masiminie*, holding that the court should not assume that all native Africans believed in their own purported supernatural powers.⁵⁸² In the case of *Rex v. Mgoqi*, decided by the Eastern Districts Local Division of the South African Supreme Court in 1935, the defendant was convicted on four counts of theft by false pretenses and was sentenced to four months imprisonment on each charge. The accused was a self-described “Christian witchdoctor,” who claimed he was possessed by two spirits, which he called up and consulted to provide advice to his clients. There were two sets of complainants in this case; the first reported that the defendant told them his spirit guides could help them find their lost horses and the second claimed that he prescribed treatments for some sick children that had supposedly been relayed to him by the spirits. Mgoqi appealed his convictions because he argued that the prosecution had not shown that he did not believe in his own professed ability to communicate with spirits. The appellate judges felt that fraud could be implied in this case, in part because they believed that the fact that the accused initially denied providing

⁵⁸¹ Ibid.

⁵⁸² *Rex v. Mgoqi* (1935) E.D.L. 214-217.

services to these clients suggested he was guilty of wrongdoing. Furthermore, although the judges did not explain what about the defendant's background led them to this conclusion, they said that this case "is one which shows the necessity of measures of this character to protect ignorant natives from being deluded by fellow-natives of more education and ability than they possess."⁵⁸³

Ten years later, the Appellate Division of the Supreme Court was more explicit about what factors they considered in finding that native Africans did not believe in their own purported supernatural powers. The defendants in the case of *Rex v. Alexander (Pty.) Ltd. and Others* sold a "medicine" to the complainant for twenty shillings that they claimed would bring him luck in gambling with dice or cards.⁵⁸⁴ They provided written instruction on how to use the "medicine," which stated "[m]ake a cut on the forehead where the hair meets the forehead, apply this medicine. When you go to cards or dice or fafi [a number-betting game], apply this medicine on your hands, face and even under your feet."⁵⁸⁵ In addition to the testimony of this specific client, the prosecutors also introduced evidence that the defendants owned a limited liability company and printed circulars advertising the sale of "green leaf" remedies and beauty products, "love-drop wonder" perfume, and other products. When the defendants argued that there was no proof that they knew their representations were false, the court distinguished this case from *Masiminie*, where they were dealing with "an ignorant Kafir." The justices noted that the defendants in this case were directors of a limited liability company which had an office, a telephone, a postal address and a cable address. They engaged in sophisticated

⁵⁸³ Ibid, 215.

⁵⁸⁴ *Rex v. Alexander (Pty.) Ltd. And Others* (1946), A.D. 110-119.

⁵⁸⁵ Ibid., 115.

advertising methods and one of the defendants was a “competent penman.”⁵⁸⁶ For all these reasons, the court believed that these men were at a fairly advanced stage of civilization and enlightened to a degree “incompatible with belief in the truth of the representation.”⁵⁸⁷ The defendants tried to argue that the complainant was a man from a similar educational background but the court was not swayed and it dismissed the defendants’ appeal.

The debates about the “enlightenment” and “knowledge” of the defendant set these South African false pretenses cases apart from prosecutions of “pretending” to use supernatural powers in the Caribbean, where colonial officials assumed (but were not required to prove) that obeah practitioners had fraudulent intent. It is clear how significant this distinction was when we closely examine prosecutions in these regions. Particularly in the case of medico-religious practices, very similar rituals were documented in Jamaica and South Africa but were the basis for convictions for the “pretended” use of supernatural powers in the former and not the latter. The best example of this distinction is that in both Jamaica and South Africa, healers performed various methods of bloodletting, which often included the purported removal of foreign objects from the patient’s body. This process, often referred to as “pulling” or “cupping” in Jamaica, typically began with the ritual specialist using divination to determine what part of the body had been infected by obeah or witchcraft. He or she would then cut the

⁵⁸⁶ Ibid., 118-119.

⁵⁸⁷ Ibid., 119.

patient's infected skin with a razor and remove various objects such as glass bottles, nails, teeth and small animals like spiders and lizards.⁵⁸⁸

In Jamaica, obeah prosecutions for this form of healing have been documented as early as the 1820s.⁵⁸⁹ In the mid to late 1850s, such cases became extremely common in Jamaica. They comprised at least twelve of the nineteen healing prosecutions between 1854 and 1871 that were documented in Jamaican Circuit Court record books.

Individuals who performed similar rituals were also prosecuted for violating obeah laws in the British colony of Grenada in the nineteenth century.⁵⁹⁰ Colonial authorities as well as British residents and missionaries in the Caribbean justified the prosecution of these

⁵⁸⁸ Brian Moore and Michele Johnson, *Neither Led Nor Driven: Contesting British Imperialism in Jamaica, 1865-1920* (Kingston, Jamaica: University of West Indies Press, 2004), 60. Very little has been written about how these items that were supposedly pulled out of a person's body were believed to have been inserted there. However, Martha Beckwith, in her study of Jamaican folklore, said that many people believed that obeah charms, like those described in Chapter Two, could be transferred into a person's body. Martha Beckwith, *Black Roadways: A Study of Jamaican Folk Life* (New York: Negro Universities Press, 1969), 132.

⁵⁸⁹ One of the earliest court cases for this type of healing in Jamaica was in 1824. An enslaved woman named Pamila was ill and refused the care of a white doctor. She requested the services of an obeah practitioner named Andrew Marble, who used divination (throwing some items into a bowl of water and seeing which ones floated) to determine what was ailing Pamila. He concluded that there was something foreign inside her body, then put his mouth to her skin and pulled out teeth and glass. However, he said he was unable to heal Pamila because there were too many things inside her, including an iron bar in her back. Marble was tried for practicing obeah and sentenced to transportation or banishment from the island. Derrick Murray, "Three Worships, an Old Warlock and Many Lawless Forces: The Court Trial of an African Doctor who Practised 'Obeah to Cure', in Early Nineteenth Century Jamaica," *Journal of Southern African Studies* 33, no. 4 (2007): 812- 822.

⁵⁹⁰ For example, a free black man named Pierre was prosecuted for three counts of practicing obeah in 1833 after he treated several patients through "pulling" or "cupping." Pierre's first offense was that he treated a woman named Susan by cutting her foot with a razor and collecting her blood in a calabash. He asserted that he found a scorpion in the blood that had been placed in Susan's foot by an ex-lover she had left. Pierre also performed "cupping" on a woman named Lydia by the same method. He removed a live frog from her neck, which he then killed with holy water. Finally, Pierre treated a sick child, "cupping" the boy's head and stomach, pulling bones from his ear. He then gave the child a concoction of sugar, water, rum and stag's horn. Pierre stated that the child's sickness had been caused by a man named David, although the reasons that David might have practiced obeah against the child are not mentioned in the court transcript. The child's health improved after treatment, but his father still testified against Pierre, who was convicted of obeah on all three counts and banished from the colony for twenty eight years during which time he was to be engaged in hard labor. This sentence was particularly harsh considering the fact that Pierre was an old man, and was crippled and unable to walk without crutches. Case of Pierre, a Free Black Man, Grenada, March 1834, PRO, CO 101/78; The King against Polydore, Jamaica, 28 July 1831, PRO, CO 137/209.

healers by labeling them as charlatans who duped their patients by claiming to have produce items from their body that had actually been concealed on the practitioner's body before the consultation.⁵⁹¹ However, many of these individuals were also associated with myalism, and thus were blamed for the labor disruptions attributed to that movement.

The practice of cupping or pulling has also been well documented in South Africa from at least the late nineteenth century through the mid-twentieth century.⁵⁹² Despite extensive documentation of cupping or pulling in South Africa, I have not found any surviving records of prosecutions for these practices there. However, a case from Nyasaland (modern-day Malawi) in 1935, demonstrates a very different attitude between colonial authorities there and in the British Caribbean. A man named Mapsepsy was charged with theft by false pretenses and with violating the witchcraft ordinance, which

⁵⁹¹ For instance, in 1843, in an article called "Obeahism" published in *New Readerships* magazine in London, John Bull described a recent case from the British Caribbean where an elderly man had been charged with practicing obeah after a man who he had treated with bloodletting had died. During the treatment, this obeah practitioner claimed that he had extracted a piece of glass and a bone from the patient's body but he later confessed that he had concealed these items in his mouth before the consultation. Bull said that this was "a case of this gross African superstition" and that such practices demonstrate the hold that obeah held on the minds of the black population and the difficulties remaining with trying to "civilize" them. John Bull, "Obeahism," *New Readerships* 1 (1843), 711.

⁵⁹² For instance, in 1888, two missionaries published a book about their activities in South Africa, including various firsthand accounts from individuals stationed there. Dr. Johnston, who was employed at a local hospital and associated with the mission in Pondoland (part of Xhosa territory) reported, "it is not an uncommon thing for the doctor to say an illness is due to a frog, a lizard, a caterpillar, or some such creature which he has carefully secreted about his person or in his mouth. This he will pretend to suck from some part of the body of the patient, and, by a conjuring trick, make it shoot out as though it had just been extracted from the body." Johnston used this narrative of African healing as part of his evidence to illustrate the importance of "Medical Missionaries" to Southern Africa and to argue that Southern Africa was in desperate need of external intervention into their methods of health care. W.O.B. Allen and Edmund McClure, *Two Hundred Years: The History of The Society for Promoting Christian Knowledge, 1698-1898* (London: Society for Promoting Christian Knowledge, 1898), 477-478.

Additionally, in the 1930s, Monica Wilson published her account of the effects of European conquest on the Pondo and she said that a variety of complaints were treated by applying a poultice to the infected part of the body and that a foreign substance, such as frogs or lizards, would come out of the patient and they believed this to be the cause of their ailment. She personally witnessed the removal of a piece of glass. Hunter noted that some people used their mouths to suck the foreign substance from the patient's body, instead of using a poultice. Monica Wilson Hunter, *Reaction to Conquest: Effects of Contact with Europeans on the Pondo of South Africa* (London: Oxford University Press, 1961) (first published in 1936), 305.

prohibited a person from claiming to be a wizard or have supernatural powers. He had allegedly performed two healing rituals, “which consisted of placing a glass on a person’s chest, cutting the chest and appearing to extract various articles from the mouth.”⁵⁹³ The court overturned his convictions, finding that there was no evidence of false pretense or “pretended witchcraft.” The court simply stated, “Faith healing with an accompaniment of sleight of hand does not seem to be among the evils aimed at in the Witchcraft Ordinance.”⁵⁹⁴

Clearly, the categorization of the “pretended” practice of witchcraft as a type of false pretenses often required colonial magistrates and appellate judges in Africa to consider the defendant’s intent and determine whether his or her background and education justified the assumption that she or he could not have believed in supernatural powers. This was in direct contrast to England and Jamaica, where authorities often asserted that ritual practitioners committed fraud but, as vagrancy and obeah were offenses against society rather than crimes against an individual, intent to defraud did not have to be specifically proven. The result seems to have been that convictions for “pretending” to possess supernatural powers were more frequently overturned in southern African than in Britain and the Caribbean.

The classification of “pretended” witchcraft in Africa as theft by false pretenses also differentiated these cases from prosecutions of obeah in the Caribbean because the former required the client to have actually been deceived but the latter did not. Therefore, many cases in Africa arose from dissatisfied clients bringing their claims to the

⁵⁹³ Rex v. Kapsepsye (1935), African L.R. Mal., 52-53.

⁵⁹⁴ T. Olawale Elias, *British Colonial Law: A Comparative Study of the Interaction between English and Local Laws in British Dependencies* (London: Stevens & Sons, Limited 1962), 106-107.

authorities. However, particularly in the case of fortunetellers, who frequently came to the attention of the authorities when they advertised their services, some individuals were arrested with the use of a police trap. Nevertheless, because the crime of false pretenses requires an individual to have actually been duped, these defendants were typically charged with the lesser offense of attempted theft.⁵⁹⁵ Furthermore, even if the client went to the defendant with a legitimate intent to seek his or her services but lost faith in the defendant's abilities before the completion of the ritual, the accused could only be charged with attempting to commit theft by false pretenses.⁵⁹⁶

The reason why colonial legislators in Africa chose to categorize the “pretended” use of supernatural powers as a type of theft by false pretenses becomes quickly apparent when one considers the distinction between the prosecution of violations of the witchcraft ordinances and cases of fraud. By creating separate laws, colonial legislators crafted two types of crimes related to supernatural powers. The offenses listed in the witchcraft ordinance— those dealing with witchcraft accusations and pretending to use witchcraft to cause injury or property damage— were crimes against public morality and order. Therefore, as with vagrancy and obeah in England and the Caribbean, the prosecution was only required to prove that the defendant performed the ritual in cases for violations of witchcraft laws. On the other hand, since the “pretended” use of witchcraft was

⁵⁹⁵ For example, see *Rex v. Zillah*, where the police sent an undercover officer to consult the defendant and the court said “the crime of an attempt to commit a false pretenses may be committed, though there may be no belief by the person in the false pretense which is used by the accused, if the accused does everything which is necessary to induce the payment of money in virtue of the false pretence which he makes.” *Rex v. Zillah* (1911), C.P.D. 646. Also see *Rex v. Davis*, where the appellate court expressly said “There was, of course, no theft by means of false pretenses because the persons who paid the money were traps who did so without being in the least deceived, and hence the limitation of the charge to attempt.” *Rex v. Davis* (1919), N.P.D. 218-220.

⁵⁹⁶ *Rex v. Nothout* (1912), C.P.D. 1037-1042.

classified as theft by false pretenses, which was a crime against another individual, the prosecution had a greater evidentiary burden because it had to show that the defendant had the intent to deceive the client and that the complainant had actually been defrauded. Furthermore, violations of the witchcraft ordinances were punishable with several years' imprisonment but individuals convicted of theft by false pretenses could only be sentenced to a few months incarceration at hard labor. Clearly, colonial officials were more eager to suppress the crimes proscribed in witchcraft ordinances than those prohibited as theft by false pretenses, as the former category of cases was easier to prosecute and had greater potential penalties.

Some judges in colonial Africa discussed the emphasis on the suppression of witchcraft accusations and the use of "pretended" witchcraft to cause injury in their appellate decisions in cases regarding the professed use of supernatural powers. For instance, in Northern Rhodesia in 1924, an appellate court judge wrote a lengthy explanation of his ruling in *Rex v. Musunki and Namusaka*, discussing the purpose of the witchcraft ordinance in that colony.⁵⁹⁷ He asserted that healers who named an ancestor or spirit as the source of an ailment were "harmless diviners," and could not be prosecuted for violating the witchcraft ordinance.⁵⁹⁸ This, of course, was different from Jamaica or Britain where such individuals could be charged with violating vagrancy, witchcraft or obeah laws. Furthermore, the judge explained that the witchcraft ordinance was designed to be a list of crimes that were "*mala per se*"- acts that were crimes without any proof of

⁵⁹⁷ *Rex v. Musunki and Namusaka* (1924), 4 N.R.L.R. 193-202.

⁵⁹⁸ *Ibid.*, 201.

bad intent.⁵⁹⁹ This, the justice argued, was because witch-finders genuinely believed in their own supernatural abilities and classifying them as frauds was therefore not appropriate.

In 1943, the High Court of Southern Rhodesia also contemplated the purpose of its witchcraft ordinance and, in doing so, clarified the division between this law and theft by false pretenses.⁶⁰⁰ In the case of *Rex v. Maposa*, the court explained

It is not every aspect of the practice of witchcraft which is punishable under Chapter 46 [the Witchcraft Ordinance]. It is only certain practices which endanger human life or affect property. Witchcraft is deeply ingrained in the native mind and cannot be eradicated in a moment. Only advancement and education can do that. Meanwhile the criminal law penalizes only those aspects of the practice in which the evil consequences on life or property are apparent.⁶⁰¹

Southern Rhodesia was unusual because instead of prohibiting the practice of “pretended” witchcraft in the section of the penal code dealing with larceny or fraud, colonial legislators included a provision in the witchcraft ordinance specifying that the use of supernatural powers should be punished as theft by false pretenses.⁶⁰² In *Maposa*, the High Court explained the purpose of this provision, holding that “[u]nless one or other of the more serious features punishable under other sections of Chapter 46 is involved it should be punished simply as fraud.”⁶⁰³ In particular, the court’s description of the other rituals proscribed in the witchcraft ordinance as “more serious features”

⁵⁹⁹ *Ibid.*, 200.

⁶⁰⁰ *Rex v. Maposa* (1943), S.R. 194.

⁶⁰¹ *Ibid.*

⁶⁰² The positioning of this clause within the Witchcraft Ordinance would not have changed its implementation; “pretending” to possess supernatural powers was still described as theft by false pretenses in Southern Rhodesia. Therefore, this law was comparable to those passed in most British African colonies.

⁶⁰³ *Ibid.*

reinforces the idea that colonial authorities felt that it was much more important to suppress these practices than fortunetelling, medico-religious healing or other purported uses of supernatural powers that were unrelated to witchcraft accusations.

Finally, one of the most illuminating discussions of the purpose of provisions prohibiting the “pretended” use of supernatural powers occurred in a Supreme Court case in the Zanzibar Protectorate in 1948. In Zanzibar, the only clause in the penal code related to supernatural practices was a provision prohibiting false pretenses that said, “Any person who for gain or reward pretends to exercise or use any kind of witchcraft, sorcery, enchantment, or conjuration, or undertakes to tell fortunes, 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 misdemeanor.”⁶⁰⁴ Unlike the colonies in mainland East Africa, there was no separate witchcraft ordinance in Zanzibar and therefore there were no provisions in their laws related to witchcraft accusations or using “pretended” witchcraft to cause injury. Yet, the court still had to interpret whether even this provision categorizing “pretended” witchcraft and fortunetelling as forms of fraud was only violated if the accused performed a ritual that was intended to cause illness or injury.

In the case of *Hamadi Bin Juma v. The Crown*, the defendant was charged with “pretending to exercise witchcraft” because he said he could cure a patient’s eye disease by driving the evil spirits out of her.⁶⁰⁵ The defendant’s counsel argued that the statute did not prohibit every pretended exercise of witchcraft; it prohibited only any pretense of

⁶⁰⁴ The Zanzibar statute is cited in *Hamadi Bin Juma v. The Crown* (1948), Z.L.R. 116.

⁶⁰⁵ *Ibid.*, 116-119.

supernatural power used for an “evil purpose,” i.e. to cause “harm, injury or loss to some person.”⁶⁰⁶ He pointed to witchcraft ordinances in Kenya, Tanganyika (Tanzania), and Uganda as examples of this argument. Ultimately, the court held that the witchcraft laws from East Africa, which prohibited the purported use of supernatural powers to cause injury, were not applicable in Zanzibar, where the penal code was “aimed at preventing the gullible from being defrauded by any of the various devices enumerated in the section.”⁶⁰⁷ Even though the appellate court did not ultimately agree with the defendant’s counsel, the fact that this question was raised on appeal, particularly in a colony that had no laws prohibiting the practice of witchcraft with intent to cause injury or witchcraft accusations, demonstrates how pervasive this limited view of witchcraft ordinances was by the mid-twentieth century.

Through these comparisons, it is apparent that despite the textual similarities of laws regarding fraud, vagrancy and the “pretended” practice of witchcraft or obeah in England, Africa and the Caribbean, the enforcement of these provisions varied greatly in different parts of the Atlantic world. In England, prosecutions for violations of the Witchcraft Act were rare but the Vagrancy Act became heavily litigated from the 1880s to the 1920s. Its application against spiritualist mediums and astrologers led to complex debates about whether any reasonable person could believe in fortunetelling and communications with the spirit world.

In the Caribbean, on the other hand, where obeah and vagrancy laws overlapped in their proscription of the “pretended” use of supernatural powers, colonial officials

⁶⁰⁶ Ibid., 118.

⁶⁰⁷ Ibid.

seem to have preferred to prosecute individuals for violating obeah laws. Colonial magistrates convicted hundreds of people for a variety of rituals, ranging from spiritual healing to divination to finding buried treasure, and assumed that those individuals who performed these services had intentionally duped their clients. None of the debates that permeated English courts about whether an individual could genuinely believe in the efficacy of the rituals he or she performed reached the Caribbean. Instead of discussing the role of intent to defraud in cases against ritual practitioners, colonial authorities prosecuted individuals who received compensation for their services and disrupted “legitimate” forms of labor.

In colonial Africa, appellate courts struggled to decide what legislators intended when they passed laws against “pretending” to practice witchcraft. When these provisions were enacted as a component of witchcraft statutes, as in the Transvaal, judges issued rulings that were comparable to those in the Caribbean. However, in instances where the “pretended” practice of witchcraft was proscribed as a type of fraud, appellate courts frequently overturned convictions, finding that ritual specialists typically believed in the efficacy of their practices.

Chapter 6: Obeah and Witchcraft Laws in the 21st Century

The significance of colonial laws regarding obeah and witchcraft did not cease with the dismantling of Britain's Atlantic Empire in the 1950s and 1960s. While Britain abolished its own Witchcraft Act and repealed the sections of its Vagrancy Act prohibiting fortunetelling and palmistry in 1951, legislators in Britain's former Caribbean and African colonies did not follow suit. Obeah and witchcraft laws, largely unaltered since the colonial period, remain in effect in at least five countries in the Caribbean and five nations in Africa. These laws continue to attract media and scholarly attention on both sides of the Atlantic, albeit for different reasons.

In the Caribbean, most countries have maintained colonial laws against the practice of obeah; however, these statutes are not regularly enforced. In Jamaica, prosecutions for the practice of obeah waned in the 1960s, with seventeen obeah cases litigated in 1964⁶⁰⁸ as compared to eighty-eight arrests in 1900, at the height of obeah prosecutions.⁶⁰⁹ One of the last known obeah prosecutions in Jamaica was in 1991.⁶¹⁰ Although the Obeah Act is not actively enforced, several religious groups and scholars have called upon the Jamaican government to repeal its obeah legislation. For instance, in 1999, Peter Hopkins, who described himself as a "member of a much maligned minority Christian organization," wrote a letter to the editor of a major Jamaican newspaper, *The Daily Gleaner*, arguing that obeah statutes in the Caribbean violate the principles of

⁶⁰⁸ "Summary of Reports and Cases Dealt With By All Courts," Appendix X, *Annual Report of the Police Department*, (1964), 30-31.

⁶⁰⁹ "The Crusade Against Obeah," *The Daily Gleaner*, Jan. 18, 1901.

⁶¹⁰ Unfortunately, the newspaper article reporting this arrest does not provide much information about the case. The author merely indicated that one of the defendants charged with stealing over half a million dollars worth of tires was also charged with violating the obeah law when police "discovered a collection of obeah paraphernalia at his Spanish Town Road business when they went to arrest him." "4 Arrested for Theft of Tyres," *The Daily Gleaner*, Aug. 14, 1991.

religious freedom.⁶¹¹ He further contended that obeah is “a form of religious expression, which in all civilized nations is protected by national constitution in articles pertaining to religious beliefs and expression.”⁶¹² Also in 1999, members of a Rastafarian community in Jamaica, along with several obeah practitioners, called for the abolition of the obeah legislation in Jamaica.⁶¹³ They argued that these statutes were unnecessary and denied “people the rights to their ‘roots.’”⁶¹⁴ Sam Pragg published a story about this group’s efforts to decriminalize obeah and interviewed one member, a self-described obeah man named Quaco, who claimed that he had been harassed by police and had to discontinue his practice because he feared that he could be thrown in jail at any time.⁶¹⁵

More recently, in 2005, Reverend Devan Dick of the Boulevard Baptist Church in Jamaica also argued that legislators should decriminalize obeah.⁶¹⁶ He described obeah as “a way of life and belief system for some persons, just as how others believe in horoscopes, palm readers and fortune tellers.”⁶¹⁷ As such, Reverend Dick referred to obeah as “a fairly innocuous commotion.”⁶¹⁸ He also asserted that obeah was significant to Jamaican history because it had played an important role in inspiring and facilitating slave revolts.⁶¹⁹

⁶¹¹ Peter Hopkins, “Religious Freedoms Under Seige,” *The Gleaner*, July 1, 1999.

⁶¹² Ibid.

⁶¹³ Sam Pragg, “Away with Obeah Laws say Rastafarians,” *InterPress Service*, Jan 20, 1999, available at <http://www.hartford-hwp.com/archives/43/165.html>.

⁶¹⁴ Ibid.

⁶¹⁵ Ibid.

⁶¹⁶ Devon Dick, “Decriminalise Obeah in Ja.” *The Gleaner*, May 25, 2004.

⁶¹⁷ Ibid.

⁶¹⁸ Ibid.

⁶¹⁹ Interestingly, Howard Chin wrote a very critical response to Rev. Dick’s article, arguing that Dick should apologize for writing a “Satanic-inspired article” in favor of obeah. Chin described Dick’s argument as “not merely outrageous but very frightening,” and he said “Rev. Dick should have been encouraging his

From 2012 to 2013, the Jamaican Parliament amended the Obeah Act as well as two other laws, removing flogging as a penalty for violating these statutes. The Jamaican Minister of Justice, Mark Golding, explained that these bills were introduced “to eliminate whipping by way of judicially-imposed punishment in Jamaica.”⁶²⁰ Although legislators passed these laws to abolish flogging, Golding indicated that two senators vocalized their support for the decriminalization of obeah during the debates about these bills.⁶²¹ To date, however, the Jamaican government has not repealed its Obeah Act.

Unlike Jamaica, some other former British colonies in the Caribbean have periodically enforced obeah laws in the last twenty years. For instance, in 1999, three people were charged with violating Antigua’s Obeah Act.⁶²² At least one of them was found guilty; Patrick Joseph was fined the equivalent of over \$3,700 U.S. dollars when he was convicted on charges of practicing obeah and possessing implements of obeah.⁶²³ Limited media coverage of this trial merely indicate that Joseph used three “voodoo dolls” to perform rituals to protect the other accused individuals, who were involved in a car insurance scam, from being detected by the police.

There were also obeah charges brought in St. Vincent as recently as June of 2006. A lawyer named Bertram Stapleton and two other individuals were arrested for practicing obeah because they allegedly submitted a list of two judges and three lawyers to an obeah

followers to turn to God instead of the obeahman in times of need.” Howard Chin, “Rev. Dick Should Apologise,” *The Daily Gleaner*, June 5, 2005.

⁶²⁰ Mark Golding, “Law Change was about Flogging not Obeah,” *Jamaica Observer*, March 10, 2013.

⁶²¹ Ibid.

⁶²² “Obeah Three on Bail in Antigua,” *The Gleaner*, June 8, 1999; “Hurricanes, Death and Crime Headlined ’99 in Antigua,” *The Daily Gleaner*, Dec. 28, 1999.

⁶²³ Ibid.

man to secure a verdict in favor of a defendant in a court case.⁶²⁴ A Barbados newspaper reported “the practice of obeah still remains a crime in most of the former English colonies, so although we have not been hearing of any cases recently, the St. Vincent case reminds us that it can still have legal implications.”⁶²⁵ More recently, in 2009, Alan Kissoon was charged with violating Guyana’s obeah statute after he was allegedly seen sprinkling a liquid at the back entrance of the courthouse (presumably as part of a ritual to influence the outcome of a case).⁶²⁶ Kissoon was placed on \$10,000 bail but I have been unable to determine the disposition of his case.

When considering how many Caribbean countries continue to proscribe (and occasionally prosecute) the practice of obeah, it is remarkable that these nations, most of whom are signatories to a variety of human rights treaties guaranteeing religious freedom, have not experienced more international scrutiny or internal protest over the breadth of these laws. As religion scholar Geoffrey Parrinder pointed out in 1954, general prohibitions of the “pretended” use of supernatural powers, which are components of all existing obeah statutes and some witchcraft laws, could be applied to any priest or any religion.⁶²⁷ The Parliament of Trinidad and Tobago recognized this problem in 2000, and passed a law removing all sections of the Summary Courts Act, the Summary Offences Act, and the Offences Against the Person Act that criminalized the practice of obeah or the “assumption of super-natural power or knowledge.”⁶²⁸ Legislators indicated that this

⁶²⁴ Haydn Huggins, “Lawyer on Obeah Charges,” *Nation News* (Barbados), June 23, 2006; Tony Best, “Best on Tuesday- Obeah Still With Us,” *The Nation Newspaper* (Barbados), June 27, 2006.

⁶²⁵ Ibid.

⁶²⁶ “Grove Man Accused of Practicing Obeah in Court Compound,” *Kaieteur News*, Jan. 31, 2009.

⁶²⁷ Geoffrey Parrinder, *African Traditional Religion* (Westport, Connecticut: Greenwood Press, 1954), 133.

⁶²⁸ Parliament of Trinidad and Tobago, “An Act to amend certain provisions of the Summary Courts Act, the Summary Offences Act and the Offences Against the Person Act to remove certain discriminatory

law was passed to “to remove certain discriminatory religious references.”⁶²⁹ It is striking that other Caribbean colonies have not taken similar action. Although these obeh statutes are not regularly enforced in many countries, the continued existence of these laws would allow the government to target virtually any religious practice it chose. Furthermore, as these statutes were historically enforced against African spiritual practitioners, Caribbean governments’ refusal to repeal these laws seems to perpetuate a stigma against African-based belief systems.

Witchcraft statutes in Africa have also been contested in recent years; however, the subject of these debates is not merely a question of religious freedom, but how to address what appears to be a growing problem of communities banishing and/or committing violence against suspected witches in many parts of the continent. In 2009, the United Nations Office of the High Commissioner for Human Rights released a report entitled “Witches in the 21st Century,” wherein the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston, reported that possibly around 1,000 Tanzanian women are executed as suspected witches each year and in Ghana, “as many as 2,000 accused witches and their dependents are confined in five different camps.”⁶³⁰

Lawmakers as well as scholars have engaged in intense debates about the appropriate legal framework to suppress witchcraft-related violence. In post-apartheid South Africa in the 1990s, the Ralushai Commission was tasked with investigating

religious references of 2000,” *Trinidad and Tobago Gazette* 39 no. 224 (2000): S1117-1122, <http://www.tparliament.org/legislations/a2000-85.pdf>.

⁶²⁹ Ibid.

⁶³⁰ United Nations Office of the High Commissioner for Human Rights, “Witches in the 21st Century,” August 24, 2009. <http://www.ohchr.org/EN/NEWSEVENTS/Pages/Witches21stCentury.aspx>

attacks against suspected witches and ritual murders.⁶³¹ They concluded that the Witchcraft Suppression Act of 1957 should be repealed and the Commission proposed a new law, the Witchcraft Control Act, which would increase penalties for practicing or “pretending” to practice witchcraft but would limit convictions in witchcraft accusation cases to those instances where the accused did not have “reasonable or justifiable cause” for the accusation.⁶³² A few years later, in 1998, South Africa’s Commission on Gender Equality held a conference about witchcraft violence, during which they adopted the *Thohoyandou Declaration on Ending Witchcraft Violence*.⁶³³ In the declaration, the Commission argues that “[t]he Witchcraft Suppression Act 3 of 1957 falls short of a pragmatic approach to the issue of witchcraft, and may in fact be fuelling witchcraft violence.”⁶³⁴ They urged the legislature to introduce a statute “so that those who are engaged in harmful practices can be separated from those who are falsely accused; and so that those who make false accusations can be brought to book.”⁶³⁵ Despite the recommendations of these Commissions, South Africa’s Witchcraft Suppression Act has not been revised or repealed.

Debates also arose about amending the witchcraft legislation in Tanzania during the same period.⁶³⁶ In the late 1990s, many people began to argue that the existing law, which had not been modified since the colonial period, was a “useless,” outdated statute

⁶³¹ Ralushai Commission, *Report of the Commission of Inquiry Into Witchcraft Violence and Ritual Murders in the Northern Province of the Republic of South Africa* (n.p.: Ralushai Commission, [1996?]).

⁶³² Ibid., 54-57.

⁶³³ South African Commission on Gender Equality, “The Thohoyandou Declaration on Ending Witchcraft Violence,” Conference Report (1998).
http://www.cge.org.za/index.php?option=com_docman&task=doc_details&gid=122&Itemid=

⁶³⁴ Ibid., 8.

⁶³⁵ Ibid., 8-9.

⁶³⁶ Mesaki, “Witchcraft and the Law in Tanzania,” 135-136.

that gave District Commissioners, who had the ability to relocate individuals accused of practicing witchcraft, too much power. Others felt that the widespread belief in witchcraft in Tanzania made some proscriptions of the use of supernatural powers necessary to ensure harmony in the country.⁶³⁷ Ultimately, the legislature modified the statute in 1998 and 2002 but made very minor changes except the “inclusion of the Zonal State Attorney (on behalf of the Attorney General) to decide on whether to go ahead with a case involving a witchcraft case which has no malignant intentions.”⁶³⁸

Zimbabwe, on the other hand, has made several significant revisions to its witchcraft policies in the post-colonial period. Many of these changes, which were codified in Witchcraft Suppression Act of 2006, elaborated on existing provisions but maintained the colonial framework.⁶³⁹ For instance, whereas colonial legislation generally prohibited the “pretended” practice of witchcraft with intent to cause injury to any person or property, the Witchcraft Suppression Act of 2006 clarifies that “spoken or written words shall not in themselves,” violate the law “unless accompanied by or used in connection with other conduct commonly associated with witchcraft.”⁶⁴⁰ Furthermore, an individual only contravenes the amended Witchcraft Act if she or he “inspires in the person against whom it was directed a real fear or belief that harm will occur to that person or any member of his or her family.”⁶⁴¹ Therefore, any spiritual practices not designed to induce fear or cause harm would not contravene the 2006 Act. Zimbabwean

⁶³⁷ Ibid.

⁶³⁸ Ibid. 136-137

⁶³⁹ “An Act to consolidate and amend the criminal law of Zimbabwe of 2006,” c. 5, pt. 6 [http://law.co.zw/downloads/statutes/09/Criminal%20Law\(Codification%20And%20Reform\)%20Act.pdf](http://law.co.zw/downloads/statutes/09/Criminal%20Law(Codification%20And%20Reform)%20Act.pdf).

⁶⁴⁰ Ibid.

⁶⁴¹ Ibid.

legislators also clarified that an individual who accuses another of practicing witchcraft only commits a crime if he or she does so through “non-natural means” (presumably referring to using divination or other spiritual practices to identify a witch) or without “having reasonable grounds for suspecting another person,” of “engaging in a practice commonly associated with witchcraft.”⁶⁴² I am unaware of any studies exploring whether these revisions have been effective at reducing violence against suspected witches in Zimbabwe.

Legal experts remain divided on whether reform is necessary in other countries. Despite widespread advocacy in recent years for the amendment or repeal of colonial laws, some scholars are not convinced that this is the solution. For example, in 2011, Chi Mgbako, wrote an article in the *New York Times* exploring the problem of witchcraft accusations in Malawi, where the Walter Leitner International Human Rights Clinic partnered with a local legal aid organization to handle cases involving witchcraft.”⁶⁴³ In Malawi, Mgbako asserts, belief in witchcraft is prevalent but is not in itself problematic, “[i]t is the transformation of belief into accusation and subsequent harm that is at issue.”⁶⁴⁴ She contends that Malawian law “should continue to criminalize witchcraft accusations,” but also asserts that “[l]egislation alone will not stop attacks against alleged witches.”⁶⁴⁵ Mgbako argues that countries dealing with violence against witches “should raise public awareness through nationwide campaigns that enlist church groups, police, the justice system, N.G.O.s and traditional healers to encourage people to refrain from

⁶⁴² Ibid.

⁶⁴³ Chi Mgbako, “Witchcraft Legal Aid in Africa,” *The New York Times*, Feb. 17, 2011.

⁶⁴⁴ Ibid.

⁶⁴⁵ Ibid.

making accusations of witchcraft against neighbors and relatives, especially emphasizing the often irreparable harm these do to children and elderly women.”⁶⁴⁶

The continued study of colonial laws prohibiting African spiritual practices should yield important insights for legislators and scholars who question the efficacy of existing laws against obeah and witchcraft. Since these laws have been mostly unaltered since the colonial period, one way that lawmakers can assess whether the current proscriptions of obeah impinge upon religious freedom is to explore the colonial justifications for and applications of these statutes. Understanding the parameters of what was prohibited and who was prosecuted for violating witchcraft laws in Africa during the colonial period can help scholars determine how colonial laws and prosecutions affected pre-colonial beliefs and practices related to witchcraft. This analysis could be of use to legislators in developing policies that can better manage witchcraft accusations and reduce vigilante violence related to these accusations.

⁶⁴⁶ Ibid.

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